



Appeal Decision

Site visit made on 21 November 2023

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/A0665/W/23/3324383

9 Chandos Close, Chester CH4 7BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Kerry against Cheshire West and Chester Council.
 - The application Ref 23/01320/FUL, is dated 21 April 2023.
 - The development proposed is creation of first floor side extensions and internal remodelling to create a modern family home.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal is made following the failure of the Council to give notice of their decision on the application within the statutory period. The Council have provided a copy of a Delegated Report and an Appeal Statement which has confirmed that were they to have issued a decision, they would have refused planning permission. I have taken this to be the decision which the Council would have made had it been empowered to do so. The appellant has had an opportunity to comment on the reasons.

Main Issues

3. The main issues are the effect of the proposed development on:
 - i. the character and appearance of the host property and the area; and
 - ii. the living conditions of the neighbouring occupiers of 7 and 11 Chandos Close, with particular regard to privacy, outlook, and disturbance.

Reasons

Character and Appearance

4. 9 Chandos Close is a detached, two storey house, located towards the end of a cul-de-sac of detached properties in a suburban residential area. The properties within the cul-de-sac are a mix of single storey and two storey dwellings that, other than their varied scale, have a consistent style and appearance. There are very few examples of previous extensions to other dwellings within the cul-de-sac and overall, the street scene largely maintains its established character and appearance.
5. The proposed extensions would primarily be built above existing single storey parts of the dwelling and would increase the two storey width of the dwelling

markedly, thus increasing the built mass of the original dwelling significantly. The increased mass and visual dominance of the proposals would overwhelm the appearance of the dwelling and change its original character and form.

6. There is disagreement between the parties about whether the proposals increase the size of the original dwelling by more than 30% and whether the first floor extensions exceed 50 per cent of the width of the original house. However, even if I were to accept that the proposals do not exceed these percentages, the position and scale of the proposed extensions, even with the setbacks and break in the ridgelines, would be overly dominant, and would not be subordinate to the design of the original dwelling.
7. Furthermore, the juxtaposition of the proposed extensions, next to the neighbouring single storey dwellings, located on the same side of the street, would also result in the proposed extensions being highly visible from the entrance to the cul-de-sac, at its junction with Pembroke Close. Therefore, the proposed extensions would result in the dwelling occupying a commanding and incongruous appearance, which would be overly dominant and unacceptably harmful to the established character and appearance of the existing properties within the street scene.
8. The appellant has brought to my attention the extensions previously permitted and recently carried out at 3 Pembroke Close. It is suggested that those extensions are two and a half times greater than the 30% stated at policy DM21 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies 2019 (LP2) and in the Supplementary Planning Document: House Extensions and Domestic Outbuildings (SPD). However, that property is located on a neighbouring street, and whilst it is a large dwelling next to single storey properties, it is less visually dominant compared to the appeal scheme due to its position within the street scene. Furthermore, the design and form of that development is different to the appeal proposal and its juxtaposition with the neighbouring properties either side is not comparable either. Given this, the example does not add weight in favour of the development. Accordingly, as I am required to do, I have determined the case before me on its own merits.
9. For the reasons set out above, the proposed development would unacceptably harm the character and appearance of the host property and the area. Therefore, it would conflict with Policy DM3 and DM21 of the LP2 and the principles of the SPD, which together and amongst other things, seek extensions that are in keeping with the character and appearance, and are subordinate to, the original dwelling and surrounding properties, and the wider setting.

Living conditions

10. The proposed first floor side extension, to be built over the existing double garage, would increase the height and mass of built development close to the side boundary with 7 Chandos Close. A first floor window, which serves a study internally, is located in the side elevation and would directly face the blank wall of the proposed extension.
11. The SPD defines a study as a habitable room and also sets out that a separation distance of 13 metres between windows of main habitable rooms and blank walls should be achieved. The proposed development would result in

a significant shortfall on the required separation distance and would create an oppressive outlook from the window due to the scale and juxtaposition of the proposed first floor extension. Therefore, the proposals would be unacceptably harmful to the living conditions of the occupiers of No 7.

12. I note that the appellant has again drawn my attention to the development at 3 Pembroke Close, and in particular the proximity of those extensions to neighbouring windows. However, the submitted plans show a materially different relationship between the extensions and neighbouring windows at 1 Pembroke Close. Inevitably, it is the detail and specific context of any development which determines whether it is acceptable in practice. Having considered the design and layout of the appeal scheme, and its effect on the neighbouring study window, for the reasons given, I consider that there would be unacceptable harm. Given this, the example does not add weight in favour of the development, and I have determined the case before me on its own merits.
13. The proposed balconies on the rear elevation have been designed to include a screen on each end which would direct vision down the garden of the host dwelling and prevent overlooking of the rear elevations of 7 and 11 Chandos Close, along with parts of the adjoining gardens closest to their respective dwellings. While I acknowledge that the balconies would allow an outlook towards some parts of the rear gardens of neighbouring properties, the oblique angle of views and the separation distances, would not result in a significant loss of privacy to neighbouring gardens. The screens could be secured by a suitably worded planning condition.
14. I acknowledge that the balconies would be elevated and would allow people to sit for lengthy periods of time, but the associated disturbance would not be materially different to occupiers enjoying their garden areas.
15. Consequently, I conclude on this main issue that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 7 and 11 Chandos Close, in respect of privacy but that the proposals would cause unacceptable harm to the living conditions of the occupiers of No 7 in respect of outlook. Therefore, it would conflict with Policy SOC5 of the Cheshire West and Chester Council Local Plan 2015 (Part 1) and Policies DM2 and DM21 of the LP2 and the principles set out in the SPD, which together seek to ensure that development safeguards the quality of life for nearby occupiers and does not result in a significant adverse impact on residential amenity.

Other Matters

16. I acknowledge that redeveloping the host dwelling would provide modern living and prolong its use as a habitable dwellinghouse. There would also be some short and long term associated social, economic, and environmental benefits during the construction phases and following occupation, in particular the environmental performance of the property, which would be more energy efficient and seek to reduce carbon emissions. However, these benefits would not outweigh the identified harm to the character and appearance of the host property and area and the living conditions of the occupiers of 7 Chandos Close.
17. I note the appellants comments with regard to the Council's handling of the planning application, particularly, the lack of response during the application

process and the failure to agree an extension of time to the statutory determination period. However, I confirm that I have considered the proposed development on its planning merits.

Conclusion

18. For the reasons given above, the proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

19. I conclude that the appeal is dismissed and planning permission refused.

N Bromley

INSPECTOR