



Appeal Decision

Site visit made on 9 September 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/C1055/W/25/3368565

157 Pastures Hill, Derby DE23 4AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Balhar Dhamrait against the decision of Derby City Council.
- The application Ref 25/00886/VAR was approved on 1 July 2025 and planning permission was granted subject to conditions.
- The development permitted is described as 'Variation of condition 2 (approved plans) to reduce the width of the dwelling of previously approved application 19/01765/FUL – Demolition of dwelling. Erection of replacement dwelling house (Use Class C3) and all associated groundworks'
- The condition in dispute is No 9 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) all side-facing windows above ground floor level, and all windows serving the first-floor room labelled "Dresser" on approved drawing Rev-D102 shall be non-opening and glazed with obscure glass and shall be permanently maintained thereafter as non-opening and obscure glazed.
- The reason given for the condition is: To safeguard the amenities of the adjoining premises from overlooking and loss of privacy and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

Decision

1. The appeal is allowed and the planning permission Ref 25/00886/VAR for: 'Demolition of dwelling. Erection of replacement dwelling house (Use Class C3) and all associated ground works' at 157 Pastures Hill, Derby, DE23 4AZ granted on 1 July 2025 by Derby City Council, is varied by deleting condition 9 and substituting for it the following condition:
 - 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) all side-facing windows above ground floor level, and all windows serving the first-floor room labelled "Dresser" on approved drawing Rev-D102, shall be glazed with obscured glass.

Any side-facing window serving the first-floor room labelled "Dresser" on approved drawing Rev-D102 shall be unopenable. Any part of other side-facing windows above ground floor level which can be opened shall be more than 1.7 metres above the floor of the room in which the window is installed. The windows shall be permanently maintained in accordance with this condition.

Preliminary Matters

2. This appeal has been made pursuant to section 78 of the Town and Country Planning Act 1990 (the Act) which provides the right to appeal where an application for planning permission is granted subject to conditions. Section 79 of the Act provides that I may allow or dismiss such an appeal, or reverse or vary any part of the decision of the local planning authority, and I have considered the appeal on that basis.
3. Given that the appellant did not suggest any alternative wording for the condition which it is seeking to vary, I consulted both the appellant and the Council on the use of a 1.7m minimum height for openable parts for the windows in question. The appellant agreed to this and the Council said that it would be a sensible and reasonable solution.

Main Issue

4. The main issue is whether the requirement relating to non-opening windows in condition 9 is necessary, specifically with regard to the potential for overlooking of 155 and 159 Pastures Hill.

Reasons

5. Save for a window to a dressing room, all of those above the ground floor to the side of the approved dwellinghouse relate to bathrooms. The appellant proposes to fit windows with small top-openings to enable these rooms to be naturally ventilated while still maintaining privacy and limiting any potential overlooking. Such an arrangement is common in many dwellinghouses and the appellant has drawn my attention to an example in a nearby property. I saw others in the local area when I visited the site.
6. The neighbouring occupiers at 155 and 159 Pastures Hill have objected to the proposals on the grounds of loss of privacy and have set out a number of specific concerns relating to this.
7. The approved dwellinghouse on the appeal site would have three above-ground floor windows (W15, W16, and W18) which would directly face the side elevation of no. 159. The side elevation of no. 159 has two windows at first floor level, both of which have obscured glazing. There is a tall, close-board fence which is close to the side elevation of no. 159 and which means that any ground floor windows cannot be seen when standing on the appeal site or from Pastures Hill. Whilst the occupant of no. 159 has said that they are planning to install Velux windows in the roof of their pool room, I did not observe any such windows when I visited the site and I have no evidence before me to demonstrate that such windows will be installed. As such, I must consider the current situation.
8. The elevation of the approved dwellinghouse labelled as 'Side Elevation 1' would have four above-ground floor windows: three at first floor (W10, W11, and W12) and one at second floor level (which is not numbered on the drawing). These would directly face the side elevation of no. 155. However, window W12, which is opposite the corner of no. 155 is the window to the room labelled 'dresser'. This would not be openable and would have obscured glazing.
9. The side elevation of no. 155 has two top-opening windows at first floor level, both of which have obscured glass. There is a door with obscured glazing at ground

floor level with a small window next to it. On the ground floor, towards the rear of the house, there is also one side-facing window with clear glazing.

10. I note that The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits upper-floor windows in walls forming a side elevation of a dwellinghouse provided that any part of the window which can be opened is more than 1.7m above the floor of the room in which the window is installed.
11. Although 1.7m is above the eye level of most people, even if it was still possible to look out of the opening parts of such windows, I consider that there would not be any unacceptable harm to the privacy of occupants of neighbouring dwellinghouses. In respect of no. 159 its visible side windows have obscured glass and therefore it would not be possible to see through them. In respect of no. 155, most of the side windows have obscured glazing. Whilst there is a side window to a kitchen which has clear glazing I consider that any views into this window would not give rise to unacceptable harm to privacy because it is a non-habitable room. Similarly, views through a doorway in the event that the door is opened, or views into a garage, would not cause unacceptable harm to privacy. Furthermore, in respect of both of the neighbouring dwellings, any oblique views would not cause unacceptable harm to the privacy of users of outdoor space to the rear of the houses due to the restricted viewing angle.
12. Whilst the objector at no. 155 has said that openable windows would enable views into their bedroom, I did not observe any windows other than those discussed above which could be directly affected by the bathroom / toilet windows in the approved dwellinghouse. Whilst objectors have said that an alternative means of ventilation could be used, I do not see any reason to require this in light of my findings.
13. I have taken into account the relationship of the bathroom windows in the side elevations of the approved dwellinghouse with the neighbouring properties, and the comments of the neighbouring occupiers who suggest they could be particularly sensitive to a reduction in privacy. However, for the reasons above I have found that opaque glazing and a 1.7m opening height of the windows would be sufficient to minimise any potential loss of privacy. This is in accordance with saved Policy GD5 of the City of Derby Local Plan Review (2006) which says that development should not cause unacceptable harm to the amenity of nearby areas including in relation to privacy.

Other Matters

14. Whilst objectors have said that the approved dwellinghouse could be used as a house in multiple occupation and that it would be closer to the boundary than is stated on the plans, these matters are not before me to decide as part of this appeal.

Conclusion

15. For the reasons given above the appeal should be allowed.

P Burley

INSPECTOR