



Appeal Decision

Site visit made on 10 October 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/A1015/W/23/3318598

7 Ashcroft Drive, Old Whittington, Derbyshire S41 9NU

- 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 Chris Eaton against the decision of Chesterfield Borough Council.
 - The application Ref CHE/23/00001/FUL, dated 1 January 2023, was refused by notice dated 23 February 2023.
 - The development is described as “proposed new two storey house and associated works on land at 7 Ashcroft Drive, Old Whittington, Chesterfield with internal floor area of 95sm”.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council’s reasons for refusal refer to the Council’s Residential Supplementary Planning Guidance. However, the document is titled “Successful Places: A Guide to Sustainable Housing Layout and Design, Supplementary Planning Document” adopted 2013 (‘the SPD’). I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area;
 - b) the living conditions of future occupiers, with particular reference to private garden areas; and
 - c) the living conditions of the occupiers of 9 Ashcroft Drive, with particular reference to outlook and loss of light.

Reasons

Character and Appearance

4. The surrounding area comprises two-storey semi-detached and terraced dwellings, rendered, with similar eaves and ridge heights and hipped roofs. While some extensions and alterations have taken place, the dwellings still maintain a largely uniform character and appearance. The dwellings are set back from the surrounding roads with open-plan front gardens and driveways and have a dominant building line. Interspersed with the dwellings are areas of open space, particularly to the corners of road junctions, creating a spacious character to the area. Some of the open spaces have been enclosed and

integrated into the gardens of the adjacent houses, however, where this has occurred, they tend to be occupied by fences, hedges and driveways which, due to their limited height, still maintain a sense of openness.

5. The proposed dwelling, while being two-storeys in height, would be detached and would exceed the eaves height of the adjacent terrace. The proposed dwelling would erode the open space on the corner of the road and would be sited a significant distance forward of 7 and 9 Ashcroft Drive, inconsistent with the dominant building lines. The scale and siting of the proposed dwelling would result in a prominent and dominant building that would be incongruous with the surrounding area. The roof design, use of red brick and the inclusion of a first floor corner balcony would not reflect the character or appearance of existing dwellings. The design and materials of the proposed dwelling would therefore appear alien within the context of the surrounding area.
6. The appellant has directed me to photographs to demonstrate that the surrounding area has a varied character and that areas of open space have been built upon without harm to the area's character and appearance. However, for the reasons detailed above, and in reference to what I saw during my site visit, I disagree with the appellant's view on these matters. Furthermore, it is unclear whether planning permission was obtained for these developments or indeed required. In any event, I must determine each case on its own merits.
7. In reference to the first main issue, the proposed development would harm the character and appearance of the surrounding area. It would conflict with Policy CLP20 of the Chesterfield Borough Local Plan, adopted 2020 ('the LP') which, amongst other things, seeks to ensure that developments respond positively to the character of the site and surroundings and respect the local distinctiveness of its context. It would also conflict with paragraph 130 of the National Planning Policy Framework ('the Framework') that, amongst other things, seeks to ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting. Furthermore, it would conflict with the SPD.

Living Conditions of Future Occupiers

8. The proposed dwelling would have three bedrooms and therefore is likely to be occupied by a family. The SPD states that a three-bedroom dwelling should normally have a minimum single area of private open space, excluding parking areas and garage spaces of 70sqm, while it also states that family houses are likely to require larger gardens, preferably in the range of 70-100sqm, but not normally less than 50sqm. The main parties dispute the size of the proposed front/side garden area. However, the information before me suggests that the main parties agree that the rear garden area would equate to approximately 20sqm.
9. The front/side garden would be the larger of the two spaces. Even if it complied with the size criteria detailed within the SPD, it would not be private as it would be in proximity of the pavement and road. It is proposed to plant a hedgerow around its boundaries which could aid privacy, however, this would likely cause shadowing to the garden and would take a long time to grow to a sufficient height and density. Furthermore, it is an irregular shape and there is no direct access to it from the ground floor rooms of the proposed dwelling or the dwelling's main living areas. The garden to the rear of the proposed dwelling

would be private. However, it is significantly smaller than the minimum size for private open space for family houses, particularly those with three bedrooms; is of an irregular shape; and due to its limited size, it could not adequately function as private open space for a family house. Furthermore, it is not directly accessible from the ground floor rooms of the proposed dwelling or the dwelling's main living areas.

10. The Council does not include the proposed balcony in its calculations. However, the SPD is clear that the minimum area of private open space should be a single area and not an amalgamation of separate areas of open space within the proposed development. Even if it could be included, the balcony would be on the front corner of the proposed dwelling, overlooking the road and therefore would not be private.
11. In respect of the second main issue, the proposed development would have an adverse effect on the living conditions of future occupiers, with particular reference to private garden areas. It would conflict with Policies CLP14 and CLP20 of the LP which, amongst other things, seek to ensure that developments have an acceptable impact on the amenity of users. It would also conflict with paragraph 130 of the Framework that, amongst other things, seeks to create places with a high standard of amenity for future users. Furthermore, it would conflict with the SPD.

Living Conditions of the Occupiers of 9 Ashcroft Drive – Outlook and Loss of Light

12. The proposed dwelling's rear elevation would directly face the side elevation and front/side garden of 9 Ashcroft Drive. However, the fenestration within the side elevation of No 9 consists of a door and two first floor windows that appear to be obscure glazed and/or serve rooms that are not frequently used. Furthermore, the siting of the proposed dwelling would ensure that it would not adversely harm the outlook from No 9's front or rear windows.
13. The proposed dwelling would have the potential to cause some overshadowing to the side garden of No 9. However, this would be restricted to later in the day and would not affect the patio/seating area immediately to the rear of No 9 which would be more frequently used, particularly as it faces due south. The rooms served by windows in the side elevation of No 9 could also be affected by overshadowing from the proposed dwelling later in the day, however, these windows serve rooms that are not likely to be frequently used and therefore would not be adversely affected.
14. In respect of the third main issue, the proposed development would not adversely harm the living conditions of the occupiers of 9 Ashcroft Drive, with particular reference to outlook and a loss of light. It would comply with Policies CLP14 and CLP20 of the LP that, amongst other things, seek to have an acceptable impact on the amenity of neighbours. It would also comply with paragraph 130 of the Framework that, amongst other things, seeks to create places with a high standard of amenity for existing users. Furthermore, it would adhere to the SPD.

Other Matters

15. The provision of one dwelling weighs in favour of the proposal and would make a contribution, albeit small, to the Government's objective of significantly boosting the supply of new homes. There would be some short-term

employment through the construction phase of the proposed development. The inclusion of photovoltaic arrays on the roof of the proposed dwelling and an air source heat pump provides modest benefits to the proposed development.

16. While the proposed dwelling would be constructed to high insulation standards, it is unclear if this would be above current Building Regulations standards. While the appellant considers the proposed green roofs would counter ozone depletion, this has not been supported by evidence. I acknowledge that the Highways Authority has not raised an objection to the proposed development; that a net gain in biodiversity could be achieved; that the appeal site is within an area of the lowest probability of flooding; and that the appeal site is in a suitable location in proximity of services and facilities. However, these are neutral matters.
17. Consequently, the modest benefits would not outweigh the harm I have identified to the character and appearance of the surrounding area and the living conditions of future occupiers of the proposed development.
18. The Council's officer report raises concern regarding the obscure glazed first floor kitchen window and the proximity of the proposed dwelling to 9 Ashcroft Drive adversely affecting the living conditions of future occupiers of the proposed dwelling with particular reference to outlook and loss of light; and the proximity of the proposed dwelling and the positioning of fenestration in the rear elevation adversely affecting the living conditions of the occupiers of No 9 with particular reference to privacy and a perception of overlooking. However, these matters were not included within the Council's reasons for refusal. As I am dismissing the appeal, I do not need to consider these additional matters further.

Conclusion

19. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR