



Appeal Decision

Site visit made on 25 April 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2023

**Appeal Ref: APP/N1025/W/23/3314174
57 and 59 Bath Street, Ilkeston DE7 8AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Matthew Duro of Duro Design and Build Limited against the decision of Erewash Borough Council.
 - The application Ref ERE/0522/0006, dated 3 May 2022, was refused by notice dated 8 December 2022.
 - The development proposed is described as "retrospective application for alterations, rear extension and raising of roof height to rearward section to create eight additional flats to provide a total of nine flats, previous approval ref: ERE/221/0013 granted 18/03/2021."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed during my site visit that the development has been carried out. However, it appears that the scheme does not fully accord with the plans submitted as part of the appeal. Notwithstanding this, I have considered the appeal based on the development applied for and the plans submitted with it, which for the avoidance of doubt were amended during the application process and are drawing nos. CF/MD/21/62/06E and CF/MD/21/62/07.
3. In assessing the suitability of the internal accommodation, the main parties have referred to the Technical housing standards – nationally described space standard 2015 (NDSS). This document is not referenced by any of the policies in the development plan. As such, I can only give it limited weight in my decision. It is however useful for guidance in the consideration of whether the development provides appropriate space and living conditions, in accordance with the requirements of the adopted development plan.

Main Issue

4. The main issue is whether the proposed development would provide acceptable living conditions for future occupants with particular regard to outlook and internal space.

Reasons

5. The NDSS sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage, and floor to ceiling heights. There is agreement between the main parties that only flat 2 complies

with the NDSS. The floor area of the other flats falls below the NDSS by varying amounts. The appellant argues that any shortfall is largely offset by either the levels of natural light or the quality of the outlook, or a combination of both.

6. The two bedrooms within flat 1 are both served by windows that are within close proximity to, and face directly towards, a neighbouring building. The lounge window to this flat is adjacent to a boundary fence and overlooks the main pedestrian access to the flats. The kitchen is located centrally and is not provided with any window or natural light. There would be very limited outlook as a result and, combined with the shortfall in floor area, the proposed layout would result in unacceptable living conditions for future occupiers.
7. With regards to flats 3 and 5, both bedrooms and the kitchen and lounge areas have windows which provide an adequate outlook for future occupiers. However, these flats have the largest shortfall in floor area when assessed against the NDSS, and the effect of this is particularly evident in the layout of the combined kitchen and lounge areas, which provide limited living space. Consequently, the living space of each flat would be particularly cramped for a two bedroomed unit.
8. Flat 4 would have a satisfactory outlook for the bedroom and kitchen and lounge area. However, the shortfall in floor space is apparent in the flat layout which provides a lounge that is long and narrow with limited functionality, resulting in cramped living conditions for future occupiers.
9. Flats 6 and 7 are studio flats and are served by one window each, which provides an acceptable outlook for future occupiers. However, both fall short of the floorspace in the NDSS, with flat 6 having the biggest shortfall of the two. The extent of the shortfalls to each flat would result in cramped combined living and sleeping spaces for future occupiers.
10. Flats 8 and 9 are both long, narrow spaces located within the roof space. Both are served by a single, small window, at the far end of each flat. Rooflights would provide natural light to the rest of the living accommodation, but little outlook. There is a relatively small shortfall in floor area to both these flats, but the narrow, long layout and location within the roof space would restrict the functional space within each flat. The shortfall in floor area, combined with the layout and inadequate outlook, would result in poor living conditions for future occupiers.
11. For the above reasons, the development would provide unacceptable living conditions for the future occupiers, with regard to outlook and internal space. This is contrary to saved Policy 10 of the Erewash Borough Local Plan Saved Policies 2005 Amended 2014, which seeks to ensure, amongst other matters, the provision of appropriate space and amenity standards. This policy is broadly consistent with the National Planning Policy Framework (the Framework) where it seeks to create places with a high standard of amenity for future users. As a result, the proposal is also contrary to the Framework.

Other Matters

12. The site lies within the Ilkeston Conservation Area (CA). I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The significance of the CA is derived from the linear,

historic town centre core, which encompasses Bath Street. Most of the proposed development is to take place to the rear of the site, leaving the frontage with Bath Street largely unaffected. There are views of the rear of the site from Wilmot Street and neighbouring car park. Having regards to the site's location, the context of the surrounding area and works proposed, the development would not harm the significance of the CA and the character and appearance of the CA would be preserved.

13. Although I have little evidence that the scheme would provide affordable housing in the terms set out in the Framework or that such accommodation is urgently required in the town centre, the provision of small units in a central location would contribute to the range of homes in an accessible location. However, given the modest amount of development proposed, and the concerns I have set out in terms of the living accommodation, this benefit carries limited weight.
14. Whilst the Council does not raise any concerns with regards to the principle of development, character and appearance of the area, design of the dormer, outdoor amenity space, highway safety or parking provision, compliance with the development plan in respect of these factors is a neutral matter.

Conclusion

15. Overall, for the above reasons, the scheme conflicts with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR