
Appeal Decision

Site visit made on 18 August 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/A0665/W/20/3248939

9 Blackfriars Court, Black Friars, Chester CH1 2PY

- 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 Miss Claire White against the decision of Cheshire West & Chester Council.
 - The application Ref 19/00708/FUL, dated 4 September 2019, was refused by notice dated 11 October 2019.
 - The development proposed is described as alterations to bin store (including a new wall and roof) and creation of a balcony at first floor level to serve Flat 9.
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Decision

1. The appeal is dismissed.

Procedure Matter

2. Both the appellant and the Council have confirmed that the appeal site does not form part of the Grade II Listed Building as originally set out in the questionnaire. I have therefore dealt with the appeal on this basis and return to this in other matters.

Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of occupants at No.7 Blackfriars Court and No.22 Black Friars, with particular reference to privacy and outlook.

Reasons

4. The appeal site is a single apartment located within Blackfriars Court. The site lies within the Chester City Conservation Area (CA). To the west of the appeal site No's 1-6 Blackfriars Court and along Black Friars are Grade II Listed Buildings. The buildings in the area are a mix of residential and commercial, including apartment blocks, dwellings and an adjacent public house.
5. The proposal would create a brick and clear glazed balustrade balcony to the apartment at first floor level with the roof extending over the bin store which is currently open to enclose it. The fence at ground floor would be replaced by a new brick wall connecting into the existing wall.
6. Despite the balcony being set back by 1m and having a glass balustrade, the position and size of the balcony including its elevated height at first floor level would result in users of the balcony being able to look directly into and over the private rear outdoor amenity space of No.7 Blackfriars Court (No.7).

7. In regard to No.22 Black Friars (No.22), this is a terraced property which adjoins the boundary of the block of apartments. The rear garden is enclosed and appears to be used as private outdoor amenity space, also identified in photographs provided within the Council's evidence. The balcony would be in close proximity, along the first floor, positioned almost along the boundary with No.22, meaning users of the balcony would be able to look directly over, down and across into the rear outdoor garden space of No.22.
8. As such, the proposed balcony would cause an unacceptable degree of overlooking to the detriment of the privacy currently enjoyed by those occupiers of No.7 and No.22. However, given the position and angles of the windows it would be unlikely that it would cause direct overlooking into the bedroom window of No.7.
9. The existing arrangement of the bin store is currently open and does not appear as an oppressive or overbearing structure when viewed from the ground floor. I note the appellant's comments in regard to the height of the apartment block itself. However, given that the proposed development would result in a protruding balcony and enclosed bin store, it would result in a higher brick wall along the rear and side elevations in closer proximity to the neighbouring occupiers. This combined with the height of the glass/brick balcony would appear substantially overbearing, create a negative visual prominence and bleak outlook such that it would result in an unacceptable impact to the living conditions of the occupiers of No.7 and No.22, when viewed from their garden areas.
10. The appellant has referred to similar balconies on the apartment block and within the vicinity of the appeal site. Whilst the circumstances of those cases differ from this appeal proposal in respect of height, position, size, location and planning history. These do not diminish the concerns I have identified in relation to the proposal in the context of the appeal site nor the harm I have identified in respect of the main issue. In any case, I must consider the appeal on its own merits.
11. Whilst it has been indicated that the proposals would be of benefit to the appellant's living conditions in regard to ventilation, noise, smells and enable the enjoyment of their property, this does not compensate for the harm that would be caused by the resultant balcony and the impact on neighbouring occupiers living conditions. Furthermore, the report¹ as submitted recommends internal solutions for condensation and that a wall mounted ventilation system would improve the appellant's situation.
12. For the reasons given above, I conclude the proposed development would harm the living conditions of occupiers at No.7 and No.22, in regard to privacy and outlook. This would be contrary to Policy SOC5 of the Cheshire West & Chester Local Plan (Part 1), 2015 (CWCLP) and Policy DM2 of the CWCLP (Part 2), which amongst other things does not allow development that gives rise to significant adverse impacts on health and quality of life, including residential amenity, outlook, and privacy of occupiers of existing neighbouring properties.

¹ Peter Cox Survey Report & Proposal, Reference No. ENQ528043, dated 20 February 2020

Other Matters

13. The appellant raises concerns in respect of the Council's handling of the application and amended plans, as such, they have carried out their own consultation. I acknowledge that there may be some support for the proposal. Nonetheless, this does not outweigh the harm I have identified the proposal would have on living conditions of those occupiers at No.7 and No.22.
14. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Act), to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
15. The CA is characterised by primarily low to medium rise terraced houses with small or no front gardens, commercial buildings and medium to high apartment blocks. The balcony would not alter this character and it would be constructed in matching brick and reflect architectural features of the properties and surroundings. I therefore find that it would preserve the character and appearance of the CA.
16. The site is located in close proximity to Grade II Listed Buildings, (number 1 to 6 Blackfriars Court (part) and garden wall, 1-6, Black Friars) and 6-14 Black Friars. Section 66(1) of the Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
17. The Council have not concluded that the proposal would cause harm to the nearby listed buildings. Based on my site visit, which also included a consideration of the proposed works and separation distance between the appeal site and the listed buildings, I have no reason to disagree in respect of this matter and the proposal would not result in any harm to the significance of the heritage assets as a development within the setting of a Listed Building. However, this does not outweigh the other harm I have found.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR