



Appeal Decision

Site visit made on 8 March 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/A0665/W/21/3286267

39 Hoole Road, Chester CH2 3NH

- 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 Chris Beebe (Co-op Estates) against the decision of Cheshire West and Chester Council.
 - The application Ref 21/00337/FUL, dated 20 January 2021, was refused by notice dated 14 September 2021.
 - The development proposed is external alterations including the installation of a new brick wall, part-infill of existing window, installation of a double timber door and rendered frame, extension of brick walls, and the installation of 2no. refrigeration condensers.
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Decision

1. The appeal is allowed and planning permission is granted for external alterations including the installation of a new brick wall, part-infill of existing window, installation of a double timber door and rendered frame, extension of brick walls, and the installation of 2no. refrigeration condensers at 39 Hoole Road, Chester, CH2 3NH in accordance with application, Ref 21/00337/FUL, dated 20 January 2021, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Chris Beebe (Co-op Estates) against Cheshire West and Chester Council. This application is subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of occupiers of nearby residential properties.

Reasons

4. The appeal property is a part two storey, part single storey, end of terrace commercial building occupying a corner plot position at the junction of Hoole Road and Derby Place. The site is located within the Hoole Road Conservation Area (CA) and the surrounding area is characterised by a mix of uses. To the east of the site and at various other points along Hoole Road are several commercial and business premises, whilst predominately residential properties are located to the south of the site on Derby Place.
5. The development proposed relates specifically to a small number of external alterations, primarily affecting the Derby Place fronting elevation of the

property. These works comprise the raising of existing boundary walls at the northern and southern end of the existing parking area to a height of 1.8 metres, the erection of a new 1.8 metre high brick wall along the western boundary of the parking area for a distance of 2 metres, the removal of an existing sash window from the west facing elevation and subsequent part-infill and erection of double timber doors with rendered frame, and the installation of 2no refrigeration condensers within an enclosed courtyard area to the rear of the property.

6. The Council's has referred to Policy SOC5 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies (LP) in its reason for refusal. Policy SOC5 relates to the health and well-being of residents, and amongst other things states, '*Development that gives rise to significant adverse impacts on health and quality of life (e.g soil, noise, water, air or light pollution, and land instability etc) including residential amenity, will not be allowed*'. The Council contend that the proposed development would help facilitate a use of the property which would, in their view, lead to a significant adverse impact on neighbouring residents. The proposed use of the property however does not fall to be considered, a matter which I will return to later in this decision.
7. The proposed erection and extension of brick boundary walls and the removal of a sash window and subsequent part-infill and installation of double timber doors are modest in size and scale. As such they would not give rise to any undue noise, air or light pollution, or any other harm which would unduly impact upon residential amenity or the health and quality of life of neighbouring occupiers.
8. By virtue of potential noise disturbance, the proposed 2no refrigeration condensers could have the potential to impact upon the living conditions of neighbouring occupiers. However, from the detailed specification and noise impact assessment provided it is apparent that the predicted noise levels at the nearest residential properties would be very low, and below noise levels generated by typical domestic appliances such as a fridge. I also note that the Council's Environmental Protection Officer is satisfied that noise from the condensers is unlikely to present an issue and has no objection to the proposal. Consequently, from the information available to me, I do not consider that the living conditions of occupiers of nearby residential properties would be unduly harmed.
9. For those reasons, the development proposed would not result in harm being caused to the living conditions of occupiers of nearby residential properties. The development would therefore accord with Policy SOC5 of the LP, the aims of which are stated above.

Other Matters

10. A substantial number of objections have been received by neighbours and other interested parties, primarily concerned with the proposed future use of the property and its impact on the living conditions of occupiers of nearby residential properties. This has also been alluded to in the Council's reason for refusal.
11. The Council's Officers have expressed that in their view the proposed use would not require planning permission, however several interested parties have expressed a counter view. In any case, express planning permission has not

been sought for the use of the property and I am only assessing the individual merits of the external alterations as described in the banner header above. The intended or proposed use of the property therefore does not fall for me to consider.

12. Concerns have also been raised in relation to the effect of the proposed development, in particular the boundary walls and removal of sash window and subsequent installation of double doors, on the character or appearance of the CA and on the setting of nearby listed buildings. Nos 1, 3, 4, 5, 6, 7, 9 and 11 Derby Place are all Grade II listed buildings, with Nos 1, 3 and 4 in particular located in close proximity the appeal site. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 prescribes a duty on the decision maker to give special regard to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. Similarly, Section 72 of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA.
13. Due to their secluded location, it is apparent that the 2no refrigeration condensers would not be visible within the street scene and consequently they would not result in any harm being caused to either the character or appearance of the CA or upon the setting of the nearby listed buildings. Although alterations to the existing boundary walls would marginally increase their prominence, I do not consider that these works would result in them appearing unduly prominent or as incongruous features within the street scene. Similarly, although the proposal includes the loss of an existing sash window, its replacement with an appropriately designed timber double doors represents only a moderate change to the external appearance of the building.
14. The Council's Conservation Officer raised no objection to the proposals and concluded that the development would preserve the character and appearance of the CA, and the setting of the nearby listed buildings. In view of the above I can see no compelling reason for me to disagree. Consequently, the proposed development would preserve the character and appearance of the CA, whilst also preserving the setting of the nearby listed buildings.
15. Finally, concerns have also been expressed regarding highway safety, with particular regard to vehicles being unable to park within the rear parking area, a lack of on site parking for employees and visitors, and an increase in traffic resulting in congestion on surrounding roads. These potential issues however arise primarily due to concerns relating to the proposed use of the property, which as detailed above, does not fall to be considered as part of this appeal.
16. In any event, the site is located in close proximity to bus stops and public car parks, and time restricted parking is available along Hoole Road, outlining the accessibility of the site and suitable provision of parking nearby. Additionally, the appellant has also demonstrated that a large vehicle could be parked within the boundaries of the rear parking area to the satisfaction of the Council's Highways Officer, who did not object or raise any concerns in respect of highway safety. I am satisfied therefore that the proposed development would not give rise to any highway safety concerns.

Conditions

17. I have had regard to the conditions suggested by the Council and have assessed them against the tests set out in paragraph 56 of the National Planning Policy Framework. In addition to the standard time limit condition, I have imposed a condition concerning the approved plans for clarity.
18. To ensure the appropriate appearance of the development a condition has been imposed requiring the external materials used shall match the existing. Finally, a condition limiting the level of noise generated by the external condensers has been imposed in order to protect the amenity of neighbouring residential properties.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

David Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

CFU-107-300, CFU-107-301 Rev B, CFU-107-304 Rev C, CFU-107-305 Rev C.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building, including a matching mortar colour for brickwork.
- 4) In respect of noise, the cumulative rating level of the air condition unit and condenser must not exceed 37dB (15 mins) daytime and 31dB (15 mins) night-time.