
Appeal Decision

Site visit made on 18 November 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 9 December 2019

Appeal Ref: APP/X1545/W/19/3232900

Sunnyside, Grange Avenue, Mayland, Chelmsford CM3 6BG

- 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 Johnson against the decision of Maldon District Council.
 - The application Ref FUL/MAL/18/01368, dated 13 November 2018, was refused by notice dated 4 February 2019.
 - The development proposed is the demolition of an existing barn and replacement with an annexe.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by both the appellant and the Council against each other. These applications are the subject of a separate Decisions.

Main Issue

3. The main issue in this appeal is the effects of the proposal in relation to its countryside location and on the character of the area.

Reasons

4. The existing building which would be replaced is described as a barn or former chicken shed, which has undergone some alterations in the past. Appeals relating to the barn and its adjacent land were determined in 2009, as well as others relating to commercial land nearby which is not related to the appeal now before me. The appeals which are relevant related to: i) the change of use of former agricultural land to part of the residential curtilage and retain the use of the barn as a residential annexe to Sunnyside (Ref: APP/X1545/A/09/2101807) and; ii) an enforcement notice requiring that the use of the former agricultural land adjacent to the barn for residential purposes should cease and (Ref: APP/X1545/C/09/2101810), and; iii) an enforcement notice requiring that the change of use of the barn to residential purposes should cease and that all domestic fixtures and fittings should be removed (Ref: APP/X1545/C/09/2101811). The first of these appeals was dismissed and the other appeals failed, the notices being upheld with some minor variations.

5. The barn is not occupied at present although there was a large number of domestic items stored within it. The land around it does not appear to be used for agricultural purposes and the appellant states this in their submissions. However, without any other planning history which has been determined by the council, which is relevant to these matters, the authorised use of the barn would therefore seem to be for agricultural use and the same applies to the area of land around it, although I do not seek to make a formal determination in this respect as this is not the purpose of this appeal under S78 of the Act.
6. The existing barn is set within an area where there are loose collections of buildings but in my view, it is the openness between the buildings that dominates and characterises the area. The appeal site is situated outside of any defined settlement boundary and so for planning policy purposes, is within the countryside. The existing design of the building has a distinctly rural character and appearance, in keeping with its surroundings, notwithstanding that some alterations have obviously been made to it.
7. Policy S8 of the Maldon Approved Local Development Plan (2017) (LDP) states that the countryside will be protected for its intrinsic character and beauty. It adds that outside the defined settlements planning permission will only be granted where the intrinsic character and beauty is not adversely impacted upon, and providing it is for one of a list of specified uses or types of development. The appellants indicate that the proposal would fall within criterion E) of Policy S8 which relates to the "...re-use of a redundant or disused building..." the proposal is clearly not for this type of development as it proposes demolition and the construction of a new building. The proposal does not fall within any of the categories of development listed in Policy S8 and so conflicts with it. Additionally, I consider that the greater height, mass of the roof and obvious domestic appearance would mean that the proposal would adversely affect the character of the countryside here. This raises further conflict with Policy S8.
8. Policy H4 of the LDP is entitled "*Effective use of land*" and has a broad scope. Within the supporting text, it is stated that proposals should utilise developable land in the most efficient and effective manner whilst having regard to the quality of the local environment. The Policy deals specifically with extensions to residential curtilages in the countryside, amongst other things, stating that they will not normally be permitted. It adds that small, unobtrusive extensions to residential curtilages, which will not adversely affect character and rural amenities may be approved where additional criteria relating to no loss of landscape, heritage or ecological features are involved and where suitable provision for landscaping and boundary features are provided. Taking account of the planning history of the site, I consider that the proposal would involve the extension of the domestic curtilage within the countryside. In my judgement, the area of land is not modest but is a significant area. The use of the land as domestic curtilage could well involve the provision of domestic paraphernalia which could further affect the character of the area. Therefore, I consider that the proposal does not represent a small and unobtrusive extension of residential curtilage and is contrary to Policy H4 in this respect.
9. In relation to the design of the proposal, the existing building still retains a degree of rural character due to its overall design, form and materials. I consider that this would be lost with the proposed building. Notwithstanding the proposed materials, it would have an obvious domestic appearance and

would appear as a separate dwelling, rather than a rural building within this countryside location. Whilst I do not seek to criticise the design of the proposal in itself, this has to be seen in the context of its countryside location, the character of the existing building and the overall domesticating effects that the proposal would bring to the area. Therefore, for this reason I find conflict with Policies S1 and D1 of the LDP. I agree with the Council that the size, form and distance of the proposal when compared to the existing dwelling at Sunnyside, would mean that the proposal would not be seen as an annexe to it, regardless of its intended use.

Other Matters

10. The appellants state that the proposal is intended for a family member who requires a degree of supervision but is intended to be given a degree of independence within the proposed annexe. I do not seek to challenge the evidence submitted in this respect and nothing that I say should be taken as there being an absence of sympathy. However, the appeal has to be dealt with primarily on its land use planning effects and personal circumstances will seldom outweigh planning considerations.
11. The appellant also indicates that the proposal represents sustainable development. Whilst I acknowledge that there would be some small contribution to supporting local construction jobs and the provision of a residential annexe could be seen as a social benefit, I consider that the significant environmental effects represented by the considerations set out above, mean that the proposal cannot be seen as sustainable.

Conclusions

12. I have taken account of all other matters raised in the representations but I find nothing of sufficient weight to lead me to a different conclusion. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR