

Appeal Decisions

Appeal against refusal of Reserved Matters

Application No.	Proposal	Location	Appeal Decision
DER/01/10/00010/PRI	Erection of 15 dwelling houses, formation of vehicular access, boundary treatments and erection of garden sheds	Land at the rear of Tesco Store (former Blue Pool PH), Stenson Road, Derby (Accessed from Bosworth Avenue)	Dismissed

Comments:

Members may recall this reserved matters application coming before the Planning Control Committee in June 2010. Outline permission for residential development was granted in January 2008, with means of access from Bosworth Avenue. The former public house is now a Tesco express store and the application site was originally the garden area for the former public house. Local residents and Members had many concerns about this proposal and it was ultimately refused planning permission as the layout was considered to be an over intensive form of development which would be detrimental to the occupiers of the existing dwellings surrounding the site. It was therefore deemed to be contrary to aims of saved policies GD4, GD5 and H13 of the adopted City of Derby Local Plan Review.

The Inspector considered that the two main issues of the appeal were the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of nearby residents.

The Inspector noted the varied housing styles and ages in the area and considered the proposed scheme would not look out of place as there were no 'locally distinctive qualities' which might be replicated. He also considered that the density of the proposed scheme, whilst higher than in the surrounding area, would be acceptable as it was comparable with Bosworth Avenue and other infill developments.

Noting that the loss of the protected Ash tree had been agreed at outline stage, the retention of the remaining trees and the proposed landscaping scheme together with boundary treatments would be acceptable.

The Inspector therefore concluded that broadly the scheme was acceptable and would not harm the character and appearance of the area and would comply with saved policies GD4 and E23 of the CDLPR.

Turning to the impact on the living conditions of the residents of Sunnyhill Avenue the Inspector expressed concerns about the impact specific plots may have. He considered some dwellings would experience a loss of amenity looking out on to the 'overbearing' flank elevations. He was also concerned about the loss of evening sunlight for some existing properties.

The Inspector also expressed concerns that a lack of natural surveillance over the triangle of open space on the site may lead to the possibility of youths gathering there causing noise and disturbance to local residents.

For these specific reasons the Inspector concluded that there would be an unacceptable impact on the living conditions at two properties on Sunnyhill Avenue and therefore the proposal did not accord with saved policy GD5 of the CDLPR. Concerns about security and anti-social behaviour would also lead to a conflict with saved policy

H13.

Turning to the other matters raised during the application and appeal process the Inspector was satisfied with the proposed highway arrangements and the ability of the local highway network to accommodate the traffic arising from the development. He was also content with the proposed drainage arrangements for the scheme and energy conservation measures.

In a very clear conclusion the Inspector notes that if the two detailed reasons for this refusal are overcome a similar proposal would provide 'much needed affordable housing and make efficient use of previously developed land in a relatively sustainable location'.

Whilst this scheme has failed the Inspector has clearly stated he finds a residential proposal of this density, accessed from Bosworth Avenue to be acceptable. If such a proposal is received by the Local Planning Authority and it does satisfactorily address the specific concerns raised, the comments of this Inspector will be highly relevant in the decision making process.

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/08/10/00989/PRI	Extension to dwelling house (dining room, kitchen, shower, two bedrooms and en-suite) and erection of detached garage in rear garden - amendments to previously approved application DER/01/09/00041 and erection of detached store	3 Crich Avenue, Littleover, Derby	Allowed with conditions

Comments:

Members may recall this application coming before Planning Control Committee in October 2010. The proposal sought to regularise works carried out after a previous application DER/01/09/00041 was granted but not completed in accordance with the permission issued. The irregularities were brought to the attention of the Enforcement Team who secured the revised application.

Whilst these proposals were built without the benefit of the correct planning permission I judged that the attempts to regularise the works were broadly acceptable and complied with the aims of saved policies GD4, GD5, H16, E23 and T4 and therefore recommended they be approved with suitable conditions. However Members were concerned that the proposal was visually intrusive in the street scene, unduly detrimental to the amenities of nearby residents and harmful to the character and appearance of the surrounding area. As a result, the application was refused.

An appeal was lodged using the 'Householder Fast Track' procedure. The Inspector made his site visit on 2nd March 2011 and in his report he considered that the two main issues of this appeal were the effect of the proposal on the character and appearance of the area and the effect upon the living conditions of neighbouring occupiers.

After noting the relevant local and national planning policies relating to domestic extensions and commenting on the character of area the Inspector concluded the side extension was visually subordinate due to its set back and lower ridge line and not out of keeping with other extensions in the street scene. He also believed that the symmetry of the pair of semi-detached properties was not compromised. In his view the garage and store, located in the rear garden, were of a traditional design, used locally appropriate materials and were neither excessive in size nor unduly prominent from public view points. The Inspector therefore believed that the proposal did not materially harm the character and appearance of the area and did not conflict with the aims of saved policies GD4 and H16 of the CDLPR.

Turning to how the proposal affects the living conditions of nearby residents, the Inspector noted that the two storey side extension had no windows in its side elevation and the rear windows did not unduly overlook No.5 Crich Avenue. The windows in the rear extension did not over look the neighbouring property to any material degree. The Inspector noted the window in the side elevation of No.5 Crich Avenue but concluded that the proposal was not so materially harmful to warrant a refusal of permission on this

ground.

Therefore the Inspector disagreed with the view in the decision notice that the proposal resulted in unacceptable harm to the living conditions of nearby occupiers and believed it complied with the aims of saved policy GD5 of the CDLPR.

In his conclusions the Inspector noted that the proposal was not built in line with the permission previously issued but believed the resulting works were not so materially different to make it unacceptable. He noted that comments on the quality of the building work and on the structural integrity of the proposal but commented that these had no bearing on the planning case.

Any concerns raised over the use of the building for commercial purposes and parking problems which might arise from this were not issues in this appeal and it would be up my Planning Enforcement officer to pursue that should it arise.

The Inspector therefore allowed the appeal as he believed it did accord with the aims of the stated local plan policies and he suggested one condition regarding re-instating the brick quoin detail on the north east corner of the side extension in line with the submitted drawings and the existing building. My Enforcement officer will monitor this to ensure compliance with this condition.

An application for costs has been submitted alleging unreasonable behaviour by the Council in refusing the application without a substantive argument, but as yet no decision on this has been received.

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/09/10/01157/PRI	Extension to dwelling house (porch, bedroom and enlargement of kitchen and bedroom)	14 Rona Close, Sinfin, Derby	Dismissed

Comments:

This appeal follows two delegated refusals of planning permission. On both occasions I had concerns about the design of the proposed two storey side extension and porch at this semi-detached property. The resubmitted application went some way to addressing the original reasons for refusal but the first floor side extension only had a set back of 0.55m and not the 1-2m I always try to secure to ensure adequate degree of distinction between the main dwelling and the extension in order to address unbalancing and street scene concerns. Planning permission was therefore refused as the proposal was considered to be contrary to the aims of saved policies GD4, H16 and E23 of the adopted City of Derby Local Plan Review.

The Inspector considered that the main issue in this appeal was the effect of the proposal upon the street scene.

The Inspector noted the regular character of the existing street scene and the even spacing of the semi-detached properties. He considered that this proposal would lead to an erosion of that spacing which he considered to be an attribute of the street scene. Further, if similar extensions were built elsewhere in the street the dwellings would become 'akin to terraced properties'.

It was noted that an effort had been made to achieve a more subordinate design to lessen the impact of the proposal but in this case the Inspector felt that even with a 1.00m set back at first floor level, which is the minimum I would usually seek to achieve, the proposal would unacceptably detract from the street scene because it would not retain the even spacing of properties which generally been preserved.

Accordingly the Inspector dismissed the appeal as he too concluded that it was contrary to the aims of saved policy H16 of the CDLPR.

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/11/09/01330/PRI	Alterations to approved dwelling types (previously approved planning permission Code No. DER/06/08/00949) to convert integral garages to habitable rooms and erect 2 detached double garages	Plots 3 and 4, site of 279 Morley Road, Oakwood, Derby	Dismissed

Comments:

Planning permission was originally granted in September 2008 for the demolition of a large detached bungalow and the erection of four detached dwelling houses at this site towards the northern boundary of the city on Morley Road. During the life of this application the architect had proposed a detached double garage to the front of the new properties but I advised against this to protect the visual amenity of the street scene. The proposal was approved with integral garages.

The proposal which is the subject of this appeal sought to re-introduce these detached garages to plots 3 and 4 and convert the integral garages to living accommodation. The proposal was refused planning permission as I judged it would be an unduly prominent feature in the street scene and detrimental to its character and appearance and therefore contrary to the aims of saved policies GD4 and E23 in the adopted City of Derby Local Plan Review.

The Inspector considered that the main issue in the appeal was the effect of the development upon the character and appearance of the area.

In his general observations the Inspector noted the spacious and open nature of this part of Morley Road and the mature landscaping surrounding the site. He has also requested considerable additional information during the appeal process about garages approved close to the application site to assist him in coming to his conclusions. In his opinion these garages already approved do erode the sense of spaciousness of the area to some degree. However the proposed double garages would result in an assertive feature in the street scene, as they are far bulkier structures than those already built. He therefore gave only some weight to the appellant's justification of the proposal relying on the examples of garages previously approved.

He concluded that in his opinion the proposal would materially harm the character and appearance of the area and was therefore contrary to saved policies GD4, E23 and H13 of the adopted CDLPR. As a result, he dismissed the appeal.

This is an encouraging decision as once again an Inspector has commented on Local Plan policy which requires developments to positively contribute to good urban design and to preserve and enhance local distinctiveness.

Recommendation: To note the report.

Appeal Decisions

Appeal against refusal of Full Planning Permission

Application No.	Proposal	Location	Appeal Decision
DER/11/10/01360/PRI	Single storey rear and side extension to dwelling (bathroom, kitchen and lounge)	4 Sherwood Avenue, Chaddesden, Derby	Dismissed
<p>Comments:</p> <p>This appeal was lodged after a second refusal of planning permission for a substantial extension at the side and rear of this single storey dwelling on Sherwood Avenue. Following the previous refusal of planning permission an appeal was lodged. This appeal was subsequently dismissed as the Inspector was concerned about the impact of the proposal on the living conditions of the occupiers of No. 120 Reginald Road South. The proposal which is the subject of this appeal differs from the first only slightly, being reduced in depth by 0.2m and changing the roof design from a gabled roof to a hipped roof. This revised application was also refused using my delegated powers as I considered it still to be visually intrusive and overbearing and therefore unduly harming the occupiers of No. 120 Reginald Road South and therefore contrary to saved policies H16 and GD5 of the City of Derby Local Plan Review.</p> <p>The Inspector regarded the main issue of the appeal to also be the impact of the proposal on the living conditions of the occupiers of No. 120 Reginald Road South.</p> <p>Making frequent references to the earlier appeal, determined in September of last year, the Inspector noted that the proposal before him was almost the same in terms of width and depth, with only the roof design being different. The Inspector viewed the application site from No. 120 Reginald Road South. He noted that the changed roof design would reduce the roof mass visible but he still considered that the proposal would be 'visually dominant and overbearing'. He also felt it would intrude greatly in to the open views of the rear garden and believed this would result in material harm to the occupiers.</p> <p>Other examples of extensions and developments were sited by the appellant as a justification for this proposal however the Inspector did not consider these examples to be relevant and commented that <i>if</i> the City Council had failed to protect the amenity of neighbouring occupiers elsewhere as suggested, this was hardly a justification for doing so again.</p> <p>Accordingly, the Inspector concluded that the amended proposal was contrary to the aims of saved policies H16 and GD5 of the adopted CDLPR and he again dismissed the appeal.</p>			

Recommendation: To note the report.

