

Appeal Decisions

Site visit made on 6 March 2017

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 April 2017

Appeal Ref: APP/A0665/W/16/3157963

Ashton Hall, Kelsall Road, Chester, Cheshire CH3 8BH

- 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 Mr Peter Johnston and Mrs Helen Johnston against the decision of Cheshire West & Chester Council.
 - The application Ref 16/01107/FUL, dated 15 March 2016, was refused by notice dated 24 May 2016.
 - The development proposed is construction of a three bay garage with storage space over.
-

Appeal Ref: APP/A0665/C/16/3161998 and 3162000

Ashton Hall, Kelsall Road, Chester, Cheshire CH3 8BH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Peter Johnston (3161998) and Mrs Helen Johnston (3162000) against an enforcement notice issued by Cheshire West & Chester Council.
 - The enforcement notice was issued on 20 October 2016.
 - The breach of planning control as alleged in the notice is the erection of a three bay garage.
 - The requirements of the notice are (i) Reduce the size of the three bay garage to accord with planning permission 15/01057/FUL; or (ii) Demolish the existing garage building and remove all resultant materials away from the land.
 - The period for compliance with the requirements is six calendar months.
 - The appeals are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended and the appeal by Mr Peter Johnston is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The planning appeal and the ground (a) enforcement appeal are allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of a three bay garage with storage space over on land at Ashton Hall, Kelsall Road, Chester, Cheshire, and in accordance with the terms of the application Ref 16/01107/FUL, dated 15 March 2016, and the plans submitted with it.

Application for costs

2. An application for costs, in respect of the enforcement appeals, has been made by Mr Peter Johnston and Mrs Helen Johnston against Cheshire West & Chester Council. This application is the subject of a separate Decision.

Reasons

3. Planning permission 15/01057/FUL, referred to in requirement (i) of the enforcement notice, is for a three bay garage with a roof pitch of 40.5 degrees. The garage as built is the same as the approved garage in all respects other than its roof pitch; which is 47.5 degrees. Consequently, the ridge of the garage is about 0.7 metres higher than if it had been built in accordance with the permission.
4. The main issue in the planning and ground (a) enforcement appeals is the effect of the garage as built on the architectural and historic interest and setting of Ashton Hall, a Grade II* listed building, and on the character and appearance of the Ashton Hayes Conservation Area within which the buildings are located.
5. Ashton Hall is a substantial three storey dwelling with sandstone walls under a slate roof. Attached to the north-east end of the dwelling is The Old Granary, a Grade II listed building that has been converted to independent residential use. The Old Granary has brick walls under a slate roof. Ashton Hall has a roof pitch of 30 degrees and the Old Granary has a roof pitch of 45 degrees.
6. The garage is set some distance apart from, and to the east of, the two listed buildings and has an oak frame clad in timber under a slate roof. The garage is in closer proximity to The Old Granary and, given the orientation and alignment of the two buildings, has a greater visual relationship with this building than Ashton Hall. In this regard the similarity of the roof pitch of the garage to that of The Old Granary is appropriate.
7. Of greater importance, however, is the difference in character of the garage and Ashton Hall. They are wholly different in appearance, style, form and materials. In this context the greater pitch of the as built garage's roof to that of the approved garage is inconsequential to the architectural and historic interest and setting of the listed building and other listed buildings in the vicinity. For this reason the garage as built does not undermine or harm the character and appearance of the Ashton Hayes Conservation Area.
8. The steeper pitch and higher ridge of the garage as built, compared to the approved garage, does not adversely affect the architectural and historic interest or setting of Ashton Hall or the character and appearance of the Ashton Hayes Conservation Area, and does not harm the significance of these heritage assets. The garage as built does not conflict with national policy in the National Planning Policy Framework, policy ENV 5 of the Cheshire West and Chester Local Plan (Part One), or saved policy ENV 45 of the Chester District Local Plan.

Other matter

9. To the north of the garage is The Old Stables, a residential property. The garage is close to, and to the south-west of, a garden area at the property. The slightly higher roof of the garage as built, compared to that of the approved garage, will have an effect on sunlight in the garden area at certain times of the year but not to any significant degree. Furthermore, given the orientation of the dwelling, the garage as built will not have any effect on sunlight within the original part of the dwelling. The garage as built does not cause any significant harm to the amenities of the residents of The Old Stables. The upper floor of the garage is indicated in the application to be storage and any other use of the space would require a grant of planning permission by the Council.

Conclusion

10. The garage as built does not adversely affect the architectural and historic interest or setting of Ashton Hall or the character and appearance of the Ashton Hayes Conservation Area, and does not harm the significance of these heritage assets or conflict with national or local planning policy. The Council has not suggested any conditions and none are considered necessary.

11. The planning appeal and the ground (a) enforcement appeal thus succeed and planning permission has been granted for the construction of a three bay garage with storage space over on land at Ashton Hall, Kelsall Road, Chester, Cheshire. The ground (g) appeals do not therefore need to be considered.

John Braithwaite

Inspector