

Appendix B

Appeal by Mr Rawson

Land at 66 South Street north, New Whittington, Chesterfield.

CHE/22/00592/OUT

1. The appeal was made against the non-determination of the application by the Council however planning committee subsequently considered a report resolving that they would have refused permission if they had been able to make a determination.
2. The development was to develop two dwellings on land to the rear of 66 South Street North.
3. The main issues were determined to be on
 - the living conditions for occupiers of neighbouring properties and potential future occupiers, with specific regard to privacy, internal floorspace, and garden size; and
 - on the character and appearance of the area.

Living Conditions

4. The site is to the rear of No. 66 South Street North, with access only from a track at the end of Cross Wellington Street. It comprises part of the former garden of No. 66, which has been divided into 2 dwellings. The proposal is for 2 dwellings, which the indicative plans identify as a semi-detached 2-storey houses with rear gardens.
5. The Successful Places Supplementary Planning Document (SPD) (2013) identifies minimum recommended separation distances between windows of adjacent properties, to ensure a satisfactory level of privacy. It notes that these should be relaxed or increased having regard to the particular site conditions and context. Examples of such specific circumstances include the character of the area, topography, and appropriate screening.
6. On the basis of the indicative plans, the Council identified a 1.0m shortfall in this separation distance between the rear windows of the proposed dwellings and those of Nos. 66 and 68 South Street North. For the angled relationship with the windows of Nos. 52 and 54 South Street North, there would be a 1.00-1.5m shortfall. In conjunction with the slight slope

down to the appeal site, the inspector found that separation distances slightly longer than the minimums would be required, this would therefore create harm due to a lack of privacy.

7. Furthermore, the Local Highway Authority identifies that the dwellings would need to be set further back within the site in order to provide suitable parking spaces. This would further reduce these separation distances. It would not be acceptable to plan for cars to be part accommodated outside of the site.
8. While the appellant identifies that the obscure glazed bathroom windows at rear first floor would only allow for minimal overlooking, this does not take account that the existing dwellings have first floor windows. There would thus be a direct relationship between the different dwellings' windows. The SPD does not differentiate minimum distances based on a distinction between upper and ground floor windows. Based on the plans provided, harm would therefore be caused due to a lack of privacy for occupiers of neighbouring properties and potential future occupiers, giving rise to unacceptable living conditions.
9. However, the proposal is in outline with all matters reserved. In particular, the description of the development does not specify the height, size, or layout of the proposed dwellings. The inspector therefore found that the site is of a sufficient size that there is potential for the aspects leading to the lack of privacy to be altered through a different layout and/or a smaller design of dwelling. This would thus not result in any harm to living conditions.
10. With relation to internal floorspace, the indicative plans show the proposed dwellings to meet the requirements set by the Nationally Described Space Standard (NDSS), apart from the width of the larger bedroom. Again, this is a matter to be addressed at reserved matters stage. As the NDSS sets a 37sqm minimum gross internal floor area for a dwelling, the site is of a sufficient size overall that it is reasonable to expect that 2 dwellings would fit within it.
11. The Council also considered that the splitting of the site has resulted in the existing gardens serving Nos. 66 and 68 now

being below the 50sqm required by the SPD. The appellant specifies that these gardens have a combined area of 126 sqm. Based on the block plan and in the absence of detailed evidence to the contrary, the inspector found that they are reasonably sized gardens.

12. Any overshadowing to neighbouring properties would only affect a parking area, and therefore would not cause harm to living conditions.
13. In conclusion therefore, the proposed development would result in acceptable living conditions for occupiers of neighbouring properties and potential future occupiers, with specific regard to privacy, internal floorspace, and garden size. It would comply with Policies CLP 14 and CLP 20 of the Chesterfield Borough Local Plan ('the LP') (2020), and the Successful Places SPD, which together require development to have an acceptable impact on the amenity of neighbours and users, taking into account, amongst other things, overlooking, and that acceptable living conditions should always be provided for new and existing occupants. The proposal would also comply with the National Planning Policy Framework ('the Framework') (2021) paragraph 130, regarding the need to ensure that developments function well, and to create places which have a high standard of amenity for existing and future users.

Character and appearance

14. The main pattern of development in the surrounding streets is generally consistent, comprising a grid of traditional terraced and semi-detached dwellings. The properties include relatively long rear gardens and rear access lanes in between. This gives a strong urban character to the front streetscapes and a relatively open and leafy character to the rear. However, the part of Cross Wellington Street leading into the appeal site's access point has a row of dwellings crosswise to this main pattern. There is also a new building to the site's north in a similar alignment with that proposed. Together these give this small part of the rear area of the properties a distinctly different character and cluster of urban grain compared to the gardens to its south.

15. Based on the indicative plans, 2-storey dwellings would have such significant massing in comparison to the lower level dwellings on Cross Wellington Street and the open gardens to the site's south, that they would have too great an impact and be incongruous with the character of the transition to the openness of the rear gardens. This would be compounded by the size of the suggested footprint and the parking spaces such that it would also be an over-intensive development within the site itself.
16. However, all detailed matters relating to scale and layout are reserved for future consideration. As outlined above, the height of the dwellings is thus not yet confirmed. The introduction of some scale of built form on the site would not be so incongruous as to draw undue attention or detract from the overall character of this area. Therefore, all forms of achieving 2 dwellings on the site are not precluded in principle.
17. In conclusion, the development would not harmfully affect the character and appearance of the area, and so would comply with the LP Policy CLP20 and the Successful Places SPD. These require development to identify and respond positively to the character of the site and surroundings, and respect the local distinctiveness of its context, form, and setting by responding to prevailing characteristics in terms of street patterns, density, layout, built form, materials, and details. It would also comply with the need to achieve well-designed places under part 12 of the Framework.

Other Matters

18. While the Council referenced the potential for setting a precedent for adjacent redevelopment, the inspector assessed the appeal on its own merits. Furthermore, the arrangement of the built form further along the access track does not have the same surrounding layout and character as that at the appeal site.
19. Third party concerns regarding rights of access and maintenance of the private track are a civil matter, and a loss of a view is not a material planning consideration. Objections relating to highways and access and waste disposal relate to the reserved matters stage. While objections were made on

the grounds of drainage, the site is at low risk of flooding, and Yorkshire Water provided no comments. Matters regarding surface water drainage and water efficiency would partly be controlled by conditions at this outline stage, and partly would be addressed at reserved matters stage in relation to levels and hard surfacing. The Derbyshire Wildlife Trust were consulted with relation to biodiversity and raised no concerns regarding impacts on protected species, with increasing the site's biodiversity also required through a condition.

Conclusion

20. The scheme accords with the development plan as a whole. With no other material considerations indicating otherwise, for the reasons given above, the inspector concluded that the appeal is allowed.

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Location Plan dated 22 November 2019.
- 5) No development other than site clearance and demolition works shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall include details of construction working hours, the parking of site operative and visitor vehicles, accommodation for site operatives, loading and unloading of plant and materials, and storage of plant and materials. The approved

Construction Method Statement shall be adhered to throughout the construction period for the development.

6) As part of the reserved matters, a scheme to demonstrate a net measurable gain in biodiversity through the development, including a programme of implementation and maintenance, shall be submitted to and approved in writing by the Local Planning Authority. Measures to enhance biodiversity on site shall include:

- planting of native shrubs and trees and/or fruit trees;
- the incorporation of integrated swift bird boxes, sparrow terraces, and/or bat boxes into the new dwellings; and
- hedgehog highways linking to other sites.

The agreed net measurable gains shall be implemented in accordance with these approved details and retained as such thereafter.

7) As part of the reserved matters, a scheme to demonstrate details of the proposed means of disposal of surface water drainage, including any balancing works and off-site works, and separate systems of drainage for foul and surface water on and off site, shall be submitted to and approved in writing by the Local Planning Authority.

8) The development hereby permitted shall not be occupied until a signed statement of confirmation from a suitably qualified drainage engineer of implementation of the drainage works approved under condition 7 has been submitted to and approved in writing by the Local Planning Authority. The implemented drainage works shall be retained as such thereafter.

9) No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.