

Appeal Decisions

Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/01/12/00025/PRI	First floor extension to dwelling house (nook and office)	39 Bank View Road, Derby, DE22 1EL	Allowed with conditions
<p>Comments:</p> <p>This appeal followed the delegated refusal of a proposal to build over an existing garage. The resulting extension would present blank elevations to the front and side and be topped by a flat roof. The proposal had a 'wedge' shape due to the constraints of the site and was flush with the front elevation of the property.</p> <p>I was concerned that the rather unconventional design would be an incongruous feature on the dwelling house, detracting from its pleasant appearance and be out of keeping with the street scene. Accordingly I considered that the proposal was contrary to saved policies GD4, E23 and H16 of the adopted CDLPR.</p> <p>The Inspector considered that the main issues in the appeal were the impact of the proposal on the dwelling house and the street scene.</p> <p>The Inspector noted that the existing garage had a flat roof, which was being replicated in the extension and that other properties in the street had similar flat roof extensions. He did not share my view that the proposal would be prominent in the street scene due to the narrow frontage and the limited views of the flat roof from the street. He commented that the street scene was characterised by a variety of house styles and as such the proposed extension would not appear visually intrusive.</p> <p>Therefore the Inspector concluded that the proposal was not contrary to relevant saved local plan policies and he allowed the appeal with the usual conditions relating to time limit and materials.</p> <p>Interpretation of local plan policies in matters of architectural style and impact on a street scene can be subjective judgements and I believe this is a rather disappointing decision.</p>			

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/03/12/00363/PRI	First floor side extension to dwelling house (bedroom, w.c and store)	6 Bonnyrigg Drive, Oakwood, Derby, DE21 2ST	Dismissed
<p>Comments:</p> <p>This appeal follows the delegated refusal of a two storey side extension at a link-detached dwelling house in Oakwood. I was concerned that the proposed design would have a detrimental impact upon the appearance of the dwelling and be harmful to the appearance of the street scene due to the dominant appearance of the proposal which had no setback. I was further concerned that if allowed this may set a precedent of other similar extensions which could lead to a terracing affect in the street, further harming the character of the area. Thus I concluded that the proposal was contrary to the aims of saved polices GD5, H16 and E23 of the adopted CDLPR.</p> <p>The Inspector considered that the main issue in this appeal was the impact of the proposal on the street scene.</p> <p>The Inspector shared my view that the proposed extension was contrary to the aims of saved policy H16, which requires side extensions to have a set back to create a less visually intrusive form of development. He commented that the scale and mass of the house would be significantly increased and this would result in a cramped and unbalanced appearance within the street scene. He also shared my view that there was a risk of creating an undesirable terracing effect along the street.</p> <p>He noted that the property occupied a prominent position at the junction of three small streets and was in an elevated position. He also shared my view that any shortcoming in the design of the proposal would have a harmful effect upon the character and appearance of the area because of this.</p> <p>Overall the Inspector agreed with my assessment that the proposal was contrary to the aims of the aforementioned saved local plan polices and accordingly he dismissed the appeal.</p> <p>This is another pleasing decision which again reinforces our stance on the importance of good design and the wider implications of any development beyond the boundaries of the actual property.</p>			

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Listed Building Consent -alterations

Application No.	Proposal	Location	Appeal Decision
DER/05/11/00527/PRI	Retention of display of various signage	16-17 Friar Gate, Derby (Zizzi's)	
<p>Comments:</p> <p>Members may recall the sister application for advertisement consent being reported to Committee in March of this year. The appellant did not lodge the appeal against refusal of Listed building Consent until a later date, and this has resulted in the decisions being issued separately by two different Inspectors. However, unsurprisingly, the second Inspector has completely agreed with the views of the first Inspector.</p> <p>This proposal relates to two internally illuminated projecting signs and a trough light above the fascia sign on the front elevation of the building which houses 'Zizzi's' restaurant. These signs formed part of a wider proposal which was partially granted under delegated powers. However I considered that the trough light and projecting signs were detrimental to the character of the Listed Building and the surrounding Conservation Area.</p> <p><u>Comments from the first decision</u></p> <p>The Inspector considered that the main issue in the appeal was the effect of the proposal on the historic building and the wider impact on the character of the Friar Gate Conservation Area.</p> <p>The Inspector noted in some detail the fine architectural features of the building and the significance of its setting in the Conservation Area. She also noted the preferred style of illuminating signage as described in the draft Shopfront and Advertisement Guide. However she did not share my view that the trough light was unduly prominent and added to the visual clutter on the building. She believed the light was simple and discrete and had little impact upon the character of the Listed building. Therefore she allowed this element of the proposal.</p> <p>Turning to the projecting signs the Inspector considered that they were slim and although of a modern design, not out of place in daylight. However after dark when illuminated they were transformed into dominant features which were visually intrusive in the Conservation Area and at odds with the discreet detailing on the historic building. The Inspector noted this type of illumination was completely at odds with the advice in the draft Shopfront and Advertisement Guide. Therefore, in relation to this element she dismissed the appeal concluding that the illuminated signs harmed the special character of the building and failed to preserve or enhance the character of the Conservation Area and were therefore contrary to saved local plan policy.</p> <p>This decision is encouraging in that it gives weight to the recommendations in the draft Shopfront and Advertisement Guide and local plan policies even though the Inspector only agreed in part with my assessment.</p> <p>The second Inspector agreed that the projecting signs, when illuminated would be at odds with the 'elegant appearance' of the building and the traditional character of the street scene and therefore issued the same decision as in the original report.</p>			

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Certificate of Lawfulness Existing Use

Application No.	Proposal	Location	Appeal Decision
12/11/01470	Mixed use as a residential dwelling house (Class C3) and a telephone call answering service (Class A2) subject to the limitations on that established use as follows: 1. the telephone call answering service use being limited to operating solely within the main building 2. operating hours of the telephone call answering service being weekdays 8:30am to 5:30pm (but excluding Bank Holidays and the period 25 December to 1 January inclusive of those days); and the numbers of persons present at the property at any one time who are engaged, employed or working in any operations associated with the telephone call answering service being limited to two permanent residents of the property and a maximum of one non residential employee/worker.	4 Manor Road, Derby, DE2 2 3HZ	Dismissed

Comments:

Applications of this type are uncommon. The applicant is required to demonstrate by means of evidence supplied that the use has been in continuous operation for ten years. In this case this Certificate was issued as I was satisfied that, following close consultation with our legal team, the business had been in operation for ten years. However I was not satisfied that the applicant had demonstrated the number of members of staff employed as there was little evidence to substantiate this. Therefore I imposed limitations on the certificate, one of which was the number of employees which I limited to two permanent residents and one non resident employee. It was this aspect of the decision which the applicant challenged at appeal.

In his decision letter the Inspector carefully outlined his remit when looking at this type of appeal. His responsibility is to assess whether the Council's decision and reasoning is 'well-founded' given the evidence before it. The responsibility to prove the case lies with the applicant.

In this case the applicant had submitted details of wage bills and insurance policies. However these did not demonstrate conclusively that 3-5 people had been employed at the business for ten years as was stated. The Inspector agreed with my assessment that particularly in the early years of the business a smaller number of employees appeared to have operated at the premises. Therefore the Inspector judged that my decision was 'well-founded' and my decision to impose limitations was reasonable. Accordingly the Inspector dismissed the appeal.

Recommendation: To note the report.