



Appeal Decision

Site visit made on 18 February 2025 by T Morris BA (Hons) MSc

Decision by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2025

Appeal Ref: APP/R0660/D/24/3356879

43 King Street, Middlewich, Cheshire East CW10 9EJ

- 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 Mr Arnoldas Ignatavicius against the decision of Cheshire East Council.
 - The application reference is 24/2778C.
 - The development proposed is the erection of two-storey side, single storey rear and roof dormer extensions.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The appellant has submitted an amended plan titled 'Proposed Plan', drawing No. HP-KS-01 with the appeal. He states that he has submitted this to rectify minor errors. In considering whether to accept this plan, I have had regard to the principles set out in the judgement of *Holborn Studios Limited v The Council of the London Borough of Hackney* (2017) EWHC 2823 (Admin). The development shown within the amended plan is not substantially different from that shown on the original plan which was before the Council when it made its decision to refuse planning permission. I am also satisfied that in accepting the amended plan, it would not cause procedural unfairness to anyone involved in the appeal process from a re-consultation point of view.
4. The description of development on the application form is extensive and includes wording that does not amount to development. Therefore, and, in the interests of precision, I have taken the agreed description of development within the banner heading above from the Council's decision notice rather than from the application form.
5. The Council do not object to the two-storey side and single storey rear extensions. The evidence demonstrates that there is already a planning permission in place for a similar two-storey side extension and a rear extension. In this context, I have no reason to disagree with the conclusion of the Council in respect to these elements of the proposed development. As such, my recommendation is focussed on the roof dormer extension.

6. On my site visit, I observed that development had already progressed at the site. However, in the absence of undertaking detailed measurements on the site, I cannot be certain if some or all the development accords with the submitted plans. Therefore, and, for the avoidance of any doubt, my recommendation is based on the proposed development as shown on the plans submitted with the appeal.

Main Issue

7. The main issue is the effect of the roof dormer extension on the character and appearance of the area and whether it constitutes good design.

Reasons for the Recommendation

8. 43 King Street (No. 43) is a two-storey semi-detached dwelling situated within a predominantly residential area. While a dormer has been built within the rear roof slope of the host property, the evidence indicates that the original roof slope and that of its neighbour were previously both unbroken.
9. The dwellings in this area are mostly two-storey in scale and generally feature simple pitched roof forms. They typically have unaltered hipped and gable tiled roofs and some have subtle projecting gable features and chimney stacks. Where there are dormer windows in the area, these are generally small and unobtrusive, such as that at 35 King Street. The original roof form of the host dwelling ties into the overall roof scape of the area, and, in that regard, it contributes positively to the visual coherence of the buildings in the area.
10. While there is a planning permission in place for a two-storey side and single storey rear extension to the host property, this planning permission ensured that there remained a pleasing design balance and symmetry to the pair of semi-detached dwellings both in terms of their front elevations and their unbroken front and rear roof slopes.
11. Due to its considerable mass and its proximity to the extremities of the roof, the proposed roof dormer extension would dominate the rear roof slope of the host dwelling. It would appear as a top-heavy addition within the rear roof slope and its flat roof form would jar against the pitched roof of the dwelling. It would unacceptably contrast with the otherwise simple pitched roof forms and the more discreet dormer windows in the area. Moreover, owing to its position, size and bulk, it would harm the overall design balance and symmetry that relates to the original pair of semi-detached dwellinghouses, particularly when considered alongside and cumulatively with the proposed two storey side and single storey rear extensions. In this context, I consider that the proposed dormer would not appear as a subservient addition to the host property. Instead, it would constitute poor design.
12. While the proposed dormer would not be very conspicuous when viewed from King Street, it would nonetheless be very prominent and obtrusive when viewed from the public realm at Flavian Close to the rear of the appeal site. From this area, the dormer extension would appear as a dominant and incongruous addition to No. 43 and would fail to assimilate well when seen in conjunction with the pair of semi-detached dwellings as a whole. Overall, the dormer would have a harmful impact on the character and appearance of the dwelling and its surroundings.
13. For the above reasons, I conclude that the proposal would conflict with policies SE1, SD1 and SD2 of the adopted 2017 Cheshire East Local Plan Local Plan

Strategy 2010 - 2030, as well as GEN1 and HOU11 of the adopted 2022 Cheshire East Local Plan Site Allocations and Development Policies Document. Amongst other things these policies require that development proposals make a positive contribution to their surroundings, reinforcing local distinctiveness including its external design features and its relationship to the street scene, as well as being in keeping with the scale, character and appearance of their surroundings.

Other Considerations

14. The appellant appears to make the claim that the dormer is either permitted development, or that there is a permitted development fallback position that needs to be afforded positive weight in the decision-making process.
15. If a person wishes to ascertain whether an existing or proposed use or development is or would be lawful, the correct approach is for them to make an application under section 191 or 192 of the 1990 Act for a lawful development certificate (LDC). The appellant has not referred me to a LDC for the dormer.
16. In any event, the evidence is that the dormer that exists on the site now was built at the same time as the two-storey side and single storey rear extensions. Even if the dormer had been built on the original rear roof slope of the dwelling and was not part and parcel of, or contiguous with, the two-storey extension to the dwelling, it is not permitted development in so far that it is not set back from the original eaves. Moreover, I have insufficient evidence from the appellant for me to reach a finding relating to the resultant cubic content of the roof space of the dwelling because of the erection of the dormer. On the evidence that is before me, I do not therefore find, on the balance of probability, that the proposed dormer would meet the permitted development requirements of Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
17. The appellant states that the fallback position would be to provide a dormer window using permitted development rights under Class B of Part 1 of Schedule 2 of the GPDO. While in isolation it may have been possible to erect a dormer window utilising permitted development rights, the evidence is that it would likely have had to be smaller than the one that is the subject of this appeal given the limitations and restrictions imposed in respect of Class B. Even if I were to take the view that there was a greater than theoretical possibility of some sort of permitted development dormer being erected to the rear of the property in the future, it would likely have to be smaller (or least away from the eaves) than the harmful dormer which is the subject of this appeal. I therefore afford the permitted development fallback position only limited weight in the overall planning balance.
18. I am also aware of an approved rear dormer window extension at 41 King Street (No. 41). However, in contrast to the appeal proposal, the dormer window at No 41 would be more clearly set in from the extremities of the roof of that dwelling. Therefore, the dormer window at No. 41 is not directly comparable and, in any event, it does not justify the harm that would be caused from the construction of the rear dormer extension which is the subject of this appeal. Moreover, I emphasise that No. 41 does not include a two-storey side extension. Hence, the approved dormer at No. 41 would not, in relative terms, lead to the same cumulative harm in terms of its impact on the design balance and symmetry of the associated semi-detached properties.

19. Third party comments have been made to the effect that development has been carried out without appropriate notice being given under the Party Wall etc Act 1996, and that some damage has been caused to property in the ownership of another party. These are private/civil matters that are not relevant to the determination of this appeal made under section 78 of the Act.

Conclusion and Recommendation

20. While the proposed single storey rear and two-storey side extensions are acceptable in planning terms, I nonetheless find that the proposed dormer would cause significant harm to the character and appearance of the area and would constitute poor design. The latter are matters of overriding concern and are not outweighed by the other considerations outlined above. Therefore, when the proposed development is considered as a whole, I recommend that the appeal should be dismissed.

T Morris

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

D Hartley

INSPECTOR