

## Appeal Decisions

### Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/07/11/00810/PRI	Erection of 2 dwelling houses	Land adjacent 23 - 35 Courtyard Place, Spondon, Derby, DE21 7BJ	Dismissed
<p><b>Comments:</b></p> <p>This appeal followed the delegated refusal of planning permission for two additional dwellings alongside a group of recently built apartments at Courtyard Place off Moor St in Spondon. This submission followed an earlier refusal for an extension to the apartment block. This too was the subject of an appeal which was dismissed. The Inspector's comments in that case were relevant in this proposal too and I refused planning permission as I considered that this was a cramped and overly intensive form of development which was contrary to saved policies H13, GD4 and GD5 of the adopted City of Derby Local Plan Review.</p> <p>The Inspector considered that the main issue in the appeal was the effect of the proposal on the character and appearance of the area.</p> <p>He commented on the dense urban environment, tightly hemmed in, with a claustrophobic and arid ambience and characterised by unrelieved hard surfacing throughout. He noted too that the site was poorly maintained and considered that adding two additional dwellings to this environment with the associated increase in forecourt parking would further diminish the quality of the communal realm experience the current area of open space provides.</p> <p>Whilst the PPS quoted by the Inspector may now be obsolete, the aspirations contained within them, requiring good design appropriate in its context remain in the newly published National Planning Policy Framework. The Inspector also noted the aims of saved policy GD4, that new development should contribute positively towards the urban environment, GD5 to protect amenity and H13 to promote a high quality living environment. He considered that this proposal was clearly at odds with all these aims both national and local and therefore he dismissed the appeal.</p>			

**Recommendation:** To note the report.

## Appeal Decisions

### Appeal against refusal of Works to Trees under TPO

Application No.	Proposal	Location	Appeal Decision
DER/09/11/01145/PRI	Felling of 2 Ash Trees and 2 Sycamore Trees, and deadwooding of Pear tree protected by Tree Preservation Order No. 141	306 Burton Road, Derby, DE23 6AD	Allowed with conditions

#### **Comments:**

This appeal follows a condition imposed on an application to undertake works to a number of trees at the above property. Following advice from my Arboricultural team, and using my delegated powers, I granted permission for a variety of works which were considered to be acceptable. However one element of the proposal was the felling of a mature sycamore tree. The justification for this element was its proximity to an unauthorised outbuilding. The tree was deemed to be sound in health by my Arboricultural team, therefore I considered that this was an unreasonable proposition and excluded this element by condition.

In his report the Inspector carefully noted the character of the area, the appeal site and the comments from third parties. He considered that in isolation, the tree which was the subject of this appeal did not have high individual landscape prominence but as part of a belt of trees it formed a high backdrop to views across this part of the city and was therefore of high public visual amenity value. Removal of a tree in this group would erode its character and in his opinion cause a loss of public amenity value.

Turning to the justification for felling of such a tree the Inspector noted that this was scant in the report provided by the appellant. He also considered that the lack of any comments about the trees present condition was somewhat 'disingenuous in a professional tree report, the brief for which was to 'manage and identify hazards'.

On his site visit the Inspector noted evidence of recent and deliberate damage to the tree. This included the complete removal of soil and subsoil around the root system and crudely cutting or ripping off of all exposed feeding roots. The Inspector noted that this would result in de-stabilising the tree. He also commented on a 'felling wedge' which had been cut into the tree. This resulted in the loss of sapwood and therefore the cambial connection, the link between the roots and the crown by which the tree lives, had been destroyed on at least one third of the trees circumference. He also noted the unauthorised and crude development of the outbuilding which had taken place so close to the tree.

However the Inspector noted his decision had to be based upon the tree as it stands at the time of his site visit. He therefore regretted that he could not share the Arboricultural officer's view that the tree was sound and due to the severe damage he considered its retention inappropriate. Accordingly he allowed the appeal to succeed but he followed my advice in the matter of suggested conditions to be imposed in this circumstance.

A replacement tree should be planted. As the site is some distance from the dwelling he considered that this should be a large statured tree. The appropriate species to be agreed with the Council. If during a period of five years from the date of the replacement tree being planted it should die or be damaged etc, this too should be replaced and maintained.

This is a very sad case where the Inspector clearly had sympathy for the desire of the City Council to see the appeal tree maintained. However in the face of deliberate damage he was forced to permit the felling. The Inspector's comments regarding the damage suffered by the tree are very strongly worded and give an indication of his feelings in the matter. The robust conditions regarding replanting and maintenance of the future tree at the site further re-enforce this.

**Recommendation:** To note the report and to confirm that the current investigation into the deliberate damage be pursued through the Courts if necessary .

## Appeal Decisions

### Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/10/10/01260/PRI	Demolition of dwelling house and erection of 4 dwelling houses	Site of 69 Meadow Lane, Chaddesden, Derby	Allowed with conditions

#### **Comments:**

This appeal followed the delegated refusal of planning permission for four dwelling houses on a plot which previously contained one and an outbuilding. My main concerns with this proposal were with regard to the two dwellings which would be created at the rear of the site and therefore clearly 'backland' development which I considered to be out of keeping with the traditional layout along Meadow Road. Therefore the proposal was judged to be contrary to the aims of saved policies E23, GD4, and H13 of the adopted City of Derby Local Plan review.

The Inspector in his report considered that there were two main issues in this appeal. The effect of the proposal on the neighbouring occupiers and the impact on the character and appearance of the area.

The Inspector did not consider that four dwelling on the site would constitute an overdevelopment of the plot and he noted the orientation of windows etc had been carefully considered to minimise the impact on the neighbouring property. He did not share my views on the two plots to the rear of the site; rather he believed the development responded to the site available without causing harm to nearby properties. In his opinion therefore he did not believe the proposal was contrary to the aims of saved policy H13 with regard to backland development, nor was the design of an insufficiently high standard to be contrary to policy E23 or GD4. Accordingly the Inspector allowed the appeal with a comprehensive list of conditions the merits of which he discussed at some length.

The Inspectors comments regarding conditions included the proviso not to conflict or stray into matters covered by Building Regulation legislation (such as energy consumption condition). Plus because of the proximity of nearby residential properties he recommended a condition requiring a construction method statement. This would cover hours of working, vehicle parking on site, control of dust and removal of waste from the site.

This last condition would fall to staff from the Development Control and Environmental Health teams to monitor and respond to. I am concerned that this could present some difficulties for staff to monitor adherence but we will react to any breaches reported.

**Recommendation:** To note the report.

## **Appeal Decisions**

### **Appeal against refusal of Full Planning Permission**

<b>Application No.</b>	<b>Proposal</b>	<b>Location</b>	<b>Appeal Decision</b>
DER/10/11/01202/PRI	Formation of rooms in roofspace (2 bedrooms, en-suite and storage area) and alterations to roof (dormer windows)	28 Park Lane, Allestree, Derby, DE22 2DT	Allowed with conditions
<b>Comments:</b> <p>This appeal follows the delegated refusal of planning permission for a dormer window in the side elevation of this large mature dwelling house. My reservations regarding this proposal related solely to the impact of the proposed window on the living conditions of the neighbouring property. The window would be clear glazed and opening. Sited close to the property boundary this window would increase the overlooking of the garden area at the rear of No.26 Park Lane. Therefore I considered that it failed to accord with saved policy GD5 of the adopted City of Derby Local Plan Review.</p> <p>The Inspector agreed that the main issue in this appeal was the impact upon the living conditions of the occupants of the neighbouring property. However he noted that there were already several windows which overlooked the rear garden of No.26 Park Lane. As a result he considered that the additional dormer window would not add significantly to the overlooking of the adjacent garden and therefore this property would not be unacceptably harmed with regard to privacy. Therefore he did not share my view that the proposal was contrary to saved policy GD5 and accordingly he allowed the appeal with the usual conditions regarding approved plans and materials.</p>			

**Recommendation:** To note the report.