
Appeal Decision

Site visit made on 4 October 2016

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 2nd November 2016

Appeal Ref: APP/W1525/W/16/3153048

Land at Old Rodney, Spring Elms Lane, Little Baddow, Chelmsford, Essex CM3 4SD

- 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 Paul Murphy against the decision of Chelmsford City Council.
 - The application Ref 15/01832/FUL, dated 30 October 2015, was refused by notice dated 24 December 2015.
 - The development proposed is the change of use of single storey outbuilding (former tennis pavilion) to dwelling, including single storey extensions.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the building proposed for conversion and extension is of permanent construction and suitable for use as a dwelling; and
 - the effect of the proposal on the character and appearance of the area, including the effect on protected trees.

Reasons

Use as a dwelling

3. The proposal is to convert and extend a disused tennis pavilion for residential purposes and to use the adjacent run down tennis court as associated garden land. The site is situated within an area of woodland to the north of Spring Elms Lane, in an area characterised by sporadic dwellings scattered amongst woodland and open land. Little Baddow, a dispersed but recognised village with a range of services and facilities, lies to the west.
4. The site lies a short distance outside the defined settlement boundary of Little Baddow in the Chelmsford Site Allocations Development Plan Document 2012 and as such forms part of the countryside for policy purposes. Consequently, Policies DC2 and DC57 of the Chelmsford Core Strategy and Development Control Policies 2008 (CSDCP), as amended by a Focussed Review in 2013, apply. These allow the re-use or adaptation of buildings for residential purposes in certain limited circumstances. The appellant does not claim that the Council cannot demonstrate a five year supply of deliverable housing sites;

this means relevant policies for the supply of housing are up to date and that Policies DC2 and DC57 should be afforded full weight.

5. The Council consider that the retention of the building would not be detrimental to the appearance and amenity of the countryside, but argue that it is not of permanent construction and not suitable for the proposed use. Unfortunately these terms are not defined further in the policy making their interpretation a matter of judgement in each case.
6. The disused pavilion is a light, timber framed building on a concrete base, clad with relatively thin wooden slats backed in some places by boarding paper. The shallow pitched roof is supported by timber trusses and has a 3 layer felt roof covering. The Council have noted gaps between some slats, the presence of damp and some black patches of mould, but the appellant's structural report states that there are no apparent distress lines or fractures in the floor slab nor abnormal alignments in the roof or walls, no indication of rot or decay or worm attack in the timbers and that the damp proofing membrane is effective.
7. The appellant's report concludes that the building has proved to be sufficiently durable to satisfy Part A of the building regulations and can see no structural reason why the building could not be converted to a dwelling. However, the foundations were not inspected, no analysis of the structural capability of the building was carried out and unexposed areas were not investigated. The report was therefore unable to confirm that inaccessible parts of the building were free from defect, and a comprehensive disclaimer was included, advising the use of specialists to establish whether any remedial works are required. This limited structural survey therefore leaves many questions unanswered.
8. No detailed architectural drawings have been provided to demonstrate how the existing timber framed structure would be converted. The building would require significant modification to provide adequate thermal insulation and the plans show an inner shell within the external timber cladding without reference to the existing timber frame. Without further construction details I share the Council's view that substantial rebuilding works would probably be involved, and consequently that the suitability of the existing building for the proposed residential use has not been adequately demonstrated.
9. Whether or not the building can be considered to be of permanent construction, for these reasons there are significant concerns about its suitability for use as a dwelling. As a result, the proposal does not comply with an important criterion in Policy DC57 of the CSDCP. In addition, the proposal includes an extension to provide the main bedroom which conflicts with a further criterion that the proposed use should be carried out entirely within the confines of the building.

Character and appearance

10. The old tennis court forms a rectangular clearing within a triangular area of broad leaved woodland which is protected by a tree preservation order. The pavilion lies on its northern side, overhung by the canopies of several trees. Although there are a number of detached houses set in large grounds in the vicinity, these are so dispersed that the woodland makes an important contribution to the wider countryside around Little Baddow.
11. The proposal would materially change the character of the area by introducing a new dwelling and garden into this woodland setting. The tennis court would

be converted into a garden with domestic paraphernalia such as a patio, lawn, garden furniture and play equipment, all surrounded by a tall close boarded fence. Contrary to the appellant's view, whilst the tennis court is unkempt, an enclosed garden would have a formal, residential appearance which would be out of place rather than an enhancement within the woodland.

12. The conversion of the pavilion into a dwelling would also involve a significant change in character. The disused pavilion would be refurbished with a sizeable extension added together with a hard surfaced parking area for three cars and upgraded access drive. Whilst this would only be seen briefly from nearby rights of way, even with further planting to screen the site residential occupation of the building would be readily apparent and there would be additional lighting at night in a currently dark area.
13. The proposal would also involve the removal of some protected trees on the site and pruning works to others because the pavilion and access lie under the canopy of several trees. The appellant's arboriculturalist proposes the removal of two Oak trees¹ to avoid overshadowing the proposed dwelling and accepts that pressure for the removal of three others² would be difficult to resist given likely nuisance issues such as shading, leaf fall and actual/perceived risk from falling branches. In addition, it is agreed that residents are likely to press for the regular pruning of four retained Oak trees³ due to their close proximity to the proposed dwelling. Several other trees are proposed for removal due to their position or poor condition. Whilst replacement trees could be provided, these would take time to become established and thereby fully effective.
14. To allow access to the site during the construction phase further pruning would be required and protection of root protection areas (RPAs) would be necessary to prevent damage by traffic. Specialist techniques would be needed to work on the foundations, provide service runs and remove the tennis court, all of which lie within RPAs of trees to be retained and would cause them stress.
15. If the building was occupied, the close proximity of retained trees, notably to the north and east, would in practice be likely to lead to long term pressure for further tree removal or pruning works. The living conditions of the occupiers would be affected by shading, leaf fall and safety concerns. Furthermore, the area around the dwelling would no doubt be tidied up and domesticated with the clearance of understorey, construction of paths and cultivation, causing further disturbance within RPAs and loss of woodland habitat.
16. The aim of the tree preservation order is the protection of the woodland as a whole. Whilst some individual trees may be of poor quality, the proposed removal of several trees, the pruning of others, the stress caused during construction and pressure arising from the inherent conflict between future occupiers and retained trees would combine to adversely affect its overall integrity. There would be regulatory control of future works, but such requests would be hard to resist in the long term as there is an expectation that the interests of residents should take priority.
17. For these reasons, even though it would not be particularly intrusive when seen from nearby public rights of way, the proposed dwelling and garden within this

¹ T21 and T11, the latter in good condition

² T12a, T12b and T12c

³ T15, T16, T19 and T20

woodland setting, and its impact on the integrity of the woodland itself, would cause significant harm to the character and appearance of the area and to protected trees. This would conflict with Policies DC2 and DC14 of the CSDCP which seek to ensure that the intrinsic character and beauty of the countryside is not adversely impacted upon and preclude development that would be liable to cause demonstrable harm to protected woodland.

Other matters

18. The appellant has drawn attention to four recent precedents for the residential conversion and sometimes extension of existing buildings in the Little Baddow area. However, two of these involved significantly more substantial buildings. In the case of Bright House, North Hill, the building was constructed of 300 mm block work cavity walls and only needed cladding to be converted for use. The Stables, Great Gibcracks Chase, was also more substantial, being built of brick columns infilled by block work and having a tiled, steeply pitched roof.
19. There are two precedents for the conversion of lighter, timber framed buildings. The outbuilding at The Gables, North Hill was the subject of a more detailed inspection involving the removal of internal finishes and two trial holes to determine the foundation layout. The Inspector still had reservations about the building's permanence and suitability as a dwelling and regarded the issues as finely balanced. In any event that decision can be distinguished as the building concerned was in active use as a personal gymnasium and located in a domestic garden just outside the defined settlement boundary.
20. In the second case of Rysley Stables, a full structural survey was carried out including ground investigation and a definitive report, without disclaimers or caveats, was submitted to justify the proposal. The building was also adjacent to Rysley, a cul-de-sac of houses, and the defined settlement boundary, and its reuse would therefore cause little impact or harm to the countryside.
21. I have carefully considered all the other arguments raised in favour of the proposal. These include the apparent lawful use of the site as a tennis court which, if reinstated, would generate significantly more traffic than a single dwelling. The proposal would also provide an additional much needed dwelling with social and economic benefits for the local community, and would be situated within walking distance of the services and facilities in Little Baddow. However, these advantages, even in combination, do not outweigh the findings in relation to the main issues which mean that the proposal cannot be considered a fully sustainable development.

Conclusion

22. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR