

Appeal Decisions

RECOMMENDATION

1. Committee is asked to note the decisions on appeals taken in the last month.

SUPPORTING INFORMATION

- 2.1 The attached appendix 2 gives details of decisions taken.
- 2.2 The intention is that a report will be taken to a Committee meeting each month.

For more information contact:	Paul Clarke 01332 255942 e-mail paul.clarke@derby.gov.uk
Background papers:	See application files
List of appendices:	Response to appeal decision

IMPLICATIONS

Financial

1. None.

Legal

2. None.

Personnel

3. None.

Corporate objectives and priorities for change

4. None.

APPEAL DECISIONS

Code No	Proposal	Location	Decision
DER/10/09/01264	Extensions to dwelling house	2 Beech Walk, Littleover, Derby	Dismissed
<p>Comments: This application sought planning permission for a large two storey side extension and single storey rear extension. The application was refused on design grounds. Officers considered that the side extension, at 4.9m in width, with a set back of less than 1m would be visually dominant in the street scene and would unbalance the pair of semi detached properties and therefore be contrary to the aims of policies GD4, H16 and E23 of the City of Derby Local Plan Review.</p> <p>The Inspector commented that the appeal property was one of a pair of 'modest' semi-detached dwellings. He too, was concerned about upsetting the symmetry of the building, as the proposal would be almost two-thirds the size of the original dwelling, and the impact this would have upon the street scene. In his opinion the design of the extension, with the front door at the juxtaposition of the existing and new elements would add further 'discordant effects'.</p> <p>He also considered that because of its proximity to the boundary the 'incongruous scale and mass' the extension would be 'all too evident' from the surrounding roads and therefore at odds with policies from the CDLPR.</p> <p>Whilst the trees on Warwick Avenue would provides some screening, the Inspector acknowledged, this would be less in the winter. The proposed extension would be clearly visible from the head of the cul-de-sac and Warwick Avenue.</p> <p>The Inspector did not consider that the other matters raised by the appellant outweighed his judgement and accordingly he dismissed the scheme.</p> <p>This is a significant and encouraging appeal decision as the reasons for refusal by the City Council did not rest on loss of amenity for neighbouring properties but simply on the acceptability of the design of the proposal and its impact upon the street scene. The judgement of my officers and the application of CDLPR policy in this matter has been found to be robust by an independent Inspector.</p>			

Code No	Proposal	Location	Decision
DER/08/09/00953	Extensions to dwelling house – amendments to previously approved.	3 Chaddesden Park Road, Derby.	Allowed

Comments: Members may recall there is some history attached to the extensions and alterations at this property. Permission was finally granted for works under code DER/08/08/01264 when Members were satisfied that their concerns over the design of the proposal had been addressed. However, the development was not carried out in accordance with the approved plans and these inconsistencies were reported to the City Council and formed the basis of the application to regularise the development which is the subject of this appeal.

The case officer carefully assessed the amended proposal and I was satisfied that the changes would not lead to any unreasonable loss of amenity for the neighbouring properties; therefore a recommendation to approve the amendments was made. Cllr Roberts asked for the application to be heard at Planning Control Committee as he was concerned at the 'flagrant disregard for the planning process'. Accordingly the application was reported on 26 November 2009. At this meeting Members concerns about the harm to visual amenity in the street scene and the impact on the nearby properties was discussed and the proposal was refused.

This appeal was conducted under the new householder fast track system, against the wishes of Cllr Hickson. Representations were made to the Planning Inspectorate to change the appeal procedure to allow the City Council to submit a further statement to justify the refusal, however these representations were not accepted and the Inspectorate chose to continue under the new procedure.

The Inspector considered that the two key issues were the character and appearance of the surrounding area and the effect upon the living conditions of the neighbouring properties.

In considering the design of the proposal the Inspector commented that the change to one large garage door instead of two would not be unduly harmful and the wider front dormers better reflected the wide roof. Other changes resulted in a less cluttered appearance and did not affect the symmetry and composition of the front elevation. Therefore in her opinion the proposal was in accordance with policies H16 and E23 of the City of Derby Local Plan Review.

When considering the impact on the living conditions of the two neighbouring properties the Inspector concluded that the changes did not result in material harm to either property. A tall conifer hedge screened the Social Club at the

rear and the enlarged window on the western elevation looked out onto a car park rather than living accommodation. At 5 Chaddesden Park Road the Juliet balcony would have little impact as it did not allow access out from the dwelling. The Inspector therefore concluded that the proposal was in accordance with policy GD5 (a) of the CDLPR.

The Inspector noted that a condition had been suggested in the original officer's report to require obscure glazing in the window on the east elevation. This window had been fitted with clear glazing and she suggested that this condition should be re-imposed to protect amenity.

In summary the Inspector considered all this issues raised and the changes from the originally approved plans in detail and concluded that there was little harm to either the street scene or the nearby properties. She noted that the works were almost complete which removed the need for many planning conditions and therefore allowed the appeal with the usual condition requiring compliance with the approved plans plus the securing of the obscure glazed window discussed above.

Code No	Proposal	Location	Decision
DER/08/09/00974	Retention of Front Door	87 Arthur St, Derby	Allowed
<p>Comments: 87 Arthur St is within the Strutts Park Conservation Area and covered by an Article 4 Direction requiring planning permission to be sought for any changes to the front elevation of the property. The front door which is the subject of this appeal replaced another non-original door. The new door is half glazed and this was considered out of character with the Conservation Area as historical records suggest that the properties on Arthur Street originally had solid timber doors. The application was therefore refused as it was considered to be an inappropriate replacement which failed to enhance or preserve the character of the Conservation Area and therefore, contrary to policy E18 of the City of Derby Local Plan Review.</p> <p>The Inspector considered that the main issue of the appeal was whether or not the replacement door preserved or enhanced the Conservation Area. She noted there were a range of different door styles in the street and some of a less sympathetic design than that installed at 87 Arthur St, although accepted that some pre-dated the introduction of the Article 4 Direction.</p> <p>The Inspector noted that the door was 'good quality' and painted an appropriate colour and whilst a solid timber door may have been the preferred option in her opinion it did preserve the character and appearance of the Conservation Area and was indeed 'far superior' to many of the doors on the street.</p> <p>Noting that many of the dwellings on Arthur Street had open porches and these presented numerous opportunities for doors to be fitted flush with the front elevation and could not be controlled she concluded that the replacement door did accord with policy E18 in the CDLPR and therefore allowed the appeal unconditionally.</p>			



Appeal Decision

Site visit made on 16 March 2010

by **D R Cullingford BA MPhil MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
7 April 2010

Appeal Ref: APP/C1055/D/10/2121812
2 Beech Walk, Littleover, Derby, DE23 6AZ

- 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 by Mr D Hodder against the decision of the Derby City Council.
- The application (ref: DER/10/09/01264/PRI and dated 27 October 2009) was refused by notice dated 23 December 2009.
- The development is described as the erection of a '2-storey side extension and a single storey ground floor extension'.

Decision

1. For the reasons given below, and in exercise of the powers transferred to me, I dismiss this appeal.

Reasons

2. The appeal property is a modest semi-detached dwelling at the corner of a pleasantly varied and verdant suburban street. The proposal is to erect a 2-storey side extension and a single storey rear extension at the dwelling. The Council are concerned that the scale and mass of the scheme would overwhelm the character of the existing property at a prominent corner site, so contravening the aims of 'saved' policies GD4, H16 and E23 of the adopted City of Derby Local Plan Review. That is the issue on which this appeal turns.
3. I saw that the appeal property is one of an almost symmetrical pair of modest semi-detached dwellings. The proposed 2-storey side addition would extend the façade of the property by about 4.9m, or by roughly two thirds, thereby upsetting the symmetry still evident there and presenting an unbalanced façade to the street. Those discordant effects would be accentuated by the insertion of a front door beneath a small canopy at the juxtaposition of the existing and new portions of the front elevation and by the limited set back envisaged for the latter. I realise that the 'set-back' intended falls short of the minimum normally sought by only a few centimetres. But, it seems to me that there should be good reasons for failing to achieve even that 'minimum' provision. In this case, the extension would project to within a metre of the property boundary and its proximity and bulk would be all too evident beyond (as I understand it) an unauthorised fence both from the head of the cul-de-sac and the footpath beside the main road. The effect would be to emphasise the incongruous scale and mass of the scheme, thereby overwhelming the character and appearance of the existing property and undermining the aims of 'saved' policies GD4, H16 and E23.

4. I agree that the trees in the wide verge beside Warwick Avenue would partially obscure the side elevation of the extension from some vantage points. But they would be less effective in winter. And, I saw for myself that the structure would be easily visible from close quarters, such as from the turning area at the head of this cul-de-sac or from the footpath beside the main road. As for the development cited at Brayfield Road, that seems to me to relate to an area of different character and involve different circumstances to the appeal proposal. I do not recite every difference. But one would be that the extension at Brayfield Road appears to have restored a semblance of symmetry to the pair of semi-detached dwellings there. Hence, I find neither that, nor any other matter raised, sufficiently compelling to alter my conclusion that this appeal should be dismissed.

A handwritten signature in black ink, appearing to read 'Dr. C. M. ...', written in a cursive style.

INSPECTOR



Appeal Decision

Site visit made on 30 March 2010

by **Louise Crosby MA MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
13 April 2010

Appeal Ref: APP/C1055/D/10/2122612 **3 Chaddesden Park Road, Derby, DE21 6HE**

- 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 K Flood against the decision of Derby City Council.
- The application Ref: DER/08/09/00953/PRI, dated 6 August 2009, was refused by notice dated 2 December 2009.
- The development proposed is amendments to previously approved scheme 08/08/01264 – Insertion of French doors into rear gable. Garage doors changed from 2 single doors to 1 double door. Alteration of window size on side elevation.

Decision

1. I allow the appeal, and grant planning permission for amendments to previously approved scheme Ref: 08/08/01264 at 3 Chaddesden Park Road, Derby, DE21 6HE in accordance with the terms of the application, Ref: DER/08/09/00953/PRI, dated 6 August 2009, subject to the following conditions:
 - 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 02f & 03g.
 - 2) Before the first occupation of the extension hereby permitted the window in the eastern elevation shall be fitted with obscured glass and shall be permanently retained in that condition.

Main issues

2. The main issues are the effect of the proposal on the character and appearance of the surrounding area and on living conditions at 5 Chaddesden Park Road and Chaddesden Park Social Club by reason of overlooking.

Reasons

3. The dwellings in Chaddesden Park Road are not uniform in their design or scale. Planning permission has been granted previously by the Council for alterations and extensions to this dwelling. These works are now almost complete. However, the resultant dwelling differs in a number of ways from the approved plans. This proposal seeks to regularise the situation.
4. The main changes to the front of the dwelling are the installation of a double garage door, as opposed to two single ones. While two single doors would have been preferable, given the overall width of the dwelling, the double door is not unduly harmful in the streetscene. The wider traditional front dormers,

in my opinion, better reflect the wide roof. The very small additional rooflight in the front roof slope appears well balanced and discreet because of its location adjacent to the projecting front gable and dormer. The repositioned window appears balanced and breaks up the expanse of render between the garage door and the front door. The deletion of the window in the front gable does not in any way affect the symmetry or composition of the front elevation. In fact, it results in a less cluttered gable end. As such, I consider that the revised scheme respects the character and appearance of the surrounding area and thus accords with the relevant parts of adopted City of Derby Local Plan Review (LP) Policies H16 and E23.

5. Turning to consider the effect on living conditions, the enlarged window in the western elevation overlooks the car parking area at the front of the social club and therefore does not impinge on the living conditions within the associated living accommodation. A tall conifer hedge along the rear boundary between Chaddesden Park Social Club and No3 provides an effective screen and prevents any harmful overlooking of the area at the rear. The window in the eastern elevation already has planning permission and although it has been fitted with clear glazing, a condition requiring obscure glazing was imposed on the previous planning permission and could be re-imposed here.
6. The new French doors in the rear gable end do not result in harmful levels of overlooking of No5, as they act more like a window because the Juliet balcony does not allow access out from the dwelling. Consequently, I consider that the amendments do not result in material harm to living conditions at No5 or Chaddesden Park Social Club by reason of overlooking and therefore the revised scheme also accords with LP Policy GD5(a).
7. Regarding the effect of the amended scheme on other dwellings nearby, I consider that that there is sufficient distance to all of these to prevent any harm to living conditions.
8. Since the works are almost complete, few planning conditions are required. A condition requiring compliance with the approved plans is necessary, for the avoidance of doubt and in the interests of proper planning, and one requiring obscure glazing in the eastern elevation, for the reason set out above.
9. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Louise Crosby

INSPECTOR



Appeal Decision

Site visit made on 30 March 2010

by **Louise Crosby MA MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
6 April 2010

Appeal Ref: APP/C1055/D/10/2122129

87 Arthur Street, Derby, Derbyshire, DE1 3EJ

- 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 John Briffa against the decision of Derby City Council.
- The application Ref: DER/08/09/00974/PRI, dated 9 August 2009, was refused by notice dated 16 November 2009.
- The development proposed is to replace front door.

Decision

1. I allow the appeal, and grant planning permission to replace the front door at 87 Arthur Street, Derby, Derbyshire, DE1 3EJ in accordance with the terms of the application, Ref: DER/08/09/00974/PRI, dated 9 August 2009, and the plans submitted with it.

Procedural matter

2. I am aware that the door has already been installed. I shall deal with the appeal on this basis.

Main issue

3. The main issue is whether the door preserves or enhances the character or appearance of Strutts Park Conservation Area (SPCA).

Reasons

4. As well as being within SPCA, the appeal site is in an area which is the subject of an Article 4 Direction. I understand that this imposes control over replacement doors, windows and roofing on street facing elevations. Arthur Street consists of Victorian terraced dwellings, some of which have open porches with their front door set back. Others, like this one have their front door flush with the front elevation.
5. While there are a range of different styles of door in the street, the predominant one seems to be the solid timber panel type. I also saw that there are numerous examples of less sympathetic designs. I understand that these were installed prior to the introduction of the Article 4 Direction or are not controlled by it because they are additional doors, rather than replacements.
6. This good quality timber, half glazed replacement door is clearly an improvement on the previous modern door. Moreover, it is painted in an appropriate colour. While the preference here would be for a solid timber panel

door, I consider that the door which has been installed does preserve the character and appearance of SPCA and is far superior to many of the other glazed and half glazed doors within the street. I am also mindful that many dwellings within the street have open porches, thus presenting numerous opportunities for new doors (of any style) to be fitted flush with the front elevation, uncontrolled. I find that the proposal would accord with adopted City of Derby Local Plan Review Policy E18. No planning conditions are necessary because the door has already been installed and is painted in a sympathetic colour.

7. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Louise Crosby

INSPECTOR