The Planning Inspectorate

Appeal Decision

Site visit made on 27 January 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

Appeal Ref: APP/W1525/W/20/3258929
Little Totham Hall, Church Lane, Little Totham, Maldon, CM9 8LU

- 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 Ashcroft against the decision of Maldon District Council.
- The application Ref FUL/MAL/20/00186, dated 21 January 2020, was refused by notice dated 1 May 2020.
- The development proposed is demolition and rebuild outbuilding for use as an annexe.

Decision

1. The appeal is allowed and planning permission is granted for demolition and rebuild outbuilding for use as an annexe at Little Totham Hall in accordance with the terms of the application, ref FUL/MAL/20/00186, dated 21 January 2020, subject to the conditions set out in the schedule annexed to this decision.

Preliminary matters

2. I am informed that, concurrent with submitting this appeal, the appellant re-submitted the application to the council. This application was reported to the council's planning committee, with the result that planning permission was granted, subject to conditions. This might have been the point at which this appeal was withdrawn, but conditions 6 and 7 on the new planning permission are regarded as unacceptable by the applicants (in that case) appellants (in this appeal). As a consequence I am asked to decide this appeal on the basis that the panning committee gave permission, but with the omission of the conditions that are contested.

3. Since the appeal is still before me, I am required to come to a decision on it. In doing so I will bear in mind the committee's decision. I will deal with the substantive issues raised in the appeal, including the representations as to the conditions that should be imposed on any planning permission.

Main Issues

4. The main issues in this case are the relationship and dependency of the proposed annexe to Little Totham Hall, and the effect on the character and appearance of the site and of the rural character of the countryside.

Reasons

5. Little Totham Hall is a grade II listed building; it is situated next to the medieval parish church of All Saints, which is grade I listed. Little Totham Hall is essentially a farmhouse set in close proximity to a number of agricultural buildings and farmland. The building subject of the appeal proposal is a Victorian agricultural outbuilding running along the south-eastern boundary to the garden of the Hall. The council's conservation adviser considers that it falls outside the listed building's curtilage, and therefor listed building consent is not required.

6. The application site is located to the north of Church Lane, in a rural location outside any defined settlement boundary. It includes an access track from Church Road, the two storey listed building 'Little Totham Hall' and an outbuilding, subject of this application, which is currently used for agricultural purposes. The applicant's ownership includes undeveloped farm land within the surrounding area, including the land immediately adjacent to the long access track which is occupied by several large agricultural buildings and agricultural equipment.

7. The appellant seeks the permission for the appeal development on the basis that Mr Ashcroft's parents, Mr & Mrs Ashcroft senior, are no longer capable of living completely separate and independent lives. They previously ran the farm before they relocated to the dwelling known as Crofters, situated adjacent to All Saints Church. They now require assistance in managing their daily routine, although not to the extent where constant care and attention is required. They also wish to maintain a degree of independence but have the ability to rely on their son and daughter in law's support and assistance when necessary. An arrangement whereby they can live within touching distance has now become essential.

8. The council relies upon policies S1, S8, D1 and H4 of the Local Development Plan 2014-2029, dated July 2017, and the Council's Specialist Needs Housing Supplementary Planning Document (SPD).

The relationship and dependency of the proposed annexe to Little Totham Hall

9. The council considers that the proposed detached annexe does not form ancillary accommodation, because of the scale of the building, distance from the main dwelling and level of accommodation, which it is considered to result in a self-contained unit of accommodation without a degree of dependency on the main dwelling.

10. In considering this issue, it is the criteria in the Specialist Needs SPD of September 2018 that I find is the most specific in making a judgement on the appeal proposal. These are:
    1. Be subservient / subordinate to the main dwelling;
    2. Have a functional link with the main dwelling (i.e. the occupants dependant relative(s) or be employed at the main dwelling);
    3. Be in the same ownership as the main dwelling;
    4. Be within the curtilage of the main dwelling and share its vehicular access;
    5. Be designed in such a manner to enable the annex to be used at a later date as an integral part of the main dwelling;
    6. Have no separate boundary or sub division of garden areas between the annex and main dwelling; and

7. Have adequate parking and amenity facilities to meet the needs of those living in the annex and main dwelling.

11. I have the following observations on the above criteria:
1. The appeal building, at 27m across the garden, is sufficiently close to and would be clearly subservient/subordinate to Little Totham Hall.
2. It would have the functional link as given in the examples.
3. It is in the ownership of the main dwelling.
4. The council's conservation adviser considers that it falls outside the listed building's curtilage – I agree because it is an agricultural building, not part of the domestic garden land of the Hall – but it adjoins the curtilage and shares the vehicular access.
5. The manner of its design allows for its subsequent use as an integral part of the main dwelling.
6. and 7. are both met – there is no separate boundary or sub division of garden areas, and adequate parking and amenity facilities exist.

12. In addition, the surroundings and circumstances of the propose annexe and the Hall militate against the separation of ownership of the two. I therefore regard the proposed annex as having an acceptable relationship and dependency to Little Totham Hall.

The effect on the character and appearance of the site and of the rural character of the countryside

13. In relation to this issue, the council's case is that the inherent domestication and intrusion and intensification (of an unjustified residential unit) at the site, is considered to harm the character and appearance of the site and result in the erosion of the rural character of the countryside. It must be taken that the reference here to 'the site' is a reference to the grade II listed building.

14. Little Totham Hall is a grade II listed building[1], first designated in August 1985. Its significance as a listed building can be said to derive mainly from its ancient origins, the fact that it is a good example of a multi-phased manor house, the architectural quality of its materials and detailing, and its picturesque vernacular character arising from the organic manner it has evolved over the centuries. Its close proximity to the medieval parish church is typical of early manorial complexes. The isolated and tranquil rural setting of the house makes an important contribution to the building's significance and the way that significance is appreciated.

15. The appeal building is a single-storey brick shed. It has a pan-tiled roof and was open-fronted along at least part of its eastern elevation, and was most likely built as a cowshed. The style of the building would be consistent with a date around the 1860s, reflecting the shift towards cattle farming in this period. The brickwork on the back (west) elevation is articulated into rectangular panels by a stepped plinth, cornice and pilasters, providing a little architectural relief to the elevation facing the farmhouse. Above the later opening in the south gable, burntblack bricks have been used for banding and a lozenge motif in the apex of the gable. In the north gable there is an original doorway providing direct access from the garden to Little Totham Hall. The brickwork on the south gable is laid in English bond (alternating courses of

[1] These paragraphs – 14 to 16 – borrow from the report made by the council's conservation adviser, Tim Howson: I adopt them as being an accurate description and a fine analysis of the relationship of the appeal building with the listed building.

headers and stretchers) whereas the other walls are laid in Monk bond (pairs of stretchers and single headers).

16. The outbuilding is an attractive feature in the setting of Little Totham Hall. The aged and warm, mellow brick walls and clay-tiled roof, along with the low brick boundary wall which flanks the entrance to the garden, frame views of Little Totham Hall from the south. The building also reflects the agricultural history of the site. The building is, however in a poor condition, with a hole developing toward the southern end of the roof and other structural problems. The modern barn built up against its east elevation has caused some of these problems, and obscures the fact it was an open-sided shed. Overall, its architectural interest is limited by its poor condition and by the fact that it is a commonplace Victorian farm building; it would fail to meet the selection criteria for inclusion in a parish list. For these reasons the building does not qualify as a non-designated heritage asset for the purposes of National Planning Policy Framework (the Framework) paragraph 197.

17. From a building-conservation perspective, assessment of the proposal's likely impact on the significance of Little Totham Hall (Framework paragraphs 190-202), the retention and reuse of the existing historic farm building would be preferable. However, very limited harm would arise from its rebuilding since the replacement building would reflect the design of the existing and would reuse much of the materials. Thus it would be unreasonable to require its retention, bearing in mind the building's limited significance, poor condition and the fact that the proposed replacement building would reflect the form, materials and detailing of the existing. I note that the Design and Access Statement (paragraph 5.5) indicates that the existing bricks and roof tiles would be salvaged and reused in the replacement building. The new building would incorporate more openings, but these would be sympathetic to the style of the building. The multi-paned windows would reflect the style of the existing windows on the west elevation. The management of the quality of the materials and detailing could be achieved through conditions attached to a planning permission.

18. The impact of the proposals amounts to less than substantial harm to the heritage asset (Little Totham Hall), which must be weighed against its public benefits. Framework paragraph 194 states that any harm should require clear and convincing justification: in this case I am satisfied that the limited harm is justified by the clearly explained need for a residential annexe by the previous farming generation.

19. The above considerations relate to the effect on the character and appearance of the site – that is the listed Little Totham Hall. I now turn to the effect on the rural character of the countryside. Here I can be brief. There would be no additional building arising from the appeal proposal. The appeal proposal would have only a minor effect on the appearance of its immediate surroundings, and would have almost no additional impact on the character and appearance of the countryside.

Conclusions

20. I reach the following conclusions, on the basis of the reasoning set out above. The proposed annex would have an acceptable relationship and dependency to Little Totham Hall. Less than substantial harm would occur to the significance of the listed building that must be weighed against the public benefits of the

proposal, which in this case arise from the needs of the previous generation of the farming family. No material impact on the character and appearance of the countryside would result from the proposed development. I will therefore allow the appeal.

Conditions

21. The council has suggested a number of conditions that it would wish to see imposed on any planning permission for the appeal development, in addition to the standard time limit for commencement. I am imposing most of these, amending the wording where necessary to accord with good practice and national guidance, for the following reasons: condition 2, is for clarity and the avoidance of doubt; conditions 3, 4 and 5 are to ensure the windows and doors and external materials to be used in construction of the replacement building compliment the listed building and are of an appropriate quality in relation to the listed building, as I have explained in paragraph 17 above; and condition 6 is to ensure the use of the annexe remains ancillary to the main dwelling at the site, in accordance with the submitted proposals.

22. In addition, the council suggest 2 further conditions, which the appellants object to. The first of these is:

No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
1) *The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.*
2) *Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/ls and no lower than 1 /Is. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1 l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield).*
You are advised that in order to satisfy the soakaway condition the following details will be required:- details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

23. The reason the council seeks this condition is to ensure that appropriate drainage is provided at the site, in accordance with policy D5 of the Maldon District Local Development Plan.

24. The appellants' objection is that the condition is excessive in its requirements and unnecessary. The proposed building is identical in footprint to the existing structure. There will therefore be no increase in surface water run-off than the existing situation. Moreover, the existing drainage is currently piped to the nearby brook, on land within the appellants ownership. This arrangement is to

be retained. Advice of a drainage consultant indicates that the cost of a report as required by the council would be at least £2,000 + VAT, and in addition it would be necessary to commission a full topographical survey costing £1000 + VAT. Such costs are clearly unreasonable in relation to the proposal.

25. My conclusion on this is that, having looked carefully during my site visit at the relationship of the appeal building and the stream to which the surface water drains, I am satisfied that the existing arrangements will be entirely satisfactory for a development that effectively duplicates the present situation in terms of surface water drainage. I have decided that this condition is not necessary (in view of the existing arrangements), and therefore I will not impose it.

26. The text of the second condition to which there is objection is:

No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.

27. The reason the council seeks this condition is to ensure the protection, retention and replacement of trees and vegetation in the interest of the character and appearance of the area in accordance with policy D1 of the Local Development Plan.

28. The appellants' objection to this condition is that the application documents made it clear that a package treatment plant is proposed. The existing Hall is served by a cesspit, and this would be replaced with a new dual Klargester treatment plant for which planning permission is not required. The technical details of this plant are the subject of an approval under the Building Regulations. The purpose of condition 7 appears to be unnecessary given the information previously supplied and the fact that the technical details are subject of separate legislation.

29. Looking at the council's reason for this condition, it is clear that it is the drainage run, rather than the nature of the treatment plant itself, that is of concern. This is because the laying of foul drainage pipes (which are not present in respect of the appeal building as I understand), could have undesirable effects on trees and other vegetation. This is a reasonable concern in view of the siting of trees as shown on plan No. 1256/02a and the possible foul drainage runs from the various appliances, hand basins, etc, shown on the floor plans. For this reason, I will impose the condition. I do not consider that it is unduly onerous in what it should require in terms of a 'scheme' to satisfy the council's requirements.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development shall be carried out in accordance with the following approved plans and documents: Location Plan, 1256/01, 1256/02B, 1256/03B and 1256/04B.

3) The replacement building shall be constructed (or clad with) bricks and roof tiles carefully salvaged from the existing building, with any shortfall being made up of materials which match the existing closely. Bricks shall be laid in English bond on the southern elevation and Monk bond on the north and west elevation, to match the existing.

4) All external joinery shall be of hand-painted timber only.

5) Large scale drawings of the external windows and doors - illustrating elevations at 1:20 and sections through head cills and glazing bars at 1:2 - shall be submitted for approval prior to their installation.

6) The annexe accommodation hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Little Totham Hall.

7) No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.