



Appeal Decision

Site visit made on 10 October 2022

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2022

Appeal Ref: APP/C1055/D/22/3301955

43 Hill Crest Road, Derby DE21 6FJ

- 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 S Lavrinovics against the decision of Derby City Council.
 - The application Ref 21/02119/FUL, dated 12 December 2021, was refused by notice dated 13 May 2022.
 - The development proposed is Erection of rear extension to the bungalow house.
Erection of outbuilding at the rear of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The extension and the outbuilding have been constructed and appear to be in line with the submitted plans.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of the adjoining dwelling, 45 Hill Crest Road, with particular regard to outlook and daylight.

Reasons

4. The appeal site is a detached bungalow and the rear extension projects approximately 8.4 metres to the rear of the existing dwelling. A fence runs parallel to the extension, separated by a gap of approximately 1 metre, dividing Nos 43 and 45. The extension has a lower ridge height than the host building but it is higher than the boundary fence.
5. The rear extension is an imposing presence when viewed from the garden and rear windows of No 45. It appears appreciably taller than the existing boundary fence and runs a significant distance along its length. Due to the scale and proximity of the extension relative to the rear ground floor windows and rear garden, it is a development of considerable mass, appearing oppressive and overpowering in views from this property.
6. I note that the appellant has submitted a diagram suggesting that there would be no unacceptable impacts on the occupiers of No 45 as it would not breach the 45 degree line taken from the nearest habitable room window. However, this diagram fails to consider the impact of the extension on the garden. Notwithstanding the effect on obtainable outlook from the dwelling associated with No 45, owing to its overall scale and proximity to the garden, the

extension appears unduly oppressive within this neighbouring garden and reduces the amount of light entering it.

7. The impact is compounded by the outbuilding which is a large building, and although not as close to the boundary with No 45 as the extension, it contributes to the appreciable bulk and massing of the built form when viewed from No 45 further harming the obtainable outlook from No 45.
8. I conclude that the proposal unacceptably harms the living conditions of the occupiers of No 45 Hill Crest Road, due to the loss of outlook and light. The development is therefore contrary to Local Plan¹ Policy GD5 which seeks to protect amenity by, amongst other things, ensuring no unacceptable loss of daylight or overbearing impacts.
9. The appellant refers to the proposal complying with Local Plan Policy H16 and although the development does not conflict with all aspects of it, this policy also seeks to protect amenity, and I find conflict with the policy in this respect for the reasons set out.

Other Matters

10. I note that No 41 has also been extended almost as far out to the rear as No 43 and a copy of the decision notice and plans have been submitted with the appeal documents². However, I do not know the basis on which the Council determined the application. In any event, the presence of a similar development at a neighbouring property does not alter the fact that I find this development unacceptable to the living conditions of the occupiers of the neighbouring property for the reasons set out.
11. Furthermore, I appreciate that the appellant wishes to extend his home in order to provide additional and improved living space for his family. I also note the appellant's comments about requiring flexible living space which has affected many in relation to the Covid pandemic and the resulting increase in home working. In this regard, improving the standard of the living accommodation would be consistent with the sustainable objectives regarding housing provision set out in the National Planning Policy Framework³. However, these considerations do not outweigh the harm I have identified.
12. The appellant points out that the proposal does not conflict with various strategic policies referred to, for example, the principles set out in Core Strategy⁴ policies CP1A, CP2, CP3 and CP4, nor does it impact on the street scene or the wider area. However, these matters do not override the harm I have identified concerning the impact on the occupiers of No 45.
13. Reference has been made to permitted development rights including those where prior approval is required⁵. However, limited details have been submitted, so the extent to which permitted development rights would allow a development comparable with the appeal scheme is unclear. Moreover, there is no evidence to suggest that this would represent a realistic fallback. As such, I

¹ Derby City Council City of Derby Local Plan Review, Adopted January 2006.

² Planning Application Ref: 21/01724/FUL.

³ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

⁴ Derby City Council Derby City Local Plan – Part 1 Core Strategy, January 2017.

⁵ The Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

afford this matter only limited weight, insufficient to outweigh the harm identified.

Conclusion

14. The rear extension and the outbuilding unacceptably harm the living conditions of the occupiers of the adjoining dwelling, 45 Hill Crest Road, and for the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR