



Appeal Decision

Site visit made on 6 March 2024

by A. Graham BA (hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 April 2024

Appeal Ref: APP/A0665/D/23/3334678
90 Pine Grove, Chester CH2 3LE

- 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 Matthew Lilley against the decision of Cheshire West and Chester Council.
 - The application Ref: 23/02351/FUL dated 24 July 2023 was refused by notice dated 23 November 2023.
 - The application is for one and two storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published in December 2023. I have therefore determined this appeal in accordance with the revised provisions within the Framework.
3. The description used in the application form differs from that used by the Council in their decision notice. As such I have referred to the description as originally proposed by the Appellant as this more accurately reflects the proposed scheme before me.

Main Issues

4. The main issue is the effect of the proposal upon the living conditions of neighbours.

Reasons

5. The Appeal property is a mid-20th century semidetached building within a larger estate of other, likely former local authority, houses. The property is similar to the vast majority of properties locally in having a fairly modest building footprint and being constructed of red brick and pebble dash render. To the side there are three small windows, two serving a kitchen area, and another, at first floor serving as a landing window. This arrangement is reflected on the adjoining property at number 88 Pine Grove.
6. To the rear, a large garden extends to the west and the adjoining neighbour, number 92, sits behind a relatively low fence directly to the north of the appeal

site. Both of these rear elevations have a single door and single window facing onto the rear garden. I also saw on my site visit that there was a small change in level between these two gardens whereby number 92 is slightly lower than the site of the extensions.

7. The proposal before me seeks permission to extend at both ground floor and first floor level. The ground floor extension would be located almost directly upon the common boundary with number 92 and would extend around 4m from the rear elevation. This element would contain a flat roof with small parapet and extend to around 2.7m in height. The first floor element would integrate into the existing roof form and would present an asymmetrical gable facing into the rear garden.
8. This first floor element would be constructed slightly off set from the side elevation of the house presumably so as to avoid encroaching upon an existing first floor rear window. The result would see a small kink in the side elevation as it accommodates this new extension.
9. In assessing this appeal, I am aware of the Council's Policies that seek to protect the living conditions of neighbours, in particular Policy DM2 of the Chester West and Chester Council Local Plan (LP) which states that proposals adjacent to neighbouring properties must have regard to any potential impacts through significant loss of light, overshadowing or reduction in outlook etc. This is reflected in Policy DM21 of the LP. More guidance is also provided in the Council's guidance for household extensions¹ where emphasis is placed upon the long established 45 degree rule.
10. In the case before me, the Council have raised particular concern with regards the two storey element of the rear extension. Although this element would protrude from the rear elevation and extend to the side of the house, it would appear largely contextual in its form and appearance. Despite this it would bring the perception of building noticeably closer to the side kitchen window of the neighbour at number 88.
11. I saw on my site visit however that the outlook from this window is already compromised by the proximity of the existing dwellings. Although some further sense of enclosure would occur through this extension, I do not consider that it would be detrimental enough to this window so as to lead me to conclude to dismiss this appeal. Especially in light of the partially glazed rear door that also gives access, and light, into this kitchen.
12. The impact however upon the adjoining neighbour at number 92 is perhaps of more concern. Due to the inescapable orientation of these properties, the proposed extensions would be directly to the south of number 92. Number 92 appeared also to have only one ground floor window facing into the garden along with a glazed door that presumably serves the kitchen. This door gives access onto a patio area with table and chairs set out.
13. The effects of the proposed extensions would in fact be two fold. There would not only be the impact upon the neighbours rear elevation and patio through the two storey extension, but also through the single storey extension. In this

¹ Cheshire West and Chester Council Local Plan Supplementary Planning Document: House Extensions and Domestic Outbuildings, January 2021.

regard, although the Council are silent on the matter, I note that the single storey extension would be constructed to almost abut this common boundary and would replace a hedge and low fence with a 2.7m high brick wall. Due to the orientation of the properties, such an action would cause significant harm to the living conditions of neighbours at this adjoining house through loss of sunlight and over dominance.

14. The two storey extension, despite meeting the BRE² recommendations as submitted by the Appellant, would compound this harm and would give the impression of further enclosure of this property as well as some inevitable (although less substantial) loss of daylight. As such, the rear ground floor rooms and patio of number 92 would suffer considerable harm as a result of these proposals.
15. Ultimately, although I consider that there would be ways to extend this property that would enable the living conditions of neighbours to be protected, as submitted, the two storey rear extension added to the proximity upon the boundary of the proposed single storey extension, would be in conflict with Policies DM2 and DM21 of the Local Plan and would significantly affect the living conditions of those residents at number 92 Pine Grove. As such, this appeal must fail.

Conclusion

16. For the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR

² BRE Site Layout for Daylight and Sunlight: a guide to good practice (2022 Building Research Establishment)