



Appeal Decision

Site visit made on 28 May 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 4 July 2025

Appeal Ref: APP/F1040/W/25/3359185

3 Egginton Road, Etwall, Derby, Derbyshire DE65 6NB

- 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 Carl Parkes against the decision of South Derbyshire District Council.
 - The application Ref is DMPA/2024/0470.
 - The development proposed is to construct a 2 bedroomed cottage with associated parking, within the curtilage of the existing property.
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Decision

1. The appeal is allowed and planning permission is granted to construct a 2 bedroomed cottage with associated parking, within the curtilage of the existing property at 3 Egginton Road, Etwall, Derby, Derbyshire DE65 6NB in accordance with the terms of the application, Ref DMPA/2024/0470, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. While not specifically referred to in the Council's reason for refusal I have included the subject highways safety in the main issues of this appeal. I have done so for the purposes of certainty and clarity given the concerns raised in the minutes of the Council's planning committee meeting and by other parties.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of private amenity space and parking; and,
 - highway safety.

Reasons

Character and Appearance

4. 3 Egginton Road (No 3) is a two-storey, detached, cottage-style house with white painted walls, clay tiled roof and modest fenestration. To the same side of the road are 2 other detached, cottage-style properties. All 3 houses are similar in appearance, are located close to the road, with gardens extending predominantly to

their sides, and follow a linear pattern of development. Although there is no distinctive rhythm to the spacing of the buildings, and 7 Egginton Road (No 7) is a considerable distance from No 3, they are a distinct group within the street scene and form the context for the appeal development.

5. The appeal site is part of the garden to one side of No 3. The garden is a long, tapering plot with land rising steeply behind. The appeal development proposes a 2-bedroom, cottage-style house, the form, scale and materials of which would be in keeping with the other buildings in the group. The house would be located to the front of its plot, maintaining the established linear pattern of development. As a consequence of the size, appearance and position of the development, the proposal would harmonise with the character and appearance of the area and would respect its context.
6. The existing houses are variously spaced, and the proposed dwelling would reduce the separation between No 3 and No 7. However, adequate separation between buildings, and particularly between the proposed house and No 3, would be maintained for the development not to appear overly cramped nor out of keeping with the character and appearance of the area.
7. Taking the above into account, I conclude that the appeal scheme would provide a suitable infill development that would be sympathetic to the character and appearance of the area. Hence, it would accord with Policy BNE1 of the South Derbyshire Local Plan, June 2016 (the Local Plan), which seeks, among other things, to ensure that new development is well designed and visually attractive having regard to local character and context.

Living Conditions

8. The proposed cottage-style house is modest in scale and traditional in its form and appearance. The provision of parking and manoeuvring space for 2 cars within the boundaries of the property would be proportionate and adequate to support the level of accommodation provided. Furthermore, the development includes a patio area, dedicated bin storage and a garden area that would be commensurate with the scale and character of the proposed house.
9. For these reasons, I conclude that the outdoor amenity space and car parking would provide acceptable living conditions for future occupants. Hence, it would accord with Policy SD1 of the Local Plan, which seeks, among other things, to ensure that new development does not lead to adverse living conditions for future occupants.

Highway Safety

10. Paragraph 115(b) of the National Planning Policy Framework (the Framework) requires development to provide safe and suitable access to a site for all users. It also states at paragraph 116 that if there would be an unacceptable impact on highway safety, development should be refused.
11. The plans show that the proposed development would provide parking spaces for 2 cars within the site. Moreover, the plans show adequate space to independently manoeuvre both cars, within the boundaries of the site, to allow them to leave the property in a forward gear.

12. The minutes of the Council's planning committee raise concerns about the safety of the access to the development with regard to speed limits being exceeded along the road and on-street parking during school drop-off and collection times. Furthermore, Etwall Parish Council and other third parties have raised concerns about highways safety and have drawn my attention to a fatal accident on the stretch of road near the appeal site. However, I have not been provided with information about the precise nature of this incident.
13. On my visit I noted some on-street parking in the area. Given the 30mph speed limit and good visibility along the road, this did not appear to result in any risk to highway safety nor inconvenience to other road users.
14. I am aware that my site visit was a single snapshot in time, and parking levels may fluctuate during the day. Nevertheless, I consider that vehicle movements arising from the development as proposed would not increase the risk to highway safety nor inconvenience to other road users.
15. I note from the Council Officer's report that the local highway authority has considered the plans and raised no objection to the proposed access arrangements, subject to conditions, and that the Council determined the application on this basis. Based on the evidence before me and my site visit, I find no reason to disagree with the Highway Authority's comments or the Council's conclusions on this matter.
16. As such, having considered all the evidence, including the recommendations of the Highway Authority and observations made during my site visit, I conclude that the proposed development would not result in an unacceptable effect on highway safety. In this regard, the proposed development would accord with paragraph 115(b) of the Framework and would not conflict with paragraph 116 of the Framework.

Other Matters

17. I have had regard to all the comments and objections to the scheme from local residents and Etwall Parish Council. In particular, concerns have been raised about the effects of the proposed development on the living conditions of occupants of neighbouring properties. Notwithstanding the matter of potential overlooking of neighbouring properties from the proposed stair landing window to the rear of the house, the Council Officer's report considered harm to outlook, overshadowing and privacy and found that the development would not result in harmful effects. Having considered the evidence before me I find no reason to disagree with the Council's assessment of these matters. It would be possible to address the potential effects from overlooking from the stair landing window by the imposition of a condition in any approval to ensure that this window was obscure glazed and would not open.
18. I note the concerns raised about the effect of construction works and related activity on the safe use of the highway and I am satisfied that this issue could be addressed through the imposition of a Construction Method Statement condition.
19. It is argued that the grant of planning permission would set a precedent for other similar developments. However, I have found this proposal acceptable and no similar sites to which this might apply have been put before me. In respect of any other sites that may come forward, each application and appeal would be

determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

20. Further concerns have been raised about the relocation and re-routing of services and street lighting. I have no clear reason to believe that these matters could not be able to be addressed by the developer of the site in due course. Also, the engineering design of the proposed retaining wall to the rear of the property would be a matter for the developer, potentially in terms of compliance with Building Regulations, and I am not aware of any technical reason why this matter could not be addressed as part of the comprehensive development of the site.
21. I have determined this appeal based on the drawings before me. In this respect, any concerns relating to the precise location of boundaries with neighbouring properties is a private matter between parties and is not an issue which, in any case, would affect the substantive issues or the position of the main elements of the development.
22. Reference is made to the felling of a tree on the site prior to the application being made and risks of flooding due to surface water run-off. The Council has not raised concerns about the loss of trees or flooding on site. The information before me does not lead me to a different conclusion.

Conditions

23. The Council has provided a list of suggested conditions, which I have considered in terms of the requirements in paragraph 57 of the Framework, and advice contained in the Planning Practice Guidance. Where appropriate, I have amended the wording of the suggested conditions for clarity and reasonableness.
24. To meet legislative requirements, a condition shall be imposed to address the period for commencement (1). For the reasons of certainty and clarity, I have imposed a condition that requires the development to be carried out in accordance with the submitted drawings (2).
25. In the interests of highway safety, conditions requiring the provision of the proposed access prior to occupation of the dwelling (3), including vehicle and pedestrian visibility splays are required, and that the approved access and visibility splays are maintained throughout the development's lifetime (4). A condition removing permitted development rights, with regards to unrestricted vehicle access to and from the site is necessary to ensure vehicles stand clear of the highway and allow the safe and free passage of vehicles and pedestrians using the public highway (5).
26. Given the nature of the road onto which access is to be provided and the narrowness of the development site, a condition requiring a Construction Method Statement is reasonable and necessary in the interests of maintaining highway safety during construction (6).
27. The condition relating to hours of construction operations is necessary to protect the private amenity of occupants of neighbouring properties (7). I have imposed a condition relating to the obscured glazing and non-opening stairwell window to preserve the privacy of occupants of neighbouring properties as this is not clearly shown on the plans (8). Given the location of the proposed development a condition removing permitted development rights is exceptionally required and

necessary to ensure that further development would not result in the loss of limited but adequate private outside amenity space.

Conclusion

28. The proposal accords with the development plan, when taken as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above I conclude that the appeal should be allowed.

C Mayes

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - 2024-01-01-01 Revision C – Planning Drawing For a Proposed Dwelling
 - 2024-01-01-02 – Location Plan & Proposed Block Plan
 - PTM/DW336 001 – Vehicle tracking Plan Sheet 1
 - PTM/DW336 002 – Vehicle tracking Plan Sheet 2
- 3) The development hereby permitted shall not be occupied until the means of access for vehicles and the vehicle parking spaces have been constructed in accordance with drawing numbers 2024-01-01-01 Revision C and PTM/DW336 001. The access and spaces shall be retained thereafter.
- 4) The 2.4m by 43m visibility splays shown on plan number PTM/DW336 001 and the 2m by 2m pedestrian visibility splays shown on plan number 2024-01-01-01 Revision C shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
- 5) 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 gates, barriers, chains or other such obstructions shall be erected to the vehicular access.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) delivery, demolition and construction working hours

- vii) methods of communicating the Statement to staff, visitors and occupants of neighbouring properties.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) Demolition or construction works shall not take place other than between 08:00 and 18:00 on Mondays to Fridays, and between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 8) The building hereby permitted shall not be occupied until the stair well window at first floor level in the rear elevation have been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the stair well in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 9) 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 Class A of Part 1 of Schedule 2 to the Order shall be undertaken.

End of Schedule