
Appeal Decision

Site visit made on 23 May 2023

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal Ref: APP/C1055/W/23/3315400

3 Whitaker Road, Derby DE23 6AR

- 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 M Shamoon against the decision of Derby City Council.
 - The application Ref 22/00931/FUL, dated 8 June 2022, was refused by notice dated 25 July 2022.
 - The development proposed is conversion and alteration of partially altered ancillary accommodation to an independent dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect on the character and appearance of the area.
 - The effect on living conditions of neighbouring occupants in terms of overlooking and the occupants of the proposal in terms of daylight.

Reasons

Character and Appearance

3. The appeal site is a large semi-detached property in a predominantly residential area. Whilst there is some variety, pairs of semi-detached dwellings set back behind driveways and front gardens is the prevailing character. To the side of the dwelling is a former coach house which the Council say has been subject to some unauthorised alterations. It is currently classified as ancillary accommodation to the main dwelling. To the front of the coach house is a large tree.
4. The proposed appearance of the front elevation of the development would align with a scheme granted planning permission in 2018. However, in that permission the development would have appeared as an annex to the main house rather than as a separate independent dwelling. Severing the link to the main dwelling and creating a separate independent dwelling would create a property with a cramped incongruous appearance in the street scene at odds with the overriding character of the area.
5. The development would harm the character and appearance of the area and as such would conflict with Policy CP3 and Policy CP4 of the City of Derby Local

Plan – Part 1: Core Strategy (Core Strategy). Amongst other things these policies expect new development to be of high quality, respond positively to existing buildings and make a positive contribution towards the character, distinctiveness and identity of neighbourhoods.

Living Conditions

6. Whilst the proposed boundary treatments would avoid overlooking between neighbours at ground floor level, the 2 windows proposed on the upper floor would overlook the rear of properties on Vicarage Avenue. Although the impact on No 3 Whitaker Road would be as expected where properties sit side by side, the short length of the garden would have a harmful impact on the privacy of the inhabitants of the dwellings on Vicarage Avenue. The angled position of the development would be insufficient to avoid a negative impact.
7. The close proximity of the existing tree to the front of the coach house would likely create a relatively dark living environment in the habitable rooms at the front of the property. Based on the evidence before me I cannot be satisfied that lifting the crown of the tree would be sufficient to avoid a harmful impact on the living conditions of the inhabitants of the dwelling, as has been suggested by the appellant.
8. The development would harm the living conditions of the occupants of Vicarage Avenue due to overlooking. It would also harm the living conditions of the occupants of the dwelling with regards daylight. As such the scheme would conflict with the parts of Policies GD5 and H13 of the City of Derby Local Plan Review that supports development that does not cause unacceptable harm to amenity, including loss of privacy and loss of sunlight and daylight. It would also conflict with the part of Policy CP3 of the Core Strategy which requires new development to provide good standards of privacy.

Other Matters

9. The appellant has identified a number of benefits of the scheme including compliance with national described space standards, provision of adequate outdoor space and effective use of land and buildings. Be that as it may, these policy compliant elements of the scheme do not outweigh the harm I have identified.

Planning Balance

10. The Council confirms that it cannot demonstrate a 5 year housing land supply. Therefore, the policies which are most important for determining the appeal are considered to be out of date. Paragraph 11d of the National Planning Policy Framework (NPPF) is engaged.
11. In accordance with paragraph 11d ii) of the NPPF consideration must be given as to whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.
12. The development would be located in an established residential area where development is supported. There would be some economic and community benefits as a result of the development although this would be very small given the very modest contribution to the residential supply proposed.

13. As set out above, the development would cause harm to the character and appearance of the area and the living conditions of neighbouring occupants and the occupants of the proposed scheme to which I give considerable weight. The harm significantly and demonstrably outweighs the benefits. The proposal would not therefore benefit from the presumption in favour of sustainable development.

Conclusion

14. The proposal would conflict with the development plan as a whole and there are no other considerations, either individually or in combination, that would outweigh the identified harm and development plan conflict. Consequently, the appeal is dismissed.

K Ford

INSPECTOR