



Appeal Decision

Site visit made on 14 February 2023

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2023

Appeal Ref: APP/A0665/D/22/3310307

103 Chester Road, Whitby, Ellesmere Port, Cheshire CH65 6SB

- 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 Michael Bagnall against the decision of Cheshire West and Chester Council.
 - The application Ref 22/00784/FUL, dated 27 February 2022, was refused by notice dated 17 August 2022.
 - The development is described as: Removal of an existing conservatory attached to the existing rear flat-roof extension, both of which have been in place for 20+ years. Replace conservatory with a brick/block build including large window overlooking rear garden and patio doors opening to side. Install pitched tiled roof from rear of original building to cover existing flat-roof extension and proposed extended extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I observed during my site visit that the development has very nearly been completed. I have taken account of this in reaching my Decision.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of the adjacent dwelling, number 105 Chester Road, with particular regard to outlook and light.

Reasons

4. The property to which the development relates is a two-storey, semi-detached dwelling, the adjacent dwelling being number 105 Chester Road.
5. As noted in the description of development, prior to the extension being erected, a conservatory had been in situ at the rear of the appeal property for 20+ years. The conservatory, and now the extension, was/is attached to the rear elevation of a single-storey rear extension, which has also been in situ for 20 + years.
6. The total depth of the old extension and conservatory combined, measured from the rear wall, was 5.93 m. The total depth of the old and new extensions combined, measured from the rear wall, is 6.48 m. Hence, the combined depth of the old and new extensions is 0.55m deeper than the combined depth of the old extension and conservatory.

7. Prior to the appeal scheme being constructed, the old rear extension had a flat roof. A pitched roof has been constructed, extending over both the old and new extensions. The height of the old flat roof was 2.6 m. The highest point of the new pitched roof is 3.56 m, with the lowest point being 2.6 m. Hence, the highest point of the roof on the combined old and new extensions is just under 1 m higher than the highest part of the roof of the old extension.
8. The southern side elevation of the old and new extensions combined sits on the shared boundary with No. 105, as did the conservatory and old extension. The rear elevation of No. 105 has a bay window in it, which serves a habitable room. The height, depth and mass of the development undertaken at No. 103 is clearly visible through the window from within No. 105.
9. One edge of the window is located very close to the shared boundary with No. 103, and therefore the extensions. There is a single-storey extension on the southern side of the rear elevation of No. 105, close to the other edge of the window, around 2 m deep. The main rear patio area of No. 105 is located just outside the rear ground floor window and in between the respective rear extensions at Nos 103 and 105.
10. There is a timber panelled fence, around 1.8 m high, positioned along the shared boundary at the rear of Nos 103 and 105; and there is a shrub in the rear garden of No. 105, around 3 m high, next to the fence close to the point where the new extension at No. 103 ends. The boundary fence and shrub partially screen the new extension at No. 103. However, the additional height, depth, and mass of the old and new extensions, compared with the old extension and conservatory as was, is clear to see above the boundary fence/behind the shrub.
11. I appreciate that the development is only 0.55 m deeper overall than the extension/conservatory as was. However, the combined depth of the old extension and conservatory was nearly 6 m, which is a significant depth within the context of the site. Thus, the additional depth, height, and mass, combined with the replacement of a light weight glazed structure with a solid building, in my opinion just tips the balance between what might be acceptable and what harms the living conditions of the occupiers of No. 105.
12. For these reasons, I consider the development undertaken at No. 103 has a harmful, detrimental impact on the living conditions of the occupiers of the existing property No. 105 Chester Road, with respect to outlook from both within the property and from the main patio area in the rear private outdoor space.
13. The Council also refused the application due to the impact on light levels at No. 105. However, the properties face east at the rear and No. 105 is located south of No. 103. Hence, as the sun travels east-west the development would not cast a shadow over, or block sunlight into, No. 105. Other site-specific circumstances, such as the existence of trees in the gardens of neighbouring properties, the presence of extensions on neighbouring properties and domestic outbuildings in their gardens, are also factors I have borne in mind. Consequently, I consider the development undertaken at No. 103 does not significantly affect the extent of natural light or sunlight experienced by the occupants of No. 105.

Notwithstanding my conclusion regarding light, as I have concluded that the proposal would significantly harm the outlook from No. 105, the development does not accord with policies SOC5, DM2 and DM21 of the Cheshire West & Chester Council Local Plan: (Part Two) Land Allocations and Detailed Policies. Collectively, and among other things, these policies seek to safeguard the living conditions of neighbouring residents, including outlook.

Other Considerations, Planning Balance & Conclusion

14. The appellant has drawn my attention to the following other factors to consider in the planning balance. Thus, 1) a two-storey rear extension that was approved at No. 103 in 1990; 2) what could be constructed under permitted development rights; 3) the improved fuel efficiency of the new extension compared to the old conservatory; 4) the increased durability of the tiled, pitched roof compared to the flat roof; 5) the requirement for one of the occupants of No. 103 to have a suitable space within which to work from home, and 6) no objections were received by the Council to the development.
15. The approved two-storey extension was only the depth of the single-storey extension. Moreover, this was approved in 1990 under different local and national planning policies. For such reasons, I attach limited weight to the matter.
16. The appellant claims that the total size of the old and new extensions would be within the parameters allowed for 'larger extensions' under permitted development rights¹, ie 6 m deep. I have not been provided with sufficient detail to be able to confirm whether an extension of 6 m deep could have been built at No. 103 without planning permission. Regardless, the procedure for securing such development requires an applicant to submit a prior approval application to the Council. Even if a proposal meets the relevant criteria re size, materials, siting, etc, the Council can still refuse such an application on the grounds of impact on the living conditions of occupants of an immediate neighbouring property.
17. As the Council concluded on the planning application that the development had a detrimental impact on the neighbouring property, it is logical to conclude that the Council would have reached the same view on a prior approval application for the same development. As such, the Council would have decided that prior approval was required and not granted. Consequently, I give little weight to this matter.
18. I accept that the solid build of the development constructed will be more energy efficient than the conservatory as was, and that the new tiled pitched roof will be more durable than the flat roof it replaced. I attach moderate weight to such matters.
19. I acknowledge the requirement for a suitable space within the home to accommodate home working. However, it has not been demonstrated that such a space must be the size of the extension constructed. I therefore attach limited weight to this matter.
20. I note that although no representations were submitted to the Council from neighbours, I must still assess the impact of the development on the living

¹ See The Town and Country Planning (General Permitted Development) (England) Order 2015, (GPDO), Schedule 2, Part 1, Class A, A.1. (g).

conditions of occupiers of neighbouring properties. I therefore attach little weight to this matter.

21. Bearing in mind the other considerations outlined, I consider that they do not, either individually or collectively, outweigh the significant harm I have found in respect of the impact of the development on the living conditions of occupiers of the existing neighbouring property, No. 105, with regard to outlook. I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR

