



Appeal Decision

Site visit made on 25 April 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 12th May 2017

Appeal Ref: APP/R0660/W/17/3169869

2 Lancaster Road, Wilmslow, SK9 2HF

- 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 Max Eden against the decision of Cheshire East Council.
 - The application Ref 16/4826M, dated 3 October 2016, was refused by notice dated 9 February 2017.
 - The development proposed is a new build, 2 storey, 3 bedroom detached dwelling on a corner plot.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would provide adequate living conditions for future occupiers with particular reference to outdoor amenity space; and
 - The effect of the proposal on the living conditions of the occupiers of 31 Tudor Road with particular reference to outlook, sunlight and daylight.

Reasons

Living conditions future occupiers – outdoor amenity space

3. The appeal site is a triangular plot which is part of No 2's garden and is situated on the corner of Lancaster Road and Tudor Road. The surrounding area is residential and characterised by similar properties.
 4. Policy DC41 of the Macclesfield Borough Local Plan (Local Plan) sets out a number of criteria for infill housing development including that the garden space should reflect the typical ratio of garden space within curtilages in the area, and the location, size and shape should be suitable for the intended purpose (criterion 4).
 5. The proposed house would have a triangular area of amenity space to its rear that would be around 36 square metres in size. Additionally a larger triangular area would also be provided to the side and front of the proposed dwelling in the corner of the plot. The Council considers that the rear garden would be awkwardly shaped, below the size that what would normally be expected for a three bedroom house and much smaller than the other rear gardens nearby.
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6. I accept that the irregular shape of the plot means that the proposed arrangement of the garden space to the rear and side/front of the house would not directly reflect the existing pattern of development nearby or necessarily accord with the typical ratio of garden space within curtilages in the area. That said, when the rear garden is considered in conjunction with the side/front garden, the appellant estimates that the overall size of the outdoor amenity space would be around 95 square metres in total. To my mind, that would not be particularly small or unduly out of step with the garden sizes of some of the other existing properties nearby.
7. The Council refers to Local Plan Policy BE1 which expects new development to reflect local character and respect form, layout, siting, scale and design of surrounding buildings and their setting. Local Plan Policy DC1 similarly requires development to be sympathetic to the character of the local environment, street scene and adjoining buildings and the site itself. However, it has not been put to me that the proposed provision of amenity space as shown would cause any harm to the character and appearance of the site or the surrounding area. Whilst the proposed arrangement would not be typical of the area, in my view it would not appear prominent or obviously unsympathetic to its local character or the street scene.
8. In terms of Local Plan Policy DC41's requirement for the location, size and shapes of gardens to be suitable for their intended purpose, I have not been provided with any particular standards or guidelines as to the Council's requirements in this regard. The rear garden would not be large, and its position to the north east of the proposed house would mean that it would receive only limited sunlight. On the other hand, the side/front garden would be larger and would face south. Although it would be adjacent to the site frontage, the boundary there is already enclosed by a well-established hedge that would to some extent screen views of the proposed garden from the road and footpath. I consider that this, or similar boundary planting, would provide sufficient privacy to allow the future occupiers to feel comfortable there. I see no reason why additional more substantial boundary treatments that would have a detrimental effect on the street scene would necessarily be required.
9. On this basis, in practical terms, it seems to me that taken together in combination the proposed garden areas would provide adequate space for normal domestic activities such as hanging washing outside to dry, or to sit and enjoy the outdoor environment. Thus I am satisfied that they are of an acceptable location, size and shape to function as useful outdoor amenity space.
10. I therefore conclude that the proposal would provide adequate living conditions for future occupiers with particular reference to outdoor amenity space. It would therefore accord with Local Plan Policy DC41 and the core planning principle of the National Planning Policy Framework (the Framework) to secure a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions 31 Tudor Road – outlook, sunlight and daylight

11. Adjacent No 31 is a semi-detached house that has been extended. There is a first floor bedroom window and a ground floor lounge window on its flank elevation facing the appeal site. There would be no habitable room windows on the rear elevation of the proposed house. The proposed bathroom window

there would be obscure glazed and this could be secured via a planning condition. On this basis, despite the concerns of the neighbouring occupiers, the Council raises no objections to the scheme in terms of overlooking or loss of privacy. Even so, in order to safeguard residential amenities Table 4 of Local Plan Policy DC38 sets out guidelines for space between buildings. For habitable rooms facing non-habitable rooms (or a blank elevation) at 1 or 2 storeys a separation distance of 14 metres is required. In the case of the appeal proposal, a distance of 12 metres would be provided between the rear of the proposed house and the side of No 31.

12. I appreciate that the proposal would fall only slightly short of the required separation distance and that the guidelines are flexible. Local Plan Policy DC38 recognises that the guidelines should be applied unless the design and layout of the scheme and its relationship to the site and its characteristics provides a commensurate degree of light and privacy between buildings.
13. There is an existing substantial evergreen hedge on the boundary with No 31 which is within No 31's garden. During the determination of the planning application I understand that this was a similar height to No 31's first floor flank window. At the time of my visit it had been trimmed significantly in height to just above the height of the 2 metre tall boundary fence.
14. The proposal would introduce a two storey house with a pitched roof that would effectively fill the width of the plot. Even though its rear elevation would be stepped in to break up its appearance, the proposed house would be positioned very near to the boundary with No 31. The tall blank wall of the most southerly section of its rear elevation would be seen directly and at rather close quarters from the flank windows of No 31. Even taking into account the existing planting on the boundary, it would be appreciated well above this as a tall and unduly dominant feature that would appear oppressive and overbearing and lead to an unsatisfactory loss of outlook for the occupiers of No 31. This would be so even though the main habitable rooms to No 31 are on its north elevation.
15. The appellant advises that a tall landscape buffer could be re-provided on this boundary and secured via a planning condition. However, it has not been demonstrated that there is sufficient room to accommodate this within the appeal site. Besides, I am not convinced that planting would be sufficient to screen the proposed two storey house to any great degree or to overcome the harm I have identified in relation to outlook.
16. Additionally, No 31's flank windows face south west and the proposed house would be to the west of them. As such, given the scale of the proposed development and its proximity to No 31, it seems to me that some loss of sunlight to the neighbouring property would arise particularly in the late afternoon and evening. There would also be some limited loss of daylight to the rooms served by No 31's flank windows. That the Council's Environmental Health Officer raises no objection to the proposal does not alter my view.
17. I therefore conclude on this issue that the proposal would be harmful to the living conditions of the occupiers of No 31 with particular reference to outlook, sunlight and daylight. This would be contrary to Local Plan Policy DC3 which states that development should not significantly injure the amenities of nearby residential property due to overbearing effect (2) and loss of sunlight and daylight (3). It would also conflict with Local Plan Policy DC38 and the core

planning principle of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

18. A previous application for a house on the appeal site was approved in 2002. Although I understand that it had a similar relationship with No 31 as the house now proposed, I am not aware of the full details of that scheme or the circumstances that led to its approval. In any event, that permission pre-dates the adoption of the policies in the Local Plan and has now lapsed. As a result, it does not provide an available fallback position and is not a reason to allow development that would be harmful.
19. A new house has been developed in the garden of 1 Lancaster Road opposite the appeal site. Again I am not aware of the full circumstances that led to that permission but I note the appellant's view that the appeal proposal has a smaller footprint than that permitted house. Be that as it may, the house at No 1a sits in a rectangular plot that reaches to the same depth as No 1. Thus, in contrast to the appeal proposal, a much larger rear garden is provided and a less direct relationship with, and greater separation distance to, neighbouring 29 Tudor Road is achieved. As such, I do not regard that existing development to be directly comparable to the proposal before me.
20. The Council raises no objections to the proposal in terms of its impact on the character and appearance of the area, highway safety or safety during the construction phase. I also note the appellant's point that since no garage is proposed issues of noise, smells, fumes or smoke would not arise. The absence of harm in all these regards counts neither for, nor against the proposal.
21. The Council confirms that it is unable to demonstrate a 5 year supply of deliverable housing sites. Paragraph 49 of the Framework advises that relevant policies for the supply of housing cannot be considered up to date in such circumstances. However, with paragraph 14 of the Framework and the presumption in favour of sustainable development in mind, I confirm that in this instance the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, I do not regard the proposal to constitute sustainable development.

Conclusion

22. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR