



Appeal Decision

Site visit made on 20 December 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2023

Appeal Ref: APP/A0665/W/22/3306525

3 The Beeches, Upton, Chester CH2 1PE

- 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 Dr Charles Ryder against the decision of Cheshire West and Chester Council.
 - The application Ref 21/04449/FUL, dated 1 November 2021, was refused by notice dated 29 April 2022.
 - The development proposed is a two storey block of 2 no. apartments to garden of existing dwelling, including partial demolition of existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on a) the character and appearance of the area, and b) the living conditions of occupiers at 3 The Beeches, with particular regard to outlook, privacy and light.

Reasons

Character and appearance

3. This appeal concerns the detached property and garden area of 3 The Beeches, which is located within a residential area. Although the layout of built form in this locality is not consistent and varies in terms of size, design and plot size, the overriding characteristics of the area are its spaciousness and verdant appearance. This is due to the strong presence of mature landscaping along the highway, in readily apparent garden areas and interspersed between the built form. The large rear garden of No 3 contributes positively towards the character of the area.
4. Whilst the height and materials of the proposal would be similar to the surrounding built form, the development would have a large footprint, projecting well into the rear garden, and it would be sited close to the side boundaries of the plot. It would be of a somewhat convoluted design, with varying roof forms and projecting elements, which would exaggerate its considerable mass and bulky form. As such, it would fail to be commensurate with its plot and this would be readily apparent and overly dominant in the street scene.
5. The proposal would be particularly visually incongruous when read adjacent to the altered No 3, which would be of a noticeably reduced mass and would

appear constricted in its corner plot with a considerably reduced frontage in comparison.

6. The considerable width of the proposal, along with the siting and width of the adjacent properties and the limited space between them, would also result in a substantially built-up frontage along the immediate stretch of The Beeches. This tight knit arrangement of built form would restrict views of the rear gardens and surrounding landscape features. The proposal would therefore erode the spacious characteristics of the street scene.
7. Whilst there are some properties in the locality which have less spacing between them and adjacent properties than the appeal proposal would, I consider that these examples do not result in a prominent lengthy built-up frontage along a stretch of the highway and thus are not directly comparable.
8. The proposed parking area would also significantly reduce and restrict the amount of landscaping as it would dominate the front of the site. As such, there would be little relief from the overly dominant presence of the built form. This would contrast sharply with and further interrupt the overriding verdant characteristics of the locality.
9. Accordingly, the proposal would harm the character and appearance of the area and would therefore conflict with Policy ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (the 'CWCLP1') and Policies DM3 and DM19 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the 'CWCLP2'). Collectively, these policies seek to ensure that developments are of a high-quality design which respects and responds positively to local character and layout, amongst other things.
10. For these reasons, the proposal would not make effective use of land and it would also fail to accord with the guidance on good design at paragraph 130 of the National Planning Policy Framework (the Framework).

Living conditions

11. The proposed first floor apartment would have a number of windows on its western elevation, two of which are of generous size and serve an open-plan kitchen-dining area. Given the nature of this room and the close relationship between these windows and the rear garden of No 3, the proposal would allow for overlooking directly into the private external space of No 3. Additionally, by virtue of the design and positioning of the proposed first floor terrace, there would also be opportunities for future residents to overlook the rear garden of No 3.
12. The proposal would also be within close proximity to a rear facing window of No 3, which would serve a living room. From this window the outlook would be considerably restricted, due to the close relationship with the proposal, its height, projection and siting and the existing projecting single storey element of No 3. This, along with the mature trees in the garden, would result in a very poor outlook, an overbearing sense of enclosure and a reduction in the amount of daylight and sunlight reaching the living room and the immediate part of the garden outside this room.
13. I note the living room of No 3 would be served by an additional window on the side elevation. However, it would be positioned within very close proximity to

the side boundary. It cannot therefore be relied upon to provide an additional good quality outlook or level of light.

14. Consequently, the proposal would significantly harm the living conditions of occupiers of No 3, therefore it would conflict with Policy SOC5 of the CWCLP1 and Policy DM2 of the CWCLP2 which collectively seek to ensure that developments do not have a significant adverse impact on the amenity of neighbouring occupiers. It would also fail to accord with paragraph 130 of the Framework in its aims for developments that have a high standard of amenity for existing users.

Other Matters

15. The appellant has referenced several development plan policies and parts of the Framework, the Planning Practice Guidance, the National Design Guide and the National Model Design Code which they consider the proposal accords with. These are primarily in relation to the provision of a mix of housing, namely for elderly people, the retention of trees and design characteristics. However, compliance with other policies and aspects of the Framework and guidance are neutral matters which do not add any positive weight in favour of the proposed development.
16. Concerns regarding pre-application advice received and how the planning application was handled by the Council are not matters for me within the context of this appeal, which I have determined on its own merits.

Planning Balance and Conclusion

17. The proposal would harm the character and appearance of the area and the living conditions of neighbouring occupiers, which leads to conflict with the development plan. Given the statutory nature of the development plan, each incidence of harm and conflict with it should carry significant weight in the planning balance.
18. The proposal would provide two new dwellings which would contribute towards the Council's housing supply. Whilst the Council do not currently have a shortfall in housing supply, a five year supply is not seen as a ceiling figure. Regardless, the addition of two dwellings makes a very limited contribution overall.
19. The benefits of the proposal in terms of investment and employment during construction, and economic benefits on subsequent occupation, would also be limited due to the small scale of the proposal.
20. The appellant has suggested that the proposal would provide homes for the elderly or last time buyers. The development plan is not silent on this matter, with Policies SOC3 and SOC5 of the CWCLP1 and Policies DM20, DM26 and DM29 of the CWCLP2 of particular relevance. These policies, along with the Framework, seek to address the housing needs of different groups of the population, including elderly people. The submitted evidence indicates a general national need and demand for specialist housing however I am unable to ascertain whether there is a specific unmet need for this type of housing in this locality.
21. Furthermore, whilst it is intimated that the proposal would be age-restricted general market housing for the elderly, there is also a suggestion that it would

- address the needs of disabled people and those with dementia. The evidence is not precise as to exactly what type of specialist accommodation would be provided, or how the intended accommodation could be secured.
22. Nevertheless, even if these matters were to be clarified and I were able to attach a condition which secured the development for the appropriate specialist accommodation, the proposal would only provide two specialist housing units. As such, this benefit is afforded no more than limited weight.
23. Linked to this, numerous appeal decisions have been provided which concern the benefits, need and demand for and issues surrounding specialist accommodation. The circumstances for each example are very case specific, and not all are directly relevant to this proposal. I therefore afford them very limited weight.
24. It has been suggested that the proposal would give rise to significant benefits to the health and wellbeing of the appellant, through the provision of more adequate housing. I note that the appellant is in remission from cancer and the proposal is to cover any eventualities in the future where he may not be in good health.
25. I have therefore had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include age.
26. Although it is unclear how one unit within the proposed development could be secured for the appellant, I do not doubt that it would provide suitable accommodation for them into their later years. However, the existing dwelling and the site is of a generous size. I am not persuaded that it currently provides inadequate living accommodation or is no longer fit for purpose. I am also unconvinced that it could not be appropriately adapted so as to also achieve this outcome.
27. It does not therefore follow from the PSED that the appeal should succeed and a refusal of planning permission is a proportionate and necessary response to the legitimate aims of protecting the character and appearance of an area and the living conditions of neighbouring occupiers.
28. Altogether, the proposal would conflict with the development plan when read as a whole, and there are no material considerations indicating that a decision should be taken otherwise than in accordance with it.
29. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

H Ellison
INSPECTOR