



Appeal Decision

Site visit made on 13 July 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/X1545/W/20/3257542

Grove Manor, Herbage Park Road, Woodham Walter, CM9 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 Steven Lewis against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/20/00131 dated 6 February 2020, was refused by notice dated 16 April 2020.
 - The development proposed is conversion and extension of existing detached outbuilding into annexe.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the existing detached outbuilding into an annexe at Grove Manor, Herbage Park Road, Woodham Walter, CM9 6RJ in accordance with the terms of the application, Ref FUL/MAL/20/00131, dated 6 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 and documents: A19609-PL00, A19609-PL01, A19609-PL03, A19609-PL06
 - 3) The materials used in the construction of the proposed development hereby permitted shall be as set out within the application form/plans hereby approved.
 - 4) The resultant annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Grove Manor, nor shall it be used as a separate unit of residential accommodation.

Preliminary matters

2. The application form showed the proposed development as "conversion and extension of existing outbuilding into annexe which will be incidental to the use of the main house. 3 bay cart lodge building". After the initial assessment of the application the council changed the description to 'conversion and extension of existing detached outbuilding into annexe and construction of 3 bay cart lodge building'. This was without consultation, but was used by the appellant on the appeal form. The council's description of the proposed development better describes what is proposed.

3. The appellant has requested that the cart lodge be removed from the appeal proposal. I understand that this element of the appeal application was the subject of a separate planning application and has subsequently been permitted. I cannot see that any party would be prejudiced by the removal of this element of the scheme from the appeal, and therefore I will amend the description of the development by removing 'construction of 3 bay cart lodge building'.

Main Issues

4. The main issues in this case are: i) the relationship of the proposed annexe to the existing dwelling; and ii) the effect of the proposal on the character and appearance of the rural area and the intrinsic beauty of the countryside.

Reasons

5. Grove Manor is a large 2-storey country house, set in substantial land within the appellant's ownership. The immediate curtilage of the house consists of well established gardens. Within the garden area is the existing single storey outbuilding the subject of the appeal.
6. Grove Manor is located on the eastern side of Herbage Park Road, beyond any settlement boundary. Herbage Park Road in this vicinity is lined with trees that are particularly dense on the western side of the road, effectively hiding from view a large development of holiday lodges at Warren Lodges. The frontage to Gove Manor is also lined with substantial tree and shrub planting, such that the outbuilding is effectively screened from the road, and the house itself is mainly seen through the more sparsely planted entrance area. There is another substantial residence to the south, immediately beyond the appeal site boundary. Otherwise, the surroundings are of agricultural land, although some 230m to the north of Grove Manor there is a triangular area of housing and a church at the junction of Herbage Park Road with Oak Farm Road (Church Corner), which is the first indication of the village of Woodham Walter.

The relationship of the proposed annexe to the existing dwelling

7. The appeal site, beyond a settlement boundary, is in a location where policy S8 of Maldon District Local Development Plan of July 2017 (LDP) resists residential development. Nevertheless, the council accepts the principle of providing facilities in association with existing residential accommodation, such as an annexe, in line with policies S1 and H4 of the LDP. The essential question, therefore, in relation to the first issue, is whether the appeal proposal would be an annexe ancillary to Grove Manor, or a new and separate dwelling.
8. In this regard, the council's case is that the proposed level of facilities are very generous in nature and go well beyond the minimum requirement for day-to-day living or the need for an ancillary form of development; this includes the provision of two bedrooms, an en-suite, a lounge, a kitchen/diner, a utility room and a bathroom. Furthermore, there is also the potential to provide a relatively small, for the size of the plot, private amenity space that would be policy compliant without any real demonstrable impact on the main dwelling's occupiers or residential amenity space. The proposed annexe would also be set some 40m from the main dwelling; this degree of separation results in the outbuilding being isolated and detached from the host dwelling, whereby the plot could easily be sub-divided in the future. For these reasons the council

considers that the proposed development cannot be regarded as of a scale that is ancillary to Grove Manor.

9. Taking these matters in turn, I consider that the size and nature of the proposed facilities must be judged against the nature of the host dwelling, and the needs that the annexe is intended to fulfil. The appellant states that the accommodation is intended for his elderly parents for their better care and reduction of the need to potentially place them in a care home in the future, whilst allowing close proximity and reduced isolation for them and the ability for a watchful eye to be kept. The plans indicate that the main bedroom and its en-suite bathroom are sized for wheelchair access. There is not a second bathroom, as suggested by the council, but a separate shower room. None of the accommodation appears to me to be over generous, although there is proposed to be all the facilities necessary for independent living. It also does not seem right to me to think in terms of resisting anything above the minimum amount of accommodation when considering an annexe for elderly people. Of course, in saying that, I recognise that the council is rightfully wary of a separate dwelling in the guise of an annexe.
10. In terms of the distance from the host dwelling to the annexe, the outbuilding is being criticised for being 'isolated and detached'. The outbuilding is where it is, but in any event 40m is near enough for a close eye to be kept on the occupants. It is also a distance that would make it easy to create a separate curtilage, but since the annexe is proposed to share the entrance and drive to the host dwelling, this seems an unlikely choice to make. Furthermore, as the council states, a condition could be imposed preventing the separation, whilst the appellant has also provided a unilateral undertaking under s106 of the Town and Country Planning Act 1990 to ensure the perpetual link with the house.
11. The Specialist Needs Housing Supplementary Planning Document (SPD) contains a section dealing with annexes. This sets out more detail than policy H4 of the LDP, particularly paragraph 6.4 (also referred to at paragraph 5.1.4 of the officer's report). This has 7 bullet points; without setting them out in full, I simply comment:
 - The annexe would be subservient/subordinate due to scale and tied (by condition/deed) to the main dwelling;
 - The function link is dependant relative;
 - It is in the same ownership;
 - It is within the curtilage and shares the vehicular access
 - Designed to be later used as an integral part of the main dwelling - see further comment below;
 - There is no separate boundary/sub-division;
 - Those living in the annexe and the host dwelling would have adequate parking and amenity facilities.
12. It is the fifth bullet that cannot be answered straightforwardly, and I am not clear as to how it should be interpreted. Clearly the annexe will exist when it is no longer needed by the currently intended occupiers. I do not consider that this means that it must be integral to the main house in the sense that it is attached and occupants can expand into the annexe without leaving the building – if this were the intension, some other bullet points would be unnecessary, and there would surely be a statement in those terms.

13. I therefore consider that it is likely to mean that direct members of the household of the main dwelling should be able (my emphasis) to utilise the accommodation; in other words, the opposite is not the case; that for some reason household members would be unable to utilise it. In this case I can see that it would be possible for household members to utilise it; it could be used in other ways incidental to the main house, such as an art studio or for other hobbies, and I also note that the second bullet point of the paragraph includes employees of the main household as being suitable occupants.
14. An annexe for dependant relatives will always, at some point, cease to be needed for the original occupants, and at that time it may well be the case that the extent of the accommodation is not immediately needed, whether it is attached or detached from the host dwelling. However, subject to a deed of undertaking or a condition, I conclude that the annexe would not be a separate dwelling.
15. I have taken account of all other matters raised, including the point made by an interested person in respect of National Planning Policy Framework paragraph 79 and the matter of an isolated home in the countryside. This does not apply in this case because it is an annexe to an existing dwelling that is proposed.

The effect of the proposal on the character and appearance of the rural area and the intrinsic beauty of the countryside

16. In paragraphs 5 and 6 above I have described Grove Manor, the situation of the outbuilding, and the general location within which the appeal site sits. I have described the amount of screening on the roadside boundary, which means that the outbuilding is effectively screened. The extent to which the proposal extends the outbuilding does not alter this screening or make the proposed annexe any more apparent in the countryside. Furthermore, apart from this part of the curtilage having a considerable amount of tree and shrub planting, the outbuilding is situated on the boundary of the property, close to the buildings in the curtilage of the neighbouring dwelling. The immediately adjacent part of the neighbour's curtilage also has substantial screening, so that there is no view of the outbuilding in the approach along Herbage Park Road from the south.
17. For these reasons I do not consider that the proposed annexe would have any material effect on the character and appearance of the rural area and the intrinsic beauty of the countryside.
18. As I have noted above, the cart lodge part of the proposal has been withdrawn and subsequently planning permission has been given for it on the basis of a fresh application. The council makes the point that, whether or not it had remained part of the appeal application, the proposed annexe together with the cart lodge would still result in urban sprawl in the countryside. As the officer's report that deals with the separate cart lodge application notes, "any fleeting views are somewhat mitigated by the existing hedgerows and trees at the site". My assessment is that the cart lodge and the annexe would be unlikely to be in view together from any point in the public domain, even in winter. I therefore do not regard the existence of the cart lodge as of any real significance in this appeal, and it does not affect my conclusion expressed in paragraph 17 above.

Conclusion

19. For the reasons given above I am satisfied that the proposed annexe can be controlled so as to bind it to the host dwelling, and that in other regards it meets the requirements of policy H4 and the SPD. I have also found that it would not have any material effect on the character and appearance of the rural area and the intrinsic beauty of the countryside. Therefore I will allow the appeal.

Conditions

20. The council has suggested a number of conditions that it considers should be imposed on any planning permission. I have considered these in the light of Planning Practice Guidance (PPG). The council noted in its statement that a S106 agreement has been provided by the appellant to ensure that the proposed development would remain ancillary to the host dwelling, but should the appeal be allowed, it considers that this could be secured via the imposition of a condition, and the S106 is not required. Since the council has the responsibility for monitoring an undertaking or condition and taking any enforcement action that may in future be required, I will accede to its request and impose the suggested condition.
21. I consider that it is necessary to impose the condition just referred to in order to ensure that the annexe remains ancillary accommodation to Grove Manor. It is also necessary to impose a condition listing the approved plans for clarity and for certainty as to the development that is being permitted. A condition is necessary regarding the materials to be used in the development to ensure that the appearance of the annexe maintains the character and appearance of the host dwelling, so that it fits satisfactorily into the surroundings.

Terrence Kemmann-Lane

INSPECTOR