



Appeal Decision

Site visit made on 28 November 2024

by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Reference: APP/C1055/W/24/3351606

45 Burlington Road, Derby, DE22 4JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Martin Bosworth against the decision of Derby City Council.
 - The application Reference is 24/00445/FUL.
 - The development proposed is described in the Application for Planning Permission as 'Planning application for permission to construct a 2 bedroomed bungalow with gardens and associated parking.'
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Preliminary Matter

1. The Appellant's Statement of Case includes an amended plan that reduces the width of the proposed bungalow, by approximately one metre, and revises the accommodation to a one-bedroomed bungalow.
2. Whilst the appeal process should not be used to evolve a proposal, I am satisfied that the scheme that I am invited to determine does not amount to a fundamental change or would cause procedural unfairness to any party.
3. In this regard, the Local Planning Authority has not opposed the revision and I will consider its objections to the application as originally made as being equally applicable.
4. I have revised the wording of the application in my decision below for clarity.

Decision

5. The appeal is allowed and planning permission is granted for a one-bedroomed bungalow with gardens and associated parking at 45 Burlington Road, Derby, DE22 4JE in accordance with the terms of the application as amended, Reference 24/00445/FUL, subject to the conditions in the attached schedule.

Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the area and whether future occupants of the proposed bungalow would have an unacceptable level of outdoor amenity space.

Reasons

Character and appearance

7. The appeal site is bound on two sides by the sharp sweep of Burlington Road and consists of the side garden of number 45. Dwellings hereabouts are generally similar pairs of plain fronted semi-detached two-storey houses.

8. However, a pair of bungalows sits opposite the appeal site frontage as a continuation of a larger group of single-storey dwellings, paired and terraced, in Mayfair Crescent. Overall, there is a high degree of consistency reflecting the planned 'Estate' composition.
9. Numbers 45/47 Burlington Road appear as a stand-alone pair of dwellings, absent any lengthy continuous street frontage, behind generous frontages, in a particularly spacious setting. The influence of space is further emphasised by the large grass verge, beyond number 45, and the focus of its oak tree. There is an overall sense of informality from the juxtaposition of buildings, spaces and variation in format.
10. The adjacent neighbourhood consists, in the main, of dwellings with limited separation from each other. This is especially noticeable along Burlington Road, beyond the appeal site, where each pair has no more than a pedestrian width gap from its respective side boundary. Restricted depth front gardens/forecourts, particularly for the facing bungalows, are a further element of context.
11. Looking at the role of the appeal site in the street scene from the entrance to Burlington Road, the plot is backed by other houses along Burlington Road. As the road turns, the plot is perceived between and against the side walls of numbers 45 and 43 before Burlington Road meanders again. To my mind, the land does not play an inexorable role in defining the character or distinctiveness of the area.
12. Although sited moderately forward of number 45, and with limited separation on its sides from the existing dwelling and Burlington Road, the proposed bungalow would not appear unduly prominent in the context of adjacent dwellings. Nor would it have a material adverse effect on the street scene as the bungalows opposite are an established component of setting.
13. Whilst the plot would be smaller than those in the immediate locality, the established pattern of development opposite the site, and beyond 43/41 (diminishing street numbers), is tight-knit. Despite the restricted nature of the plot, and the configuration of its rear boundary, the proposed development would not appear over-intensive or contrived.
14. In terms of design, although in detached form, the proposed bungalow would be roofed with a characteristic steep hipped arrangement and walls would be finished with render to reflect the predominant walling material for neighbouring houses. The forward facing gable, although uncharacteristic, would be secondary in scale and would not materially change the principal composition of the roof.
15. Looked at in the round, whilst the proposed bungalow would add some disparity to the street scene, I consider that such variation would not have an adverse effect on the character and appearance of the area to a material degree. As such the proposal would be in accordance with Core Strategy Policy CP3 (Placemaking Principles), with particular reference to (a) and (b); Policy CP4 (Character and Context); and saved Policy H13a of the Local Plan Review.

Outdoor amenity space

16. Saved Policy GD5 is non-specific in the provision of amenity space other than development should have a '*satisfactory level of amenity within the site*'.

17. It is evident that the triangular rear garden of the proposed bungalow would be small, having a maximum depth of 7 metres. However, it would provide private space for a variety of uses; it would have the advantage of the openness of a succession of rear gardens to the south; and unrestricted sunlight for most of the morning.
18. In my opinion, despite the limitations of the rear garden, its scale and utility would be commensurate with the size of the bungalow and it would not amount to an unacceptable level of outdoor amenity space.

Conclusion on the main issues

19. My overall conclusion is that the proposed development would be in accordance with the development plan as a whole. The National Planning Policy Framework confirms that in such circumstances development proposals should be approved without delay. The presumption in favour of sustainable development therefore applies.

Conditions

20. I have applied the conditions suggested by the Council in condensed form for clarity. These include the standard time within which the development is to be commenced and the list of approved drawings and specified materials of construction for certainty. I endorse the removal of permitted development rights to preclude the enlargement of the bungalow, given the size of the plot, and I have specified the relevant classes for precision. The three highways conditions have been amalgamated without loss of meaning.

Conclusion

21. For the reasons given above the appeal is allowed.

David MH Rose

Inspector

Schedule of Conditions – see attached

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers 2024-03-14-01 Revision B (Planning Drawing For a Proposed Bungalow) and 2024-03-14-02 (Location Plan).
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on drawing number 2024-03-14-01 Revision B.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A,¹ AA,² B³ and C⁴ of Part 1 of Schedule 2 to the Order shall be undertaken.
- 5) The development hereby permitted shall not be occupied until the vehicle parking spaces for the proposed bungalow and the existing dwelling have been provided in accordance with drawing number 2024-03-14-01 Revision B (permeable block paving) with dropped vehicular footway crossings and provision to prevent the discharge of surface water from the parking areas on to the public highway. Thereafter those spaces shall be retained for the parking of vehicles only.

End of Conditions

¹ Class A - enlargement, improvement or other alteration of a dwellinghouse

² Class AA - enlargement of a dwellinghouse by construction of additional storeys

³ Class B - additions etc to the roof of a dwellinghouse

⁴ Class C - other alterations to the roof of a dwellinghouse