



Appeal Decision

Site Visit made on 20 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 3 September 2021

Appeal Ref: APP/C4235/W/21/3271960

39 Moss Lane, Bramhall, Stockport SK7 1EQ

- 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 Darren Atkins against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/078018, dated 9 September 2020, was refused by notice dated 5 February 2021.
 - The development proposed is described as 'Proposed erection of 2no. (a pair) of semi-detached dwellings including demolition of existing conservatory to no.39 Moss Lane together with new vehicular access and new dropped kerbs to Moss Lane.'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Darren Atkins against Stockport Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.
4. At the time of my site visit it was apparent that the conservatory and one of the outbuildings had been removed and that the site had been fenced off. The proposal was amended following submission to the Council but prior to its determination. These changes, shown in the revised plans have resulted in some minor alterations to the access and layout of the front driveways, the rear projections of the proposed dwellings, and to the windows and the design of the proposed building's roof. I am satisfied that all relevant parties have had the opportunity to comment on these amendments and would not be prejudiced. For the avoidance of doubt, I therefore confirm that my determination of the appeal is based on the revised drawings submitted as amendments to the original application reference 202010/SKB1 Rev A and 202010/SKB2 Rev A.
5. The Council's decision notice lists three reasons for refusal. Reason three refers to the approach to decision making as set out in the former National Planning Policy Framework (the Framework) which normally appears as an informative.

This has had no bearing on the appeal as I have determined it on the planning merits of the proposal that is before me.

6. During the course of the appeal the appellants submitted a completed Section 106 planning obligation deed in respect of a financial contribution towards the cost of enhancing existing public open space facilities and the provision and maintenance of children's play and formal recreation areas. The Council confirmed in its supporting information that this financial contribution would resolve their concerns and overcome the second reason for refusal. However, as I am dismissing the appeal for other reasons it has not been necessary to consider this matter any further in detail.

Main Issue

7. The main issue is whether the proposed development would provide acceptable living conditions for future residents, with particular regard to the provision of private outdoor amenity space.

Reasons

8. The appeal relates to the large side garden area of 39 Moss Lane. The surrounding area is residential, comprising predominantly large detached properties that sit within plots that have long spacious rear garden areas with dense tree coverage.
9. The proposed semi-detached properties (referenced 37A and 37B) have been designed to incorporate single storey rear outriggers in order to provide additional internal space for home working. However, as a consequence, this would reduce the amount of private amenity space to the rear of the proposed dwellings.
10. The Council's Supplementary Planning Document titled 'The Design of Residential Development' 2007 (SPD) advises that private amenity space should be usable, accessible, reasonably free from overlooking, allow for adequate daylight and sunlight, and have regard to the size of the dwelling and the character of the area. In seeking to safeguard future and existing residents' amenity the SPD provides minimum private amenity space standards that should be achieved. For small 2/3 bedroom properties a space of at least 75m² preferably to the rear of the property is required. A minimum space of 100m² per property is advised to be provided for 4/5 bedroom dwellings.
11. Whilst it does not follow that a proposal should stand or fall solely on the application of these standards, and I recognise that each proposal is required to be judged on its own merits, the SPD has been subject to public consultation and is a material consideration in my decision.
12. The appellant contends that the combined area of amenity space to the front, rear and side of 37A and 37B would be 96m² and 88m² respectively. Even when the areas to the sides of the proposed dwellings are discounted, the appellant argues that the total space for 37A and 37B would be 82m² and 81.5 m² respectively, and that they would therefore satisfy the SPD requirements.
13. Nonetheless, the proposed dwellings would have study rooms within their roof space which would be of a sufficient size to accommodate an additional bedroom for each property. In this instance I consider it reasonable to apply

the minimum standard of 100m² as the proposed dwellings are effectively capable of providing 4 bedrooms.

14. The submitted plans show that large portions of the proposed front garden areas would be utilised as driveways for the parking of two cars for each property. As a result, the remaining landscaped areas along the frontage would be limited in size and would provide little usability for recreational purposes. The same could be said for the side areas which would comprise narrow strips of land that would run in between the gable elevations of the proposed houses and the shared boundaries of neighbouring properties. The submitted plans show that these would mainly be used for refuse bin storage and external access purposes.
15. On my site visit I also noted that the combination of dense tall trees and the substantial two storey side elevation of 37 Moss Lane in such close proximity to the shared boundary with Plot 37A would have a significantly enclosing effect on the future users of the rear and side garden area of this proposed house. As a consequence, this would significantly reduce the amount of daylight to these areas and conceal views beyond the rear garden boundary for its future occupants.
16. Furthermore, I am mindful that the proposal does not include garages or external facilities for storage space. In my view, future residents of the proposed family housing would be likely to require storage for domestic equipment such as bicycles and garden accessories including furniture, lawn mowers and play equipment. Outbuildings such as sheds, many of which do not require planning permission, would further reduce the amount of usable private amenity space in the future. When taking all of these factors into account the proposal therefore fails to provide an adequate provision of quality usable private amenity space.
17. The size of the private amenity space proposed would therefore be inadequate and far less than is reasonable for these family sized dwellings. Although public open space is available in the area, this would be an approximate fifteen minute walk away and would not, along with the nearby access to areas of countryside, compensate for the inadequate private amenity space provision proposed.
18. I appreciate that No 39 would retain an acceptable level of garden space, and that some people may prefer a larger amount of internal space and smaller gardens. However, I consider that the importance and benefit of good quality private amenity space to have been demonstrated during the restrictions that were in place as a result of the coronavirus pandemic.
19. I also note the appellant's willingness to accept a planning condition for the removal of permitted development rights. Nonetheless, The Planning Practice Guidance and the Framework advise that conditions restricting future permitted development rights should only be used in exceptional circumstances. Given that the SPD's private amenity space standards seek to ensure sufficient space is provided to accommodate anticipated future extensions without having prejudicial effects on the future and existing residents' amenity I do not consider such exceptional circumstances to have been demonstrated.
20. I therefore find that the proposed development would not provide acceptable living conditions for future residents, with particular regard to the provision of

private outdoor amenity space. As such it conflicts with Policies H-1 and SIE-1 of the Stockport Metropolitan Borough Council Local Development Framework Core Strategy DPD (2011) (DPD) which together, seek good standards of amenity for the occupants of new housing, including for future, existing and neighbouring users and residents. It would also fail to accord with the advised private amenity space standards provided within the Council's SPD.

Other Matters

21. My attention has been drawn to a previous appeal (APP/C4235/W/16/3142418) and planning permissions at 123 and 125 Moss Lane which I am informed are for housing with private amenity space lower than the advised standards in the Council's SPD. However, I do not have the full details of these schemes before me and so cannot be certain that the circumstances are the same as those which apply in this appeal. I have, in any case, considered the appeal proposal based on its own merits.
22. I have also been made aware of the current availability of the builders, and that planning officers recommended the approval of the planning application. However, these matters have not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Planning Balance

23. The Council accepts that it is unable to demonstrate a 5 year deliverable supply of housing land and I have been made aware of the Housing Delivery Test results for Stockport. Its 2.6 year supply represents a substantial shortfall. The relevant policies of the development plan are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. I have found that the proposed development would be harmful to the living conditions of the future residents of the proposed development. This harm would be long lasting and would be contrary to the objectives within paragraph 130 of the Framework. I ascribe this matter substantial weight. The S106 payment towards enhancing existing public open space facilities and the provision and maintenance of children's play and formal recreation areas would effectively be neutral in my assessment as the contribution would be used to mitigate the detrimental impact of the proposal. It would therefore not be a benefit of the scheme.
25. I note the location of the appeal site in a 'Predominantly Residential Area' relative to bus stops, the local primary school and Bramhall District Centre and the facilities and services within it. It has also been put to me that as a previously developed site it would be an efficient and effective use of land and that there are similar designed semi-detached properties with similar spaces between buildings nearby. However, these matters did not appear to be contentious in the appeal, and would also be neutral factors which accordingly cannot, by definition, be used to weigh against harm. Furthermore, as the proposed development is only for two dwellings, it would make a contextually small contribution to the Council's housing supply and any benefits in respect of sustainable construction would be very modest.

26. With this in mind, I attach limited weight to the appeal scheme's benefits. As such, and bringing matters together, the adverse impacts of granting planning permission would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

27. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, the appeal should be dismissed.

Mark Caine

INSPECTOR