
Appeal Decision

Site visit made on 25 August 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2020

Appeal Ref: APP/A0665/W/20/3253986

Madhuban, 31a Curzon Park North, Chester CH4 8AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Dr Roopa Padmonkar against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03941/OUT, dated 19 September 2019, was refused by notice dated 1 May 2020.
 - The development proposed is the erection of a new domestic dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. Indicative plans have been submitted which have formed part of my consideration of this appeal.

Main Issue

3. The main issue is whether the proposed development could be accommodated on the appeal site, having regard to the character of the area, trees and hedgerows, and the living conditions of the occupants of 31a Curzon Park North, with regard to overshadowing and overbearingness.

Reasons

4. The appeal site forms part of the front garden of No 31a which is a two-storey detached dwelling set within a spacious landscaped plot at the junction of Earls Way and Curzon Park North. The surrounding area is characterised by detached and semi-detached residential properties of varying style set within landscaped plots. Mature trees populate the area and line the grass verges along the roads. Hedgerows line the front boundaries of properties. This includes the appeal site which has a hedgerow that wraps around the corner of the site. Several trees and shrubs also line this boundary and populate the front garden.
5. While all matters are reserved for future consideration, I need to be satisfied that the site could accommodate a new dwelling which respects local character and achieves a sense of place through appropriate layout and design whilst being sympathetic to its surroundings. That said, the site is suitably located in respect of facilities and services and it could provide appropriate access and off-street parking provision.

6. The trees and hedgerow on the site are characteristic of the area and positively contribute to its character and appearance. This contribution is also important given that the site is next to the Curzon Conservation Area.
7. The indicative scheme shows how a dwelling could be sited towards the centre of the site, but the extent, nature and quality of trees and hedgerows on the site have not been established to make an informed assessment of the proposal's potential effect and whether a dwelling could fit onto the site whilst conserving, managing and wherever possible enhancing these features.
8. The indicative scheme also shows how the site could be laid out to achieve the approach explained in Policy DM2 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (LP2). However, to realise the 13 metre interface distance a scheme would need to be designed with a blank elevation facing No 31a. Also, to prevent an overbearing impact being felt by the occupiers of No 31a, a new dwelling could not be any closer than this distance given the orientation of the site in relation to the likely siting of the proposed dwelling and the position of the habitable room windows in No 31a's front elevation. A fence would not change this.
9. While it may be possible to design a scheme to preserve outlook and privacy, given the orientation of the site and the position of the habitable room windows in No 31a's front elevation, this degree of separation is not likely to prevent overshadowing and an overbearing effect being felt by the occupiers of this property, especially if a two-storey design is pursued and/or the built form is any closer to No 31a than this distance. The presence of secondary openings in the flank elevations of No 31a across the ground floor do not alter my view about the potential significant adverse effect that could be caused by the proposal on the living conditions of the occupiers of No 31a.
10. To overcome the effects identified, a dwelling could be built further away from No 31a. However, this would bring the dwelling even closer to the trees and hedgerows that populate the front part of the appeal site next to the roads. The potential effect on them would be likely to be far greater based on the site's shape and their location and could result in their loss or deterioration.
11. The shape of the site would be unique, but plots in the area are of a varied shape and size. The site is, however, in a prominent location at the junction of two roads. As such, any scheme would need to be designed sensitively. Even though adequate gardens could be formed to serve No 31a and the proposed dwelling, I am not satisfied that a dwelling could be designed for the appeal site without resulting in a cramped form development, especially given my concerns about living conditions and trees and hedgerows.
12. I note the applications cited by the appellant, but I do not have details of these schemes or the circumstances that led to the decisions being taken. Moreover, in three of the cases the existing dwelling was to be demolished. This would not be the case here. As such, they do not change my view.
13. Thus, I conclude that the appeal site would not be able to accommodate the proposed development whilst respecting local character, avoiding a significant adverse impact on the living conditions of the occupants of No 31a, with regard to overshadowing and overbearingness, and conserving, managing and enhancing existing trees and hedgerows. The proposal would conflict with Policies ENV 6 and SOC5 of the Cheshire West and Chester Council Local Plan

(Part One) Strategic Policies and LP2 Policies DM2, DM3, DM19 and DM45 for these reasons.

Conclusion

14. For the reasons set out above, I conclude that the appeal is dismissed.

Andrew McGlone

INSPECTOR