



Appeal Decision

Site visit made on 8 September 2025

by **R Major BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2025

Appeal Ref: APP/A0665/W/25/3368595

19 Oakdene Way, Tarporley, Cheshire West and Chester CW6 0BU

- 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 Scott Architecture against the decision of Cheshire West and Chester Council.
- The application Ref is 24/01715/FUL.
- The development proposed is proposed new small single storey accessible dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within their Statement of Case the appellant has included an image of a plan showing an alternative layout in comparison to that shown on the plans submitted with the planning application. It is stated that this revised plan was presented to the Council as the initial layout as part of a pre-application planning enquiry. The appellant claims that the layout was amended following feedback provided by the Council as part of this pre-application enquiry.
3. The procedural guidance¹ states *“The appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage.”*
4. The procedural guidance goes on to acknowledge that where amendments are proposed during the appeal process, despite the general principle outlined above, the Planning Inspectorate will consider whether to, exceptionally, accept them.
5. With the above in mind, the alternative scheme is different to that considered by the Council and I cannot be sure whether all interested parties are aware of this alternative layout and have had an opportunity to comment on it. Furthermore, as it has been submitted as an image within the Statement of Case the drawing does not appear to be at a recognised scale.
6. As such, having regard to the Wheatcroft² and Holborn³ principles, as well as the procedural guidance, I conclude that it would not be fair or reasonable to determine the appeal against this alternative image / plan, as to do so would prejudice interested parties. Consequently, I have determined the appeal against the plans submitted to, and considered by, the Council when it made its decision.

¹ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 17 September 2024)

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Main Issues

7. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposed development upon the living conditions of the occupiers of number 19 Oakdene Way (no. 19), with regard to daylight, sunlight and outlook; and
- whether the proposed development would provide acceptable living conditions for future occupants, with regard to daylight, sunlight and outlook.

Reasons

Character and appearance

8. Oakdene Way is a residential cul-de-sac which is characterised by a mix of single and two-storey dwellings with open plan frontages.
9. The appeal relates to no. 19 which is a residential bungalow with a detached single garage and garden area to the side. Due to its open nature the existing side garden area of no.19 creates an attractive sense of open space between the existing built development on this suburban street. It therefore makes a positive contribution to the character and appearance of the street scene.
10. The proposal seeks to construct a single-storey 1-bedroom dwelling within the side garden area of no. 19, following the demolition of the existing detached single garage. New fencing would be erected to the front and side of the proposed dwelling and car parking provision would be provided to the front of both the proposed dwelling and the existing dwelling at no. 19.
11. As a result of the size of this side garden area the proposed dwelling would sit in a significantly more confined plot than is typical of the surrounding area, with particularly limited space at both sides, and to the rear. While not all plot sizes and garden areas need to be identical, when experienced alongside the neighbouring plots the proposal would appear as a cramped and contrived form of development. It would read as squeezed into the site and would fail to respect the prevailing surrounding pattern of built form.
12. As a consequence, the dwelling would appear as confined within the site and the proposal would result in an incongruous addition, to the detriment of the character and appearance of the area. It would also result in the loss of the sense of open space this garden currently provides from the surrounding built development on this street.
13. Furthermore, the proposed fencing to be erected at the front of the dwelling would not be in keeping with the open plan frontage I observed in this locality. The fencing would partially obscure views of the front elevation of the proposed dwelling and due to its siting forward of the dwelling, this fencing would appear as an obtrusive and dominant feature within the street scene. The proposed fencing would also further exacerbate the confined appearance of the proposed dwelling within this plot due to its positioning so close to the front and side elevations.
14. I acknowledge that the proposal details how this fence would be a continuation of the existing fence from the neighbouring property at number 20 Oakdene Way

(no. 20). However, no. 20 occupies a corner plot and therefore this existing fence encloses its side and rear garden area. It does not therefore project forward of the main front elevation of the dwelling and thus is not comparable to the proposed fence.

15. The Council's submissions also state that the proposal would be inconsistent with the scale and appearance of other properties in the area. However, I observed on site that this area consists of a variety of house types and designs. Whilst acknowledging that the proposed dwelling would be smaller in size than other properties, I find its overall height and scale would not appear out of keeping with the varying house styles and sizes in the area. These specific elements of the proposal would therefore not be harmful to the character and appearance of the area.
16. In view of the above, I conclude that the confined layout and nature of the proposed development, as well as the erection of the fencing to the front of the proposed dwelling, would have a significantly harmful impact upon the character and appearance of the area.
17. The proposal is therefore contrary to the objectives of Policy ENV 6 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies (2015) (LP1) and Policies DM 3 and DM 19 of Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Details Policies (2019) (LP2). These policies together seek to ensure, amongst other things, that development is of a high-quality design that respects local character and achieves a sense of place through appropriate layout and design; respects and where appropriate enhances the prevailing layout; and does not cause unacceptable harm to the character of the surrounding area.

Living conditions

No. 19 Oakdene Way

18. The existing bungalow at no. 19 has two windows in its side gable elevation which would face towards the proposed dwelling and a new section of fencing to be installed to the side. According to the submitted plans these windows serve bedrooms and the separation distance between these windows and the blank wall of the proposed dwelling would fall significantly below the 13m specified within the supporting text of LP2 Policy DM 2.
19. Whilst the proposed dwelling and fencing would have an impact on the amount of daylight and sunlight received by, as well as the outlook from, these windows, it must be acknowledged that there is an existing detached garage at the appeal site which already has a similar impact on these windows.
20. Furthermore, as a result of the siting of the proposed dwelling, and this section of fencing, towards the back of the appeal site, the windows in the side of no.19 would benefit from a degree of natural light and an outlook across the open section to the front of the proposed dwelling. Whilst I acknowledge that this open section would be used for the parking of cars, I still find that it would provide an acceptable outlook, and in any case this area is currently a driveway for no. 19 and is therefore currently likely to be used for the parking of cars.

21. Accordingly, I find that the proposed dwelling and fencing would not have a significantly greater impact on the living conditions of the occupiers of no. 19 when compared to the existing situation at the appeal site.

Future occupiers

22. The new fencing to the front of the proposed dwelling would create an enclosed garden area. The proposed dwelling would have a bedroom window facing into this garden area and the Council assert that this fencing would result in future occupiers feeling 'hemmed in', limiting both the outlook from, and light into, this bedroom.
23. While I acknowledge that the proposed fence would be positioned close to this bedroom window, I find that it is sufficiently distanced to ensure that this bedroom would receive an acceptable level of daylight and sunlight through this window. Additionally, as a result of the distance future occupiers would also benefit from an acceptable outlook above the proposed fence. Furthermore, given that this enclosed area would be their private garden area, future occupants would have the opportunity to maintain this area and install items / plants within it to improve the outlook when observed from this bedroom.
24. As such, I find that future occupants of the proposed dwelling would be provided with acceptable living conditions within this bedroom.

Summary on living conditions

25. In view of all the above, I conclude that future occupants of the proposed dwelling would be provided with acceptable living conditions, and the proposal would not have an unacceptable impact on the living conditions of the occupiers of no. 19. I therefore find no conflict with LP1 Policy SOC 5 and LP2 Policy DM 2, where they together seek to ensure, amongst other things, that development does not give rise to significant adverse impacts on the quality of life and the residential amenity of existing and future occupiers, by way of loss of sunlight and daylight, and outlook.

Other Matters

26. The appellant has suggested a planning condition could be imposed to prevent the erection of any fencing at the front of property. However, the submitted plans show fencing to the front of the property to create an enclosed area of amenity space for future occupiers. The removal of the fencing to the front of the proposed dwelling could potentially create other concerns or issues that the Council, and interested parties, have not had an opportunity to comment on. As such, and as detailed earlier, I have determined this appeal based on the proposal as shown on the plans submitted to and considered by the Council when it determined the application.

Planning Balance

27. I have found that the proposal would cause significant harm to the character and appearance of the area and would therefore be contrary to LP1 Policy ENV 6 and LP2 Policies DM 3 and DM 19. I find the harm arising from this conflict to be significant.
28. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In this respect the Framework seeks to ensure that development is sympathetic to local character, including the surrounding built environment and maintains a strong

sense of place, using spaces to create attractive places. I therefore give significant weight to the conflict between the proposal and LP1 Policy ENV 6 and LP2 Policies DM 3 and DM 19. As the proposal would be contrary to these policies there would be conflict with the development plan as a whole.

29. Neither party has drawn my attention to the Council's current supply of deliverable housing sites. However, evidence submitted as part of two other appeals⁴ before me in this authority detail that the Council can currently demonstrate a 1.89 years supply of deliverable housing sites.
30. As such, and based on this information, I find it highly likely that the Council cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the appeal are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
31. Footnote 9 explains the policies referred to are those in paragraphs 66; 84; 91; 110; 115; 129, 135 and 139 of the Framework (as the appeal proposal is not for a major housing development, and does not propose a main town centre use, paragraphs 66 and 91 are not relevant to this appeal).
32. In respect of paragraph 84, the appeal site is located on a residential street within the Key Service Centre of Tarporley. It does not therefore represent an isolated home in the countryside and paragraph 84 is consequently not applicable.
33. Furthermore, I observed that the appeal site is located within walking distance of a number of facilities and services within this Key Service Centre and it therefore represents a sustainable location in accordance with the provisions of paragraphs 110, 115 and 129 of the Framework.
34. However, as I have found that the appeal proposal would cause significant harm to the character and appearance of the area the proposal would conflict with the design principles of paragraphs 135 and 139 of the Framework.
35. In addition, the Framework seeks to significantly boost the supply of homes and make efficient use of land. As mentioned above, from the information before me in respect of other appeals within this authority the Council can currently demonstrate a 1.89-year supply of deliverable housing sites. As such, whilst the provision of one additional dwelling would make a very limited contribution to the Council's land supply position, taking into account the significant shortfall in deliverable housing sites, I attach moderate weight to the social benefits arising from the provision of one dwelling which could be delivered relatively quickly on this small site.
36. The appellant states that the proposed dwelling would be a self-build property and I acknowledge paragraph 73(b) of the Framework supports small sites to come forward for self-build and custom-build housing.
37. The parties have not however provided details on the level of need for self-build plots within the authority, as per the self-build register, or details of how many self-

⁴ APP/A0665/W/25/3364367 & APP/A0665/W/25/3366204

build plots have been granted consent. Moreover, I have no legal agreement, undertaking or other mechanism suggested to secure this dwelling as a self-build plot under the legislative requirements of the Self-Build and Custom Housebuilding Act 2015 (as amended).

38. Consequently, in the absence of any detailed information in respect of self-build plots within the borough and a mechanism to secure this provision, I give the self-build consideration very limited weight in favour of the appeal proposal.
39. I acknowledge the important contribution smaller sites can make to meeting the housing requirement of an area and the appellant has drawn my attention to paragraph 73 (a) of the Framework.
40. However, paragraph 73 (a) of the Framework requires Council's to identify, through the development plan and brownfield register, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare, unless it can be shown, through the preparation of the relevant plan policies that there is a strong reason why this 10% target cannot be achieved. Consequently, this is a requirement of the plan making process, rather than through the decision-making process on individual planning applications.
41. The appellant has stated that the provision of a bungalow is a benefit due to the ageing population in Tarporley and has drawn my attention to Policy TH3 of the Tarporley Neighbourhood Development Plan 2010 – 2030 (2016) (TNP) which supports the provision of older persons housing. The appellant also states that the proposal would meet the accessible needs of the appellant's mother and future older residents.
42. Whilst acknowledging the above, I have very limited information before me in respect of the accessibility needs of the appellant's mother. Moreover, I note the TNP defines "older people" as people aged over 55 years and there is no mechanism before me which secures this property specifically for "older people" only, or which ensures that it will be designed for an older person and retained as such thereafter. Without such mechanisms the proposed dwelling could be sold to persons of any age and its accessible design / layout altered. This therefore limits the weight I can attribute to this matter.
43. Nonetheless, I acknowledge that the provision of a bungalow would provide some social benefits. However, given the above, I attach this limited weight in favour of the appeal scheme.
44. Economic benefits would arise from the proposal, including contributions to the local economy during the construction phase of the development. These however would be short term benefits. Further economic benefits would also arise from additional spending in the wider area by future occupants of the dwelling. Cumulatively, given the scale of development for a 1-bedroom dwelling the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
45. The appellant has also stated that the proposed dwelling would be well insulated and include a heat source pump. However, there is no energy statement, or similar details, before me to demonstrate the exact energy efficiency level that the proposed dwelling would achieve. This therefore limits the weight I can attribute to this as a matter in favour of the appeal proposal.

46. In view of all the above, even in the scenario whereby the Council cannot demonstrate a five-year supply of deliverable housing sites, I find the unacceptable adverse impacts arising from the significant harm the appeal proposal would cause to the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

47. I conclude that the proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal is dismissed.

R. Major

INSPECTOR