



Appeal Decision

Site visit made on 6 October 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 20th November 2020

Appeal Ref: APP/A0665/W/20/3253340

The Croft, Nantwich Road, Wimboldsley, Winsford, Cheshire CW10 0LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Shackleton against the decision of Cheshire West & Chester Council.
 - The application Ref 20/00250/S73, dated 22 January 2020, was refused by notice dated 18 March 2020.
 - The application sought planning permission for *Replacement dwelling with detached double garage, including access, garden and boundary improvements. (Demolition existing) without complying with a condition attached to planning permission Ref 14/00886/FUL, dated 28 April 2014.*
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; Proposed site plan (Drawing No. 002 rev C); Proposed elevations (Drawing No. 004 Rev C); Proposed floor plans (Drawing No. 003 Rev C); Proposed garage plans and elevations (Drawing No. 005 rev D).*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal relates to a double garage approved as part of planning permission ref 14/00886/FUL for a replacement dwelling. The permission has been implemented but the development has not been completed.
3. The application sought to remove condition 2 of the permission and replace it with a condition specifying alternate plans that amend the design of the garage outbuilding. The amendments would include an increase in the height of the building to allow for a first floor mezzanine and external alterations including the removal of the garage doors and the creation of windows. Although not illustrated, the plans include outline kitchen and bathroom specifications.
4. Therefore, the main issue is the effect of the proposed variation of condition 2, with particular regard to:
 - i) Whether the proposal would constitute a separate unit of residential accommodation rather than an ancillary use; and
 - ii) The effects of the proposal on the character and appearance of the area.

Reasons

Whether or not a separate unit of residential accommodation

5. The Croft occupies a large corner plot facing Nantwich Road. It is enclosed by tall timber fencing with vehicular access points from both Nantwich Road to the front and Chapel Lane to the side. The outbuilding is set back between the appeal property and the neighbouring semi-detached single storey property.
6. On the basis of the evidence, the proposed outbuilding would be suitable for self-contained independent living. Although close to the appeal property, it would be physically separated and its set back in the plot would avoid direct overlooking. The plans do not illustrate separate pedestrian or vehicular access. Nevertheless, the outbuilding would have a road frontage and the existing large plot could be subdivided to create 2 residential units, each with their own separate highway access, parking and garden areas.
7. Cheshire West & Chester Council Local Plan (Part One) Strategic Policies Adopted January 2015 (the LP1) sets out the Council's locational strategy. It is focused on the settlements and it aims to restrict development in the countryside, unless it meets exceptions set out in Policy STRAT9. The creation of a new dwelling in this location would not meet any of the listed exceptions and the location is not accessible with regard to services and facilities.
8. The application form and the description of the development relate to amendments to the approved plans and not to the use of the outbuilding. There is evidence before me that the amendments are sought on the basis that the outbuilding may be required at some future point to provide accommodation for the appellants. However, there is no evidence to demonstrate that, in this future scenario, the appellants would be dependent on the occupiers of the main dwelling. Proximity to The Croft alone does not demonstrate an ancillary functional relationship.
9. The appellants propose a condition limiting the use of the outbuilding to purposes ancillary to the occupation of the main dwelling. Nevertheless, the outbuilding would provide for independent living. It is not clear how it would be used until such time as it may be required, or in the event that it was not required, by the appellants. Given the limited evidence in relation to its ancillary functional use, I cannot be certain that it would not be occupied separately or that future occupiers would not seek to sever the connection between The Croft and the outbuilding.
10. Therefore, in the absence of any compelling evidence to the contrary, I find that the proposal would be likely to be, or could become, an independent dwelling. In this regard, it would conflict with the rural housing aims of Policy STRAT9 of the LP1. It would conflict with Policy DM21 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies Adopted July 2019 (the LP2) insofar as it fails to demonstrate that future occupiers would be dependent upon an occupier of the main dwelling, that it would be functionally dependent on the main dwelling and that it is required to meet a genuine family need.

Character and appearance

11. The approved plans illustrate The Croft as a single storey dwelling with dormer roof extensions. The approved garage building has a smaller footprint and a

lower ridge height than the dwelling and it would therefore be subservient to its host and in keeping with its domestic use.

12. In contrast, the appeal proposal would be as tall as The Croft and it would be taller than the neighbouring dwelling. Consequently, it would not appear to be a subservient domestic building. Notwithstanding the boundary fence and its set back in the plot, the proposal would be visible between the dwellings to either side when viewed from Nantwich Road. By virtue of its size and siting to the rear of the main dwelling, it would be also conspicuous when viewed from locations to the rear including Chapel Lane.
13. While it would have the appearance of a small residential dwelling, the proposal would be out of keeping in this location including in terms of its design, size, siting and spacing to the properties to either side. It would be a discordant and visually obtrusive feature that would not relate well to the neighbouring properties. Furthermore, whether ancillary or not, there would be an increased residential presence, including vehicles and domestic paraphernalia. The proposal would contribute to the appearance of an uncharacteristic and densely built ribbon of residential development. Consequently, it would not make a positive contribution to its rural surroundings.
14. Therefore, the proposal would harm the character and appearance of the area. It would conflict with Policies STRAT9 and ENV6 of the LP1 and Policies DM3 and DM21 of the LP2. These require, among other things, that development should be of an appropriate scale and design to not harm the character of the countryside. It should respect local character and contribute positively to a sense of place. Within residential curtilages, development is expected to be subordinate to the dwelling and surrounding properties.

Other Matters

15. Pre-application advice is not binding and I have determined the appeal on its merits. The approval of the garage does not establish the principle of residential accommodation. The absence of harm to the living conditions of neighbouring residential occupiers is a requirement of the development plan and it carries neutral weight.

Conclusion

16. Notwithstanding that the outbuilding is within the grounds of the appeal property, the proposal would create a new dwelling in the countryside. While a condition could be attached to limit the use of the outbuilding, nevertheless this would not outweigh the harm to the character and appearance of the area.
17. For this reason, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. It therefore follows that the proposed variation to condition 2 of permission 14/00886/FUL would not be acceptable, and the appeal should be dismissed.

Sarah Manchester

INSPECTOR