

Appeal Decision

Site visit made on 29 August 2017

by H Lock BA (Hons) DipTP MRTPI

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

Decision date: 07 September 2017

Appeal Ref: APP/X1545/D/17/3176670

Oakfields House, Hackmans Lane, Purleigh, Chelmsford, Essex, CM3 6RJ

- 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 and Mrs G Brown against the decision of Maldon District Council.
 - The application Ref. HOUSE/MAL/17/00299, dated 16 March 2017, was refused by notice dated 12 May 2017.
 - The development proposed is one and a half storey side extension to existing residential annex.
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Decision

1. The appeal is allowed and planning permission is granted for one and a half storey side extension to existing residential annex at Oakfields House, Hackmans Lane, Purleigh, Chelmsford, Essex, CM3 6RJ in accordance with the terms of the application, Ref. HOUSE/MAL/17/00299, dated 16 March 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3141.01; 3141.02A; and 3141.03.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The extension to the building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Oakfields House.

Procedural Matters

2. The Maldon District Local Development Plan (2014-2029) (LDP) was approved by the Secretary of State for Communities and Local Government on 21 July 2017. The reason for refusal of the appeal application refers to Policy H11 of the Maldon District Replacement Local Plan 2005 (RLP), but this policy is no longer in force.
 3. The Council has confirmed that within the LDP there is no specific policy that directly replaces Policy H11 of the RLP, but that the main thrust of Policy H11 is
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considered to be based on sound planning principles. It advises that the requirements of Policy H11 revolve around the need to ensure that the development is appropriate, proportionate and does not result in a separate dwelling with no functional relationship with the main dwelling; and that as the principle of the objection and reason for refusal are based on sound planning merit and argument, the loss of Policy H11 does not alter the principle of the argument put forward in the Council's officer's report.

4. The courts have confirmed that Inspectors need to make their decisions on the basis of the development plan and national policy which are in place at the time of their decision, and I have determined the appeal on this basis.

Main Issue

5. The main issue is whether the proposal would create a separate dwelling in the countryside, in an area where the Council seeks to restrict residential growth.

Reasons

6. The appeal property is a detached house set within large grounds. It has an existing one-and-a-half storey annexe positioned closely to its rear, and various other outbuildings. The existing annexe contains accommodation which includes two first floor bedrooms. The Council's officer report notes that the annexe is occupied by the appellants' son, and states that its use as an annexe ancillary to the main dwelling is established and lawful.
7. The information supplied in this appeal is that the extended building would continue to be occupied by family members. Although enlarged, it would remain as a two-bedroom unit. The existing annexe contains accommodation that is already sufficient for independent living, but the manner in which the building is occupied is fundamental, and the Council acknowledges that it is occupied as ancillary accommodation to the main house. As a matter of fact and degree, the use of the enlarged accommodation would not alter this arrangement.
8. Whilst I acknowledge that the size of the annexe would increase, I do not consider that this would render it disproportionate to the main house. Moreover, its siting, tucked closely behind the main house, does not give it the appearance of a separate dwelling, and this proximity would not make it suitable for occupation by residents unconnected with the main house. The appellants have provided information that indicates a functional link between the occupant of the annexe and the main house. The property does not have its own garden, and the shared access, parking area and utilities further reinforce the linkage. The Council's officer report confirms that, given the close proximity between the annexe and the dwellinghouse, the proposed extension could be satisfactorily used as part of the accommodation to the existing house once there is no longer a need for the annexe.
9. Whilst I appreciate that the site is outside of any defined settlement boundary, on the basis of the evidence supplied I have no reason to doubt that the building would continue to be occupied as an annexe to the main house, and would not constitute a separate dwelling in the countryside.
10. RLP Policy H11 on which the Council based its decision is no longer in force, although I note the Council's views on the planning principles which

underpinned the policy. Paragraph 215 of the National Planning Policy Framework (the Framework) advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework, and paragraph 14 of that document confirms that where the development plan is absent, silent or relevant policies are out- of- date, the presumption in favour of sustainable development means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

11. The Council's officer report confirms that the proposed extension would not result in any overdevelopment of the site, that it would not form a dominant addition to the building, and that limited views of the development would be available from within the public realm. It notes that the distance between the extension and a neighbouring property would avoid overlooking, undue reduction in light, and it would not be an overpowering addition. On these matters the proposal would not cause any significant adverse impacts.
12. The LDP is silent on the matter of special family needs accommodation which RLP Policy H11 addressed. For the reasons outlined above, I do not find that the extended building would constitute a separate dwelling in the countryside, and therefore find no conflict with the aims and principles of the Framework or any development plan policy identified by the parties.

Conditions

13. In addition to the standard time limit, I have attached a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the existing building, in order to safeguard the character and appearance of the development.
14. For the avoidance of doubt, and as suggested by the appellants, I have attached an occupancy condition based on the wording of a previously published model condition.

Conclusion

15. For the reasons outlined above this proposal would constitute sustainable development supported through the Framework, and I conclude that this appeal should be allowed.

H Lock

INSPECTOR