



Appeal Decision

Site visit made on 12 April 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 May 2022

Appeal Ref: APP/A0665/W/21/3289374

Adjacent to 27 Shaftesbury Avenue, Great Boughton, Chester CH3 5LH

- 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 Peter Miller, Darcy George Investments Ltd, against the decision of Cheshire West and Chester Council.
 - The application Ref 21/02960/FUL, dated 12 July 2021, was refused by notice dated 30 November 2021.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect on the character and appearance of the surrounding area,
 - the effect of the proposed development on the living conditions of neighbouring occupiers with regard to privacy, outlook and daylight; and
 - whether the development would provide acceptable living conditions for the future occupants of the proposed dwelling with regard to privacy.

Reasons

Character and appearance

3. The appeal site is prominently located within the side garden of 27 Shaftesbury Avenue (No.27) with a frontage to Shaftesbury Avenue, extending to the side of 25 Shaftesbury Avenue (No.25) and extending back to adjoin a private garden. No.27 is a semi-detached property, and the appeal site is currently used for its parking and garden. It accommodates a small, detached structure and the garden is enclosed by a mature hedge.
4. Shaftesbury Avenue is predominantly a loop road in a roughly rectangular shape. Within this loop, houses are mainly semi-detached, regularly spaced and front two opposing sides of the rectangle. On the other two sides there is a single detached dwelling (No.25 adjoining the appeal site) and a semi-detached property on the opposite side, both centrally placed. This development form has resulted in more open space near to the corners, giving a feeling of spaciousness and relief to the built-up frontage, although in at least two of these corners some development has occurred. Buildings on the opposite side of the loop road are also predominantly semi-detached and evenly spaced and

overall, the immediate residential area to the appeal site has a consistent character and appearance.

5. The existing drive to No.27 would provide access to the new dwelling, and parking for two cars, with a new drive being formed immediately alongside the gable of No.27 to provide a further two parking spaces. No.27 would retain a smaller garden to its rear with the private garden of the proposed dwelling occupying the remainder of the space at the rear.
6. The proposed dwelling would be set at an angle to the road and sited further forward than the adjoining dwellings and set in an irregularly shaped plot, and in places be sited tight to the side boundaries. Consequently, the proposed dwelling would have the appearance of being squeezed into the plot, the appearance compounded by its parking in a linear arrangement, end to end, tight alongside its gable, and similarly tight parking alongside No.27. The cramped appearance of the proposed dwelling, together with its uncharacteristic siting in relation to surrounding dwellings would fail to allow it to assimilate with the built form and grain of development in the area. Furthermore, it would remove a prominent garden area which is one of the open corners noted as contributing to the character and appearance of the area. The proposed development would therefore appear alien and out of place in this residential area which has a largely consistent character.
7. The removal of the hedge to facilitate the development would be unlikely to occur in the absence of this proposal because of the privacy that it brings. Based on the details before me I am uncertain how much of the hedge would be removed during the course of the development and in any event the replanting of a hedge or other landscaping could be secured by condition if the development was allowed, and I therefore give limited weight to this point. In any case, the removal of the hedge would be to the detriment of the verdant character of the area.
8. The appeal proposal would be alongside a detached dwelling of similar scale and form, and the selection of materials is acceptable. However, the arrangement of openings to the rear elevation would result in a rather contrived appearance, emphasising the awkward layout of the house and garden to take account of the site constraints. Although single aspect dwellings can be an appropriate design feature, they are not characteristic of buildings in the area, and the design of the rear elevation would have an unattractive, oppressive appearance.
9. I have had regard to other properties in the immediate area which are similarly located on corner plots and although I have not been provided with any details, I note that they have been or are about to be extended. The proposal for the new two storey dwelling before me with the requirement for a new access, parking and amenity space considerably intensifies the use of the plot and is a very different set of circumstances. They certainly do not justify a further erosion of the character of the area.
10. Consequently, the appeal proposal would considerably change the nature of this plot to the detriment of the cohesive character of the wider area. It would have a harmful effect on the character and appearance of the surrounding area and conflict with Policies ENV6 of the 2015 Cheshire West and Chester Local Plan (Part One) (CWCLP1) and Policies DM3 and DM19 of the (2019) Cheshire West and Chester Local Plan (Part Two) (CWCLP2). These seek to ensure that

development achieves a high standard of design and contributes positively to the character of the area. It would also be contrary to the high-quality design expectations of Section 12 of the 2021 National Planning Policy Framework (the Framework).

Living conditions of neighbouring occupiers

11. Overlooking of neighbouring properties and private rear gardens has been minimised by carefully locating openings, and obscure glazing all but the landing window on the rear elevation. The large landing window would allow views into parts of the retained garden of No.27 but due to the angle of the proposed building and the position of the landing window, the occupants of the proposed dwelling would not be able to readily look into its garden. I do not, therefore, consider that the degree of overlooking from this landing window, including any perceived overlooking, would be to an unacceptable degree, and the degree of overlooking would be no greater than that already possible from the property which adjoins No.27.
12. The landing window of the proposed dwelling would also allow some views into other rear gardens but due to the distance away, the views afforded would be limited and no more harmful to occupants in their rear gardens than the views which already exist from the rear windows of surrounding properties, many of which serve habitable rooms.
13. I have also considered potential views from the landing window towards the side facing windows of No.25 and noted on site that No.25 has a large first floor window and several ground floor windows, together with rooflights to a single storey extension at the rear. Again, due to the distance between the dwellings and angle of sight from the landing window, there would be very limited views into these windows, and the property boundary would further mitigate glimpsed views towards the ground floor. Overlooking of these windows would not amount to unacceptable harm and furthermore, because of the distance and siting, the proposed dwelling would not unduly shade No.25.
14. The proposed dwelling would, however, be sited close to the retained garden of No.27 and although at an angle to it, it would run alongside almost its whole length. At two storeys high, and given the closeness of its rear elevation, the proposal would consequently create a tall, dominant, and oppressive feature which would have an overbearing and enclosing effect, significantly harming the outlook for occupiers of No.27 in their main, garden area. The orientation of the proposed dwelling and proximity to the boundary would also severely limit the amount of daylight within that garden area causing an unacceptable degree of overshadowing, further heightening the negative effects which would be experienced by the occupants in their garden.
15. Whilst the Council has not raised any concerns with regard to the minimum separating distances specified in Policy DM2 of CWCLP2, the new dwelling would face No.10 Norton Road. However, given its position across Shaftesbury Avenue, adequate separation distance would exist between facing windows and there would be no harm to its occupant's living conditions.
16. For the foregoing reasons, I conclude that whilst the proposed development would not harm the living conditions for neighbouring occupiers with regard to privacy, it would have a significant, adverse effect on the living conditions of the occupiers of No.27 with particular regard to their outlook from the rear

garden and daylight. The proposal would therefore be contrary to the amenity protection aims of Policies SOC5 of CWCLP1 and DM2 of CWCLP2 and the core planning principle of the Framework which seeks a good standard of amenity for all existing and future occupants of buildings.

Living conditions of the future occupants of the proposed dwelling

17. The large, first floor, side-facing window of No.25 and its proximity to the boundary would allow its occupants to look directly across all of the private rear outdoor space of the proposed dwelling. I recognise that many gardens in the area have a degree of overlooking from surrounding properties, but future occupiers should have a reasonable expectation of having some unoverlooked private space but given the nature of the constrained site this has not been achieved.
18. This lack of safeguarding of the quality of life for future residents and their expectation of a reasonable degree of outdoor private amenity space would not provide acceptable living conditions for future occupants of the proposed dwelling with regard to privacy and would be contrary to the amenity protection aims of Policies SOC5 of CWCLP1 and DM2 of CWCLP2 and the Framework.

Other Matters

19. I have had regard to other matters raised including the scale of the dwelling, drainage, wildlife, highways, parking and accuracy of plans. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Conclusion

20. Despite the development being potentially acceptable in principle, as it is in an established residential area, and would make a more efficient use of land, the Council is required to undertake a detailed assessment to consider the site constraints and impacts and the harm identified clearly and demonstrably outweighs the benefits of providing a new dwelling.
21. I therefore conclude that the proposal would be contrary to the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR