
Appeal Decision

Site visit made on 6 April 2024

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/A0665/D/24/3337184

102 Lache Lane, Chester CH4 7LS

- 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 Dr Sanjay Agarwal against the decision of Cheshire West and Chester Council.
 - The application Ref 23/02067/FUL, dated 30 June 2023, was refused by notice dated 24 November 2023.
 - The development proposed is two-storey rear extension with a single/two storey extension to the side. Renovation of the inside with silicone render to the external facade.
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Preliminary Matter

1. The description of development includes 'renovation of the inside'. However, these works do not require planning permission and are removed from the description in the Decision below.

Decision

2. The appeal is allowed and planning permission is granted for two-storey rear extension with a single/two storey extension to the side with silicone render to the external facade, in accordance with the terms of the application, Ref 23/02067/FUL, dated 30 June 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: A01.1.004 2-2 Rev. C – Location Plan, A01.1.003 3-3 Rev. H (Proposed Elevations), A01.1.004 1-2 Rev. C (Proposed Site Plan), A01.1.003 2-3 Rev. H (Proposed First Floor Plan) and A01.1.003 1-3 Rev. H (Proposed Ground Floor Plan).

Main Issue

3. The main issue in this appeal is the effect of the appeal proposal on the living conditions of the occupiers of neighbouring properties at No 104 Lache Lane and Nos 4 and 6 Oldfield Crescent.

Reasons

4. The appeal property is a detached house which stands on a staggered building line. Its front elevation broadly aligns with the rear wall of the neighbouring No 104 Lache Lane (No 104).
5. It is proposed to extend the appeal property at the side and rear. The Council's SPD for House Extensions and Domestic Outbuildings (SPD) provides guidance for assessing the impact of such developments. It states that proposals will be considered on their merits, having regard to a 45-degree line normally taken from the corner of the rear wall of the nearest dwelling. Due to the staggered siting of the properties, No 102 already breaches the 45-degree line.
6. The Council accepts that the partial two-storey side extension would comply with the spirit of the 45-degree test. The proposed two-storey rear extension would also satisfy the criteria. There are no reasons to disagree. There would therefore be no conflict with the SPD and I conclude that the partial two-storey side extension and the two-storey rear extension would not harm the living conditions of the occupiers of No 104 by reason of loss of light or outlook.
7. The SPD states that single-storey extensions projecting up to 4m from the rear wall of a dwelling will usually be supported. However, where there is a staggered building line resulting in a relative projection of over 4m from the rear wall of a neighbouring property, proposals may be supported where the requirements of Policy DM 21 are met. Of relevance to this appeal, Policy DM 21 requires that there would be no significantly adverse effect on the amenities of nearby residential properties.
8. Due to the siting of the two houses, the proposed single storey side extension would extend almost 8m beyond the rear wall of the neighbouring dwelling. The rear extension element of this would be around 2m deep. The side and rear extension would be set in 1m from the boundary and as No 104's garden is north facing, there would be a minimal impact in terms of loss of light and sunlight. However, due the staggered layout of the houses there would be a loss of outlook and the side and rear extensions would have an overbearing effect on No 104. This element of the proposal therefore conflicts with the relevant policy and guidance.
9. However, a larger, deeper extension could be built under the 'permitted development' allowance for detached houses. The fallback scheme would provide the same type of accommodation as is proposed and it would be in a similar position to that applied for. It has been convincingly demonstrated that the fallback scheme would result in equal or greater harm to the living conditions of the adjoining occupiers at No 104 and that there is a realistic prospect of the fallback scheme being implemented. The fallback position is a material consideration of significant weight. This conclusion is supported by the SPD which indicates that in some circumstances a 'fallback' position, such as 'permitted development', may be capable of being a material planning consideration. Accordingly, in the specific circumstances of this case, the single-storey elements of the appeal proposal should be allowed.
10. Turning to the effect of the proposal on Nos 4 & 6 Oldfield Crescent (Nos 4 and 6), these properties are to the rear of the appeal site. They and the appeal property have relatively short rear gardens which results in mutual overlooking at the rear. The rear upper floor windows would be closer as a result of the

development. However, views from them would be oblique and the extent of overlooking would not be materially greater than currently exists. Furthermore, the distance between the rear elevations of the properties would exceed the Council's identified distance separation standards. Overall, I conclude that the proposed development would not result in an unacceptable loss of privacy to the occupiers of Nos 4 and 6.

Other Matters

11. In addition to the issues addressed above, there are no convincing reasons to disagree with the Council's conclusions that the design of the proposed development would be in keeping with the mixed design character of the surrounding area; that there would be no harm to highway safety, and that there are no planning concerns in relation to flooding. Noise and disturbance during construction works would be temporary and any unreasonable noise created would be subject to the relevant environmental health legislation. The potential for hazardous materials to be discarded in neighbouring gardens during building works is not a consideration relevant to the determination of this appeal.

Conclusion

12. Overall, elements of the appeal proposal would be contrary to Policy SOC5 of the Cheshire West and Chester Local Plan (Part One), Policies DM2 and DM21 of the Cheshire West and Chester Local Plan (Part Two) and would not be fully consistent with the SPD guidance. However, there are material considerations which outweigh the identified conflict with the development plan. Therefore, for the reasons set out above and having regard to all other matters raised, the appeal is allowed.

Conditions

13. A condition is necessary requiring the use of matching materials to preserve the character and appearance of the surrounding area. I have included a condition identifying the approved drawings for the avoidance of doubt and in the interests of proper planning.

Elaine Benson

INSPECTOR