



Appeal Decision

Site visit made on 7 May 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2024

Appeal Ref: APP/R0660/X/23/3332715

Woodview Cottage, Brookledge Lane, Adlington, Cheshire SK10 4JU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr C Weigert against the decision of Cheshire East Council.
 - The application ref 23/1917M, dated 19 May 2023, was refused by notice dated 14 September 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the erection of outbuilding to be used incidental to the main dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. Under Schedule 2, Part 1, Class E of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO), buildings etc incidental to the enjoyment of a dwellinghouse are permitted development. Under Class E.1.(c), such development is not permitted if any part of the building, enclosure, pool, or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
4. The Permitted Development Rights for Householders Technical Guidance 2019¹ (Technical Guidance) provides guidance on what the principal elevation is. It states that in most cases it will be the part of the house which fronts the main highway, ie the one that sets the postcode for the house, and contains the main architectural features such as bay windows, porches and main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house. There will only be one principal elevation on a house.
5. Notwithstanding, the appellant's reference to the Council's 'erroneous position', there is no dispute between the parties that the principal elevation of the appeal dwelling is the North elevation. As set out in the Council's Delegated Report, the LDC application was determined on the basis that the principal elevation of the appeal property is the North elevation. Based on the evidence

¹ Published by the Ministry of Housing, Communities and Local Government

before me and the observations I made on site, I find no reason to conclude otherwise.

6. The Technical Guidance states 'The principal elevation could include more than one wall facing in the same direction - for example, where there are large bay windows on the front elevation, or where there is an 'L' shaped frontage. In such cases, all such walls will form the principal elevation and the line for determining what constitutes 'extends beyond a wall' will follow these walls.'
7. The appeal property has three such walls that form the principal elevation – the North walls of the kitchen, hall and porch as identified on drawing number L(20)35 rev B. By reason that the proposed outbuilding would extend beyond the north walls of the hall and porch, it would extend beyond the principal elevation of the dwelling. Consequently, it would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.
8. The outbuilding was initially proposed to contain a garage, office, gym and cinema room. Following discussions with the Council, this was reduced in size and then, after further discussions, was amended again to substitute the cinema room for a bicycle/garden store. Whilst the Council do not argue that these uses would not be incidental to the enjoyment of the dwellinghouse, they contend that the cinema room was replaced with the bicycle/garden store solely to meet the requirements of the permitted development rights. Be that as it may, there is no substantive evidence that the store use is not required, simply because it was not included in the initial scheme. Based on the evidence before me, I am satisfied the building and the uses within it would be for a purpose incidental to the enjoyment of the dwellinghouse.
9. Notwithstanding this, by reason that the proposed building would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse it would fail to meet the requirements of Class E of the GPDO and therefore would not be permitted development.

Conclusion

10. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

INSPECTOR