



Appeal Decision

Site visit made on 13 December 2021

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th January 2022

Appeal Ref: APP/R0660/D/21/3277470

45 Thornbrook Way, Sandbach, CW11 3ZB

- 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 Holdcroft against the decision of Cheshire East Council.
 - The application Ref 21/0546C, dated 26 January 2021, was refused by notice dated 13 May 2021.
 - The development proposed is 1st floor side extension above the existing garage to achieve an additional bedroom with en suite. Conversion of existing garage to dining room. Re configuration of the internal layout so that the utility room is accessible from inside the property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has stated that whilst told that permitted development rights have been removed from the property it is not clear exactly which of these rights have been removed. Therefore, it is indicated that the conversion of the garage may in fact be permitted development. In addition, although included in the description of development it is stated that the reconfiguration of the internal layout does not in fact need permission. Whether or not these elements of the proposal are permitted development is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to the Council to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. I have therefore determined the appeal on the basis of the development as applied for.

Main Issue

3. The main issue in the appeal is the effect of the proposed extension on the living conditions of nearby residents with particular regard to outlook.

Reasons

4. The appeal property is a detached house with a single storey garage and utility room to one side. This single storey element lies immediately adjacent to the common boundary with the rear gardens of Nos 4-8 Osborne Close. In particular, the side elevation of the house and garage/utility room, extend the full width of the garden of No 6, the middle house in the terrace. This

neighbouring property contains habitable room windows at both ground and first floor.

5. The Council have referred to separation distances set out in the *Supplementary Planning Guidance Note 2: Provision of Private Open Space in New Residential Developments (November 1993)* (SPG). Whilst this document is quite old and refers to new residential developments rather than extensions, the separation distances provide useful guidance which I have considered alongside what I observed on my site visit.
6. The SPG requires that a minimum of 13.8m is maintained between main windows facing a flank elevation. This is currently achieved between No 6 and No 45, with a distance of 14.2m maintained between the windows on No 6 and the main side elevation of No 45. However, the proposed extension would reduce this gap to 11m.
7. The garden of No 6 is quite narrow and the flank wall of No 45 and its garage/utility room along the rear boundary, already creates a high degree of enclosure to it. I also observed that the outlook from the ground floor windows of No 6 is already compromised by the limited separation distance to the garage /utility room which is visible above the rear boundary fence, and would remain visible even if the height of the fence was increase to 2m.
8. The proposed extension sitting above the existing single storey elements would considerably increase the bulk of the property on the common boundary. I am in no doubt that the scale and mass of the proposal, so close to the rear boundary of the garden and the windows on the rear elevation would have an overbearing impact on, and create an unneighbourly sense of enclosure to, the occupiers of No 6.
9. Therefore, I consider that the proposed extension would unacceptably harm the living conditions of nearby residents with particular regard to outlook. Accordingly, it would be contrary to Policy GR6 of the *Congleton Borough Local Plan First Review (adopted January 2005)* (LP) which seeks to ensure that proposals would not have a detrimental effect on the amenity of neighbouring residential properties. Although this policy does not specifically mention outlook, I consider "visual intrusion" could include proposals that were overbearing and unacceptably harmed outlook. It would also be contrary to Policy H2 of the Sandbach Neighbourhood Plan (made April 2016) which requires new developments, amongst other things, not to have an adverse impact on amenity. In addition, the proposal would be contrary to paragraph 130 of the National Planning Policy Framework which requires development to provide a high standard of amenity for existing and future users.
10. In support of the appeal my attention was drawn to two other examples of extensions which were approved despite the separation distances not being in accordance with the SPG. I don't know the full circumstances that led to either of these being approved. However, from my observations it was unclear if any of the windows in the extension at No 47, many of which were small, served habitable rooms. Furthermore, the extension had no impact on the living conditions of the neighbouring residents, as the side elevation of their property contained no habitable room windows. I noted that No 29 has a similar first floor side extension above the garage but whilst this faced the rear elevation of No 2 Arley Walk, this property unlike No 6 Osborne Close, has a much larger

rear garden, which included land at the side. As such, the extension on No 29 does not have the same oppressive impact on the neighbouring property.

11. The existing side elevation of No 45 has 2 small windows which I understand serve the bathroom and the landing, whereas the proposed side elevation would contain none. Whilst this would remove any overlooking, the loss of privacy caused from these two non-habitable room windows would be limited. As such I give this benefit little weight and it would not outweigh the harm caused by the proposal. Whilst the proposal may be acceptable in terms of its impact on the character and appearance of the area, and would not result in loss of light or parking spaces, an absence of harm in these matters is a neutral matter.

Conclusion

12. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR