
Appeal Decision

Site visit made on 8 March 2022

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 23rd March 2022

Appeal Ref: APP/C1055/D/22/3290673

27 Prestbury Close, Oakwood, Derby, Derbyshire DE21 2LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Wayne Richardson against the decision of Derby City Council.
 - The application Ref 21/01723/FUL, dated 4 October 2021, was refused by notice dated 3 November 2021.
 - The development is the erection of an already built balcony on top of a garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and (b) the living conditions of the occupiers of neighbouring properties.

Reasons

Character and Appearance

3. The development comprises a terrace enclosed by timber lattice railings located on the top of a single storey garage situated within the rear garden of a 2-storey dwelling. The appeal property is situated within a primarily residential area and, although separated by a narrow footway, the garden effectively backs onto the rear amenity spaces of 4 other dwellings. By reason of topography, these dwellings and their amenity areas are at a lower ground level than the property and, more particularly, the garage roof terrace.
4. Adjacent to the property is a communal parking area which is accessed from Prestbury Close and, in turn, the garage is accessed from this area. By reason of its elevated location above the garage and, in part, the difference in ground levels the enclosed terrace is visible from the parking area, Prestbury Close, the gardens of neighbouring properties and Danebridge Crescent to the east. From some locations there is the partial screening of the development by trees and buildings.
5. However, because of its siting above the garage and the form of the timber means of enclosure the appeal scheme is visually prominent which, as claimed by the Council, is both a conspicuous and an incongruous form of development within this residential area. No other examples of a similar terrace were noted during the site visit. The claim of the appellant about erecting a similar

structure elsewhere in the country does not alter the assessment of this appeal scheme which has been undertaken based upon this development's own planning circumstances.

6. On this issue it is concluded that the development does cause unacceptable harm to the character and appearance of the surrounding area and, as such, it conflicts with Policies CP3 and CP4 of the Derby City Local Plan Part 1: Core Strategy (CS). Amongst other matters, these policies require development to be of a high quality of design and suitable in relation to neighbouring buildings and local area, including by reason of siting and form. Policy H16 of the City of Derby Local Plan Review (LP) is concerned with house extensions and does not specifically address the type of development subject of this appeal.

Living Conditions

7. The appellant claims that the terrace is only used for tending flowers. However, the terrace is of substantial construction and could be used by either the appellant or any future occupier as a place to sit out. Although some views are partially screened by vegetation, including trees sited adjacent to the garage, there are outlooks from the terrace which overlook the rear windows and gardens of the 4 neighbouring properties to varying degrees.
8. Some overlooking can be expected within residential development but in this case the degree overlooking from the appeal scheme results in an unreasonable loss of privacy for the occupiers of the adjacent properties. The wider outlook from the terrace is less restricted than, for an example, a window and the degree of overlooking is exacerbated by the terrace being both sited above the garage and the difference in ground levels.
9. For the reasons given, the development does cause unacceptable harm to the living conditions of the occupiers of neighbouring properties and, as such, it conflicts with CS Policy CP3 and LP Policy GD5 which require proposals to provide a good standard of privacy and not to cause unacceptable harm to the amenity of nearby areas by reason of, amongst other matters, a loss of privacy. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR