



Appeal Decision

Site visit carried out on 16 April 2025

by Jennifer Vyse DipTP MRTPI DipPBM

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Appeal Ref: APP/A0665/D/25/3358692

5 Holly Terrace, Duckington Lane, Tilston, Cheshire SY14 7DT

- 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 and Mrs T Crampton against the decision of Cheshire West and Chester Council.
 - The application No is 24/00252/FUL.
 - The development proposed comprises a first floor extension over existing outrigger.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Procedural Matters

2. The appellants indicate that they would be willing to set the rear elevation of the proposed first floor extension back to a similar depth as the first floor extension at the rear of No 6 Holly Terrace. No details of any alternative scheme are before me. However, it is well established that the appeal process is not the place to evolve a scheme. Any revised proposal would need to be the subject of a formal application for consideration by the planning authority in the first instance.

Main Issue

3. The main issue in this case relates to the effect of the development proposed on the living conditions of the occupiers of No 4 Holly Terrace, with particular regard to light and outlook.

Reasons for the Decision

4. No 5 Holly Terrace is a modest, two-storey mid-terrace property. It benefits from a single-storey, flat roofed extension across the rear, some 3.8 metres deep. It is proposed to add a first floor extension above that, to the same width and depth.
5. The Council's SPD¹ is generally supportive of two-storey rear extensions projecting up to 4 metres from the original rear wall of a house, provided they don't breach a 45-degree line taken from the closest part of any rear wall of a neighbouring dwellinghouse containing a habitable room² window (usually the closest edge of the main building), unless site circumstances mean that no neighbouring habitable room windows, or garden/yard areas, would be affected adversely.
6. The adjoining dwelling to the north, No 6, has a two storey extension across the rear of the property, with what appeared to be a kitchen at ground floor, with a

¹ Cheshire West and Chester Council Local Plan Supplementary Planning Document: House Extensions and Domestic Outbuildings (January 2021) Paragraph 4.2

² The SPD defines a habitable room as a living room, dining room, bedroom, kitchen, study or playroom.

bathroom and bedroom above. It has a depth of some 2.7 metres, 1.1 metres less than the existing (and proposed) extension at No 5. Rear facing windows at first floor are to a bathroom (the closest window to the proposed extension) and a bedroom. There is a kitchen window at ground floor. Whilst the extension proposed would breach the 45 degree line, the actual impact in terms of the living conditions for the adjoining occupiers would be negligible, given the distance between the extension and the nearest windows to the habitable rooms combined with the limited degree to which the extension would project beyond the rear wall of No 6. Having regard also to the size of the rear garden and its open aspect, I consider that living conditions for adjoining occupiers at No 6 Holly Terrace would not be unduly harmed in terms of loss of light or outlook .

7. Whilst the adjoining dwelling to the south, No 4 Holly Terrace, also has an extension to the rear, it is only single-storey, with a depth of around 2 metres, some 1.8 metres less than the extension proposed at No 5. The rear elevation to that extension includes glazed double doors serving a kitchen/dining area, with a patio area outside.
8. The extension proposed would clearly breach the 45 degree line in relation to No 4. However, unlike the relationship with No 6, the extent of the relative projection, and its proximity to the habitable room window(s) would, in this instance, have a consequential adverse impact on the living conditions of the adjoining occupiers by reason of loss of light and outlook from a habitable room. There would also be a material impact in relation to the rear patio area which would, in effect, be sandwiched between the extension proposed and an existing two-storey extension at the rear of No 3 which also projects further back than the extension at No 4. In those circumstances, I consider that the proposed extension would be seen as unduly overbearing in this regard.

Other Matters

9. The appellants draw attention to a successful appeal in relation to a mid-terrace property elsewhere in the Council area, where permission was granted for a two-storey rear extension, apparently of a similar size to the development the subject of this appeal.³ It would seem, however, that the main issues in that case related to the effect of the development on the host property as a non-designated heritage asset, and on the character and appearance of Tarporley Conservation Area, with the Council taking no issue in terms of any impact on the living conditions of adjoining occupiers. That said, the Inspector did deal with the matter in response to third party concerns. Whilst no reference is made to the 45 degree rule, the Inspector found that the modest scale of the extension and its proximity with neighbouring windows would not have an unacceptable effect on living conditions with regard to loss of light, privacy or outlook. That is very different to the instant appeal, which I have considered on its own merits, finding that there would be material harm in this regard in relation to the occupiers of No 4 Holly Terrace.
10. There is a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. I note, in this regard, that the appeal site lies within Tilston Conservation Area. Whilst no evidence is before me on this matter, I note that the proposed extension is at the rear of the property. If seen at all from any public viewpoint, it would be viewed in

³ APP/A0665/D/24/3346526 4 High Street, Tarporley Appeal allowed 4 October 2024

the context of other existing two storey extensions on the rear of the terrace and so is unlikely to have any impact on the established character or appearance of the Conservation Area.

Conclusion

11. Whilst I find no material harm in terms of the living conditions for occupiers of No 6 Holy Terrace, I consider that there would be harm the living conditions of occupiers of No 4 Holly Terrace, having particular regard to loss of light and outlook. That brings the development into conflict with policies SOC5 and DM2 of the Cheshire West and Chester Local Plan (Part One), policy DM21 of the Local Plan (Part Two) and the Council's SPD, which together and among other things seek to protect such interests. I conclude, therefore, that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR