



Appeal Decision

Site visit made on 17 December 2024

by K Winnard LL.B Solicitor (Hons)

an Inspector appointed by the Secretary of State

Decision date: 7 January 2025

Appeal Ref: APP/R0660/D/24/3353687

Chime House, Audlem Road, Hankelow CW3 0JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Vaughan Knell against the decision of Cheshire East Council.
 - The application Ref is 23/3455N.
 - The development proposed is a garden room. .
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In December 2024, the Government published its revised National Planning Policy Framework (the Framework). In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework and that no party would be disadvantaged by such a cause of action.
3. Amended plans were received in the course of the application process. I have determined the appeal on the basis of the amended plans.

Main Issue

4. The main issue in this appeal is the effect of the development on the living conditions of the occupiers of the neighbouring dwelling, No 7 Well Field Way by way of outlook.

Reasons

5. Chime House is a recently constructed detached dwelling, set back from the main road with a long rear garden overlooking open countryside. Its side boundary adjoins the rear gardens of a number of properties sited to the west on Well Field Way. The garden room, which would be of a substantial size, would house gym equipment and a hot tub for use by the appellant. It would be adjacent to a significant length of the high timber boundary fence with No 7 Well Field Way (No 7). Although it would have a shallow pitched roof and slope away from the boundary, its height and length together with its siting on higher ground would have an overbearing and domineering effect for the occupiers of No 7.
6. I appreciate that the proposal has been revised to address some of the concerns raised by the Council. Nonetheless, given the relatively small rear garden of No 7

and the proximity of habitable rooms to the boundary, the height and bulk of the development would appear oppressive when viewed from inside the house or its rear garden. Accordingly, it would fail to safeguard the amenities of the occupiers of No 7.

7. Therefore, the proposal would harm the living conditions of the occupiers of No 7 and as such would fail to accord with Policy HOU12 of the Cheshire East Site Allocations and Development Policies Document (adopted 2022). This policy requires, amongst other matters, for development not to cause unacceptable harm to the amenity of the occupiers of neighbouring properties due to an overbearing and dominating effect of new buildings.

Other Matters

8. I have been provided with some information indicating the personal health circumstances of the appellant and I note that he is registered disabled. In exercising my functions on behalf of a public authority I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who share a protected characteristic (in this case disability) and people who do not share it. This duty does not compel a particular outcome however and due regard is the regard which is appropriate in consideration of the circumstances of the particular case. Since there is the potential for my decision to affect the living conditions of a person with a protected characteristic I have had due regard to the three equality principles set out in section 149 of the Act.
9. I have given the appellant's personal health circumstances as set out careful consideration. I acknowledge that the scheme would provide gym facilities from which the appellant would benefit. However on the information before me I am not persuaded that this proposal is the only suitable location to achieve accessible gym and associated facilities. Whilst reference has been made to constraints imposed by "a drainage field", the garden is of a reasonable size and there is no further information before me as to what constraints there are within the site which would prevent relocation of the garden room elsewhere. Further, on the information before me I am not convinced as to what extent such alternatives have been explored either within the site itself or by reconfiguration of the internal layout within the dwelling. Nor is there any evidence before me as to the full requirements of the facilities needed by the appellant to meet his health needs. Accordingly these circumstances therefore only carry moderate weight in favour of the proposal and do not outweigh the harm and adverse impacts as identified above.

Conclusion

10. I have had regard to the appellant's personal circumstances and the impact of them on my decision. Taken along with the other considerations put forward by the appellant, the PSED considerations would not outweigh the harm that the proposal would cause to the living conditions of the occupiers of the neighbouring dwelling and the conflict with the development plan in these regards. Therefore having regard to all other matters raised, I dismiss the appeal.

K Winnard INSPECTOR