
Appeal Decision

Site visit made on 28 July 2020

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 6th August 2020

Appeal Ref: APP/R1038/W/20/3247494

44 Church Lane, Calow, Chesterfield S44 5AH

- 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 Tyrone Henighan against the decision of North East Derbyshire District Council.
 - The application Ref 19/00878/FL, dated 22 August 2019, was refused by notice dated 22 November 2019.
 - The development proposed is the construction of ground and first floor extension to side and rear to provide a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council has referred to policies contained within the emerging North East Derbyshire Local Plan 2014-2034. The Council indicate that it is now proceeding to consultation on main modifications, none of which affect the emerging policies referred to in this appeal. This Plan has therefore reached an advanced stage of preparation. Although not to be afforded the full weight of adopted policies, in accordance with the advice provided in paragraph 48 of the National Planning Policy Framework (the Framework), I have attached moderate weight to the policies in this emerging Plan that are referred to by the Council.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the existing dwelling and the surrounding area.
 - The effect on the living conditions of the occupants of neighbouring properties with particular regard to outlook.
 - Whether the proposal would provide acceptable living conditions for the occupants of the proposed dwelling and the host property with regard to external private amenity space.

Reasons

Character and appearance

4. The appeal property comprises a two-storey end terraced dwelling, with attached single storey side garage, located on the end of a block of three similar designed properties. The existing garage projects beyond the front and rear facades of the property.
5. This part of Church Lane is characterised by a mixture of semi-detached and terraced properties facing the road which, including the appeal property, predominantly have side gables to the roof. The adjacent property at No 42 has a single storey rear extension positioned relatively close to the rear boundary of the appeal property. This extension has a relatively large window in the rear elevation.
6. The existing rear garden of the appeal property is commensurate in area with those in the vicinity. A characteristic feature of the nearby rear gardens of properties to the rear and north east of the appeal site is that property boundary treatment is relatively low and any rear extensions that have been constructed are predominantly single storey. Consequently, in views from the rear gardens of properties in the vicinity, the surrounding area displays a relatively spacious character.
7. The proposed development would involve the construction of a two-storey side extension with front and rear facing gables, constructed above and to the rear of the garage, to create a separate dwelling with the resultant sub-division of the plot. No windows are proposed in the side elevations. The ground floor would be retained in garage use with open plan accommodation on the first floor. The remaining area of garden to the rear of the proposed extension would be used to serve the occupants of the new dwelling. The Council indicates that the private amenity space remaining to serve the new dwelling would be approximately 12sq m. I have no evidence to suggest that the Council's calculation of this area may be incorrect.
8. The proposal would be a considerable addition to the property and the terraced block. It would be considerably larger than any other extensions in the vicinity on this part of Church Lane. The proposed front and rear facing gables are not a predominant design feature of the terraced block or other properties on this part of the road. Owing to its scale, bulk and design features it would not appear as a subservient addition to the original dwelling but as a contrasting standalone addition to the terraced block. As such, in views from the road the proposal would appear as an incongruous addition that would unacceptably unbalance the appearance of this terraced block within the streetscene.
9. In addition, the development would result in a significant mass of built form protruding from the rear of the property to within close proximity of the rear boundary. There would be a considerable blank and bland mass of side walling positioned close to the boundary with No 42 which would also appear stark and prominent in views from the rear gardens of properties located to the north east. This would unacceptably erode the spacious character displayed at the rear of properties in the vicinity of the appeal site.
10. The proposal would also leave little rear garden area to serve the development as well as significantly reducing the size of the rear garden to serve the host

property. Both of the remaining garden areas would be substantially less in size than others in the vicinity. The proposal would therefore introduce a noticeable localised denser form of development than that of the surrounding area.

11. The proposed development would appear as a dominant, unsympathetic and bulky addition that would not be reflective of the character and appearance of the host dwelling or other nearby development on Church Lane. Collectively, the factors identified above would result in the proposal failing to respect the surrounding prevailing character of development.
12. The proposed development would represent a disproportionate and incongruous addition that would cause unacceptable harm to the host property and the character and appearance of the surrounding area. Consequently, it would be contrary to Policies GS5, BE1 and H12 of the North East Derbyshire Local Plan (2005) (NEDLP) and policies SS7 and SDC12 of the emerging North East Derbyshire Local Plan 2014-2034 (ENEDLP). These policies, amongst other things, require that development should maintain the character and appearance of the surrounding area with regard to scale, design and massing and should effectively integrate buildings into the local setting.

Living conditions - outlook

13. Although No 42 is positioned at an angle to the appeal property, the rear extension is sited relatively close to the common boundary. The proposed development would extend the length of the existing garage along the common boundary with No 42 and increase the height of the built structure to two storeys.
14. The outlook from the rear window in the extension at No 42 would be unacceptably compromised with views from this window being dominated by a two-storey mass of brickwork positioned in close proximity. The proposed two-storey extension would appear as an unacceptable, overbearing and dominant feature in views from this window and cause an unacceptable sense of enclosure for the occupants of this property.
15. Similarly, in oblique views the outlook from the rear facing windows at the host property, No 44, would also be compromised to an unacceptable extent by a mass of bland brickwork positioned relatively close to the windows. The height and mass and proximity of the proposed development, and resultant degree of enclosure, would undoubtedly cause some overshadowing and consequential unacceptable reduction in daylight received at the ground floor rear windows of both No 42 and No 44.
16. Taking the above factors into account, I find that the proposal would result in an unacceptable sense of enclosure and overbearing outlook in views from the rear ground floor windows of Nos 42 and 44 Church Lane. This would cause significant and unacceptable harm to the living conditions of the occupants of those properties. The proposal would therefore be contrary to Policies GS5 and H12 of the NEDLP and Policy SDC12 of the ENEDLP. These policies, amongst other things, require that the amenity of residents adjoining new development should not be damaged.

Living conditions – amenity space

17. The rear private amenity space to serve the proposed development would occupy the width of the existing garage but would be restricted to the space between the proposed rear elevation and the rear property boundary. The Council suggest that this area would be inadequate to meet the occupier's requirements. In addition, the Council also suggest that the remaining garden area of the host property, following the sub-division of the plot, would also be inadequate.
18. The front of the host property comprises hardstanding which is used for off-street parking. This area is proposed to be sub-divided to serve the proposed new and host dwelling. The submitted plans show a small thin amenity strip separating the two hardstanding areas to serve the new dwelling. However, due to its limited size, open nature and relationship with the street, I do not consider that this amenity strip would make any useful functional contribution to the private amenity space required to serve the proposed development.
19. I have identified above that the size of the resultant rear private amenity areas would be inconsistent with those in the surrounding area. The proposed external amenity areas serving both the host property and the proposed development would undoubtedly be cramped.
20. The Council has referred to the guidance provided in the 'Successful Places – A Guide to Sustainable Housing Layout and Design – Supplementary Planning Document' (SPD) which suggests that a one or two bedroom dwelling should provide a minimum outdoor amenity space requirement of 50sq m.
21. There is some dispute between the main parties as to whether this SPD has been formally adopted by the Council. The Council indicates that this has been approved as planning guidance and, as compliance with its requirements form part of Policy SDC12 of the ENEDLP, it will be formally adopted on adoption of the ENEDLP. This position does reduce the weight that I can attach to the provisions of the SPD. Nonetheless, it is a useful guide to assist in determining appropriate areas of private amenity space to serve different dwelling types in the District. I do not find the minimum areas identified in the SPD to be unusual or unreasonable.
22. The proposed development would clearly not meet the requirements of the SPD. I recognise that in developed urban environments it is not always possible to provide the optimum amount of amenity space. However, I find that the area of outdoor private amenity space to serve the proposed development would be barely useable, notwithstanding its inconsistency with the size of surrounding gardens.
23. The Council also suggest that the remaining garden area at No 44, following the subdivision of the plot, would also be less than 50sq m. I have no evidence to suggest that the Council's views regarding the size of this area may be incorrect. The paucity of private amenity space would be inadequate to serve the needs of the future occupants of the dwelling and the occupants of No 44. These factors add to my concerns regarding the cramped form of the proposed development relative to its plot size.
24. Consequently, the paucity of useable amenity space would have a detrimental effect on the living conditions of future occupiers of the proposed dwelling and the occupiers of No 44, contrary to the Council's objective of delivering high

quality and usable amenity space as set out in the SPD. Therefore, the proposed development would be contrary to Policy H12 of the NEDLP and Policy SDC12 of the ENEDLP.

Other matters

25. I have taken into account the appellant's view that the proposal constitutes sustainable development and that the presumption in favour of sustainable development should apply. I accept that the site is in a sustainable location. The Council indicates that it has 8.3 years housing land supply and therefore the development is not required to meet local housing need. In any event, the modest contribution that the development would make to housing supply in the area does not outweigh the unacceptable harm that I have found to the character and appearance of the area and the living conditions of existing and prospective occupiers.
26. Although the description of the proposed development, as provided on the application form, is for the provision of a 'new dwelling', I have also taken into account the appellant's view that the development should be regarded as flatted accommodation. The SPD indicates that the minimum out-door amenity space requirement for flats is 25sq m per flat. Notwithstanding the weight that I attach to the SPD, I consider that the suggested 25sq m to serve flats in this part of the District is not unreasonable. The proposed private amenity space would still be less than half of the area required to serve a flat. Therefore, with regard to this matter, I have attached little weight to the appellant's contention that the development should be considered as the provision of a flat.

Conclusion

27. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR