



Appeal Decision

Site visit made on 9 January 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2024

Appeal Ref: APP/A0665/W/23/3325630

Land at Longster Close, Helsby, Frodsham, WA6 0QP

- 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 Mark Norris against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02107/FUL, dated 26 May 2022, was refused by notice dated 23 May 2023.
 - The development proposed is erection of one pair of semi-detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. As any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.
3. In the heading above I have used the address the Council has used on the refusal notice and the appellant uses on his appeal form. Furthermore, this address has been used by the Council for the various planning and appeal consultations.

Main Issues

4. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area,
 - The effect of the proposal on the living conditions of existing occupiers of neighbouring properties with regard to privacy and outlook, and
 - Whether the proposal would provide acceptable living conditions for future residents with regard to outlook and private outside space.

Reasons

Character and appearance

5. The appeal site is currently vacant and overgrown. Although it once formed part of the rear garden of 111 Chester Road, it is located at the end of Longster Close, a cul-de-sac. Longster Close is a relatively short road that comprises two storey semi-detached and terraced properties, with a number of bungalows

near the junction with Chester Road. The appeal site sits adjacent to a terrace of three dwellings (Nos. 7-9 Longster Close) and to the rear of a pair of semi-detached dwellings (Nos.10 and 11 Longster Close). The properties have a similar appearance, scale and massing that positively contributes to a general uniformity of design that creates a sense of place to the cul-de-sac.

6. The proposed development would involve the erection of a pair of 3-bedroom semi-detached dwellings with living accommodation over three floors, together with some private garden space and on-site parking for 2 cars. The dwellings would be two storeys to eaves. However, the second floor in the roof would be effectively an additional built storey due to the dual gable features in the roof. As such, the overall height of the dwellings would be about 8.5m, which would be taller than the neighbouring properties in Longster Close. Being sited at the bottom of the cul-de-sac, the proposed dwellings would be viewed straight on and would loom large and be out of scale to neighbouring properties.
7. The dwellings would have gable features with windows. I saw a similar design on properties on Chester Road and that generally properties here were larger and taller than properties in Longster Close. However, the appeal site would be positioned and accessed off Longster Close and so has a greater physical and visual relationship with it, than it does to any design references on Chester Road. Hence the gable features with windows would be out of keeping with the broadly uniform design and scale of neighbouring properties in Longster Close.
8. The dwellings would be positioned roughly centrally on each plot. To ensure there is space to park vehicles off the road and provide some private garden, the dwellings would be positioned close to the rear site boundary. As a result the gardens would be about 4m long, with some garden along the sides of the dwellings. Hence the length and shape of the gardens would be at odds with the prevailing longer rectangular gardens in Longster Close. The smaller gardens would also reduce the space between buildings. This, coupled with taller buildings sited on more confined plots, would result in a cramped form of development that would be out of scale.
9. All of these factors combine to create a form of development that would be contrived and cramped and at odds with the prevailing pattern and design of development such that it would harm the character and appearance of Longster Close.
10. Accordingly, the proposal would be contrary to Policy ENV6 of the Cheshire West and Chester Local Plan Part One (LP1) and Policies DM3 and DM19 of the Cheshire West and Chester Local Plan Part Two (LP2). Collectively these seek, amongst other things, to ensure development respects, positively contributes to and protects the visual amenity and character of the area, taking into account matters such as the prevailing layout, density, scale, height, massing. Furthermore, development on garden land should not cause unacceptable harm to the character of the surrounding area.

Living conditions of existing occupiers

11. LP1 Policy SOC5 seeks to ensure, inter alia, that development does not give rise to significant adverse impacts on health and quality of life including residential amenity. Similarly, LP2 Policy DM2 seeks to safeguard the quality of life for existing and future residents such that development will only be

supported where it does not result in a significant adverse impact upon residential amenities including with regard to outlook and privacy.

12. There are no windows to habitable rooms on the rear elevations of the proposed dwellings, so there would be no overlooking of the property to the rear. A condition could be imposed, were I minded to allow the appeal, to ensure the proposed bathroom windows were fitted with obscure glazing to maintain mutual privacy.
13. At the front elevation, the right-hand side proposed dwelling (when facing) would have two bedroom windows at first floor level and a bedroom window at second floor all facing and looking towards the back garden and habitable rooms at the rear of No.10 Longster Close (No.10). The separation distance would be about 19m which falls short of the 21m distance stated in Policy DM2. The second floor bedroom window in the gable feature would be more elevated and this would worsen the potential to overlook the rear elevation and back garden of No.10.
14. I understand that the extant planning permission¹ for a two storey dwelling on the site did not fulfil every required separation distance. To address overlooking issues the plans for that dwelling I have been provided with show that the first floor front bedroom window would be obscure glazed, but that the room had a second window to the side.
15. Nonetheless, bedrooms are habitable rooms that should be afforded adequate outlook. To obscure glaze the front elevation first and second floor windows in the appeal scheme, in order to address overlooking, would create a poor and oppressive outlook for future occupiers of these rooms that would, in my view, be wholly unacceptable.
16. I therefore find that the proposed development would cause unacceptable overlooking and loss of privacy to existing occupiers of No.10 that would harm their living conditions.
17. With regards outlook for existing occupiers, all occupiers would see the new dwellings. In particular, over a distance of 19m the proposed dwellings would not dominate the outlook of habitable rooms for existing occupiers of No.10 and hence would not create a materially oppressive living environment.
18. Where occupiers would look at a blank elevation, Policy DM2 expects elevations to be sited some 13 metres away. 1 The Orchard would be about 12m away from the rear elevations of proposed dwellings. However, the proposed elevations would not be entirely blank due to bathroom windows and hence there would not be a breach of policy in this regard.
19. In conclusion, I find there would be no harm to living conditions of existing occupiers with regard outlook. However, the development would have a harmful effect on the living conditions of existing occupants of No.10 with regard to overlooking and loss of privacy. Accordingly the proposal would conflict with LP1 Policy SOC5 and LP2 Policy DM2, whose aims are outlined above.

¹ Local Planning Authority Ref: 20/03425/FUL granted in 2020

Living conditions of future occupiers

20. With regards outlook, the only window to a large rear bedroom in the proposed left-hand side dwelling (when facing) is on the side elevation. This would face the blank elevation of 9 Longster Close, only about 7m away. This would fall below the Council's recommended 13m distance set out in LP2 Policy DM2. Furthermore, the window itself is modest for a room of this size and is smaller than each of the front windows for the similar sized bedroom at the front. Hence the proposal would provide a poor level of outlook for future occupiers.
21. With regards outside garden space, it might well be that some future occupiers might not want big gardens. However, the proposal is for 3-bedroom dwellings which would likely make them suitable for families with children. Therefore, there needs to be adequate space for children to play in their own gardens, as well as enough space for the family for sitting out, patio areas, general enjoyment, sheds, bins and drying laundry.
22. Both proposed rear gardens would be about 4m long making them very short and smaller than the general size of most of the gardens for existing properties in Longster Close. There would be some additional garden area to the side of each dwelling. However, the resulting 'L' shaped configuration and the small size would create an unduly cramped and confined space for each dwelling such that they would not provide meaningful space for the aforementioned activities. Consequently, I find the proposed external private garden spaces would be unacceptable in size and shape and this would have an adverse effect on the living conditions of future occupiers.
23. To conclude on this main issue, the proposed development would provide a poor outlook to one of the dwellings and unacceptable private outdoor garden space for both. The proposal would therefore have an adverse effect on the living conditions of future occupants. Accordingly the proposal would be contrary to LP1 Policy SOC5 and LP2 Policy DM2, whose aims have already been outlined.

Other Matters

24. I am aware that the appellant and Council were engaged in discussions and the scheme has been amended since it was initially submitted to try and address various officer concerns. I also acknowledge the appellant has expressed concerns over the length of time the Council took to determine the application. However, in reaching my decision I have been concerned only with the planning merits of the case.

Conclusion

25. The proposal would attract modest social and economic benefits through the provision of two dwellings in an established residential area, along with the contribution of future residents to the local economy. It would also see a more efficient use of a currently overgrown parcel of land. However, the proposed development would not accord with the development plan as a whole and there are no material considerations to outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

K. Stephens
INSPECTOR