



Appeal Decision

Site visit made on 16 March 2021

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2021

Appeal Ref: APP/N1025/W/20/3258907

Garage East of 11 Second Avenue, Ilkeston DE7 5FS

- 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 Gibson against the decision of Erewash Borough Council.
 - The application Ref ERE/0120/0016, dated 18 December 2019, was refused by notice dated 18 June 2020.
 - The development proposed is 'remove existing garage and replace with two storey dwelling.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) the effect of the proposal on the living conditions of neighbouring occupants, and ii) whether the proposal would create satisfactory living conditions for future occupants.

Reasons

Neighbours' living conditions

3. Second Avenue is a narrow cul-de-sac containing two small, closely set terraces facing each other and to the rear of and perpendicular to, buildings on Stanton Road. It is a dense, inner urban layout with the terraces separated only by front gardens/courtyards. The boundary treatments of the adjacent rear gardens of properties on Stanton Road are relatively low in height, permitting clear views into and across several rear gardens and windows.
4. The existing garage stands to the side of No 11 on the southern terrace, opposite Nos 1, 2 and 3 of the longer northern terrace. The Council's concern relates to overlooking of existing dwellings. The tight urban grain means separation distances are as low as 10m between Nos 4-7 and 8-11, allowing clear views between the dwellings. The proposed dwelling would be set back slightly from the front elevation of No 11, at a distance of some 12m from the front elevations of Nos 1-3. These three dwellings are not directly faced by a dwelling at present, and although there is some intervisibility from Nos 10 and 11, this is at an angle and the perception of being overlooked is not as significant.
5. The proposed dwelling would be no closer to the neighbouring dwellings than others in the cul-de-sac; however, whilst those who reside in Second Avenue must live with the existing arrangement, this does not mean that such

conditions are acceptable or should continue to be created, given the National Planning Policy Framework (the Framework) states that developments should ensure a high standard of amenity for existing and future users.

6. The proposed dwelling would directly face Nos 2 and 3 at close range, and would be slightly offset from No 1. Given none of these dwellings are faced by a dwelling at present, the proposal would introduce direct and harmful overlooking of these neighbouring occupants. I note the appellant's proposed option of having one of the two first floor windows obscurely glazed. However, these windows would serve the same bedroom and obscuring only one would be futile in preventing views out. The alternative of obscuring both first floor windows in a principal elevation would, conversely, diminish the quality of living accommodation for future occupants of the dwelling, and the appearance of the building. Moreover, to fully prevent overlooking the ground floor lounge window would also need to be obscurely glazed, which would further undermine the living conditions of future occupants and the building's design.
7. There is a small window to the first floor side elevation of the garage, but given the non-habitable nature of the existing use, occupants of the dwellings on Stanton Road do not experience overlooking from the direction of the appeal site at present. The proposed side facing window would overlook the rear gardens of Nos 30, 32 and 34 Stanton Road, with direct views to the large ground floor window of No 32. The introduction of a new source of overlooking would harm the living conditions of neighbouring occupants. The appellant proposes to obscurely glaze this window. Given the bedroom would benefit from another window and skylight, I am satisfied that this would address this harm in this specific instance and could be secured through an appropriately-worded condition.
8. However, for the reasons set out above, I conclude that the proposal would significantly harm the living conditions of neighbouring occupants, in conflict with Policy 10 of the Erewash Core Strategy (March 2014) (the ECS) which, among other things, requires development to be assessed in terms of its impact on the amenity of nearby residents or occupiers. There would also be conflict with the aims of the Framework to create high standards of amenity.

Whether satisfactory living conditions would be created

9. The Council's concern relates to the size of the proposed external amenity space to the side of the dwelling, which would measure some 3.5m by 4.5m and is likely to take the form of a courtyard. The Council acknowledges that this size of courtyard is not dissimilar to yards of Victorian terraced dwellings in the area, but regards it as a poor standard for a new, two-bedroomed dwelling. I am not referred by the Council to any relevant guidance pertaining to the size of external space to be provided. However, I am again mindful that the Framework seeks a high standard of amenity for existing and future users.
10. The external space would stand to the side of the dwelling and would adjoin public areas of the cul-de-sac. Given its size, it would offer no more than a modest area for sitting out, drying clothes or storage, but any combination of such activities is likely to be limited by space constraints. Such space may be sufficient for some occupants, but not others, particularly given the modest floorspace and lack of dedicated internal storage. Moreover, should the prevailing low boundary heights to neighbouring gardens be replicated, the space would be overlooked by the properties on Stanton Road and it would not

offer sufficient privacy or security for future occupants. Conversely, the use of taller fencing would result in an enclosed, unwelcoming space. Given these constraints, the proposal would not provide a suitable private external space for future occupants.

11. Therefore, I conclude that the proposal would fail to create satisfactory living conditions, and so would conflict with the requirements of Policy 10 of the ECS that development be designed to create an attractive, safe, inclusive and healthy environment; with saved Policy H12 of the Saved Policies document (July 2008), which requires adequate amenity space to be provided for each dwelling; and with the aforementioned aims of the Framework.

Other Matters

12. I have had regard to other concerns raised by interested parties but these are matters which do not alter my findings on the main issues, nor do they amount to potential benefits to be factored into the planning balance.

Planning Balance and Conclusion

13. The appellant makes brief reference to the Council not being able to demonstrate a five year supply of deliverable housing sites, but does not indicate the extent of any shortfall. The Council does not confirm whether or not it can demonstrate more than five years supply.
14. The provision of a single dwelling would be a modest contribution to the Council's housing land supply and the Government's aim of significantly boosting the supply of housing. There would also be economic benefits from employment generated during the construction of the building and spending by future occupants at local businesses. The potential visual improvement of the site through redevelopment would be a minor benefit.
15. Against this I have found that the proposed development would cause significant harm to the living conditions of existing occupants and would fail to provide suitable living conditions for future occupants. As a result, the proposal would not accord with the environmental role of planning and I afford significant weight to this matter.
16. Therefore, even if the Council has a significant shortfall in its supply of deliverable housing sites, and the tilted balance of Paragraph 11 of the Framework is engaged, the adverse impacts of the proposed development would significantly and demonstrably outweigh the identified benefits, when assessed against the policies in the Framework taken as a whole.
17. Therefore, the proposal would be contrary to the development plan and this conflict is not outweighed by other material considerations, including the provisions of the Framework. Accordingly, the appeal should be dismissed.

K Savage

INSPECTOR