
Delegated report Officer: Richard Rodgers

Application ref. DMPA/2021/0971

The retention of an outbuilding at 12 Mulberry Way, Hilton, Derby, DE65 5FR

Valid date: 19/07/2021

Consults expired: 11/08/2021

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

The case is related to Planning Enforcement Case ref: E/2020/00177

Responses to consultations and publicity

One neighbour objection was received, their concerns summarised here:

- The height of the building (2.9m high) is taller than permitted (i.e. over 2.5m within 2m of a boundary);
- In reality the height of structure is taller (than 2.9m), due to the sloping site and the datum point (for measurement) being the level part of the garden and not where the building is/where the garden slopes down;
- Building actually closer to 3.1m tall;
- The building overshadows our garden;
- Plans show no external fitting (lights etc). There are some however and these can be seen from our living room;
- Plans do not show a step into the building and there is one and this elevated position allows a view into our garden;
- The building is being used as a business - photography. That increase of use reduces our privacy and creates a problem with parking;
- Effects of flash photography (related to above) means we have to close our curtains - this is unreasonable;
- Structure can be seen from public road (in contradiction to applicants response to Question 22 of the application form);
- Timescales of development (start/completion etc are inaccurate);
- Materials are more faux clad resembling timber, rather than actual timber.

Relevant policy, guidance and/or legislation

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); INF2 (Sustainable Transport); and BNE1 (Design Excellence).
- 2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development).
- Hilton, Marston on Dove & Hoon Neighbourhood Development Plan 2021

National Guidance:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Local Guidance:

- South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Design;
- Impacts on amenity; and
- Highway safety

Planning assessment

Design

In regards design, the building is considered to be in keeping with the residential setting. a subserviently sized structure of standard pitched roof form. Gardens do play host to a number of incidental forms (garages, greenhouses, garden sheds, garden rooms etc) and this structure does not move away from those standard forms so much as to offer a refusal based on design concerns. The estate is fairly modern in character and this structure is considered to compliment that modern feel/finish.

Impacts on amenity

It is acknowledged that the structure is taller than 2.5m in height overall and such needs planning permission. As I understand it the applicant was unaware of the need for planning permission. What an application does allow however is some departure from the rigidity of permitted development; it allows an assessment based on the merits of the case rather than one size has to fit all! Here I would opine that the outbuilding is simply not tall/large enough (in this bottom of garden context) for it to be so oppressive (thereafter by way of proximity) as to offer a refusal, these houses affording good sized maturely planted gardens of which can accommodate such a structure without undue detriment, it neither constituting over-development or thereafter so overbearing to 'key' spaces, as for harm levels to be found unreasonable. It will however cause some modest overshadowing to the immediate, bottom of garden spaces adjacent but not really more than is already caused by the current boundary screening (built and vegetative and trees on the rear boundary) and certainly not all of the garden space of the two neighbours, the gardens here simply too big for that to happen on a regular basis.

One neighbour has raised concern about the potential to overlook from the step to the building. That step is considered to be purely to aid access and such more a passing through space (by way of its limited footprint) than a platform as to create an elevated/long stay view over the adjacent garden. Thereafter the impacts in regards loss of privacy (from the internal space) is no greater than that achievable as permitted, the use of the structure certainly shown to be incidental and having visited the site I saw nothing to support that a change of use had/was occurring, or indeed impacts (camera flash etc) so far detached from if the space was being used by a photo/camera enthusiast as part of a hobby.

Impacts on highway safety

There are no relatable impacts on the safety of the highway, caused by the development. The proposal does not build on space currently used for parking or indeed add additional bedroom numbers. The

immediate road is capable of some short term highway parking without undue detriment, this not a classified road situation with no yellow lines etc. There is no enforced reliance on the highway caused however by this build.

Conclusion

The proposal is considered to comply with the base requirements of Housing Policy H27, found to be generally in keeping with the area, proportionate to the setting and not unduly detrimental to the living conditions of adjoining properties, acknowledging however that there are some impacts as there often is with new development.

Recommendation

Approve

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	12/11/2021
Report agreed:	12/11/2021
Authorised officer:	Steffan Saunders
