The Planning Inspectorate

Appeal Decision

Site visit made on 17 November 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2020

Appeal Ref: APP/A0665/W/20/3258169
Post Office, Moor Lane, Rowton, Chester, Cheshire, CH3 7QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Tanveer Ahmed against the decision of Cheshire West & Chester Council.
- The application Ref 20/00276/FUL, dated 24 January 2020, was approved on 24 June 2020 and planning permission was granted subject to conditions.
- The development permitted is *"alterations to roof, new entrance door, windows and rendering of all elevations (retrospective)"*.
- The conditions in dispute are Nos 3 and 4 which state that:
  3) *The development hereby permitted shall be carried out in accordance with the following approved plans:*
     - *P333 L04 PROPOSED ELEVATIONS (Dated May 2020)*
     - *SP01 SITE LOCATION PLAN (Dated 13/01/2020)*
  4) *Notwithstanding the approved plans, details of the boundary treatment with the adjoining dwelling - The Old Surgery, shall be submitted to and agreed in writing within the local planning authority prior to first occupation. The agreed details shall be implemented in full prior to first occupation and retained as such thereafter.*
- The reasons given for the conditions are:
  3) *For the avoidance of doubt and in the interests of proper planning.*
  4) *In the interest of residential amenity.*

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The existing building was constructed without planning consent and was then subject to a retrospective application. However, a number of design alterations were negotiated at application stage and planning permission was granted for a building with a different appearance to that which currently stands. In this regard, the approved plans show a building with a single level roof with hipped ends, and 2 large display windows in the Moor Lane elevation. The appeal proposal is to vary condition 3 in order to allow the building to be retained in its current form. It is also asserted that condition 4 is unnecessary with regard to residential amenity.

3. In this context, the main issues are whether the disputed conditions are reasonable and necessary in relation to, firstly, the character and appearance of the area and, secondly, the living conditions of the occupiers of No 48 Eggbridge Lane with regard to loss of privacy.

Reasons

Character and appearance

4. The existing building differs from the approved plans in a number of respects. In this regard, it incorporates a gable roof, a stepped ridge, and smaller window openings in the Moor Lane elevation. No alternative plans have been submitted with this appeal, and so the effect of varying condition 3 would be to allow the existing structure to be retained in its current form.

5. The existing roof incorporates gable ends rather than hipped ends as shown on the approved plans. In this regard, the north west facing gable is positioned next to the street and is prominent in longer views along Moor Lane. Its height and mass result in an unduly dominant feature that draws the eye. Conversely, a hipped end in this position would mitigate the visual impact of the building and would result in a more sympathetic appearance.

6. The south east facing gable is level with the front of the adjoining property at No 48, and it is visible in longer views along Common Lane and Eggbridge Lane. From these positions, it has an awkward appearance that contrasts sharply with the roof pitch of No 48, including the single storey element on the other side. In my view, it is a discordant feature at odds with its surroundings. Conversely, a hipped end would result in a more harmonious and subordinate appearance.

7. Separately, the approved windows and detailing to the Moor Lane elevation would provide an active frontage and a sense of character to the building. Conversely, the removal of these features from the scheme results in a long and relatively featureless elevation directly fronting the street. This does not result in an acceptable appearance in my view.

8. The appeal building is not listed, nor is it within a conservation area. However, that does not mean that its character and appearance, and that of the surrounding area, does not merit protection.

9. For the above reasons, I conclude that disputed condition 3 is both reasonable and necessary in order to protect the character and appearance of the area. The proposed variation would therefore be contrary to Policy ENV 6 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015). This policy seeks to ensure, amongst other thing, that new development respects local character and achieves a sense of place through appropriate layout and design.

Living conditions

10. The boundary between the appeal site and No 48 Eggbridge Lane currently consists of a timber fence that encloses the rear garden area and driveway. The garden to No 48 slopes gently from south to north and there is an elevated patio and seating area next to the house.

11. The development proposes to relocate the store entrance to the north west elevation of the building. Customers entering the store via this entrance would be visible to people in the adjoining garden over the fence, particularly from the patio and seating area next to the house. Similarly, taller customers would have clear views into part of the garden area. Given that this would be the main entrance to the store, there is likely to be a regular flow of customers

entering and leaving via this route. In the absence of additional boundary treatments, this would result in a significant loss of privacy that would harmfully detract from the enjoyment of the garden area. In addition, activity in the yard area between the appeal building and the boundary fence could also undermine the privacy of the neighbouring garden.

12. For the above reasons, I conclude that disputed condition 4 is both reasonable and necessary in order to protect the living conditions of the occupiers of No 48 Eggbridge Lane with regard to loss of privacy. The removal of this condition would therefore be at odds with the National Planning Policy Framework, which seeks to ensure a high standard of amenity for both existing and future users.

Other Matters

13. The concerns expressed regarding the Council's conduct during the processing of the planning application, and matters relating to the Party Wall Act, fall outside of the remit of this decision.

Conclusion

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

Thomas Hatfield

INSPECTOR