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# Appeal Decision

Site visit made on 17 January 2023

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 January 2023**

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**Appeal Ref: APP/A0665/W/22/3307179**

**9 Sandy Lane, Little Neston, Neston CH64 4DR**

- 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 and Mrs A and S Gill against the decision of Cheshire West and Chester Council.
  - The application Ref 21/05081/FUL, dated 23 December 2021, was refused by notice dated 18 August 2022.
  - The development proposed is 'Demolition of Existing Detached Dwelling and Garage. Construction of Replacement Detached Dwelling and Garage'.
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing detached dwelling and garage, and construction of replacement detached dwelling and garage at 9 Sandy Lane, Little Neston, Neston, CH64 4DR in accordance with the terms of application Ref 21/05081/FUL, dated 23 December 2021, subject to the conditions set out in a schedule to this Decision.

## Preliminary Matters

2. During the course of the Council's consideration of the planning application revised plans were submitted by the appellant. These were the plans on which the Council made its decision and so shall I. For the avoidance of doubt, the relevant plans are referenced: PL.001 Location Plan, PL.002(B) Existing and Proposed Site Plan, PL.003(B) Proposed Elevations, and, PL.004(B) Proposed Dwelling Floor Plans.

## Main Issues

3. The main issues are the effect of the development on:
  - the character and appearance of the locality
  - the living conditions of the neighbouring dwelling at 7 Sandy Lane with particular regard to overlooking and loss of privacy.

## Reasons

### *Character and appearance*

4. Sandy Lane is an inclined track bordered on both sides by individually designed houses derived from different phases of development along its length. The buildings are a mix of bungalows, 1½, 2 and 3 storey houses in diverse styles. The houses are set behind enclosed front gardens within various plot sizes.

5. The appeal site lies at the higher eastern end of the lane where it meets a public right of way (19X) and Gorstons Lane. Its eastern fenced boundary roughly coincides with the edge of the settlement area with open fields set within the Green Belt beyond. The site levels drop from east to west to a hedge on the common boundary with 7 Sandy Lane.
6. The existing building is a bungalow with a detached outbuilding laid out in a crescent arrangement. They are set within a plot with a wide frontage delineated by a high hedge and positioned forward in the row of development on the northern side of the lane. The proposal seeks their replacement with a 2-storey dwelling with an attached double garage incorporating rooms in its roof space.
7. Amongst the mixed styles, sizes, and varied forms of houses on the road, the scale and appearance of the building would not appear out of context. Subject to specifying suitable site levels, the modest overall height, hipped roof form and subordinate scale and position of the garage would ensure it would not appear excessively scaled in its plot. Its proposed position, in rough alignment with the neighbouring dwelling, would provide a frontage depth similar to other 2-storey houses on the lane. This would ensure that the building would not impose or be unduly prominent viewed along the rising ridges of buildings ascending the lane.
8. The consolidated design would include references to existing local building features. This includes a projecting gable, hipped roof angles and dormer windows. Given its elevated location compared to other houses nearby, a flat roof element central to the main roof would not be visible or readily interpreted as such.
9. The use of some large glazed areas would add a modern twist to the traditional form of the main gable. Together with external materials referencing those used elsewhere in the vicinity, this would be reflective of its time and openly date the building as a later phase of development on the lane.
10. The inclusion of a rear gable incorporating a balcony would not be highly visible in the streetscape. It would not therefore impose as an incongruous element of the built form of the dwelling.
11. I note the Council's concern in relation to the gable roof form and inclusion of dormers over the garage wing. However, there are numerous forms of dormer lights in various roof configurations along Sandy Lane. The paired pitched roof dormers would take reference from the main gable and, alongside the consistent use of materials across the building elements, would give rise to a high degree of consolidation in the design and appearance of the building. As an element which would be set well back from the principal elevation of the dwelling, the garage would appear recessive and, despite the side gable, would integrate well with the main body of the house.
12. For the above reasons, I find the proposal would respect the prevailing mixed character of development in the locality. It would thereby align with Policy ENV 6 of the Cheshire West and Chester Local Plan (Part One) (the LP1), Policies DM 3 and DM 21 of the Cheshire West and Chester Local Plan (Part Two) (the LP2) and the National Planning Policy Framework (the Framework) as they require development to be of a high standard of design, of appropriate

scale and appearance, and constructed to respect the local character and protect the visual amenity of their locations.

### *Living conditions*

13. The proposed building would be substantially over the footprint of the existing bungalow. Although it would be higher than the current building, it would be some distance from the common boundary with No7. Side windows and a door to the neighbouring property, which face several habitable room windows in the existing bungalow, are currently screened by the boundary hedge. This exceeds the eaves height of that neighbouring residence. Subject to requiring the retention of the hedge, which could be secured through planning condition, views to a clear glazed bedroom window at No7 would be similarly filtered and at sufficient distance to avoid a significant loss of privacy or sense of overbearing.
14. A first-floor side window serving a proposed bathroom is shown to be obscure glazed. This would prevent additional overlooking to the side of No7 from a height greater than the existing window positions at No9.
15. The remaining principal windows serving habitable rooms would address the garden areas to the front and rear of the dwelling. Although some sideways overlooking to the garden areas of the neighbouring property might be afforded from the upper rear windows, this would be a common situation in a residential setting. It would not therefore warrant a refusal of planning permission in the particular circumstances of the case.
16. However, an aperture to the side of a proposed balcony central to the rear elevation would allow elevated views across part of the outside area immediately to the rear of the neighbouring dwelling. Notwithstanding the existing hedge or intervening distance, this would be a significant incursion to the privacy of occupiers of that premises that would cause significant harm to their living conditions.
17. In order to restrict such direct sideways views, the appellant accepts that a condition requiring obscure glazed screening could be secured. Pursuant to the approach set out in Paragraph 55 of the Framework, I consider this would be necessary to make the development acceptable in planning terms.
18. Subject to a condition requiring screening to the side of the balcony, I find the proposal would not result in a significant adverse effect on the privacy of neighbouring occupiers. It would thereby be consistent with the requirements of Policy SOC5 of the LP1 and Policies DM2 and DM21 of the LP2 as they seek development to avoid significant adverse impacts on residential amenity, including effects on the privacy of neighbouring occupiers. For similar reasons, it would comply with the Framework.

### **Other Matters**

19. I note the concerns of the Town Council and others in relation to blocking of a pre-existing right of way. In the absence of explicit reference to blocking-up or diversion of any public rights of way in the description of the development, nothing in this decision permits those acts.
20. The development would be visible from the Green Belt. However, within its setting amongst other residential properties beyond the Green Belt boundary, I

find there would be no conflict with national Green Belt policy or its defined purposes.

21. Any effects from the construction period would be short-term. If access is required over third-party land, this is a private matter between the relevant parties.

### **Conditions**

22. The Council have suggested several conditions which I have considered alongside the advice in the Framework and Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of this case. Some have been edited for precision and clarity. However, I do not consider that there is a clear justification for restricting national permitted development rights or means of external lighting that would not normally require planning permission.
23. As matters relevant to the first phases of construction of the development, conditions relating to building and site levels and drainage are, of necessity, pre-commencement conditions. These have been confirmed with the appellant as required by The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018. They are necessary to protect the living conditions of neighbouring occupiers, the character and appearance of the locality, and to ensure the sustainable drainage of the site.
24. To protect the character and appearance of the locality, confirmation of the external materials for use in the construction of the building is also necessary. To protect and enhance biodiversity interests, neighbouring amenity and to assimilate the development, a landscaping scheme is required.
25. To encourage more sustainable means of travel and reduce air pollution, the incorporation of an electric vehicle charging point is appropriate. To achieve water use efficiency and comply with Policy DM4 of the LP2, a design requirement to meet the optional higher National Housing Standard for water consumption is reasonable.
26. As above, a condition requiring the screening of sideways views from the rear balcony is necessary to protect the living conditions of neighbouring residents.

### **Conclusion**

27. For the reasons given, I conclude that the appeal should be allowed.

*R Hitchcock*

INSPECTOR

**Schedule of conditions to planning permission ref. 21/05081/FUL**

- 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: PL.001 Location Plan, PL.002(B) Existing and Proposed Site Plan, PL.003(B) Proposed Elevations, and, PL.004(B) Proposed Dwelling Floor Plans.
- 3) The development hereby approved shall not be commenced until full details of existing and proposed ground and floor levels, have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall only be carried out in accordance with the approved details.
- 4) The development hereby approved shall not commence until a drainage scheme for the site, showing how surface water and land drainage will be dealt with, has been submitted to and agreed in writing by the local planning authority. No part of the development shall be brought into use until the approved drainage systems have been constructed and completed in accordance with the approved drainage scheme.
- 5) Prior to their first use in the construction of the development hereby approved, details of the materials to be used in the construction of the external surfaces of the dwelling and garage shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in complete accordance with the approved details.
- 6) Prior to development above ground level a detailed landscape plan, to include boundary treatments and native habitat provision, shall be submitted to and approved in writing by the local planning authority. Any agreed soft landscaping works shall be carried out prior to or in the next planting season following occupation of the dwelling.
- 7) Before the dwelling hereby approved is first occupied it shall be provided with electric car charging infrastructure comprising, as a minimum, one dedicated 32amp radial circuit which is directly wired to an appropriate RCD at the consumer unit. The circuit shall terminate at a three-pin socket or BS EN 62196 Type 2 electric vehicle charging point located where it is accessible from a dedicated off-street car parking bay.
- 8) The dwelling hereby approved shall be designed and constructed to meet the higher National Housing Standard for water consumption of 110 litres per person per day.
- 9) Before first residential occupation of the dwelling hereby approved, details of a screen to prevent outward views from the western elevation of the first-floor balcony on the rear elevation of the building shall be submitted to and approved in writing by the local planning authority. The screen shall be installed in complete accordance with the approved details prior to first occupation of the dwelling and shall be retained thereafter for the duration of the development.

END.