



Appeal Decision

Site visit made on 18 January 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 15 February 2022

Appeal Ref: APP/C1055/W/21/3282883

58 Grange Avenue, DERBY, Derbyshire DE23 8DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Kevin O'Grady against the decision of Derby City Council.
 - The application Ref 20/01671/OUT, dated 23 December 2020, was refused by notice dated 31 March 2021.
 - The development proposed is a detached two-storey dwelling and single-storey double garage including new shared vehicular access with No. 58 Grange Avenue, Derby. Associated demolition of existing single garage and car-port to enable shared access and creation of replacement single-storey double garage for No. 58 Grange Avenue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought but with access and scale to be considered at this stage. I have had regard to the location, block, and site plans (drawings PO1.A, PO2.A and PO4.A) but have regarded all elements of these drawings as indicative apart from the details of access and where relevant to scale. The Design and Access Statement advises that the dwelling would be two storeys with a pitched roof and single storey double garage, but there are no indicative plans showing the possible height and scale. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area; and
 - whether the proposed development would provide acceptable living conditions for neighbouring occupiers with particular reference to any noise or disturbance which may arise.

Reasons

Character and appearance

4. The appeal site is located within the rear garden of 58 Grange Avenue (No. 58), a semi-detached property with a substantial rear garden, the lower part of which extends across the rear of the garden of 60 Grange Avenue (No. 60). The drive at the side of No 58 leads to a garage and beyond, the rear garden

steps down from the dwelling and contains numerous mature trees and shrubs, most notably along the southern boundary, but also some along the two side boundaries, and isolated fruit trees towards the centre of the plot. On this southern side of Grange Avenue, rear gardens are long and linear, with a green and verdant character, extending to meet the grounds of a school. The garden of the appeal property appears the largest and makes a significant contribution to this character. Aside from the school, the surrounding area is residential with buildings of mixed appearance.

5. The existing drive at the side of No. 58 would provide access to the new dwelling, as well as access to a replacement double garage for the host property. The indicative site plan shows the proposed dwelling occupying the lower part of the garden, primarily sitting behind No. 60, with the replacement garage for No. 58 sitting in between.
6. Although layout is not for consideration, I agree with the Council that the site is large enough to accommodate another dwelling and no issues have been raised regarding the proposed impact on existing trees. However, a two storey dwelling with a garage, and a further double garage, together with a driveway and hardstanding would considerably erode the green character of the garden and its tranquil environment, even with a restriction on the height of the eaves of the proposal. It would be an isolated development, wholly unrelated to the strong character of the mature linear plots, and alien and out of place with the surrounding built form. There is no precedent for backland or tandem dwellings along this stretch of Grange Avenue.
7. The appellant has drawn my attention to several recent residential developments in the wider area, including at New Chestnut Place, off Stenson Road, to the west, part of which is aligned parallel to the linear gardens south of Grange Avenue. However, all these sites are much larger estate developments which have been comprehensively assimilated into the surrounding context, and do not provide any justification for an isolated dwelling in a rear garden that would be so uncharacteristic and alien to this immediate area.
8. Overall, a two storey dwelling plus garages and related development would considerably change the nature of this plot to the detriment of the cohesive character of the wider area. Therefore, the proposal would harm rather than respect or enhance the character and appearance of the surrounding area and not accord with Policy CP3 and CP4 of the Derby City Local Plan, Part 1, Core Strategy (2017) which amongst other things seek to ensure that development makes a positive contribution towards the character, distinctiveness and identity of neighbourhoods and is well integrated into its setting. It would also be contrary to the high-quality design expectations of section 12 of the 2021 National Planning Policy Framework (the Framework).

Living conditions

9. Although the plot is large, neighbouring gardens run the full length of the appeal site to either side and whilst there would be the opportunity to introduce substantial planting to screen the new development, neighbouring residents would be very much aware of the noise and activity associated with a new dwelling, as well as access and parking for two households. It will considerably disrupt the tranquil environment that neighbouring occupiers with similar rear gardens, have become accustomed to.

10. The appellant considers that inadequate consideration has been given to existing ambient noise from the surrounding roads and school. However, I agree with the Council that this appeal relates to the rear gardens where there is an expectation of peace and quiet within these suburban settings. The noise disturbance from the proposed development would be very close and at unexpected times.
11. There is particular concern regarding the noise and disturbance which will be caused to existing and future occupiers of Nos. 56 and 58 from vehicles passing along the narrow drive. Both properties have windows in the gable ends facing the drive, on both floors. Whilst I accept that vehicles will no longer be parking adjacent to No. 58, removing the disturbance caused by idling cars and starting engines, there will be increased vehicular movements which will pass very close to windows on either side. Even with the erection of a 2 metre close-boarded fence on the property boundary, it will have little impact on controlling noise affecting No. 56. There will also be the potential for additional disturbance arising from car headlights shining into the adjoining properties, especially towards the rear elevations, as vehicles exit the site along the lengthy drive.
12. The appellant's suggestion that the occupants of No. 58 could already choose to park in their rear garden and increase their number of vehicles is most unlikely, given the distance from the house, and commands limited weight. Furthermore, the suggestion that the appeal proposal could be an ancillary dwelling would require a new planning application and could not be considered in the context of this appeal. Similarly, I have few details provided in terms of potential schemes which could be possible utilising permitted development rights.
13. I therefore conclude that there is an unacceptable risk that the development would cause significant and unacceptable harm to the living conditions of neighbouring residents, especially occupants of Nos. 56 and 58, with particular regard to noise and disturbance. The proposal is therefore contrary to the amenity protection aims of Policies H13 and GD5 of the City of Derby Local Plan Review Saved Policies (2006). It would also be contrary to the core planning principle of the Framework which seeks a good standard of amenity for all existing and future occupants of buildings.

Other Matters

14. I have had regard to other matters raised including potential problems if cars meet on the narrow drive, inadequate access for fire engines, and possible risk of flooding to the neighbour's garden and disturbance of their ground due to differences in ground levels. However, as I am dismissing the appeal on the main issues for the reasons as given above, I have not pursued these matters further.
15. The appellant alleges that the Council's decision lacks objectivity in its analysis. The decision notice clearly points out the reasons why the development was refused. Despite the development potentially being acceptable in principle, as it is an established residential area, the Council is required to undertake a detailed assessment to consider the site constraints and impacts and I agree that the harm identified clearly outweighs the benefits of providing a new dwelling. In this context, while the Council's housing land supply is alluded to in the Appellant's Final Comments, I have no substantive evidence on this point.

16. The appellant raises concerns over the conduct of the Council during the application process. Such concerns should be normally addressed through the Council's own complaints service in the first instance.

Conclusion

17. For the reasons given above I conclude that the proposal would be contrary to the development plan and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR