
Appeal Decision

Site visit made on 23 May 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/X1545/W/17/3170414

Yeoman Farm Cottage, Mill Road, Mayland CM3 6EQ

- 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 T Fisher against the decision of Maldon District Council.
 - The application Ref HOUSE/MAL/16/01403, dated 25 November 2016, was refused by notice dated 25 January 2017.
 - The development proposed is change of use of existing detached barn/store for residential use as an annex for special family needs.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of existing detached barn/store for residential use as an annex for special family needs at Yeoman Farm Cottage, Mill Road, Mayland CM3 6EQ in accordance with the terms of the application, Ref HOUSE/MAL/16/01403, dated 25 November 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan 1:2,500 JJA/1607 and Site Layout, Block and Floor Plans and Elevations 1607/01.
 - 3) The development hereby permitted shall be occupied only as an annex for purposes ancillary and in conjunction with the use of the existing property, known as Yeoman Farm Cottage, as a single dwelling house and not as a separate or independent unit of residential accommodation.

Main Issue

2. The main issue is whether the proposed building would be an annex or a separate independent dwelling unit, and if the latter, whether it would be suitable for such occupation.

Reasons

3. The appeal site comprises of a detached barn/store located in the rear garden of Yeoman Farm Cottage, a detached dwelling with vehicular access at the side of the property. It forms part of the scattered pattern of primarily low density residential development along Mill Road in an open countryside location set back from the road within a mature spacious landscaped plot. The proposal would involve the conversion of the detached barn/store to an annex to provide a one-bedroomed unit with kitchen/diner/ sitting room and a shower/WC.
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4. The appellants case relies to a substantial extent on the need for appropriate accommodation for the parents of one of the appellants to allow them to live close to the appellants so they can support them and cater for their health needs. In this regard the Council has applied Saved Policy H11 of the Maldon District Replacement Local Plan 2005 (LP), which sets out criteria for special family needs accommodation. However, this policy applies exclusively to extensions to existing dwellings and not separate dwellings. The Council however, is concerned that once the stated personal circumstance no longer applies that the annex may be occupied as a separate dwelling.
5. It is a matter of fact and degree as to whether or not the proposed development would be occupied as an annex or an independent separate dwelling. In assessing this, it is necessary to consider whether the proposed building could function as an annex. It does not necessarily follow that the presence of primary accommodation within the proposed annex means it would not, or could not, be occupied as ancillary to Yeoman Farm Cottage.
6. Although the proposed annex would be about 50m from the rear of the main dwelling, the proposal would be sited in a large garden plot and within the residential curtilage of Yeoman Farm Cottage. The occupants of the proposed annex would share the same single site access and use of the existing large rear garden. There is nothing before me to suggest the proposed annex would not stay in the ownership of the appellants and there is no intention to create separate curtilages or subdivide the site via the erection of a wall or fence. This is significant as such physical subdivision would erode the functional linkage between the proposed annex and the main dwelling.
7. Access to the annex would be via the access driveway at the side of the house and there would be no independent vehicular access. The creation of an independent access would be limited by restricted access width and would result in a contrived subdivision of the plot. It would also require the occupants and visitors of the proposal, if functioning as a separate dwelling, to come and go in very close proximity to the windows and amenity space of the host dwelling. I therefore share the appellants view that the proposed siting of the annex would mean independent occupation of the annex by anyone other than a relative or guest of the occupants of Yeoman Farm Cottage as unlikely and undesirable.
8. The appellants state that the proposed annex would not be for any other use than to provide for the special family needs of the appellants mother and father and that the intention is to occupy the whole site as a single family unit. Whilst the proposed annex would allow the appellants parents to live independently, they would be able to join the family in the main house and garden whenever they wished. Moreover, there would be no separate address and the utilities for the proposal. I therefore find that the proposed annex would be located and occupied such that there would be an ancillary functional linkage with the occupation of Yeoman Farm Cottage.
9. The proposed building would have all of the accommodation available for independent occupation separate from Yeoman Farm Cottage. It would also be detached and sited a reasonable distance away, which together could further facilitate occupation independent of the main dwelling. Given though the siting of the annex within the main body of the garden, along with the

restricted access, I consider occupation in a way wholly independent of Yeoman Farm Cottage, although not inconceivable, to be highly unlikely.

10. However, independent occupation of the building would be undesirable as the access would be highly contrived. This would result in an awkward relationship with the main house and would potentially result in the occupants of Yeoman Farm Cottage suffering a loss of privacy and adverse impacts from noise and disturbance, especially from the use of the access drive to the side of the house, were this to occur. Occupation independent from the main house would therefore be an unacceptable form of development harmful to the living conditions of the occupants of Yeoman Farm Cottage.
11. However, I am satisfied that a planning condition requiring ancillary occupation of the annex would prevent the harm I have identified from occurring. Such a condition is therefore reasonable and necessary and would ensure that the independent occupation as a single dwelling unit could not lawfully occur without the benefit of planning permission.
12. I have considered the appellants comments about the family's personal circumstances and the benefits to the family. However, the courts have generally taken the view that planning is concerned with land use in the public interest. Although personal circumstances can sometimes justify a personal or temporary permission, that would not be appropriate here where a permanent structure is intended and as such are matters to which I can attach only limited weight in making this decision.
13. Nevertheless, with a planning condition imposed restricting the proposed annex to ancillary occupation, I find no conflict with the aims of Saved Policy H11 of the LP, which seeks to protect the countryside from unacceptable residential growth and protect the amenities of the area. In addition, it would accord with the aims of the National Planning Policy Framework that development should seek to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Conditions

14. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard time limit condition and a condition relating to ancillary occupation as already outlined above, I have specified the approved plan as this provides certainty

Conclusion

15. For the reasons given above and having considered all other matters raised including the support from Mayland Parish Council and local residents, I conclude that the appeal should be allowed.

David Troy

INSPECTOR