

Appeal Decision

Site visit made on 12 September 2023

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 21 September 2023

Appeal ref: APP/A0665/D/23/3326635

Cedars, Chapel Street, Wincham, Northwich, Cheshire CW9 6DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of planning permission.
 - The appeal is made by Mr Julian Jackson against the decision of Cheshire West and Chester Council. The application, ref. 23/00080/FUL, dated 10 January 2023, was refused by a notice dated 6 July 2023.
 - The development is: Replacement garage, utility and hallway with additional first floor study above new garage and utility area.
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Decision

1. The appeal is dismissed.

Appeal site and proposal

2. Cedars, No. 70 Chapel Street, Wincham, is a large single storey detached dwelling. It has a garage linked to the side and rear of the building. Mr Jackson, the Appellant, intends to demolish the garage and replace it with a new garage and second floor above containing a study and utility room.
3. Mr Jackson had described his project as: "Replacing an existing run-down concrete alpha blocked Garage with Utility area with a new breeze blocked/brick Garage and new Utility area". The Council had changed that to: "Replacement garage, utility and hallway with additional first floor study above new garage and utility area.". Mr Jackson was not aware of the change until receipt of the decision notice. He had not agreed to the change. I consider that the Council's wording better describes the appeal project. Nothing of the planning merits of the scheme turns on this point.

Main issue

4. The decision turns on the likely effect of the new garage and study on the appearance of the existing house and its immediate surroundings.

Considerations

5. Mr Jackson said the new garage and extension proposal took full account of the characteristics of the development site. It would be compatible with the local character. It would be in keeping with the street scene. No harm to the visual amenity of its surroundings would arise. In refusing the application, Mr Jackson said the Council had incorrectly assessed the proposal's compliance with Schedule 2 Part 1 Class AA of the Town and Country (General Permitted Development Order) (England) 2015, (the Order). They therefore failed to

accept that the project had an implementable fallback position as set out in their Supplementary Planning Document: House Extensions and Domestic Outbuildings January 2021 at 3q that said: *'Where it could be demonstrated that a 'fall-back' position exists (e.g. via permitted development) this is capable of being a material planning consideration ...'*.

6. I deal with the Order point first. It is of no assistance to Mr Jackson. Article 3, Schedule 2, Part 1 of the Order at AA(b) permits the enlargement of a dwellinghouse consisting of the construction of one additional storey, where the existing dwellinghouse consists of one storey, immediately above the topmost storey of the dwellinghouse, together with any engineering operations reasonably necessary for the purpose of that construction. Mr Jackson's extension would adjoin the main house. It would not be built 'immediately above the topmost storey of the dwellinghouse' as set out in Permitted development AA. It would, even if that point was arguable, fail the test of limitation AA.1(i) – development not permitted – where any additional storey is constructed other than on the principal part of the dwellinghouse. Nor could Mr Jackson beneficially avail himself of Class A of the Order – the enlargement, improvement or other alteration of a dwellinghouse. That is because his project would not comply with limitation A.1(c), the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse. Neither would the appeal scheme comply with limitation A.1(d) as the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse.
7. Views to the low house The Cedars at No. 70 Chapel Street from the road are somewhat restricted by walling, hedges and a high solid gate to the vehicular access. But the appeal project, to replace the low garage on the south-western side of the house with a new garage, surmounted by an additional first floor study would be more readily seen as an ill-matching and incongruous addition to the single storey house.
8. Whilst the garage replacement and study project would cover no more ground than the existing garage, its increased height would not be in keeping with the character and appearance of the original dwelling nor be subordinate to it as required by Policy DM 21 of the Cheshire West and Chester Local Plan Two. The subordinate requirement is repeated in the Cheshire West and Chester Supplementary Planning Document: House Extensions and Domestic Outbuildings 2021 (SPD). At para. 4.7 the SPD says 2 storey extensions will normally only be supported where, amongst others, the extension roof is lower than, in keeping with, and properly integrated into, the main roof of the dwelling in order to maintain a subordinate appearance. The appeal project would add a higher, not a lower roof. That would be out of character with the existing large single storey house, producing some material harm to the immediate appearance of the surroundings.

Conclusion

9. For the reasons outlined above, the appeal is dismissed.

John Whalley

INSPECTOR