



Appeal Decision

Site visit made on 13 May 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2019

Appeal Ref: APP/R0660/W/19/3222023

Plot adjacent to 4 Park Road, Willaston, Cheshire CW5 6PW

- 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 Mrs Lyndsay Poole against the decision of Cheshire East Council.
 - The application Ref 18/5179N, dated 15 October 2018, was refused by notice dated 26 November 2018.
 - The development proposed is a detached dwelling (two bed starter home).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have amended the description of the development and the site address in the banner heading above to improve clarity and remove superfluous wording; this matches the description and address on the Council's decision notice.
3. Within this part of Cheshire East are the parishes of Wistaston and Willaston, both of which have Neighbourhood Plans that have been approved following referenda. The appeal development is located in the Willaston Neighbourhood Plan (WillNP) area, and Willaston Parish Council has made representations on the proposal, which I have had regard to.
4. However, the Council's Decision Notice states that amongst other things the proposed development is contrary to Policy D4 (design of new housing) contained in the Wistaston Neighbourhood Plan 2015-30 (WistNP). The appeal development is not within the WistNP area and I have not therefore had regard to Policy D4 contained within the WistNP.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area
 - the living conditions of nearby occupiers, with particular regard to outlook, overshadowing and overlooking
 - the living conditions of future occupiers, with particular regard to private amenity space.

Reasons

Character and appearance

6. The appeal site is located within a predominantly residential area, comprising a variety of house types, designs and sizes. The houses on the southern side of Park Road near to the appeal site share a similar front building line which is set back from the road. The houses on both sides of the street have reasonable-sized front curtilage areas and together with the railway line to the east of the appeal site, this gives the area a generally open character.
7. The appeal site is a triangular plot of land on the southern side of Park Road, at the eastern end of a row of mixed housing, with the railway line to the south. There is a shallow curve to Park Road as it passes the appeal site, which increases its prominence in views from the east. The site is largely surrounded by timber panel fencing, some 1.0 metres in height to the front, 2.0 metres in height to the rear, and between some 1.5 – 2.0 metres in height to the western side.
8. The proposed development would be a 2-storey dwelling, constructed of bricks and with a pitched roof. The front elevation would be set back from the footpath on Park Road by some 2.0 metres. The submitted drawings show that two off-street car parking spaces would be provided in a 2.7 metre wide driveway at the western edge of the site. In addition to the driveway, the proposed dwelling's curtilage would include a small front garden and a larger side and part rear garden area. The existing fencing would be largely retained; a new brick wall some 1.0 metres high would be constructed at the front, with an opening to provide access to the proposed front door.
9. The proposed dwelling would have a similar orientation to the other houses on the southern side of Park Road, including the next door dwelling. However, due to the size and shape of the site, its front elevation would be set some 4.0 metres forward of the front elevation of the dwelling next door and the established building line. The proposed front garden would be significantly smaller than the other nearby dwellings on the southern side of Park Road. Notwithstanding the appeal site's location at the end of a row of houses, the appeal development's position, together with its 2-storey height, would make it a visually prominent and incongruous feature within the streetscene. It would therefore be out of keeping with the generally spacious character and appearance of this part of the street.
10. I note that the appellant has identified examples of what they refer to as 'similar discordant street scenes' in the area. Even if I were to accept the appellant's statement about discordant streetscenes elsewhere, this does not mean that a similar approach would be acceptable at this location. Each proposal should be considered on its individual merits, which is what I have done in this case.
11. As set out above, the height, massing and position of the proposed development would adversely affect the character and appearance of the area. It would therefore conflict with Policies BE.1 (amenity) and RES.2 (unallocated housing sites) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 (CNRLP), Policy SE1 (design) of the Cheshire East Local Plan Strategy 2017 (CELPs) and with guidance contained within the Borough of Crewe and Nantwich *Development on Backland and Gardens* Supplementary Planning

Document 2008 (BGSPD) and with the National Planning Policy Framework 2019 (the Framework) in this regard.

Living conditions of nearby occupiers

12. As set out above, the front elevation of the proposed dwelling would be some 4.0 metres further forward than the front elevation of the single storey dwelling next door. The side elevations of the two dwellings would be some 3.4 metres apart, separated by a driveway within the appeal site, a timber fence at the property boundary, and by a small passageway to the side of the single storey dwelling.
13. No detailed information has been provided concerning overshadowing. Notwithstanding its distance from the property boundary, the height, massing and position of the proposed development would mean that it would be likely to overshadow part of the front curtilage of the next door property during the morning hours. However, this is an open area of hardstanding at the front of the next door property, rather than its private amenity space, and the living conditions of the occupiers of the single storey dwelling would be unlikely to be significantly affected by overshadowing from the appeal development.
14. The appellant has also produced evidence of the likely effects of the proposal on the outlook from the easternmost front window of the next door dwelling, with reference to the 45 degree rule. The Council has not commented upon this. However, given the existing boundary fence, the height and position of the proposed dwelling would not significantly affect the outlook from the front rooms of the next door dwelling.
15. The rear elevation of the proposed development includes an upper floor bedroom window. However, in addition to the aforementioned separation distance, the rear elevation of the proposed development would be located to the north and east of the roof ridgeline of the next door dwelling. The roof of the next door dwelling would therefore largely screen the rear private amenity space of this dwelling from overlooking.
16. For these reasons, the proposed development would be unlikely to adversely affect the living conditions of nearby occupiers, with particular regard to outlook, overshadowing and overlooking. It would not therefore conflict with Policies BE.1 and RES.2 of the CNRLP, Policy SE1 of the CELPS and with guidance contained within the BGSPD and the Framework, in this regard.

Living conditions of future occupiers

17. The Council initially stated that the proposed side garden would be some 27.3m² in area, however, in paragraph 7.1 of its appeal statement it accepts the appellant's assessment that the side and part rear area would be 55m², which includes a side area of some 45m². The plans before me are not of an accurately measurable scale. However, as there is no longer a dispute between the main parties regarding this matter, I have used the appellant's measurement in determining this appeal.
18. The size of the proposed side and rear garden area would accord with the 50m² minimum requirement specified at paragraph 3.35 of the BGSPD. However, this paragraph also specifies that the area should be private and the space to the side of the proposed dwelling would not be. It would be separated from the footpath on Park Road by a 1.0 metres high brick wall and would

therefore be readily visible to people travelling along this street. The lack of privacy is acknowledged by the appellant in their statement, which they suggest could be addressed by imposing a planning condition to increase the height of the front boundary wall to 2.0 metres.

19. It is not clear as to whether this would apply to the whole of the front wall or to just part of it. No drawings have been provided to illustrate this suggestion, but any increase in the height of the front wall that would satisfactorily screen the side garden area from view, would significantly change the character and appearance of the proposed development. Planning Practice Guidance (PPG) states that conditions which modify a development in such a way as to make it substantially different from that set out in the application should not be used¹.
20. In any event, Government guidance also states that if an applicant thinks that revising their proposal will overcome the Council's reasons for refusal, they should normally make a fresh planning application. The guidance goes on to say that the appeal process should not be used to evolve a scheme².
21. From the information before me, the proposed development would adversely affect the living conditions of future occupiers, with particular regard to private amenity space. It would therefore conflict with Policies BE.1 and RES.2 of the CNRLP, Policy SE1 of the CELPS and with guidance contained within the BGSPD and the Framework, in this regard.

Other Matters

22. The appellant includes reference to the development of windfall sites and the contribution that they can make to housing provision, including the range of housing opportunities. This is a reference to paragraph 7.15 of Policy RES.2 contained in the CNRLP, rather than the stated documents³. However, in any event, this does not overcome the harm to the character and appearance of the area and the living conditions of future occupiers identified above.
23. The appellant also states that the proposed development would accord with the WillNP. Only part of the WillNP has been provided in the evidence and the Council has not referenced any policy from the WillNP on its decision notice. Even if I were to accept the appellant's statement in this regard, it would not overcome the harm to the character and appearance of the area and the living conditions of future occupiers I have identified above. It does not cause me to reach a different conclusion with regard to this appeal.

Conclusion

24. Notwithstanding the proposed development would be unlikely to adversely affect the living conditions of nearby occupiers, it would be harmful to the character and appearance of the area and the living conditions of future occupiers. Therefore, for the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Andrew Parkin

INSPECTOR

¹ PPG *Use of Planning Conditions* - Paragraph: 012 Reference ID: 21a-012-20140306 Revision date: 06 03 2014

² Annex M.1.1 and M.2.1 of *Planning appeals – England: Procedural Guide*

³ Policy 'D4 of the Willaston Neighbourhood Plan - Backland and Gardens SPD (2008)'