



Appeal Decision

Site visit made on 11 September 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2023

Appeal Ref: APP/A0665/D/23/3324337

El Avila, 42 Curzon Park North, Chester, CH4 8AR

- 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 Daniels against the decision of Cheshire West and Chester Council.
 - The application Ref 21/03360/FUL dated 10 August 2021, was refused by notice dated 27 March 2023.
 - The development proposed is rear garage extension and glass link to provide 2 additional bedrooms and 1 bathroom.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would result in overdevelopment of the site and the impact of the proposal upon the street scene and conservation area.

Reasons

3. The appeal site is an existing, detached dwelling, which benefits from a 3-bay garage to the side of the existing main dwelling. It is located within the Curzon Park Conservation Area (CA) on the edge of a steep bank with dense woodland which slopes down to the River Dee with views over the racecourse and towards the city centre. Section 72 of the Planning (Listed Buildings in Conservation Areas) Act requires that special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the CA.
4. The proposal seeks to extend the existing garage to the rear, provide a glass link to the main dwelling as well as, according to the plans before me, construct a glass canopy to the front of the garage. The proposed extension would have a footprint in the region of 40 sq./m with the appellant stating a gross internal area in the region of 35 sq./m as outlined within their design and access statement (D&A). The first 2 metres of the proposal would be connected to the ground; however, the last 2 metres would be suspended. During the application period, amendments are noted to have been made to the plans to show that the right-hand corner of the proposal would be set in by around 2 metres with a rear terrace area being added in order to retain an existing tree. Another tree would be incorporated into the main bulk of the extension, and I note examples of this within photographs submitted by the appellant.

5. From the documentation before me, including photographs within the D&A, it is evident that the rear of the garage building which is to be extended does not currently benefit from any glazing within the rear elevation facing towards the racecourse. Any views, from that direction, would result in the existing garage being clearly ancillary to the main dwelling. The lack of glazing, and garaging use would control any illumination from this part of the site throughout the year regardless of any tree or leaf cover towards the racecourse and city centre. By contrast the appeal proposal would result in a rear elevation which is essentially entirely glazed as can be seen from the proposed rear elevation plan. This would result in two, substantially glazed, bedrooms on the top of a steep bank which would project into the established tree line within a visually prominent location.
6. The use of the proposal as habitable accommodation with a glazed rear elevation would result in use of the rooms in the evenings and mornings, with lighting, particularly in darker months. This would be a direct visual contrast to the existing garage rear elevation which currently stands alongside the main dwelling. During my site visit, I did take the time to view the appeal site from the other side of the racecourse, standing on Nuns Road (a viewpoint submitted within the appellant's statement). At the time of my site visit, in early September, the tree cover to the rear of the appeal site was in full leaf and evidently, my site visit took place in full daylight. Whilst the proposal, in these circumstances, would be limited in views into the CA, I have strong concern, without evidence to the contrary, that during parts of the year where trees have reduced leaf cover and during hours of darkness, that the proposal would become a prominent visual feature as a result of lighting across the full width of the dwelling, adding to the cumulative prominence of the appeal site in this location.
7. I do not dispute that the proposal would represent high quality architecture or appropriate use of materials in the context of the host dwelling, however, the main issue relates to the level of development on the site itself taking into account the site characteristics and location for the reasons I have outlined. As previously noted, part of the proposal would be suspended within the air as a result of the site topography and lack of further land to build directly upon. This is well demonstrated in the side elevation drawing (northern), and I find that the proposal would not relate well to the context of the site and would appear over-developed and cramped as a result of suspension into the established tree line within the plot.
8. I do not find that there would be any impact to the street scene itself along Curzon Park North as a result of the proposals being to the rear of the host dwelling, meaning that impact to the appearance of the area is limited from the road itself. The proposed extension is acknowledged to be a relatively small addition to an already large site; however, within the commentary provided on varying proposals to extend or amend the appeal site to date I find it has highlighted the sensitivity of the site to further development as a result of characteristic bulk, scale, and massing along Curzon Park North. Whilst the property may only benefit from three bedrooms as a headline it has substantial floor area and I find that the host dwelling as it is typical of the overall scale of properties along Curzon Park Road. The issues identified are not outweighed by the benefit of the additional bedrooms proposed.

9. The National Planning Policy Framework 2023 (the Framework) states, in paragraph 199, that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. As a result of the factors I have outlined, with particular regard to the amount of glazing proposed in a prominent location at the top of a slope, potential illumination levels, and changing tree cover, I find the proposal would result in less than substantial harm to the CA as a designated heritage asset.
10. In accordance with the Framework, paragraph 202, where a development proposal would lead to less than substantial harm this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The proposal is for alterations to a single residential dwelling which is already substantial in size. The proposal would add a further two bedrooms, which would result in entirely private benefits, and I have no evidence before me to support that the proposal would result in any public benefits to outweigh the weight which should be given to the less than substantial harm which has been identified.
11. I note that the appellant has referenced examples relating to neighbouring properties. Aside from the commentary, provided by the appellant, and their extracts of plans or imagery, no further information has been provided. Reference is made to 36 Curzon Park North (18/03127/FUL); however, this relates to a new double garage which, from the extract plan provided, appears to be to the front of the appeal site adjacent to Curzon Park North and is not comparable to the proposal or the main issues which are before me within this appeal. Reference is also made to 40 Curzon Park North (21/04075/FUL) which granted consent for demolition of the existing dwelling and erection of a replacement dwelling. It is stated, by the appellant, that this proposal appeared more detrimental to the ecology and woodland due to the scale and scope of groundworks, but it should be noted that within the appeal before me, the Council are not raising issues with ecology or woodland subject to conditions. A single, CGI, image has been provided of the proposal at 40 Curzon Park North, but overall, the detail before me is limited. It would appear from this image that works at the lower level, into the bank at the rear of the site, have been enclosed with a living wall or similar, which is likely to have assisted with the proposal being acceptable in visual terms. I would reiterate that each case should be considered on its own merits.
12. As a result of the increase in scale of the property at ground floor, beyond the existing tree coverage and site levels, I find the proposal would appear as overdevelopment which pushes beyond the constraints of the appeal site. I have no evidence before me regarding visibility during winter and night-time periods which raises strong concern, in relation to the CA, with levels of illumination and glazing, compared to the existing garage and lack of glazing to the elevation facing the racecourse. The proposal would be contrary to Cheshire West and Chester Local Plan (Part 2) Policy DM3, which requires that development achieve a high standard of design that respects the character and protects the visual amenity of the local area as well as ensuring proposals are sympathetic to the characteristics of the development site, its relationship with its surroundings and, where appropriate, views into, over and out of the site.

13. The proposal would also be contrary to Policy DM46 which advises that development in CAs will be expected to pay attention to the desirability of preserving or enhancing the character and appearance of that area, taking account of the significance of heritage assets. Development proposals should take into consideration topography, landscape setting and natural features, as well as existing townscapes, local landmarks, views, and skylines. The proposal would also be contrary to the guidance within the Framework with regard to the assessment of harm, and the balance against public benefits, as outlined earlier within this decision letter.
14. The Council have referenced further policies within their decision notice including Cheshire West and Chester Local Plan (Part 1) Policies ENV5 and ENV6, however, no copies of these policies have been provided as part of the appeal documentation before me. In addition, reference is made to Policy DM21 (Local Plan Part 2), however, no copy of this policy has been provided with only Policy DM2 having been submitted which relates to impact on residential amenity and upon which no refusal reason has been stated.

Other Matters

15. I note a number of objections to the proposal, and I have dealt with matters relating to design, over-development, and views into the CA and from the surrounding Racecourse within the main body of this decision letter. Further matters have been raised within objections including impact to residential amenity. The Council have assessed residential amenity and raised no refusal reason based upon this issue. Based upon the information before me, I find no reason to conclude differently on this matter due to the orientation of the proposal, and distance to the neighbouring properties.
16. Matters such as impact upon the value of neighbouring properties are not a planning consideration, nor is the appellant's choice as to parking as a result of existing occupation of the dwelling. Impacts upon wildlife, and ecology, have been fully considered and would have been subject to conditions had this appeal been allowed. Matters relating to public rights of access, and maintenance of land within the appellant's ownership (including the management of Japanese Hogwort (presumably Japanese Knotweed)) are not matters which fall within the scope of this appeal. Indeed, invasive weeds are controlled via legislation outside of the planning system. The stability of the site would be dealt with appropriately through Building Regulations and conditions could have been applied regarding construction management plans as required.
17. I note the appellant's regarding handling and engagement during the application process, however, this is outside the scope of this appeal which has been determined on its own merits on the evidence that is before me. Officer comments during determination are made without prejudice to determination.

Conclusion

18. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR