



Appeal Decision

Site visit made on 5 November 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Appeal Ref: APP/X1545/W/19/3233679

Shrubbery Farm, Curling Tye Lane, Woodham Walter, CM9 6LT

- 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 Mrs Joanna Symons against the decision of Maldon District Council.
 - The application Ref: FUL/MAL/19/00430 dated 10 April 2019, was refused by notice dated 21 June 2019.
 - The development proposed is described as the conversion of ancillary granny annexe to residential dwelling/house.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion of ancillary granny annexe to a residential dwelling/house at Shrubbery Farm, Curling Tye Lane, Woodham Walter, CM9 6LT in accordance with the terms of the application Ref: FUL/MAL/19/00430 dated 10 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiry of 3 years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: Ref: SF/12 Block and Location Plans, Ref: SF2.1 Site Plan as Existing, Ref: SF/11B Site Plan, SF/13A Converted Barn as Existing and Ref: SF/14A Converted Barn as Proposed.
 - 3) The development hereby permitted shall not be occupied until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the occupation of the development hereby permitted and shall be retained as such thereafter.
 - 4) Notwithstanding the provisions of Article 3 of the Town and Country Planning General Permitted Development Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 m³ in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

Procedural Matter

2. The appellant has drawn my attention to a recent appeal decision relating to the change of use of annexe to single family dwelling/house elsewhere within Maldon district¹. The Council has been afforded the opportunity to comment on the implications of that decision for the appeal before me.

Main Issue

3. The main issue is whether the site would be a suitable location for a dwelling, having regard to the accessibility to facilities and services and the effect of the development on the character and appearance of the countryside.

Reasons

4. The appeal property is a single-storey building converted to an annexe and formerly occupied by the appellant's son and daughter-in-law as ancillary accommodation to the main dwelling at Shrubbery Farm. These family members originally provided support for the appellant's husband but following bereavement those circumstances have changed and the building is now vacant.
5. The building comprises a kitchen, sitting room, bathroom and three bedrooms with an attached store. The property fronts a gravelled parking and turning area shared with the main house and both properties are accessed by a drive off Curling Tye Lane. To the south side of the annexe is a large area primarily laid to lawn, part of which would be enclosed by a hedge to form a separate garden for the property.
6. The nearest settlement to the appeal site is Woodham Walter, the centre of which is approximately 1.5 km away. Woodham Walter is classified in the Maldon District Approved Local Development Plan 2014-2029 (the LDP) as a 'smaller village', which are defined in the LDP as "containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities". The nearest settlement with a greater range of services is Maldon, the centre of which is approximately 3.5 km from the site.
7. However, notwithstanding these distances, the appeal site is not isolated in terms of paragraph 79 of the National Planning Policy Framework (the Framework) due to the presence of a pair of semi-detached cottages immediately to the west and other dwellings in the area.
8. The proposal would result in the severance of the tie between the annexe and the main dwelling and result in the creation of a new separate dwelling in the countryside. Policy S8 of the LDP seeks to direct development to within the defined settlement boundaries and to protect the countryside for, amongst other things, its intrinsic character and beauty. The policy therefore restricts development outside defined settlement boundaries and areas allocated for development to specified forms of development and requires there to be no adverse impact upon the intrinsic character and beauty of the countryside.
9. Policy S8 does not specifically identify conversions as one of the acceptable forms of development outside the defined settlement boundaries but, under

¹ APP/X1545/W/19/3230819

- clause m), does include development proposals that comply with other policies within the LDP, neighbourhood plans and other local planning guidance.
10. In this appeal, the distance of the site from facilities and services, the absence of footways along Curling Tye Lane and the lack of evidence of any regular public transport services to higher order settlements indicate that the use of private vehicles to access facilities and services to meet day to day needs would be likely. Accordingly, the development would be contrary in this respect to Policy S1 which, amongst other matters, identifies minimising the need to travel and prioritising sustainable modes of transport as a key principle in decision making and to Policy T2 of the LDP which promotes accessibility.
 11. However, with 3 bedrooms, the existing annexe is capable of occupation by a family which would be likely to give rise to the need to travel to facilities and services separately and in addition to the need arising from the occupation of the main dwelling eg to schools, places of employment or recreational trips. Accordingly, it is unlikely that the occupation of the building as a separate dwelling would give rise to significant additional vehicle movements compared to the position if the annex remained as ancillary accommodation. I attach significant weight to this factor and therefore find the conflict with Policies S1 and T2 of the LDP to be limited.
 12. Nevertheless, given this conflict, the proposed development would not satisfy the requirement of clause m) of Policy S8 of the LDP to comply with other policies in the LDP. I therefore conclude that the development would also conflict with Policy S8 in this respect as it would not be any of the forms of development specified in the policy as being acceptable in principle in the countryside.
 13. The Council's reason for refusal refers to the Maldon District Specialist Housing Needs Supplementary Planning Document (2018) (the SPD). Paragraph 6.7 of the SPD refers to existing detached buildings being able to be used as accommodation in association with the residential use of the main dwelling provided that, amongst other things, they do not become a separate self-contained dwelling. Paragraph 6.4 of the SPD sets out a number of criteria for proposed new annexes to reduce the likelihood of their being used as separate dwellings.
 14. I note that the Inspector who considered the appeal to which my attention has been drawn considered these criteria and concluded that the annexe the subject of that appeal would not meet the criteria for becoming an annexe. The scheme before me differs from that before my Inspector colleague in that the building in my case is within the curtilage of the main dwelling and shares an access with it and is subservient / subordinate to the main dwelling.
 15. Although the annexe currently no longer has the original functional link with the main dwelling, this could be the case again in the future. However, the building has not been designed in a manner to allow it to be used at a later date as an integral part of the main dwelling, being separated from it by approximately 10 m. Insofar as they are relevant to this appeal, therefore, the building would not meet all the criteria for becoming an annexe. Accordingly, I attach limited weight to the SPD's presumption against annexes becoming separate dwellings in this appeal.

16. As regards the character and appearance of the countryside, no external changes are proposed to the building and it is not proposed to extend the established garden area into the surrounding agricultural land. The existing garden area is hidden from Curling Tye Lane and the Council has not identified any public viewpoints from where it is visible. Even if there are such viewpoints, the proposals include the planting of hedges using indigenous species around the proposed garden area to serve the property which would provide screening.
17. The Council is concerned that the use of the building as a separate dwelling would result in an increase in domestic paraphernalia. However, the use of the building as an annexe could itself give rise to domestic paraphernalia such as garden furniture. I saw during my site visit that the property already has a television aerial. I am therefore not persuaded that the occupancy of the building as a separate dwelling would result in such a degree of additional domestic paraphernalia or other changes as to be significantly harmful to the character and appearance of the area.
18. I therefore find no conflict in this respect with Policies D1 or H4 of the LDP which both require, amongst other things, development proposals to have regard to local character. Furthermore, this limits the conflict with Policy S8 of the LDP as the intrinsic beauty and character of the countryside would be protected. These are matters to which I attach significant weight.
19. The proposed development would conflict with Policies S1, S8 and T2 of the LDP. However, that conflict would be limited for the reasons given above. Weighed against that conflict is the efficient use as a dwelling of an existing converted building that is no longer needed for its original purpose as ancillary accommodation, to which I attach significant weight. I consider this benefit sufficient to outweigh the limited conflict with these policies of the development plan. I note that the application is supported by Woodham Walter Parish Council and three local residents.
20. On balance therefore, given the particular circumstances of this appeal to which I have attached significant weight, I conclude that the site would be a suitable location for a dwelling having regard to the minimal additional vehicle movements and impact on the countryside.

Conditions

21. The Council has suggested a number of conditions, on which the appellant has had the chance to comment. I have considered these against the tests set out in the Framework. Planning permission is granted subject to the standard three-year time limit condition. It is also necessary in the interests of certainty that the development shall be carried out in accordance with the approved plans.
22. A condition to afford the Council control over boundary treatments is necessary to protect the character and appearance of the area, although I have amended the condition as suggested by the Council as the Framework advises that pre-commencement conditions should be avoided unless there is clear justification, which does not exist in this case.
23. Given the sensitive location of the building in the countryside and its proximity to the main dwelling, I consider that a condition restricting the future use of

permitted development rights meets the tests in the Framework. I have therefore attached the condition suggested by the Council.

Conclusion

24. In reaching my conclusion on the main issue I have had regard to the particular circumstances of this appeal, to which I have given significant weight. For the reasons given above therefore, the appeal is allowed, and planning permission is granted.

Martin Small

INSPECTOR