
Appeal Decision

Site visit made on 25 July 2022 by T Bennett BA (Hons) MSc

Decision by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2022

Appeal Ref: APP/C1055/D/22/3301433

51 Cavendish Way, Derby, DE3 9BL

- 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 Mrs S Warren against the decision of Derby City Council.
 - The application Ref 22/00019/FUL, dated 10 January 2022, was refused by notice dated 3 May 2022.
 - The development proposed is raising of the roof height and installation of roof lights to form rooms in the roof space (bedroom, en-suite and study) and erection of an outbuilding (garage and studio).
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Decision

1. The appeal is allowed and planning permission is granted for raising of the roof height and installation of roof lights to form rooms in the roof space (bedroom, en-suite and study) and erection of an outbuilding (garage and studio) at 51 Cavendish Way, Derby, DE3 9BL in accordance with the terms of the application, Ref 22/00019/FUL, dated 10 January 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J3369-01 (SLP), J3369-02 Rev A (Block Plan), J3369-04 Rev A (Proposed Layouts, Elevations and Sections) and J3369-05 Rev A (Proposed Garage Layout and Elevations).

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. There is some variation between the original description of development as shown on the application form and that used by the Council on the Notice of Decision. Whilst I am satisfied that both versions are seeking to describe the proposed development, I have used the description of development as shown on the decision notice in the banner heading and formal decision above, as it is a more accurate description of the proposal.

Main Issues

4. The main issues are the effect of the proposed development on:

- The character and appearance of the street scene; and
- The living conditions of the neighbouring occupiers, including at Nos 49 and 53 Cavendish Way (Nos 49 and 53), with regard to overlooking.

Reasons for the Recommendation

Character and Appearance

5. Cavendish Way is a residential street characterised by a mix of property styles and ages including bungalows, semi-detached and detached two storey properties with varying forms of design and material finishes, all of which add to the character of the varied street scene.
6. The appeal property is a detached bungalow, located within a short row of six bungalows. Whilst five of them share a commonality in terms of their scale, each of the bungalows displays differences in terms of materials used on the gable ends ranging from brick, horizontal boarding and stone cladding and differences in fenestration with some having bowed front windows. On my site visit, I observed that No 45 Cavendish Avenue (No 45), has previously had a dormer conversion exhibiting a higher roof ridge and pitch than the other bungalows in the row. I therefore do not concur with the Council's point that a uniform character exists.
7. The Council has raised no objection to the character and appearance of the proposed garage and studio. From all I have read and observed on site, I see no reason to disagree with that position. It would not project any further forward than the existing garage and although it would be longer, due to its single storey height, it would appear as a subordinate addition to the host dwelling.
8. The appeal proposal would be similar in scale and height to No 45 and would be viewed in the context of this property when looking down Cavendish Way from the junction at Western Road. Whilst the ridge of the appeal property would be higher than its immediate neighbours, the gradual increase in land levels towards Western Road, along with the existing dormer conversion at No 45 mean that the ridge heights are already varied in this row of bungalows. Therefore, I consider the proposal's form would not be unduly conspicuous or out of character when viewed in the above context and would add to the varied character and appearance that already exists in the wider street scene.
9. The front of the dwelling and the side elevation facing No 53 would be rendered. I observed sections of render already present on the appeal property and the presence of other rendered properties in close proximity to the appeal site. When entering Cavendish Way from Western Road, the property would be viewed in the context of the render on the properties at the junction of Cavendish Way and Western Road, additionally, opposite the appeal site a large detached rendered bungalow is also present and I noticed other rendered properties further down Cavendish Way. Thus, render would not be an alien or incongruous feature within the varied street scene.
10. For the reasons outlined above, I conclude that the proposal would not harm the character and appearance of the street scene. As such, it would not conflict with Section 12 of the National Planning Policy Framework, saved Policy H16 of the Derby City Local Plan Review (LPR) and Policies CP3 and CP4 of the Derby City Local Plan - Part 1 Core Strategy, which together seek to ensure, among

other things, that development complements local character and is of high quality design.

11. Saved Policy GD5 of the LPR has been cited by the Council in the first reason for refusal in relation to the proposal's impact on the character of the street scene. However, Policy GD5 is related to living condition matters and so I do not find this policy relevant in respect of the issue of character and appearance.

Living Conditions

12. The Council states that the proposed rooflights would be positioned low on the roof slopes which would create the potential for overlooking of the neighbouring properties. However, in assessing the proposed plans, the rooflights would be located close to the roof ridge with the lowest part of the rooflights approximately 1.7 metres from floor level, therefore not providing easily visible views of the neighbouring properties, which would primarily be of their plain roof slopes. Furthermore, at No 53 the side elevation windows facing the appeal site are all obscure glazed.
13. Whilst not raised by the Council, representations have been submitted in relation to privacy concerns regarding the proposed first floor rear window. As the rear building line at No 53 extends beyond that of the appeal property, this would restrict the availability of views into the rear amenity space of No 53. Moreover, the approximate 1 metre set back of the first floor window from the ground floor rear building line and the roof overhang would also restrict the side views to both neighbouring properties, particularly at No 49 which has the same rear building line as the appeal property.
14. Taking all of the above into account, I find that the ability and opportunity for overlooking into the neighbouring properties at Nos 49 and 53 would be limited and would not result in an unacceptable loss of privacy to the occupiers of those properties.
15. I have carefully considered the privacy concerns put forward by other nearby neighbours. However, having had regard to the distances between the appeal site and the outdoor amenity spaces of these properties, I am satisfied there would not be an unacceptable loss of privacy to these properties over and above what is experienced now.
16. For the reasons outlined above, I find that the proposed development would not cause material harm to the living conditions of the neighbouring occupiers, including at Nos 49 and 53, with regard to overlooking and loss of privacy. As such, it would comply with saved Policies GD5 and H16 (a) of the LPR which amongst other things, seek to ensure development respects the amenity of occupiers of neighbouring buildings, ensuring they are not harmed by inadequate privacy.
17. The proposed garage and studio is perceived to lead to overshadowing and a loss of light for the neighbouring property at No 53. Whilst this aspect of the proposal is not the main focus of this appeal, due to the proposed garage's single storey and mono pitch design, the degree of additional shadowing compared with the shadowing from the existing boundary treatment would be marginal. As such, the garden would continue to receive adequate levels of sunlight.

18. Accordingly, this matter does not lead me to a different overall conclusion in my assessment of this appeal.

Other Matters

19. The occupier of No 53 has stated that the proposed garage and studio would require access across their land to allow construction and they deny such permission. Legal rights of access are a private matter between the relevant parties and not within my jurisdiction. The granting of planning permission would not override any legal rights of access.
20. I have had regard to the representation that the proposal would result in the loss of a bungalow. However, I have not been directed to any development plan policy requiring bungalow housing stock to remain or any evidence that this is a problem in the area and so I attribute little weight to this matter.
21. I have been mindful of the representations raising concern that the proposal would result in increased disturbance due to construction noise and traffic. Considering the relatively minor scale of the development and that any disturbance during construction would be for a temporary period only, I deem it unnecessary to impose a condition requiring a construction management plan.
22. I acknowledge the consultee response from Derbyshire Wildlife Trust suggesting a condition to be imposed requiring a scheme of biodiversity enhancement and as a minimum, a bat brick to be incorporated. The Council has not taken this suggested condition forward in the appeal questionnaire and I have noted that the appellant has indicated on the submitted plans that a bat box will be incorporated into the proposed garage. Taking this into consideration, along with the small scale of the development and that the preliminary bat roost survey concluded there was no evidence of roosting bats, I consider that this condition would be unnecessary.

Conditions

23. In addition to the standard conditions relating to timeliness and the identification of plans, the Council has suggested a condition requiring the external materials of the proposed development to match those of the existing building. However, as the plans are conditioned and they clearly identify that the proposed material will be render which is already present in sections of the appeal property, I do not consider that this condition is necessary.

Conclusion and Recommendation

24. For the reasons given above and subject to the specified conditions, I recommend that the appeal should be allowed.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

25. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Sarah Housden

INSPECTOR