

Appeal Decision

Site visit made on 2 December 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/C3105/W/24/3351625

54 Dashwood Avenue, Yarnton, Oxfordshire OX5 1NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Talat Ismail against the decision of Cherwell District Council.
 - The application Ref is 24/01732/F.
 - The development proposed is construction of 3 bed dwelling to the rear of 54 Dashwood Avenue, accessed off Meadow Way.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. Whilst some paragraph numbers have changed, the relevant paragraphs and parts of paragraphs identified as directly affecting this case have not been amended. Therefore, in this case it has not been necessary to consult the parties on the revised Framework.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area;
 - the living conditions of the occupiers of 54 Dashwood Avenue and 54 and 54A Meadow Way having regard to daylight, outlook and privacy.

Reasons

Character and appearance

4. The appeal site comprises part of the rear garden of 54 Dashwood Avenue (No 54) which is a 2 bedroom semi-detached bungalow of brick construction with tiled roof. The proposed dwelling would face and be accessed from Meadow Way. The houses in Meadow Way contain a mix of detached, semi-detached and short rows of two storey terraced housing of modern design in brick construction with tiled roofs. The proposed dwelling would be viewed within the context of these properties rather than those in Dashwood Avenue.
 5. A large proportion of the houses in Meadow Way are sited close to their boundaries and in plots smaller than the appeal site. Therefore, the proposal would not constitute an uncharacteristic pattern of development in terms of the siting of the proposed dwelling within the plot, and its plot size.
-

6. However, the proposal would result in only approximately 10 metres between the front elevation of the proposed dwelling and the front elevations of 54 and 54A Meadow Way. Such a close spatial relationship between front facing elevations is not characteristic of the existing street scene. While the dwellings in Meadow Way are close to one another due to their semi-detached and terraced nature, none face each other in such proximity. The closeness of the front facing elevations would be visually discordant with the more spacious separation between front facing dwellings in the street. Consequently, the proposal would result in a cramped and incongruous form of development that would not be characteristic of the established pattern of development in the area.
7. The appellant has drawn my attention to existing dwellings on the corner plots of 33¹ and 40² Dashwood Avenue. However, these examples are materially different to the appeal proposal as they do not directly face, in proximity, the front elevation of other properties.
8. For the reasons given, I conclude that the proposed development would harm the character and appearance of the surrounding area. Hence, it would conflict with Policy ED15 of the Cherwell Local Plan 2011-2031 (July 2015) and Policies C28 and C30 of the Cherwell Local Plan (November 1996) insofar as they require development to complement and enhance the character and appearance of its context.

Living Conditions

54 Dashwood Avenue

9. The Cherwell Residential Design Guide Supplementary Planning Document (July 2018) (the SPD) suggests a back to back distance of 22 metres between properties to ensure useable amenity space that is not overlooked or overshadowed. The SPD also suggests a minimum 14 metres distance between a rear elevation and a two storey side gable. The Council's appeal statement indicates that side gables are normally assumed to have a blank elevation with no windows.
10. The west facing elevation of the proposed dwelling contains openings to habitable rooms on the ground floor and would be approximately 14 metres from the rear elevation of No 54. At the first floor, the proposed dwelling would have an obscurely glazed window serving a bathroom. The proposal includes a 1.8 metre timber closed boarded fence to delineate the boundary between the properties. Therefore, the proposal would not unduly harm the privacy of the occupier of No 54 due to the separation distance, height of the proposed boundary fence and the obscure glazing proposed to the first floor bathroom window.
11. Nevertheless, the proposal would likely reduce the amount of light to and outlook from the rear garden of No 54 due to the proposed dwelling's height and its proximity to No 54. As the proposal would lead to a reduction in the size of the rear garden of No 54, the decreased level of light received by it would have a markedly harmful effect on the living conditions of the occupiers of that property.

¹ 08/00891/F.

² 05/01742/OUT.

54 and 54A Meadow Way

12. The SPD does not set a recommended distance between the front of facing properties. There would be approximately 10 metres between the front elevation of the proposed dwelling and the front elevations of 54 and 54A Meadow Way. The closeness of the opposing windows would harm the privacy of the occupiers of 54 and 54A Meadow Way and the future occupiers of the proposal as they would be able to look directly into each other's habitable rooms. Furthermore, the proposal would unacceptably dominate the outlook from the front facing windows of 54 and 54A Meadow Way given its proximity, and also result in overshadowing and thereby loss of light to those properties.
13. Figure 21 of the 'Site layout planning for daylight and sunlight. A Guide to good practice', BRE (2022) relates to the angular criteria for the overshadowing of adjoining future development land rather than existing buildings so would not apply in this case.
14. The removal of a large section of existing tall evergreen hedge on the boundary of the appeal site with Meadow Way would not mitigate the harm that would be caused to the living conditions of the occupiers of 54 and 54A Meadow Way with regard to daylight and outlook, due to the close siting of the proposed development.

Overall

15. While the proposal would not harm the living conditions of the occupiers of 54 Dashwood Avenue with regard to privacy, it would nevertheless harm their living conditions in respect of daylight and outlook. It would also harm the living conditions of the occupiers of 54 and 54A Meadow Way with regard to daylight, outlook and privacy. Accordingly, it would conflict with Policy ED15 of the Cherwell Local Plan 2011-2031 (July 2015) and Policies C28 and C30 of the Cherwell Local Plan (November 1996) insofar as they require development to consider matters of privacy, outlook and natural lighting and provide standards of amenity acceptable to the local planning authority.

Planning Balance and Conclusion

16. Development is required to comply with all the relevant policies in the development plan, therefore, compliance with regard to parking, access, internal floorspace and outdoor amenity space will weigh neither for or against the proposal and is therefore considered neutral.
17. The proposal would provide one additional dwelling, contributing to the housing supply of the area. However, given the small scale of the development, this benefit would be modest and carry moderate weight.
18. The proposed development would harm the character and appearance of the surrounding area. It would also cause significant harm to the living conditions of the occupiers of 54 Dashwood Avenue and 54 and 54A Meadow Way with regard to daylight, outlook and privacy.
19. The adverse impacts of the proposal are matters of significant weight against the grant of planning permission that outweigh the benefits identified. Overall, the proposed development conflicts with the development plan, as a whole, and the material considerations do not indicate that the appeal should

be decided other than in accordance with it. For the reasons given above, the appeal should be dismissed.

U P Han

INSPECTOR