The Planning Inspectorate

Appeal Decision

Site visit made on 23 September 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2020

Appeal Ref: APP/N1025/W/20/3253703
31 Shaftesbury Avenue, Sawley NG10 3FG

- 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 Paul Murfin against the decision of Erewash Borough Council.
- The application Ref ERE/0120/0064 dated 29 January 2020, was refused by notice dated 12 March 2020.
- The development proposed is erection of a detached dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:

   - the character and appearance of the area; and,
   - the living conditions of adjacent occupiers with particular regard to outlook, dominance and overlooking.

Reasons

3. The appeal site is a semi-detached house located on a corner plot close to the junction of Northfield Avenue and Shaftesbury Avenue. The appeal property has a side garden area with a frontage to Shaftesbury Avenue, partly occupied by an existing single storey garage and outbuilding. The side garden area aligns with the arrangement of properties along Shaftesbury Avenue.

4. Shaftesbury Avenue is characterised by a wide mix of house types and styles. Properties are generally set back from the road frontage with small gardens, parking and driveways to the road frontage. Dwellings are mainly set close together, due to the incremental extension of individual plots. They are also broadly on a similar building line with the projection of porches and bay windows forward of this alignment.

5. The proposed dwelling would be sited close to the joint boundary with No 29 Shaftesbury Avenue. The proximity between properties would not be out of character with the street scene, nor would the general design of the dwelling, which takes its principles in terms of roof design and general dimensions from No 29. However, the proposed two storey front forward projecting gable would set the building further forward of No 29 and, as a consequence, it would be markedly more prominent in the street. In addition, there would be a further single storey porch roof and steps to the front door to accommodate the

proposed floor level. I consider that the building would noticeably project forward of other development along the street frontage and would appear prominent and incongruous in the street scene.

6. I appreciate that No 29 has projecting bay windows to the front elevation. These windows do not extend as far forward, are mainly glazed, angled windows which do not have the same visual effect in the street scene.

7. I also appreciate that the side elevation of the existing property within the appeal site is further forward, however, this property faces towards the junction whereas the proposed dwelling is orientated to form part of the street scene along Shaftesbury Avenue.

8. I accept the appellant's point that the corner of Shaftesbury Avenue and Northfield Avenue is atypical of other corner junctions across the estate in that the angled configuration of properties is on only one corner rather than four as elsewhere. I do not consider that the existence of a pattern of open corners and angled properties elsewhere in the vicinity of the site is a defining character adjacent to the appeal site. I also agree that openness at the junction is derived from the area to the front of the dwelling not the gap in built form between No 31 and 29 and this openness to the front would be largely retained. I have also noted the examples of infill development close to the appeal site on Shaftesbury Avenue and Northfield Avenue. However, none of these matters overcome my concerns about the forward projection of the dwelling.

9. Consequently, I consider that the development would detract from the character and appearance of the area in conflict with Policy 10 of the Erewash Core Strategy and Policy H12 of the Erewash Local plan, which together seek to ensure that development is in scale and character with its surroundings and makes a positive contribution to the public realm. It would also conflict with the National Planning Policy Framework (the Framework) where it seeks to achieve well-designed places.

Living conditions

10. There are two windows in the side elevation of No 29 facing the rear garden of the appeal property. I saw during my site visit that the first-floor window serves a bedroom. There is also a window at ground floor level which the evidence indicates is now a separate living room, although I appreciate it has formerly been part of a larger single living room. Views across the appeal site from the ground floor window are partly obscured by the existing boundary fencing.

11. The two-storey side elevation of the proposal would be sited close to the joint boundary with No 29 with very limited space between the two properties. The existing boundary fence would provide some limit to the effect of the positioning of the proposal on the ground floor window in no 29. However, the proposal would result in a tall and imposing structure near the side windows of No 29. From both windows the new dwelling would appear as a dominant and intrusive feature which would be overbearing on the outlook from the windows, would reduce daylight and sunlight into them and make the rooms less pleasant to use as a result. For these reasons I consider the proposal would be detrimental to the living conditions of no 29.

12. I have considered the daylight and sunlight assessment and in particular the conclusions in relation to the fair share of light and the light to bedrooms. I have also considered the neighbours comments on this matter. Nevertheless, given the proximity between the proposal and the windows at both ground and first floor level the points raised do not alter my conclusion that the proposal would significantly detract from the living conditions of No 29.

13. The slab level of the proposed dwelling would be raised and the patio doors in the rear elevation would be higher in relation to the proposed boundary fence line between the existing property (No 31) and the proposal. The patio doors look towards the rear of the site. This orientation would limit the views towards No 31 to oblique views of the rear garden and would not result in material harm to their living conditions.

14. I have also considered third party concerns about the proximity of the proposal to adjacent gardens broadly to the west and south. Although the proposal would be visible from these properties there would be no direct overlooking between windows and, due to the orientation of the site, there would be very limited change to the light within garden areas. Therefore, I consider the siting of the dwelling would not detract from their living conditions.

15. However, I consider that the proposal would detract from the living conditions of no 29 Shaftesbury Avenue with particular regard to outlook and dominance and would conflict with Policy 10 of the Core Strategy and Policy H12 of the Local Plan. These policies seek to ensure that the impact of development on nearby residents is considered. The policies are consistent with the design objectives of the Framework with which the development also conflicts.

Other Matters

16. I have been provided with information related to boundary ownership concerns and right to light. These issues are private matters between the relevant parties and not within my jurisdiction.

Conclusion

17. For the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR