



Appeal Decision

Site visit made on 11 May 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2022

Appeal Ref: APP/C1055/W/21/3283200

Land to the rear of 22-24 Wood Road, Chaddesden, Derby DE21 4LU

- 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 Nirmal Kumar against the decision of Derby City Council.
 - The application Ref 20/00801/FUL, dated 23 January 2020, was refused by notice dated 10 September 2021.
 - The development proposed is described as demolition of 14 garages and proposed 4 No. 2 bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of proposed development given on the Council's Decision Notice differs a little to that provided on the application form. Although this description does not materially alter the proposal, as I have not been provided with any evidence that the appellant agreed to the change, I have retained the description originally provided by the appellant, as this adequately describes the proposal.
3. The plans submitted with the appeal include plan Ref BK/4. As this plan is not referred to on the Council's Decision Notice parties were asked to comment. The appellant submitted amended plan Ref BK/4 to the Council during the planning application. However, the Council has confirmed that no consultation was undertaken regarding the amended plan and that the Council's Decision was based on plan Ref BK/3, and not BK/4.
4. I consider the amendments outlined on plan Ref BK/4 reduce the impact of the proposal on the living conditions of occupiers of existing neighbouring properties, compared with the proposal outlined on plan Ref BK/3. As such, and taking account of the issues raised in representations, in this instance I consider no one would be prejudiced by me accepting the amended plan at this stage. I have therefore made my Decision on this basis.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, namely Nos 25-27 Morley Road, Morley Mews, and Nos 30 and 32 Wood Road, with particular regard to light, privacy and outlook.

Reasons

6. The existing terraced garages are low level, single storey, sited adjacent to the eastern and western boundaries of the site. Following demolition of the garages, the proposed block of 4 flats would be sited towards the southern boundary of the plot, oriented such that its front elevation would face north, facing the rear gardens of Numbers 30 and 32 Wood Road. Its rear elevation would face south, facing part of the block of flats that comprises Nos 6-11 Morley Mews and the associated car parking area. The eastern facing, semi-hipped gable elevation would face the rear gardens of Nos 25 and 27 Morley Road, and the western facing gable would face the rear elevations of Nos 22 and 24 Wood Road.
7. Notwithstanding the reduction in height shown on amended plan BK/4, the proposed building would tower above the rear boundary wall (which is around 2.2 m high) of Nos 25 and 27 Morley Road. The building would be sited only around 17 m from the rear elevation of No. 25 and sited adjacent to its rear garden. At around 8 m high and 10 m deep, even with a semi-hipped roof, the scale and mass of the proposed building would have a significantly overbearing impact on the rear outdoor amenity space of No. 25. Additionally, the siting, scale and mass of the building would have a detrimental effect on the outlook from No. 25.
8. With regard to No. 27 Morley Road, the rear elevation of this property would be over 20 m from the proposed building. The property would also be angled away from the proposed gable, and several existing outbuildings within the rear gardens of Nos 27 and 25 would be sited between the proposed building and No. 27 and its main rear outdoor amenity area. For these reasons, I consider the proposal would not significantly harm the living conditions of existing occupiers of No. 27.
9. As noted, the proposed building would be sited towards the southern boundary of the site, around 2.5 m from the boundary with Morley Mews. During my visit I observed a habitable room window positioned on the ground floor of the eastern facing elevation of Morley Mews, not far from the boundary fence, the height of which is around 2 m on the Morley Mews side. Given the orientation of the said window and the siting, width and height to eaves of the proposed building, and the additional mass formed by the pitched roof, even though it slopes away from the boundary with Morley Mews, I consider the proposal would reduce the amount of natural light to the habitable room window referred to. Additionally, the proposed building would reduce the already compromised outlook from the said window.
10. The front elevation of the proposed building would be sited between around 10-11 m from the southern side boundary of No. 30 Wood Road. The proposed building would have habitable room windows on the first floor that would overlook part of the rear garden area of No. 30 Wood Road. However, most of the rear garden area of this property would be situated over 20 m from the windows in the proposed building. The proposed building would be oriented such that its front elevation would be at an angle of around 90 deg to the rear elevation of No. 30; and the distance between habitable room windows on the respective buildings would be over 20 m.
11. The southern side boundary of No. 32 Wood Road would be around 20 m from the proposed building at its nearest point. With the existing boundary fence,

most of the rear garden of No. 32 and any habitable room windows on the rear elevation of the property would be over 25 m from the proposed building. Given these distances and the orientation of the proposed building in relation to these properties, I am satisfied that the proposal would not harm the living conditions of occupiers of Nos 30 and 32 Wood Road in respect of privacy, outlook, or light.

12. Concern has been expressed regarding privacy to the rear gardens of Nos 25 and 27 Morley Road due to the side windows that would be on the eastern facing elevation of the proposed building. However, given that the rooms these windows would serve are not habitable rooms, ie kitchen and bathroom, should I have been allowing the appeal, I consider a condition could have been attached requiring details of the glazing and openings of the windows, in a manner that would retain privacy, to be submitted to and approved by the Council.
13. Notwithstanding my conclusions regarding the proposal not harming the living conditions of occupiers of No. 27 Morley Road or Nos 30 and 32 Wood Road, with regard to outlook, light or privacy; and notwithstanding my conclusion regarding privacy and Nos 25 and 27 Morley Road, I have found that the proposal would significantly harm the living conditions of the existing occupiers of No. 25 Morley Road, with regards to overbearing and outlook. I have also found that the proposal would considerably harm the living conditions of the existing occupiers of the flat referred to in Morley Mews, with respect to loss of light and outlook.
14. For the reasons outlined, the proposal does not accord with saved policies GD5 and H13 of the City of Derby Local Plan Review (2006) or sub paragraph 130 (f) of the National Planning Policy Framework (the Framework). Although saved policies GD5 and H13 pre-date the Framework, their requirements regarding protection of the living conditions of occupiers of neighbouring properties are broadly consistent with sub paragraph 130 (f) of the Framework. Collectively, and among other things, these policies only permit development that would not cause unacceptable harm to the living conditions of occupiers of existing properties, with consideration given to matters such as privacy, light, outlook, and overbearing.

Other considerations

15. The appellant provides comparisons between the proposed building and the block of flats at Morley Mews, regarding the height, size, scale, mass, design features (such as roof and eaves height), relationship with neighbouring properties and number of on-site car parking spaces. However, I do not have the full details of this development before me. I do not know, for example, what the site comprised of prior to the flats being developed. Nor do I know which rooms are served by any of the windows that face each other on Morley Mews and the neighbouring property No. 18 Wood Road. Consequently, I am not able to make any meaningful comparisons between the 2 sites. Regardless, my responsibility is to assess the merits of the proposal, and consider what effect, if any, the proposal has, given the site circumstances as they are.

Other Matters

16. The effect of the proposal on the living conditions of occupiers of Nos 22 and 24 Wood Road are not specified by the Council. I note that the appellant resides at

No. 22. However, should I have not found the proposal to harm the living conditions of existing occupiers of other neighbouring properties, I would have sought the thoughts of both parties regarding the effect of the proposal on the living conditions of Nos 22 and 24, as from my observations on site, it looked like the outlook from these properties would be affected.

17. I accept that removal of the garages would improve the appearance of the site and security. Additionally, the provision of 4 flats would contribute to the housing needs of the area; and there would be minor economic benefits during the construction phase. However, these considerations, neither individually nor collectively, outweigh the significant harm I have found in respect of the impact of the proposed development on the living conditions of occupiers of the surrounding properties referred to.

Conclusion

18. For the reasons outlined, I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR