



Appeal Decision

Site visit made on 20 May 2025

by Andreea Spataru BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2025

Appeal Ref: APP/A0665/W/25/3360418

Eastwood House, Princess Street, Northwich CW9 7NJ

- 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 Andrew Panayi against the decision of Cheshire West & Chester Council.
 - The application Ref is 23/03572/FUL.
 - The development proposed is described as 'conversion and extension of existing live/work space into two x 3 bed residential units and the erection of one x 4 bed new dwelling'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Panayi against Cheshire West & Chester Council. This application is subject of a separate decision.

Preliminary Matters

3. The address of the appeal site above has been taken from the Council's decision notice and the appeal form, rather than the application form, for consistency purposes.
4. The appellant has submitted amended plans at the appeal stage which seek to address the Council's concerns regarding the effect of the proposal on the living conditions of the occupiers of neighbouring properties with regard to privacy. The Council has had the chance to comment on the amended plans. Although the appeal's process should not be used to evolve a scheme, I am satisfied that in this case, given my overall decision, accepting the amended plans would not prejudice other interested parties. Therefore, I have considered the proposal based on the amended plans.
5. One of the Council's reasons for refusal refers to 'biodiversity net gain'. However, some of the policies referenced in that reason for refusal have broader aims, and encompass, as set out below, the safeguarding of protected species. The Council's concerns regarding bats are outlined under the 'biodiversity' section of the planning officer report and the appellant has referred to the Council's concerns regarding bats in their statements. Accordingly, in the interests of precision I have referred to 'biodiversity, including protected species' in my assessment below, without prejudice to either party.
6. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as

any policies that are material to this decision have not fundamentally changed, I have not needed to seek any views on this. I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

Main Issues

7. The main issues are the effect of the proposal on:

- Biodiversity, including protected species; and
- The living conditions of the occupiers of neighbouring properties, with particular regard to privacy.

Reasons

Biodiversity, including protected species

8. The appeal site relates to an existing residential building, which includes a workshop/office and a storage outbuilding, located within a predominantly residential area. The proposal seeks to extend and convert the existing building into two residential units and replace the storage outbuilding with a detached dwelling.
9. There are discrepancies between the submitted plans regarding the boundary of the appeal site, particularly in relation to the woodland area (location plan dated July 2023 & location plan dated 10 November 2023). However, the appellant has clarified that the area proposed to be developed is fully covered in concrete hardstanding and no trees are proposed to be removed.
10. The application form indicates that the planning application for the appeal scheme was submitted in November 2023, thus prior to the introduction of the biodiversity gain requirements¹. The Council acknowledges in its appeal statement that the provision of biodiversity net gain (BNG) on the appeal site is not subject to statutory requirements. Based on the evidence before me, I am satisfied that the appeal development is exempt from the 10% BNG requirement. Nevertheless, this does not negate the need for the development to comply with the relevant policies of the Council's development plan.
11. Policy ENV 4 of the Cheshire West and Chester Council Local Plan Part One: Strategic Policies (LPP1) relates to biodiversity and geodiversity and states that the Local Plan will safeguard and enhance biodiversity and geodiversity through the identification and protection of sites and/or features of international, national and local importance. It emphasises that sites will be protected from loss or damage taking account of, amongst other things, impact on protected species.
12. Policy DM 44 of the Cheshire West and Chester Council Local Plan Part Two Land Allocations and Detailed Policies (LPP2) states that in line with Policy ENV 4 of the LPP1 development will be supported where there is no net loss of natural assets and, wherever possible, it delivers net gains within the borough. Development likely to have an impact on, amongst other things, protected species, must be accompanied by an Ecological Assessment (EA). The EA should identify, amongst other things, the net losses and gains for biodiversity using a biodiversity metric

¹ The Biodiversity Gain Requirements (Exemptions) Regulations 2024

calculation. The supporting text of Policy DM 44 of the LPP2 indicates that the presence of protected species and the extent that they may be affected by the proposed development should be established before planning permission is granted, and surveys will be expected to be submitted where there is a reasonable likelihood of the species being present and affected by the development.

13. A bat presence/absence survey dated 23 October 2023 was submitted as part of the planning application for the appeal scheme. The survey was carried out on 29th September 2023. The Council's Biodiversity Team (BT) raised concerns regarding the period in which the survey was carried out and about the findings outlined within the bat survey, which confirm that different species of bats were recorded during the survey and that the appeal building, Eastwood House, is used on a casual basis as a day roost by a bat. The BT asserts that, as a roost was confirmed during the bat presence/absence survey, further surveys would be required in the bats' active season (May – August) and because of the previously found bat's evidence a mitigation plan and method statement of works would have been required prior to the determination of the planning application.
14. The submitted bat survey indicates that due to the presence of roosting bats within the building, the development would need to be registered under Natural England's Bat Mitigation Class Licence (BMCL) system prior to the works taking place. It also states that a further bat survey needs to be undertaken during the peak bat survey season (May – August) to inform the BMCL application.
15. The appellant acknowledges that a BMCL is needed and to satisfy the conditions for granting of the licence further survey work would be required. The appellant asserts that any concerns regarding survey information would be addressed as part of the process to obtain the BMCL and that this could be dealt via condition. The submitted bat survey also indicates that further bat presence/ absence surveys to inform the planning application are not considered necessary. However, given the age of the submitted bat survey, the period in which the survey was carried out, and the requirements for further surveys during the peak bat survey season, I consider that without the information provided by the additional survey I am unable to determine the full effect of the appeal proposal on the protected species. Given the degree of uncertainty related to the findings of any future surveys and the implementation of any measures outlined within those surveys, the use of a condition would not be reasonable in this case.
16. The proposed site plan shows that soft landscaping in the form of residential gardens would be accommodated, which the appellant asserts that would add to the biodiversity net gain. Be that as it may, in the absence of an EA, the proposal fails to provide adequate information in the form of a biodiversity metric calculation. In any event, the biodiversity gains in the form of soft landscaping would not address the concerns regarding protected species.
17. As such, the absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. Therefore, the proposal would conflict with the aims of LPP1 Policy ENV 4 and LPP2 Policy DM 44, as set out above. The proposal would also conflict with the aims of the Framework, which at paragraph 187 states that developments should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

18. LPP2 Policy DM 45 relates to trees, woodland and hedgerows. Given that the proposal does not include works related to the existing trees, there would be no conflict with this policy.

Living conditions

19. Eastwood House would be extended and converted into two residential units. The Council's initial concerns were related to the effect of the proposed first-floor windows located on the front elevation, and of the proposed balcony to the rear, on the living conditions of the occupiers of Nos 8 and 10 Princess Street (No 8 and No 10).
20. The amended plans show an additional window on each of the side elevations and indicate that the first-floor windows on the front elevation would be obscure-glazed. The Council asserts that the first-floor windows on the front elevation, due to their size which would be larger than that of the existing windows, would increase the perception of overlooking despite the obscure glazing. A condition is suggested in this regard, which would secure the obscure glazing and a non-opening mechanism. Given the evidence before me, and my site visit observations, I am satisfied that the first-floor windows on the front elevation, subject to such a condition, would not increase the levels of overlooking towards neighbouring properties located to the south, on Princess Street, including No 8.
21. The appellant indicates that details of balcony screening could be conditioned, and the Council agrees. Given the existing boundary treatment between the appeal site and No 10, including the trees and vegetation, along with the proposed condition to secure details of the balcony screening, I am satisfied that the proposal, including the additional first-floor side window overlooking No 10, would not increase the levels of overlooking to such a degree that would be harmful to the living conditions of the occupiers of No 10.
22. Accordingly, subject to the aforementioned conditions, the development would not be detrimental to the living conditions of the occupiers of neighbouring properties with particular regard to privacy. Therefore, there would be no conflict with the aims of LPP1 Policy SOC 5 and LPP2 Policy DM 2, which collectively seek to protect residential amenity. Nevertheless, this does not alter my findings above regarding the harm identified in relation to the first main issue.

Other Matters

23. The proposal would make efficient use of land and would add to the housing stock in an appropriate location for housing that has access to services, facilities and transport options. However, the nature and scale of the associated benefits that would flow from the scheme would be small and do not outweigh the harm identified above.
24. I note that the appellant has not been satisfied with the Council's approach during the application process. However, my assessment has been limited to the proposal before me.

Conclusion

25. For the reasons given above, I conclude that on balance the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

Andreea Spataru

INSPECTOR