

Appeal Decision

Site visit made on 11 October 2016

by Daniel Hartley MTP MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 October 2016

Appeal Ref: APP/A0665/W/16/3155606

Land to the rear of 21 Park Road, Tarporley, Cheshire West and Chester CW6 0AN

- 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 Radmore Developments Ltd against the decision of Cheshire West & Chester Council.
 - The application Ref 15/03793/FUL, dated 14 September 2015, was refused by notice dated 2 February 2016.
 - The development proposed is the construction of a detached dwelling following demolition of a single garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of development as it appears on the Council's refusal notice as this accurately describes the appeal site as being to the rear of No 21 Park Road.
3. The Tarporley Neighbourhood Plan (NP) was made on 8 June 2016. This post-dates the Council's refusal notice and is a relevant material consideration. The Council has confirmed that Policies TEH4 (Design) and TEH5 (Protecting Heritage Assets), shared with the appellant, are relevant for the purposes of determining the appeal. I have taken these policies into account as part of my assessment of the proposal. The Council has also confirmed that reference made in the officer report to the NP and car parking provision should now be disregarded as the relevant policy was removed from the NP following receipt of the Examiner's comments.

Main Issues

4. The main issues are (i) whether or not the proposal would preserve or enhance the character or appearance of the Tarporley Conservation Area and (ii) the effect of the proposal upon the living conditions of the occupiers of surrounding residential properties in respect of outlook.

Reasons

Site and proposal

5. The appeal site is positioned to the rear of No 21 Park Road and includes a detached garage. It is reached via an access road between Nos 21 and 23 Park Road and there is a public footpath which runs alongside its eastern boundary.
6. It is proposed to demolish the garage and to erect a two storey and one bedroom dwelling. It would include one car parking space to the front and a side garden adjacent to the public footpath. The existing garage wall facing No 15 Millfield Lane would be retained as part of the proposals.

Conservation Area

7. The appeal site falls within the Tarporley Conservation Area (CA) which is characterised by mainly residential development. It is positioned to the rear of Nos 21 and 23 Park Road which, in parts, is a relatively narrow highway also serving as access to the nearby Tarporley War Memorial Hospital Trust. Whilst the pattern of development in this part of the CA is relatively tight knit, and includes some existing backland development, there is nonetheless a sense of openness and space between and around buildings and the majority of the properties are positioned within proportionate plots.
8. The appeal site includes a single storey garage, but the scale of this building is such that the sense of openness and space between the more imposing dwellings is retained. This pattern of development, coupled with the age the properties, and the consistency of the construction materials, gives this part of the CA its distinctive character.
9. The proposed dwelling would occupy almost the entire appeal site and would be positioned in very close proximity to most of the site boundaries. Furthermore, the proposed triangular shaped garden area would be uncharacteristically small when viewed in the context of the gardens/amenity areas of most of the properties in the immediate area.
10. I consider that the dwelling would appear dominant and cramped, particularly when viewed from the adjacent public footpath, and that it would unacceptably detract from the aforementioned character and appearance of this part of the CA. This adverse impact would be compounded by the fact some of the proposed elevations would include imposing sections of walling with limited / small window openings: hence, I do not consider that the dwelling would be acceptable in design terms or appropriately reflect the appearance of the properties that surround it. Whilst I acknowledge that the dwelling would be built in materials to match surrounding properties, and that the eaves height would be relatively low, this does not overcome the concerns raised above.
11. The appellant has argued that it would be possible to erect a replacement garage (up to 4 metres in height) on the site without the need for planning permission. Whilst there is no lawful development certificate in place for such a proposal, I do note the evidence provided by the appellant (not disputed by the Council) which seems to indicate that it might be possible to erect a new garage on the site without the need for planning permission. However, such development would differ in scale from what is before me now, and to realise a permitted height of 4 metres it would be necessary for such development to be positioned two metres in from the boundaries of the site. Again, this would

differ from the appeal proposal which would be closer to the boundaries of the site. For these reasons, I attach limited weight the permitted development fall back position and its existence does not outweigh my conclusion relating to the adverse effect of the appeal proposal upon the CA.

12. For all of the above reasons, I conclude that the proposal would not preserve or enhance the character or appearance of the CA. In the context of Paragraphs 133 and 134 of the National Planning Policy Framework (the Framework), I conclude that the harm to the significance of the CA would be less than substantial: but I do not consider that there are any identified public benefits sufficient to outweigh that harm. The appeal development would not therefore accord with the conservation and design aims of the Framework; Policy ENV5 of the Cheshire West and Chester Local Plan (Part 1) Strategic Policies 2015 (Local Plan) and Policies TEH4 and TEH5 of the NP.

Living conditions

13. The Council's refusal notice refers to the *"unacceptable impact on amenity by virtue of overbearing impact due to its close proximity and scale in relation to existing residential dwellings"*. As the reason for refusal is not specific to one particular dwelling (although the Council's delegated officer report refers specifically to No 15 Millfield Lane), I have considered the effect of the development upon the occupiers of all surrounding residential properties. This includes Nos 14, 15, 16 and 17 Millfield Road and No 23 Park Road as a number of representations have been received from other interested parties about the effect of the development upon the occupiers of such dwellings.

No 14 Millfield Lane

14. As part of my site visit, I was able to consider the effect of the proposed dwelling upon the rear garden area, conservatory and first floor bedroom windows of No 14 Millfield Lane. Whilst a large proportion of the proposed dwelling would be concealed behind the existing garages belonging to No 14 and No 15 Millfield Lane, some of it would not be. Part of the proposed two storey dwelling would project to the side of the existing garages and would be positioned in very close proximity to the relatively small rear garden and to the rear conservatory. Taking into account the close proximity of the two storey development to the garden, conservatory and first floor windows of No 14 Millfield Lane, I consider that the proposed development would lead to some dominating/enclosing impacts upon the occupiers of this dwelling.
15. I note the comments made by the occupiers of No 14 Millfield Lane about the loss of light. Whilst there may be some loss of light at mid-day, I do not consider that this would be significant enough to justify refusal of planning permission.

No 15 Millfield Lane

16. Whilst there is a relatively high brick boundary wall between the rear garden area of No 15 Millfield Lane and the appeal site, the proposed two storey dwelling would be in very close proximity to this boundary and would be considerably higher. I acknowledge that the appeal dwelling would "dog leg" in from the common boundary, but it would still be very close to this boundary and overall would have an unacceptably overbearing impact when viewed from the conservatory and from all parts of the rear garden. In this respect,

significant harm would be caused to the living conditions enjoyed by the occupiers of No 15 Millfield Lane.

No 16 Millfield Lane

17. Given the separation distances involved, the proposal would not have any significant adverse impacts when viewed from any of the ground or first floor windows of No 16 Millfield Lane. The proposed dwelling would be noticeable when viewed from the rear patio area of this semi-detached house, but the effect of the proposal would be one of a loss of view, rather than a loss of outlook. The Courts have held that the loss of a view is not a material planning consideration.

No 17 Millfield Lane

18. Taking into account the separation distances involved, and position of the appeal dwelling, I do not consider that the proposal would have an overbearing impact or lead to a material loss of light for the occupiers of No 17 Millfield Lane. The development would be noticeable when viewed from the side windows of this property, but not to the extent that there would be a material loss of outlook or light.

23 Park Road

19. I was able to consider the effect of the proposal upon the occupiers of No 23 Park Road by way of an inspection of the appeal site from the second floor bedroom windows of this detached dwelling, and from the rear patio area. I acknowledge that the dwelling would be positioned at a slight angle to the rear of No 23 Park Road. Nonetheless, it would be positioned in very close proximity to the rear of No 23 Park Road and owing to its scale and bulk it would be very noticeable when sat out on the rear patio, and when viewed from the second floor bedroom windows. Taking into account the proximity, scale and bulk of the dwelling, I consider that in respect of outlook the proposal would have some adverse impact upon the occupiers of No 23 Park Road.
20. In conclusion, the proposed development would have a significantly overbearing impact upon the occupiers of No 15 Millfield Lane. This on its own would justify refusal of planning permission. However, I have also found that some additional harm would be caused to the outlook enjoyed by the occupiers of No 14 Millfield Lane and No 23 Park Road. This adds to the significant harm that would be caused to the living conditions of the occupiers of No 15 Millfield Lane. Consequently, the proposal would not accord with the amenity aims of Policy SOC5 of the Local Plan.

Other Matters

21. I have taken into account all of the representations made by other interested parties. I note the concerns raised about the size of the car parking space and the vehicle turning facilities which would partly utilise the pedestrian route to the adjacent public footpath. Whilst the turning facility would not be ideal from the point of view of an unobstructed route for users of the public footpath, I am mindful that there is an existing garage on the site: hence, such manoeuvring is likely to take place already.

22. The car parking space would be relatively small in terms of length, but had this been the only issue it may have been possible to have made this larger with the loss of proposed vegetation to the front of the appeal dwelling.
23. I acknowledge the comments made by a number of other interested parties (including Tarporley War Memorial Hospital) about car parking problems and traffic congestion in the locality. However, and subject to the provision of an appropriately sized car parking space, I consider that the proposed level of car parking provision would be acceptable for a one bedroom house, and that the proposal would not have a materially greater impact upon traffic congestion and/or on-street car parking in the locality.
24. The appellant has made reference to planning approval 14/02490/FUL for the erection of a dwelling at land fronting 26A Forest Road, Tarporley. This development does share some similarities with the appeal proposal in so far that it includes limited outside amenity space. However, it is not entirely comparable in so far that it relates to an infill extension of the linear built form along the main road, and is different in terms of design. In any event, I have determined this appeal on its individual planning merits and using my own planning judgment. Despite some of the similarities with planning approval 14/02490/FUL, I do not consider that I am bound by such a decision: each application and appeal is different and should be determined on its individual planning merits.
25. Comments have been made stating that the access road is not owned by the appellant, and hence that there is no right of access. This is a private matter and had the appeal been allowed it would not have overridden the need to comply, if necessary, with other legal requirements. As the appeal is dismissed, this is not, in any event, a relevant matter.
26. None of the other matters raised alter my conclusions on the main issues.

Conclusion

27. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR