



Appeal Decision

Site visit made on 28 May 2025

by **C Mayes CMLI**

an Inspector appointed by the Secretary of State

Decision date: 8 July 2025

Appeal Ref: APP/C1055/W/24/3357612

64 Monk Street, Derby City, Derby DE22 3QB

- 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 Stuart Rudd against the decision of Derby City Council.
 - The application Ref is 24/00325/FUL.
 - The development proposed is conversion of first floor outbuilding to 1 bed apartment and construction of external staircase and landing area and garden area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the occupants of neighbouring occupants, with particular regard to privacy;
 - whether the proposed development would provide acceptable living conditions for future occupants, with regards to privacy, outlook, light, noise and disturbance; and,
 - the effect of the proposed development on the character and appearance of the area;

Reasons

3. The appeal property is a two-storey rendered outbuilding with slate roof to the rear of 64 Monk Street (No 64). It is sited on the rear boundary of a yard laid to hardstanding that is enclosed by high brick walls and the two- and single-storey side wall of 68 Monk Street (No 68). The appeal property is accessed between Nos 64 and 68. The property can be seen through the opening between Nos 64 and 68 and partially seen from the corners of Monk Street and Wolfa Street and Monk Street and King Alfred Street.
4. The proposal seeks to convert the first floor of the property to a single bedroom apartment. The ground floor would remain as a garage. The existing door and window openings in the front elevation would remain largely unchanged. A new external metal staircase and landing with glazed panels, that would extend across part of the front elevation, would allow access to the dwelling. It is also proposed to subdivide the existing yard into 2 small garden areas providing private amenity space for both the proposed dwelling and No 64.

Living conditions of neighbouring occupants

5. The two-storey rear elevation of 64 Monk Street (No 64) faces toward the appeal property and includes a window to a habitable room on the ground floor and 2 windows to habitable rooms on the first floor. The yard adjacent to No 64 is currently used as private amenity space by the occupants of No 64.
6. The elevated location of the proposed entrance landing and windows to the habitable rooms to the proposed dwelling would allow views into the rooms to the rear of No 64 despite their slightly differing levels. Given the relatively short distance between the proposed dwelling and No 64 this would result in a loss of privacy for the occupants of No 64. Moreover, the proposed private amenity space to No 64 would be overlooked from the proposed dwelling resulting in a further loss of privacy. Although the current occupants of No 64 may not use the outdoor area for sunbathing or outdoor dining, this may not always be the case and may be different for future occupants.
7. While views from the appeal development toward the rear of 68 Monk Street (No 68) and into the rear gardens of properties on Wolfa Street may be possible, they would be oblique and restricted by boundary walls and intervening vegetation. However, given the harmful effect on the privacy of occupants of No 64, this is of little consequence in my final decision.
8. I have had regard to the 'Remedy' suggested by the appellant with regard to providing an internal staircase, tinting windows and dividing up the parking area differently. However, these changes are not reflected on the plans, have not been subject to formal consultation and as such they do not form part of the proposal before me for consideration.
9. Taking the above into account, I conclude that the development would be harmful to the living conditions of the neighbouring occupants, with particular regard to privacy. Hence, it would conflict with Policy GD5 of the City of Derby Local Plan, Part 1 Core Strategy, January 2006 (CDLP), which seeks, among other things, that development would not cause unacceptable harm due to loss of privacy.

Living conditions of future occupants

10. Insofar as I have found that the proposed development would lead to a loss of privacy for the occupants of No 64, I also find that a reciprocal situation would result for future occupants of the appeal development. The windows to the habitable rooms to the rear of No 64, particularly to the first floor, would allow views into the habitable rooms of the proposed dwelling and into the proposed private amenity space. As such, the proposal would result in unacceptable living conditions for future occupants with regards to privacy.
11. The outlook from the front of the proposed dwelling is dominated by the two-storey rear elevation of No 64. Furthermore, the outlook is dominated to one side by the rear and side elevations of No 68 and to the other side by a semi-mature tree located within the garden of 13 Wolfa Street, which also over-hangs the appeal property. As such, the overall outlook from the proposed dwelling would provide unacceptable living conditions for future occupants. Given that the tree is located within the garden of a neighbouring property in different ownership, the removal of the tree could not be secured as part of the proposal.

12. Natural light to the interior of the proposed dwelling is predominantly gained from windows and a glazed door to one side of the property. External space would be limited to the entrance landing and a small private amenity space. As such, the height and proximity of neighbouring buildings, combined with the adjacent tree, would result in poor light levels both within the proposed dwelling and outside it, again, resulting in unacceptable living conditions for future occupants.
13. The appellant has indicated that if internal light within the proposed development is considered inadequate the situation could be enhanced by the introduction of natural light tubes. However, this is not part of the appeal before me neither would it address the issue of light to the proposed private amenity space.
14. The Council's third reasons for refusal also refers to the harmful effects of noise and disturbance emanating from the ground floor garage to the appeal property and a nearby commercial garage. However, the ground floor garage is very limited in size and I have not been provided with detailed evidence that the ground floor garage would be used in a manner that would cause significant harm to the occupants of the proposed dwelling. With regard to the effects of noise and disturbance emanating from the nearby commercial garage, again I have been provided with very little evidence that this would cause harm to the occupants of the proposed dwelling, with the buildings physically separated.
15. For these reasons, and although I have found no harm in relation to noise and disturbance, I conclude that the proposal would not provide acceptable living conditions of future occupants, with regard to privacy, outlook and light. Hence, it would conflict with Policies H13 and GD5 of the CDLP which seek, among other things, that development should lead to a satisfactory relationship with nearby properties with no adverse effects or cause unacceptable harm due to loss of privacy.

Character and appearance

16. The appeal property is located within an area comprised of predominantly two-storey brick terraced houses with some commercial premises including shops, garages and workshops. The area is generally residential in character with a dense pattern of development.
17. The addition of the external staircase and landing, and alterations to the existing door and windows would slightly alter the scale, form and detailing of the property. However, these alterations would result in little appreciable change to the appearance of the property. Subdivision of the yard into 2 garden spaces would not significantly change the visual and spatial relationship between the appeal property and No 64. Furthermore, while the established character of the wider area is dominated by traditional terraced dwellings forward of rear gardens, the appeal site departs from this and would not be highly visible from the public domain. Therefore, as a whole, the proposed development would be appropriate to its context and would be in keeping with the character and appearance of the area.
18. The Council has drawn my attention to two appeal decisions¹. However, I have been provided with limited information in relation to these developments such that I cannot conclude that they are directly comparable to the appeal before me. Furthermore, I am required to consider the appeal on its merits.

¹ 3 Whitaker Road and 1 Ash Close

19. As such, I conclude that the proposed development would not have a harmful effect on the character and appearance of the area. Accordingly, I find no conflict with Policy H13 of the City of Derby Local Plan, January 2006 (the CDLP), and Policies CP3 and CP4 of the Derby City Local Plan Core Strategy, January 2017 (the CS). These policies require development to be appropriate to its context and respect the scale, form and detailing of the original building.

Other Considerations

20. The appellant has pointed to a similar development at Franchise Street. However, I have not been provided with details of this development. Moreover, the example is not within the same area as the appeal site, differs in scale and is not directly comparable to the context of the appeal development before me. As circumstances vary from one site to another, I have considered this appeal on its merits.
21. I acknowledge the appellant's argument that the proposed development would bring a vacant building and yard back into use and provide an opportunity for someone to operate a cottage business and occupy an apartment in the city centre, thereby reducing travel costs and environmental impacts. However, and while the re-use of the building and yard and provision of a well-located dwelling would be a benefit, the business use of the garage space is not part of application.

Planning Balance

22. The National Planning Policy Framework (the Framework) seeks to create places with a high standard of amenity for existing and future users. Therefore, the conflict between the proposal and Policies GD5 and H13 of the CDLP should be given significant weight and the proposal conflicts with the development plan as a whole.
23. The Council have advised that it cannot demonstrate a five-year supply of deliverable housing sites, and I have no reason to disagree. Given the shortfall in housing supply, paragraph 11d) of the Framework falls to be considered. Paragraph 11d) and footnote 8 require that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not in a protected area.
24. In this instance, as identified above, the benefits of the proposal include the provision of a new dwelling that would assist in meeting housing need. The proposal would also bring a vacant building back into use in a location assessable to a range of services and facilities. However, given the small scale of the proposal, I give these benefits limited weight.
25. I have concluded that there would be harm to the living conditions of neighbouring and future occupants, and I afford significant weight to these identified harms.
26. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

27. Although I have found no harm with regard to the effect of the proposal on the character and appearance of the area, I have found harm with regard to the effect of the proposal on the living conditions of neighbouring and future occupants. In my

view, this is the prevailing consideration, and the proposal should be regarded as being in conflict with the development plan, when taken as a whole.

28. Material considerations, including the Framework, 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 dismissed.

C Mayes

INSPECTOR