



Appeal Decision

Site visit made on 29 August 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/R0660/D/23/3325432

3 Canal Cottages, Old Chester Road, Barbridge CW5 6BA

- 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 Tim Shannon against the decision of Cheshire East Council.
 - The application Ref 23/1622N, dated 27 April 2023, was refused by notice dated 9 June 2023.
 - The development proposed is two storey extension to rear of dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The address in the banner heading is taken from the planning application form, with the exception of the reference to Cheshire East which is the administrative area in which the appeal site is located and not part of the address.

Main Issue

3. The main issue of this appeal is the effect of the proposed development on the living conditions of the occupants of No 2 and No 4 Canal Cottages, with particular regard to loss of outlook and light.

Reasons

Outlook

4. The appeal property comprises a modest 2 storey mid-terraced dwelling located in a predominantly residential area close to the Shropshire Union Canal. The terrace is uniform in appearance to the front. However, extensions of various forms have been added to the rear of the properties, including a part 2-storey rear extension to the adjacent dwelling of No 2 Canal Cottages. Given the modest size of the original dwelling and its terraced form, it has a close relationship with neighbouring properties that requires careful consideration.
5. The proposal would result in the infilling of the entire rear yard area with a 2-storey extension. The height, bulk and long rear projection would result in a dominant and austere form of development in close proximity to the first-floor rear window of No 4 Canal Cottages. Due to the unobscured nature of this window and the presence of curtains, this window appears to serve a bedroom. The proposed extension would therefore severely curtail the outlook from this habitable room creating oppressive and enclosed living conditions for the neighbouring occupants. However, the ground floor windows to No 4 are obscure glazed and on the evidence before me, do not serve habitable rooms such that outlook from these rooms would not be adversely affected.

6. The proposed extension would also project beyond the extended first-floor rear elevation of No 2. The plans indicate that due to the proposed depth of the extension, it would intercept the 45-degree rule when applied to the rear patio doors, again resulting in an enclosing effect. Whether or not the proposed extension can be considered as not too large in terms of scale as suggested by the appellant, this does not justify permitting an extension that has a harmful impact on the living conditions of neighbouring occupants.

Loss of Light

7. The proposed extension would be located to the south of No 4. As such, its height and bulk would result in the loss of late morning/early afternoon sunlight to the neighbouring first-floor bedroom window, resulting in gloomier living conditions for the occupants. Ambient daylight may also be affected but to a lesser degree. In the absence of a daylight/sunlight assessment there is no evidence before me to demonstrate that such a loss would not be significant.
8. Based on the evidence before me including my observations during the site visit, the ground floor windows to No 4 do not appear to serve habitable rooms. Consequently, any loss of light to these windows would not cause significant harm to the living conditions of the adjacent occupiers.
9. Given that the proposed extension would be to the north of No 2, I find that the amount of daylight and sunlight afforded to the ground and first-floor windows would be unaffected by the proposal.

Conclusion – Living Conditions

10. Due to the orientation of the dwellings, the proposal would not result in a loss of daylight or sunlight to No 2. However, the proposal would adversely affect the living conditions of the occupants of No 4, with regard to outlook and light and No 2 in respect of outlook. It would therefore conflict with policies HOU 11 and HOU 12 of the Cheshire East Local Plan; Site Allocations and Development Policies Document 2022 (CELP SADPD). These policies seek to ensure that extensions to dwellings do not cause unacceptable harm to the amenity of nearby occupants due to loss of sunlight and daylight, and the overbearing and dominating effect of new buildings.

Other Matters

11. Whether or not the appeal property experienced a loss of daylight and sunlight as a result of the rear extension to No 2, that development now forms part of the context of the appeal site, to which I am required to have regard. The presence of an existing single storey rear extension and extant permission for a smaller 2-storey rear extension¹, along with the suggested appropriateness of the proposed design, do not offset or justify the harm caused to the living conditions of neighbouring occupiers arising from the proposal. A lack of harm in relation to privacy, environmental disturbance or pollution, traffic generation and car parking, are neutral in the planning balance, weighing neither for, nor against the proposal.
12. The location of the appeal site within the village of Barbridge and the general support for house extensions within the CELP does not justify permitting development that would harm the living conditions of neighbouring occupiers. The proposal would conflict with the development plan when read as a whole and there are no material considerations that lead me to a decision otherwise.

¹ Planning application reference number 21/4643N.

13. The appeal site lies outside but close to the Chester Canal Conservation Area (CCCA), the significance of which derives from its historical development as a linear transport corridor. Now predominantly used for recreational purposes, the broad space delineated by tree planting and hedgerows contributes positively to its significance. The Council do not object to the proposal on the grounds of any harm to the CCCA or its setting, and given that the proposed extension would be to the rear of the appeal site, I am inclined to agree. The character and appearance of the CA would therefore be preserved.
14. An interested party has suggested that the proposed development would infringe their human rights². As I am dismissing the appeal, such rights would be unaffected.

Conclusion

15. The proposed development would not be harmful to the living conditions of the occupants of No 2 in respect of daylight and sunlight. However, the lack of harm is neutral in the planning balance and does not outweigh the harm that would occur to the living conditions of the occupants of No 4 in respect of outlook and light and No 2 in respect of outlook. The proposal would be at odds with the development plan taken as a whole. For these reasons, the appeal is dismissed.

M Clowes

INSPECTOR

² Article 8(1) of the European Convention on Human Rights as enshrined in the Human Rights Act 1998.