
Appeal Decision

Site visit made on 21 January 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

Appeal Ref: APP/M1005/W/19/3238780

Land to the rear of 30 Avenue Road, Duffield, Derbyshire DE56 4DW

- 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 C Bullock and Ms M White against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2019/0413, dated 25 April 2019, was refused by notice dated 7 August 2019.
 - The development proposed is a new house in land to the rear of 30 Avenue Road, Duffield.
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Decision

1. The appeal is allowed and planning permission is granted for a new house at land to the rear of 30 Avenue Road, Duffield, Derbyshire DE56 4DW in accordance with the terms of the application, Ref AVA/2019/0413, dated 25 April 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr C Bullock and Ms M White against Amber Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of future occupiers of the proposed dwelling.

Reasons

Character and Appearance

4. The appeal site comprises part of the rear garden and garage for the existing property at 30 Avenue Road, and it fronts onto Chadfield Road. The area is predominantly residential in character with properties lining Avenue Road, Chadfield Road and the surrounding streets. No 30 is a detached, two storey property.
5. The proposed development would introduce a detached dwelling into the site, which would front onto Chadfield Road and would involve the demolition of the

garage which serves No 30. Part of the garage which serves No 32 would remain. The proposed dwelling would be two storey and would provide two bedrooms. It would have a parking space to the front of the site and a private garden area to the rear. Parking for No 30 would be provided off Avenue Road.

6. The proposed dwelling would be set forward towards the front of the plot, close to Chadfield Road in order to provide a suitable area of rear garden. It would therefore project forward beyond the closest adjacent properties. However, the properties along this side of the road do not follow a uniform building line and, although not as pronounced as the proposed dwelling would be, there is a staggered character along Chadfield Road. Furthermore, the properties on the other side of the road show some variation in their siting and some are sited close to their front boundaries.
7. Beyond the appeal site Chadfield Road bends towards the junction with Avenue Road. No 32 Avenue Road has fencing, trees and hedging along its boundary with Chadfield Road, which serves to provide screening of the appeal site and which would serve to mitigate its visual impact and forward siting to an acceptable level.
8. For the above reasons, I conclude that the proposed development would not be at odds with the rhythm of development nor would it be incongruous as a result of its siting. It would therefore not be harmful to the character and appearance of the area. As such the development would comply with Saved Policy LS1 of the Amber Valley Borough Local Plan (2006) (Local Plan). This policy requires development to protect and enhance the quality of the built and natural environment, amongst other things. It would also comply with Part 12 of the National Planning Policy Framework (2019) (the Framework).

Living Conditions

9. The proposed dwelling would sit to the rear of No 30 with their rear gardens both adjoining the rear boundary of the site. The proposed dwelling would have two first floor windows in the rear elevation at first floor, with a large area of glazing at ground floor. The first-floor windows would be obscure glazed. No 30 has existing first floor windows serving habitable rooms which face the appeal site.
10. Whilst the proposed development would not achieve the required separation distances between principle elevations as identified within the Amber Valley Borough Council Supplementary Planning Document: Residential Development (2007) (SPD), I have had regard to the context of the surrounding area. The appeal site is commensurate with a number of the existing plots in the vicinity and its first-floor rear elevation is set in to give a slightly increased level of separation.
11. I note the Council have not raised concerns in relation to the potential for loss of privacy from the proposed property due to the obscure glazed windows. In terms of the impact on the proposed rear garden and property, whilst I agree that there would be a degree of visibility from the first floor windows of No 30 into the appeal site, the Appellant has demonstrated that this would not be largely dissimilar to the existing situations for the properties along Avenue Road and Chadfield Road.

12. I therefore find that although there would be some potential for overlooking, this would not be to a level which would be unduly harmful as a result of the set in of the first-floor elevation and the use of suitable boundary treatments which can be conditioned. In addition, No 30 is angled slightly away thus reducing the direct views of the appeal site and the relationship between the properties is largely comparable with the existing properties in the surroundings.
13. Consequently, whilst the proposal would not comply with the separation distances within the SPD, I find that it would accord with the requirements of Saved Policy H12 of the Local Plan which requires development to not unduly affect the amenities or privacy of adjoining or adjacent properties, amongst other things. It would also accord with the aims of Part 12 of the Framework.

Other Matters

14. Local objections have been received concerning, in addition to the above matters, highway safety and parking and the future occupiers of the proposed development.
15. The proposal would provide parking in accordance with the Council's standards. There is an existing access to serve the garage therefore I have little evidence before me that the proposal would result in highway safety issues due to the proximity to the bend or increase in on street parking.
16. The future occupiers of the development is not a matter for me to conclude upon.

Conditions

17. In addition to the standard time limit condition I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. The Council have provided a list of suggested conditions which I have considered against the advice in the Planning Practice Guidance and amended or omitted where necessary.
18. Conditions for the boundary treatments and floor levels of the development are necessary in the visual interests of the development. A condition for the obscure glazing of the first-floor windows is included in the interests of nearby amenity.
19. Permitted development rights should only be removed in exceptional circumstances. I have not been provided with any such circumstances to justify the necessity of this condition and therefore I have not imposed it. I have not imposed a condition requiring details of the external materials to be used as sufficient detail for these is shown on the approved plans.

Conclusion

20. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

R Norman

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 20190730/1; 20190730/2; 20190730/3; 20190730/4; 20190730/5; 20190730/6; 20190730/7; 20190730/8; 20190730/9; 20190730/10 and 20190730/11 – all dated July 2019.
- 3) Prior to the first occupation of the development hereby permitted, full details of the proposed boundary treatments for the site shall be submitted to and approved in writing by the local planning authority. The scheme shall thereafter be implemented in accordance with an agreed phasing schedule.
- 4) Prior to the commencement of any works, other than for the demolition of the existing garage, a scheme indicating proposed floor levels of all buildings and the relationship with existing dwellings shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the agreed levels.
- 5) The first-floor rear (south east facing) windows shall be glazed in highly obscured glass and be non-opening. Such work shall be completed prior to the first occupation of the dwelling hereby permitted and maintained thereafter.