



Appeal Decision

Site visit made on 16 July 2019

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/R1010/W/19/3223167

Land between 33 and 39 Sherwood Street, Newton, Derbyshire DE55 5SE

- 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 Steve Rye (Hardwick Nominees Ltd) against the decision of Bolsover District Council.
 - The application Ref 18/00567/FUL, dated 6 November 2018, was refused by notice dated 20 December 2018.
 - The development proposed is the construction of a pair of semi-detached houses with off-street parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would provide adequate living conditions for future occupants of the proposed houses, with particular regard to overlooking of their outdoor private amenity space.

Reasons

3. The appeal site is a rectangular piece of land on Sherwood Street, a mainly residential narrow cul-de-sac. The semi-detached, terraced and detached houses along the street are modest in scale, and generally have narrow frontages but relatively deep plots. Many of the dwellings, including those on either side of the appeal site, have two-storey outriggers projecting to the rear.
4. The proposed development would see a pair of semi-detached houses erected on the vacant plot between Nos 33 and 39. The new dwellings are shown in the plans provided numbered 35 and 37 to continue the sequence along Sherwood Street. The rear gardens of both new houses would be overlooked to a considerable extent from the first-floor rear windows of No 39, in particular from the bedroom window in the outrigger which is in an elevated position parallel to and less than 5 metres from the corner of the proposed No 37.
5. The overlooking from No 39 means that occupiers of the new houses would not have the degree of privacy in their rear gardens which they could reasonably expect. This is particularly the case for the proposed No 37, where the layout provided shows a hard-paved patio immediately outside the rear doors of the new dwelling and very close to the upper windows of No 39. I acknowledge that occupiers would be likely to be aware of the overlooking before they

moved into the new dwelling, although an unacceptable situation is not made acceptable simply because future residents may be aware of it. In this case the south westerly aspect of the garden and its fall away from the house mean that the patio area would be likely to be heavily used for outdoor seating and suchlike. The overlooking and loss of privacy due to the proximity of the upper rear windows of No 39 to the patio of No 37 would therefore be particularly detrimental to the living conditions of future occupiers, and could not be adequately mitigated by boundary treatments without a consequential harmful effect on outlook for residents of No 39.

6. The Council's decision notice referred to side-facing windows on the upper floors of both adjacent properties. That on the rear outrigger of No 33 is obscure-glazed and appears to serve a bathroom, and it would not therefore give rise to harmful overlooking of the proposed dwellings' rear gardens. However, this of course would not reduce or mitigate the overlooking and impact on privacy of the rear amenity space which would arise from No 39.
7. Planning permissions have previously been granted for semi-detached houses on the appeal site, most recently in 1988. The appellant suggests that the Council would have taken overlooking into account at the time of granting previous permissions. I have no reason to doubt that, but must reach my decision based on current planning policies and advice. A proposal being approved more than 30 years ago does not mean that a similar proposal is automatically acceptable today.
8. I therefore conclude that the proposed development would not provide adequate living conditions for future occupants with regard to overlooking outdoor private amenity space. Consequently it would conflict with Saved Policy GEN2 of the Bolsover Local Plan 2000, which among other things seeks to ensure that development does not lead to harmful overlooking or loss of privacy. It would fail to accord with the provisions of the National Planning Policy Framework, in particular paragraph 127 which seeks to ensure that development provides a high standard of amenity for existing and future users. The proposal would also be contrary to the guidance in the Council's 2013 'Successful Places' Supplementary Planning Document, which seeks to ensure that development provides acceptable living conditions for new and existing residents. I also find that the proposed development would conflict with Policy SC3 of the emerging Bolsover Local Plan which seeks to ensure that development provides a good standard of amenity, including privacy, for future occupants, although I note that plan has not yet been adopted.

Other matters

9. Neighbours have commented that the development would lead to the loss of on-street parking spaces, as well as some increase in traffic using Sherwood Street. Both the District Council and the County Council (as Highways Authority) considered that, although the proposed layout would not be ideal, parking provision would be adequate and on balance the development would not have a detrimental impact on highway safety. In any case, given my findings on the main issue it has not been necessary for me to consider this matter in detail.
10. I acknowledge that there would be some social, environmental and economic benefits from providing housing on this site, and note that the Council does not raise any 'in principle' objections to residential development. However, the

benefits arising from a small development would be limited and would not outweigh the harm caused by providing insufficient privacy for future occupants.

Conclusion

11. For the reasons given above, and taking into account all other relevant matters raised, I conclude that the appeal should be dismissed.

M Cryan

Inspector