

---

# Appeal Decision

Site visit made on 10 November 2020

**by R Bartlett PGDip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 November 2020**

---

**Appeal Ref: APP/M1520/D/20/3251477**

**215 Vicarage Hill, South Benfleet, SS7 1PF**

- 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 Potts against the decision of Castle Point Borough Council.
  - The application Ref 20/0079/FUL, dated 5 February 2020, was refused by notice dated 25 March 2020.
  - The development proposed is single storey extension on two elevations to an existing domestic outbuilding; conversion for use as a one bedroom residential annex to be used as a complimentary facility to the main house on the site.
- 

## Decision

1. The appeal is allowed and planning permission is granted for single storey extension on two elevations to an existing outbuilding; conversion for use as a one bedroom annex to be used as a complimentary facility to the main house on the site at 215 Vicarage Hill, South Benfleet, SS7 1PF in accordance with the terms of the application, Ref 20/0079/FUL, dated 5 February 2020, 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 following approved plans: Drawing No. 0001 Rev D.
  - 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 granny annex hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 215 Vicarage Hill and shall at no time be severed from the main house by reason of being sold or let as a separate unit of accommodation.

## Procedural Matters

2. The application was submitted and validated as a householder application and clearly seeks permission for a residential annex, within the residential curtilage of 215 Vicarage Hill, which is to be used by family members as ancillary accommodation to that dwelling. Furthermore, the council agreed to this appeal being dealt with under the Householder Appeals Service. Consequently, I have determined the appeal on this basis.

## **Main Issues**

3. The main issues are whether the proposal would i) be inappropriate development in the Green Belt and ii) provide acceptable living conditions for future occupiers with regard to internal living space.

## **Reasons**

### *Green Belt*

4. Paragraph 145 of the National Planning Policy Framework (the Framework) states that new buildings should be regarded as inappropriate development in the Green Belt. There are exceptions to this general restriction, which include amongst other things the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. Neither the Framework nor any development plan policies that I have been referred to define the term disproportionate.
5. In this case the parties are in general agreement that the proposed extensions would result in a size increase of approximately 40- 43% over and above that of the original building. It is also agreed that part of that increase would be a replacement of the existing lean to extension on the eastern side of the building. As this is not part of the original building it has not been taken into account in calculating the overall increase.
6. It is proposed to extend the building southwards by 1m, towards the main house. This would require the removal or relocation of a large timber shed, which is currently situated immediately to the south of the building.
7. The building would also be extended 1.5m eastwards towards the road, following the removal of the existing 1m wide lean to. There would be no increase in height. In total, the proposals would add approximately 18sqm to the size of the original building. Approximately 5.6sqm of that space is already occupied by the existing extension that would be removed.
8. As the extensions would be of a domestic scale and design they would not in my view be disproportionate in terms of size or appearance, to the original brick built garage and store. The extended building would remain much smaller than the host dwelling and would not be dissimilar to the scale of other domestic outbuildings in the immediate surrounding area.
9. I therefore conclude that the extensions would not result in disproportionate additions over and above the size of the original building and accordingly would not constitute inappropriate development in the Green Belt. Having reached this conclusion, it is neither necessary nor appropriate for me to go on to consider the effects on the openness of the Green Belt. The proposal would not conflict with the Framework in terms of protecting Green Belt land.

### *Internal Living Space*

10. The council consider the proposal to be tantamount to a new dwelling. In reaching this view reference is made to *Gravesham BC v SSE [1984]*. However, in more recent/relevant case law, *Uttlesford DC v SSE & White [1992]*, the judge considered that the conversion of a garage to a granny annex had not resulted in a change of use, stating that even if the accommodation provided facilities for independent day-to-day living, it would

not necessarily become a separate planning unit from the main dwelling. Instead it would be a matter of fact and degree. In that case the accommodation gave the occupant the facilities of a self-contained unit although it was intended to function as an annex with the occupant sharing her living activity in company with the family in the main dwelling. There was no reason in law why such accommodation should consequently become a separate planning unit from the main dwelling.

11. Reference has also been made to *Carter v South Bucks DC [2011] P.A.D. 55*. However, in that case a garage had been converted into a 3 bedroomed property with a substantial conservatory extension. It had its own garden separated from the main dwelling by fencing, trees and shrubs with no footpath linking the two buildings. Whilst family meals were taken together that was in the substantial garage conversion rather than in the host dwelling. As a matter of fact and degree in that case it was found that a new planning unit had been created.
12. My attention has also been drawn by the council to a recent appeal within the borough for an annex which was dismissed. I am not aware of the specific details and circumstances of that case. However, I note from paragraph 2.11 of the appellants statement that the appeal referred to was refused on the grounds of its harm to the character and appearance of the area. As such the issues in that appeal are not comparable to the case currently before me.
13. The purpose of the proposal before me is to provide additional family living space to enable the appellants son to continue living at home, along with his partner and their baby, whilst saving up to get on the housing ladder. The situation is not dissimilar to granny annexes, in that grown up children, like elderly relatives, occasionally need to live with family for a variety of reasons. At the same time all parties, being adults, quite reasonably desire a degree of privacy and independence. This type of development is neither new nor uncommon.
14. Email correspondence between the council and the appellants agent, dated 25 February 2020, confirms that the annex would be occupied by family members, who would continue to frequently use the main dwelling for meals and socialising. The annex would not have a separate address, post box, utility metres, services, access, garden or parking. Whilst I note that there is access and parking both to the front and rear of the site these are existing and I see no reason why both would not continue to be used by the whole of the family and their visitors.
15. Whilst the extension and conversion of the outbuilding would provide all the facilities for day-to-day living, it would function as an annexe with the primary occupants also sharing living space, eating and socialising with the rest of their family in the main dwelling. There is a paved footpath between the annex and the main house allowing easy access between the two. As such, the garage conversion would remain part of the same planning unit as the main dwelling.
16. Based upon the evidence before me I am satisfied that the proposal relates to an annex. Moreover, a condition could be imposed to ensure certainty as to what has been approved and to prevent the sub-division of the planning unit in the future. If the building is not used as proposed, or if there is a material change of use to create a separate dwelling, then a separate grant of

permission would be required. Any unauthorised use of the building would be at risk of enforcement action.

17. In treating the proposal as a new dwelling the council reached the view that it would fail to provide sufficient useable internal floor space to meet the needs of the number of intended future occupiers. I agree that had the proposal before me been for a standalone new dwelling, it would have provided insufficient space for a couple with a baby. However, this is not the case and the annex would instead provide additional space to be used ancillary to an existing dwelling.
18. I therefore conclude that as the proposal relates to an annex and not a new dwelling, it would provide the additional space required in order to support the appellants growing family. Accordingly, I find no conflict with Policy EC2 of the Castle Point Borough Local Plan (1998), which seeks to ensure, amongst other things, that extensions and alterations to existing buildings meet a high standard of design. As the proposal does not relate to a new dwelling the DCLG Technical housing standards and RDG16 of the Castle Point Residential Design Guidance Supplementary Planning Document do not apply.

### **Conditions**

19. As well as the standard time limit condition, I have imposed a condition to ensure that the extensions are constructed in materials to match the existing building in the interests of visual amenity. In the interests of certainty, I have imposed conditions to ensure that the development is carried out in accordance with the approved plans and to ensure that the granny annex remains ancillary to the main dwelling.
20. The council's report suggests that a condition restricting the building to ancillary use would be unlikely to meet the tests for planning conditions and would be difficult to enforce given the separation distance between the dwelling and the annex. The annex would be approximately 37m from the main house and would be linked by an existing garden footpath. I do not find this usual, particularly where an annex is created by using an existing outbuilding. This type of model condition is quite frequently used and successfully enforced.
21. Although the council has not suggested that a new dwelling would be inappropriate in this location, I agree that the proposal, as a new dwelling, would not provide a sufficient level of internal floor space for a couple with a baby. Whilst I acknowledge that it is not uncommon for young babies to share a room with their parents, they still require space. The lack of internal floor space for a dwelling that would not be linked to 215 Vicarage Hill, together with the fact that the appeal has been submitted and determined as an ancillary annex, provides the reasonable and necessary justification for a condition to control the use.

### **Conclusion**

22. For the reasons given above and having regard to all issues raised, the appeal is allowed.

*Rachael Bartlett*

INSPECTOR