
Appeal Decision

Site visit made on 21 November 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 8th December 2016

Appeal Ref: APP/R0660/D/16/3157622
179 Crewe Road, Shavington CW2 5AH

- 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 M Carroll against the decision of Cheshire East Council.
 - The application Ref 16/1758N, dated 7 April 2016, was refused by notice dated 1 July 2016.
 - The development proposed is a part timber framed summerhouse/quiet room and garage/store.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my visit, the detached building was in-situ, but it appeared that the roof covering indicated on the submitted plans had yet to be completed.
3. The Council have drawn my attention to Policies SE1 and SD2 of the emerging Cheshire East Local Plan Strategy - Submission Version which did not form part of the reason for refusal. This document has not been adopted at the present time and there is no evidence before me with respect to the extent to which there are unresolved objections to the relevant policies. This limits the weight that I can give to the policies of the emerging Cheshire East Local Plan Strategy - Submission Version. I have therefore determined this appeal principally on the basis of the saved policies of the Borough of Crewe and Nantwich Local Plan 2011 (LP), adopted February 2005, and the National Planning Policy Framework (the Framework).

Main Issues

4. The main issues of this appeal are:
 - the effect on the character and appearance of the site and the surrounding area, and;
 - the effect on the living conditions of occupiers of neighbouring properties, with particular regard to the outlook from 177 Crewe Road.

Reasons

Character and appearance

5. The appeal site comprises of a mid-terraced dwelling located on the western side of Crewe Road which has a rear garden that wraps around part of the rear
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boundary of the adjacent 177 Crewe Road (No 177). The rear gardens of the appeal property and No 177 have an access from Chestnut Avenue on the southern side boundary. The established boundary treatment to the rear gardens of Nos 177 and 179 and facing Chestnut Avenue are fencing and gates which range between 1.8m and 2m in height, with some hedging closer to the junction with Crewe Road.

6. Saved Policy BE.2 of the LP, amongst other things, requires that development achieves a high standard of design, respects the pattern, character and form of the surroundings and does not adversely affect the street scene by reason of scale, height, proportions or materials used. Although Saved Policy BE.2 of the LP pre-dates the Framework it is broadly consistent with its design objectives and is therefore, afforded considerable weight.
7. The properties which face Chestnut Avenue display variations in style, form and materials, but are predominantly two storey in height and with a harmony of front building lines that follow the alignment of the highway to the west. The exceptions are the presence of a bungalow immediately to the west of the appeal site and a further bungalow in a set back position directly opposite to it. The terraced row, of which the appeal property forms part, has a side building line on the corner plot that is significantly closer to Chestnut Avenue than the front building lines of properties to the west. This relationship is also replicated by the semi-detached dwelling on the opposite corner of Crewe Road and Chestnut Avenue.
8. There is a significant separation distance between the properties facing Crewe Road and those facing Chestnut Avenue. The intervening space has a gentle downward slope consisting predominantly of gardens and a number of detached buildings, including some that are closer to Chestnut Avenue than the front building lines of properties to the west. On the northern side, where the appeal proposal is located, there is a detached building associated to No 177 and a substation, both of which are of modest height. In contrast, there is a large detached building that is prominently positioned on the opposite side of Chestnut Avenue and taller than the adjacent bungalow.
9. The appeal proposal has a substantial footprint and due to its height and proportions is viewed as a building of more considerable scale, bulk and massing than the existing detached building associated to No 177 and the substation. The visual scale of the building is somewhat relieved by the inclusion of a hipped roof and its relative set back from Chestnut Avenue. However, attention is currently drawn to the building in the street scene due to the existing appearance of its roof materials which contrast with its surroundings. Nevertheless, this visual effect could be overcome by alternative materials that would better relate to the roofs of surrounding buildings, a matter which could be addressed by condition.
10. Having regard to the above, the varied style and proportions of dwellings and other buildings in the immediate surroundings, including a detached building of more substantial height and closer proximity to the opposite side of Chestnut Avenue, ensures that the building would not appear unduly prominent, visually intrusive or out of place within the Chestnut Avenue street scene. This is also assisted by the presence of mature trees along Chestnut Avenue. In the context of such diverse surroundings, the building, although large and with a considerable roof form, does not constitute an inappropriate design and would

not have a detrimental impact on the pattern, character and form of its setting, if appropriate roof materials were secured.

11. I conclude that the development, subject to the use of alternative roof materials, would not have an unacceptable impact on the character and appearance of the site and the surrounding area. The proposal does not, therefore, conflict with Policy BE.2 of the LP or the Framework in that regard.

Living conditions

12. No 177 is a two storey end-terraced house that has been extended by two storeys at the side and has a significant single storey rear extension and a rear conservatory, beyond which a rear patio adjoins the side boundary with No 179. The rear patio consists of a distance between the conservatory and the rear boundary fence with No 179 of approaching 6m. The patio offers amenity value as a seating area with ornamental planting, despite No 177 having other garden space which wraps around the property at the side.
13. The detached building is located immediately adjacent to the rear boundary fence of No 177 and adjoins a building associated to No 179 of more modest height immediately to the south. The proposal does not benefit from permitted development rights relating to buildings incidental to the enjoyment of a dwellinghouse in the GPDO¹ as it has an overall height of approximately 3.5m and is located within 2m of the boundary.
14. The Council's reason for refusal related to an overbearing effect on the outlook from No 177 rather than an overshadowing effect. Nevertheless, the appellant has provided evidence that the loss of sunlight to the rear patio and rear conservatory of No 177 would not be significant. The evidence indicates that the potential effect would be limited to very short periods during afternoons from early April to late August. Taking into account that the outbuilding is located to a western aspect relative to the rear patio of No 177 and that the rear conservatory also has south facing windows, I have no reason to take a different view to this evidence. However, the absence of concern relating to overshadowing does not preclude the potential for harm to outlook in terms of an overbearing effect.
15. With regard to the above, I observed that the building is a minimum of 0.4m higher than the existing boundary fence for a depth of in excess of 5m when viewed from No 177 and its rear patio. The difference in height relative to the fence increases through a hipped roof form which rises to a height of around 3.5m, albeit that the maximum height is set away from the boundary. Nevertheless, the siting of the building in close proximity to No 177 and its overall bulk and massing has a considerable overbearing effect resulting in a sense of enclosure upon the rear patio and the outlook from the rear conservatory in particular. The presence of other garden areas associated to the property, does not justify the detrimental effect on the amenity space provided by the rear patio. Consequently, the building has a harmful effect on the living conditions of occupiers of No 177.
16. In reaching the above findings, I have taken into account that the detached building is a replacement of a previous building in a similar location relative to No 177, albeit that the previous building had a smaller footprint. However, the

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1, Class E

evidence before me indicates that the previous building had a flat roof that was similar to the eaves height of the proposal before. Consequently, the overall bulk and massing of the previous building was significantly less than the building currently in-situ and therefore, to my mind would not have replicated the harm I have identified.

17. The appellant has indicated that an alternative building with a height of up to 4m could be erected without the need for planning permission if located more than 2m from the boundary. Be that as it may, in my view such a building would have less of an overbearing impact upon No 177 and therefore, such a fallback position does not justify the harm identified. I also observed that although large buildings are present in a backland position on the opposite side of Chestnut Avenue, the relationship to neighbouring properties is different to the proposal before me.
18. The separation distance of the building to other neighbouring properties at 181 Crewe Road, 4 Chestnut Avenue and the properties to the southern side of Chestnut Avenue is sufficient to prevent any harmful effect on the living conditions of their occupiers. However, the absence of concern in this respect is a neutral factor.
19. I conclude that the development has a harmful effect upon the living conditions of the occupiers of 177 Crewe Road. The proposal does, therefore, conflict with Saved Policy BE.1 of the LP, in so far as it seeks that development does not prejudice the amenity of occupiers of adjacent property. Although Saved Policy BE.1 significantly predates the adoption of the Framework, it is afforded considerable weight as the policy is consistent with the objectives of the Framework which seek a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

20. The appellant has indicated that the construction of the building was not an intentional breach of planning control. I have also taken into account that the building would provide facilities that would assist the health related needs of a family member. I understand and sympathise with the wishes and needs of the appellant and his family in that respect. However, based on the evidence before me, I am not satisfied that such needs could only be met by the siting and scale of the building subject to this appeal. In such circumstances, the personal circumstances are not sufficient to outweigh the harm identified.

Conclusion

21. I have found no harm with respect to the effect of the development on the character and appearance of the site and the surrounding area. However, the harmful effect upon the living conditions of the occupiers of 177 Crewe Road is decisive upon the outcome of this appeal and reflects conflict with the development plan and the Framework that is significant and overriding.
22. For the reasons given above and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR