

## Appendix A

### Appeal by Mr and Mrs Preston

Rear extension at 74 Wain Avenue, Chesterfield.

CHE/18/00754/FUL

2/1963

1. The appeal concerned the refusal of permission for a rear extension at 74 Wain Avenue. The reason for refusal was:

*The proposal does not comply with policies CS2 and CS18 of the Chesterfield Local Plan: Core Strategy 2011 - 2031 and therefore the wider National Planning Policy Framework. The proposal is considered to have an adverse impact upon the adjoining neighbour at no. 72 Wain Avenue by virtue of its orientation and scale which is detrimental to the amenity of this property (no. 72 Wain Avenue). The proposal adversely affects the private amenity space of the adjoining property and therefore does not accord with the provisions of the "Successful Places" SPD.*

2. The appeal has been determined by the written representation appeal method and has been dismissed.
3. The main issue is the effect of the proposal on the living conditions of the adjoining occupants at 72 Wain Avenue, with reference to outlook and light.
4. The appeal site is a semi-detached dwelling with a flat rear elevation similar in design to that next door at No 72. A full width extension of approximately 6 metres in depth is proposed. It would have a flat roof at 3 metres in height which would become a sloping roof of some 1.5 metres in length at a 35 degree angle on the side facing No 72, such that the eaves on the boundary would stand at 2 metres, similar in height to the existing solid timber fence. The appeal property benefits from a long garden presently hard landscaped to include a central pond and rear seating area. The garden of No 72 is considerably shorter due to the presence of a block of three detached garages to the rear, the solid gable end of which forms the rear wall of the garden.

5. The proposed addition would extend most of the length of the shared boundary between the properties and would form a prominent structure when viewed from the neighbouring ground floor windows and garden. The inspector recognised that the existing fence forms an enclosing structure, and the boundary line angles slightly away from the neighbouring windows. However; the fence is of a standard height, it does not rise above the height of the ground floor windows, and the absence of an extension provides a clear sense of openness above the fence. Whilst the sloping roof section would reduce the height on the boundary itself, it would still form a solid and highly visible structure above the fence. This visible height and massing of the extension, when combined with the proposed depth, would create an excessive and overbearing structure which would largely enclose the neighbouring garden on this side, adding to the enclosure already created by the garages at the rear. As a result, the garden would be surrounded on three sides by tall, solid structures which would reduce outlook significantly for the neighbouring occupants to the detriment of their enjoyment of their dwelling and garden.
6. The Council also pointed to its Supplementary Planning Document 'Successful Places: A guide to sustainable housing layout and design' (2013) which sets out a 45 degree test to assess the potential for loss of daylight. A proposal would fail if the midpoint of the adjacent window would be covered by 45 degree lines drawn from the end of the extension in plan and the eaves in elevation. It is evident from the depth of the extension that it would breach the 45 degree line by a significant margin when measured on plan, though the inspector did not have definitive information as to whether the proposal would breach the 45 degree line in elevation, as the appellants' diagram shows a 25 degree line. Even if passed in elevation, which appears marginal at best, the extent of the breach in plan indicates to the inspector that there would be a noticeable reduction in daylight to the ground floor rooms of the neighbouring property.
7. Although a harmful loss of sunlight was not explicitly alleged by the Council, the proposed extension would be located to the south of the neighbouring windows and given the proximity of the roof of the extension to those windows, it seems to the inspector likely that some reduction in either the length or

strength of sunlight reaching these windows would occur, whilst also increasing the extent of shadowing to the garden area given the massing of the structure. Therefore, the inspector found that the adverse effects on outlook and, to a lesser extent, daylight and sunlight, resulting from the scale and massing of the proposed extension would unacceptably harm the living conditions of neighbouring occupants of No 72. As such, there would be conflict with Policies CS2 and CS18 of the Local Plan Core Strategy 2011–2031 (July 2013), which respectively require development to have an acceptable impact on the amenity of users or adjoining occupiers, taking account of, amongst other things, appearance, shading and other environmental and social impacts. The proposal would also conflict with Paragraph 127 of the National Planning Policy Framework, which requires developments to create places with a high standard of amenity for existing and future users.