

Appeal Decisions

Site visit made on 27 September 2016

by J Bell-Williamson MA MRTPI

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

Decision date: 20 October 2016

Appeal A Ref: APP/A1530/W/16/3150749

Cavendish House, Coggeshall Road, Dedham, Essex CO7 6ET

- 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 K Bygrave against the decision of Colchester Borough Council.
 - The application Ref 160249, dated 3 February 2016, was refused by notice dated 30 March 2016.
 - The development proposed is extension to residential curtilage.
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Appeal B Ref: APP/A1530/W/16/3150748

Cavendish House, Coggeshall Road, Dedham, Essex CO7 6ET

- 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 & Mrs K Bygrave against the decision of Colchester Borough Council.
 - The application Ref 152582, dated 3 March 2016, was refused by notice dated 30 March 2016.
 - The development proposed is attached garage and home office/hobbies room.
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Preliminary Matters

1. The two appeals relate to the same property, although part of the extension proposed under Appeal B would be sited on land which is the subject of Appeal A. Nonetheless, while recognising this relationship, I have dealt with each appeal separately below.
2. The development proposed in respect of Appeal A, the extension to the residential curtilage, has been undertaken. I have, therefore, dealt with this appeal on the basis that it involves an application for retrospective permission.

Decisions

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3. The appeal is allowed and planning permission is granted for extension to residential curtilage (retrospective) at Cavendish House, Coggeshall Road, Dedham, Essex CO7 6ET. The permission is granted in accordance with the terms of the application, Ref 160249, dated 3 February 2016, subject to the following condition:
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- 1) Notwithstanding the provisions of Classes E and F of Part 1 and Class A of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no buildings, enclosures, swimming pools, structures, hard surfaces, oil or gas storage containers, fences, walls, gates or other means of enclosure (other than those means of enclosure already provided) shall be erected on the extended residential curtilage hereby permitted unless otherwise subsequently approved, in writing, by the local planning authority.

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4. The appeal is dismissed.

Main Issues

5. The main issue with regard to Appeal A is the effect of the proposal on the character and appearance of the surrounding area.
6. The main issue with regard to Appeal B is the effect of the proposal on the character and appearance of the host dwelling and surrounding area.

Reasons – Appeal A

7. The appeal property is a two storey detached dwelling with a frontage on the western side of Coggeshall Road. It is the last property on this side of the road at the southern end of Dedham. The settlement boundary is formed by the rear garden fences of dwellings on Dedham Mead and this continues close to the southern flank of Cavendish House.
8. The proposal, which has been undertaken, involves removal of the side boundary treatment and extension of the garden area to the side of the property some 34 metres beyond the existing curtilage into open countryside outside the defined settlement. This area has been laid to lawn and enclosed with a post and rail fence and some boundary planting. A driveway and access point is joined to the main gravelled area in front of the property.
9. Policies UR2 of the Council's Core Strategy and DP1 and DP13 of the Development Policies document, require high quality design and for development to enhance the character of the site, its context and surroundings. Policy DP13 is particularly relevant as it concerns dwelling alterations, including garden extensions. The supporting text says that proposals for extension of a domestic garden into open countryside, as in this case, will not be permitted if they would have a material adverse impact on the surrounding countryside or would set a precedent for unacceptable extensions to gardens at neighbouring properties (paragraph 5.15). These policies are broadly consistent with the National Planning Policy Framework (the Framework), particularly with regard to its requirements for good design and protection of the countryside.
10. The more managed, open appearance of the appeal site contrasts with the surrounding land to the south and west, which includes extensive tree cover. However, while this contrast is readily apparent from the road frontage and

surrounding properties, the site does include some planting and this, together with the relatively unobtrusive low boundary treatments and lack of formal landscaping and outbuildings or other structures, mean that the site's appearance is not incongruous or harmfully uncharacteristic. Of particular significance in this regard is the fact that the extent of the developed area is not the same on either side of Coggeshall Road. The property and its curtilage known as Old Hall on the opposite side of the road are positioned further south than the extended curtilage of the appeal property. As such, the extended curtilage is not out of keeping with the southernmost extent of built development in the village. The parking area and driveway are not dissimilar to those at The Shuttlecock, a property on the opposite side of the road and so are not uncharacteristic of the surrounding area.

11. The appearance of the appeal site currently is of an open, undeveloped area that reflects the transition from the developed part of the village to the open countryside beyond. This is in part achieved by the lack of any domestic paraphernalia associated with day-to-day living. While some such temporary features, such as children's play equipment or garden furniture, would not lead to unacceptable harm, more permanent buildings or other structures would change the character of the site to the extent that it would contrast unfavourably with surrounding land. I note that the supporting text to Policy DP13 requires removal of permitted development rights where permission is to be granted. While the Framework says that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so (paragraph 200), for the reasons given such justification does exist in this case and, therefore, I agree that the Council's suggested condition is necessary. I note the Council's contention that it would be perverse to approve the application with such a condition when it is intended to extend the appeal property into the new garden area. However, it is possible to consider these matters separately and on their individual merits as applied for, and I have done this in respect of the two appeals before me.
12. The rear fences of the nearest properties on Dedham Mead are immediately adjacent to the extended area, but neither the appearance nor position of these is sufficiently incongruous or otherwise unusual to result in material harm to the area. I acknowledge also the Council's concern that allowing this proposal could set a precedent for the extension of the gardens of one or more of this row of properties along Dedham Meade. However, I am mindful of the principle that development proposals must be considered on their individual merits and I have found above that no unacceptable harm would result from the current proposal. Any future development proposals would need to be similarly considered on their merits against policies and circumstances pertaining at the time. However, current concerns about such proposals coming forward are not of sufficient weight to lead to a different overall conclusion in this case. In reaching these findings, I have had regard to all representations made by interested parties
13. Therefore, for all the above reasons, I conclude that the proposal would not cause unacceptable harm to the character and appearance of the surrounding area. As such, it is not contrary to the development plan policies referred to above or to the Framework.

Conditions and Conclusion – Appeal A

14. Aside from the condition already referred to, the Council proposes conditions concerning compliance with the submitted plans and landscaping. However, as the development has been undertaken it would not be appropriate to impose conditions relating to implementation. For the reasons given above, the appeal should succeed.

Reasons – Appeal B

15. Both main parties refer to an earlier application for a detached garage to the side of the appeal property (reference 151938). While I note this other proposal, this appeal involves a separate development proposal which I have considered on its own merits.
16. The area immediately surrounding the appeal property includes relatively large detached dwellings on either side of Coggeshall Road. Cavendish House has a south-facing gable and a two storey element on the north side, both of which have a lower roof heights than the central part of the dwelling. These elements in combination with the central main part of the house amount to a substantial building that in terms of its overall size and width is one of the larger dwellings along the road frontage.
17. While the proposed extension is single storey and the materials used would match the main house, it would be almost as wide as the central part of the existing dwelling which makes up the bulk of the overall building. As such, it would add considerable width to an already large and wide property. It would, therefore, appear incongruous due to the disproportionate and uncharacteristic frontage of the dwelling, both in relation to the host dwelling and in contrast to the more restrained form of neighbouring properties. Given the openness created by the extended garden to the south, these harmful effects would be readily apparent in passing views along Coggeshall Road and from properties opposite. Any frontage planting would need to be substantial to effectively screen views of the property and would appear contrived in the generally open setting.
18. I accept that the originally permitted garage to the front of the property, which is characteristic of the position of these ancillary buildings at neighbouring properties, was not built due to concerns about its likely adverse effects. This does not, however, alter the above findings with regard to the proposal, which would have different effects due to the form and location of development proposed. The property opposite, known as The Shuttlecock, does include an extension that links to the original dwelling, but in that case it is in front of the property. As such, it does not have the same effects as the appeal proposal with regard to the building's overall width. I accept that parking occurs in front of properties opposite and, therefore, this consequence of the proposal would not of itself be harmful. I acknowledge also that the use of the extended building would include a home office, which could reduce the need for some private car use. Nonetheless, these facts are not sufficient to overcome the harm found from the built form of the proposed extension itself.
19. Accordingly, for all the above reasons, I conclude that the proposed extension would have an unacceptably harmful effect on the character and appearance of the host dwelling and surrounding area. Consequently, it is contrary to Policy

UR2 of the Council's Core Strategy and Policies DP1 and DP13 of the Development Policies document, which require high quality design and for development to enhance the character of the site, its context and surroundings. As found in respect of Appeal A, these policies are broadly consistent with the National Planning Policy Framework.

Conclusion – Appeal B

20. For the reasons given above, the appeal should not succeed.

J Bell-Williamson

INSPECTOR