



Appeal Decision

Site visit made on 2 May 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2023

Appeal Ref: APP/C4235/W/22/3313597

17 Lorgill Close, Davenport, Stockport SK3 8UR

- 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 J Clarke against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/082031, dated 9 July 2021, was refused by notice dated 10 November 2022.
 - The development proposed is described as 'demolition of detached garage and erection of a new detached dwelling'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties with particular regard to outlook;
 - whether the proposed development would provide adequate living conditions for future occupiers with particular regard to the provision of private outdoor space; and
 - whether the proposal makes adequate provision for public recreation and open space having regard to the development plan policies.

Reasons

Living Conditions – Neighbouring Occupiers

3. Lorgill Close is a cul-de-sac in a residential area. Dwellings are spaciouly arranged and set back behind small, open front gardens with larger, enclosed and more private gardens located to the rear. The appeal site lies adjacent to the turning head and forms part of the garden to the side of 17 Lorgill Close.
4. The side boundary forms the rear boundaries of No 19 and No 21. These dwellings are located at a lower ground level and face towards the side of No 17. Consistent with the spacious layout of the estate, the open space forming the side garden of No 17 and the rear garden of No 19 and No 21 ensures that the occupiers of those properties enjoy good levels of outlook from their rear first floor windows. The occupiers of those properties would rightly expect such levels of outlook preserved as part of any proposal for new development.

5. The appeal proposal would involve the construction of a two storey detached dwelling, set slightly forward of No 17 and fronting the turning head. It would occupy much of the width of the appeal site and consequently would intrude into the space between the host dwelling and No 19 and No 21, at odds with the existing spacious arrangement.
6. As a result of the limited separation between the site of the proposed dwelling and the boundary with rear gardens of No 19 and No 21, the proposal would result in the construction of a predominantly blank gable located just over twelve metres from the rear windows of those properties. Owing to its height and overall bulk, the proposed dwelling would appear highly oppressive in views from the first floor windows of those properties and would significantly impinge on the existing outlook levels. Furthermore, the loss of outlook and oppressive nature of the proposal would be exacerbated by the appeal site being slightly elevated in relation to its neighbours at No 19 and No 21.
7. I accept that the proposal would meet the minimum privacy distance for a blank elevation facing neighbouring windows that serve habitable rooms (12 metres), as set out in the Council's Design of Residential Development Supplementary Planning document (2007) (SPD). However, this is guidance primarily based around preserving privacy levels rather than outlook.
8. Moreover, guidance cannot envisage every situation and minimum standards cannot guarantee that the good standards of amenity for occupants of existing housing, required by Policies CS4 and H1 of the Stockport Core Strategy DPD (2011) (the CS), would be maintained. Furthermore, I am mindful of the elevated nature of the appeal site in relation to No 19 and No 21. In that regard, the SPD guides that privacy distances may need to be increased to accommodate changes in level.
9. For the above reasons the proposed dwelling would fail to preserve the living conditions of the occupiers of neighbouring properties, notably those at 19 and 21 Lorgill Close. The proposal would therefore conflict with Policies CS4, H1 and SIE-1 of the CS which, together and in summary, require that new residential development maintains good levels of amenity for the occupants of neighbouring dwellings. There would also be conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks to ensure new developments provide a high standard of amenity for existing and future users.

Living Conditions – Future Occupiers

10. The SPD states 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. Whilst I am mindful that this is only guidance, these are nonetheless reasonable parameters on which to assess the quality of outdoor space provided as part of residential development.
11. The proposed rear garden would be significantly shorter than is typical in the area, including at the neighbouring property, No 21, referenced by the appellant. Having regard to the proposed garden depth and width, the extent of private amenity space would likely be significantly less than the minimum that future occupiers would expect for a three bedroom dwelling of this size.

12. Moreover, the constrained nature of the rear garden would significantly limit its useability, Potential for use for drying clothes, sitting out, erecting storage buildings or by playing children would all be limited by the extent of the area.
13. The SPD expects a minimum of 75 square metres of private amenity space, noting that this should preferably be located to the rear of the property. The proposal would provide the new dwelling with around 46 square metres of private amenity space, significantly below the minimum standard. This reinforces my above assessment.
14. For the above reasons I therefore conclude that the proposal would not provide adequate living conditions for future occupiers of the proposed dwelling with particular regard to the provision of outdoor space. There would therefore be conflict with Policies CS4, H1 and SIE-1 of the CS which together require that new residential development provides good levels of amenity for future occupants. There would also be conflict with paragraph 130 of the Framework which seeks to ensure new developments provide a high standard of amenity for existing and future users.

Open Space Provision

15. The Council has confirmed that a payment of £5984.00 is required to overcome its third reason for refusal, in accordance with the Council's Recreational Open Space Provision and Commuted Sum Payments Supplementary Planning Document (OSP SPD). A section 106 agreement (s.106) signed by both parties and dated 28 April 2023 has been provided. This includes all of the planning obligations sought by the Council, namely the Open Space Commuted Sum of £5984.00 and a monitoring fee of £500.00.
16. I consider the obligations set out in the s.106 are necessary to make the development acceptable in planning terms; directly related to the development; and are fairly and reasonably related in scale and kind. I am therefore satisfied that they meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.
17. I therefore conclude that the proposal makes the necessary provision for public recreation and amenity open space in accordance with Policy SIE-2 of the CS, Saved Policy L1.2 of the Stockport Unitary Development Plan Review (2006) and the OSP SPD.

Other Matters

18. Although I have limited evidence in this regard, both parties agree that the Council cannot demonstrate a 5 year supply of housing sites. The Council's Committee Report sets out that it can only demonstrate a 3.2 years supply. This represents a substantial shortfall where paragraph 11. d) of the Framework would be triggered, to which I turn to consider below.

Planning Balance

19. I acknowledge that the provision of one new dwelling would make a small contribution towards improving the supply of housing. However, even taking account of the substantial shortfall identified above, the contribution of one dwelling towards rectifying the Council's shortfall would be modest. There would be minor benefits in terms of making efficient use of land: the proposal

is for the redevelopment of a garden in an urban area with good access to services. There would be a small social benefit in providing an extra housing unit. Limited economic advantages would also arise from the construction and occupation of a new house.

20. However, whilst there is provision for contributions to recreation and open space, the harm to living conditions of the occupiers of No 19 and No 21 combined with the harm to the living conditions of future occupiers, as identified above, would be significant. This leads me to the conclusion that the proposal would be contrary to the development plan as a whole. The support in the development plan for new housing, and similarly that in the Framework, is not at the expense of ensuring that all development provides a high standard of amenity for existing and future users.
21. Therefore, applying paragraph 11. d)ii), the adverse effects of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies taken in the Framework as a whole. There are no material considerations of such weight to lead me to conclude otherwise.

Conclusion

22. For the above reasons, and having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. I therefore conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR