



Appeal Decision

Site visit made on 17 September 2021

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing

Decision date: 12 October 2021

Appeal Ref: APP/J1915/D/21/3275283

Benington Old House, 105 Town Lane, Benington SG2 7BT

- 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 R Thacker against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0374/HH, dated 13 February 2021, was refused by notice dated 19 April 2021.
 - The development proposed is the erection of an outbuilding comprising garage, workshop and residential annex for an elderly relative.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal the appellant provided a revised ground floor layout drawing. This revision to the internal layout has been considered as part of this appeal but it does not alter the main issue which has been identified.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the character and appearance of the host dwelling.

Reasons

4. The proposed development includes the erection of an outbuilding within the extensive curtilage of Benington Old House which is a Listed Building. Within the curtilage there is an existing large garage which is sited away from the Listed Building and is constructed of a brick/timber clad walls and a tiled roof. This garage is of a simple form and design.
5. The proposed development includes the erection of an outbuilding which would include residential accommodation at first floor level. Reference has been made by the appellant to *Emin v Secretary of State for the Environment and Mid Sussex DC* [1989] but this was concerned with whether the use of a building erected within the curtilage of a dwelling under permitted development rights was incidental to the enjoyment of the dwelling house. In this case, the proposed outbuilding requires planning permission and, as such, the appeal scheme has to be determined in accordance with the relevant development plan policies unless there are other material considerations.

6. Reflecting Policy HOU13 of the East Herts District Plan (DP) the appeal scheme would be, in part, a separate residential annex which would be sited close to the host dwelling. There would be some functional links because the proposed residential accommodation would be occupied by a family member who would be dependent upon the main house for some facilities, including meals.
7. As a residential annex the appellant has not fully explained why the overall scale of the proposed outbuilding represents the minimum level of accommodation required to support the needs of the future occupant. The personal circumstance of the future occupier of the first floor residential accommodation have been provided but it is unclear why this occupant would require the proposed garages and workshop at ground floor level. Accordingly, the Council's concern that there is a conflict with the size requirements identified in DP Policy HOU13 for residential annexes is a legitimate concern.
8. However, when assessed as a residential outbuilding, because of the size of Benington Old House and its curtilage, the scale of the appeal scheme would not dominate the host dwelling, even when taken together with the existing garage. Accordingly, the proposed development would be subservient in size to the host dwelling and, as such, it would satisfy the size and scale requirements for outbuildings as identified in DP Policy HOU11.
9. There is a statutory requirement that special regard is had to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest. This requirement is echoed in DP Policy HA1. The host dwelling is a 15th or 16th century timber framed house on a brick plinth with rendered walls and a pitched red tiled roof. The Listed Building is of a simple form and design and does not have dormer windows within the roof.
10. Although of a similar form to the host property, because of its design the proposed outbuilding would not fully respect nor reflect the simplicity of the character and appearance of the Listed Building. The proposed dormer windows at eaves level and the extensive use of timber boarding for the walls are not a characteristic of the host dwelling. By reason of its siting close to the host dwelling, the design and materials of the appeal scheme would not preserve the setting of the Listed Building but less than substantial harm would be caused to the significance of this designated heritage asset.
11. The National Planning Policy Framework refers to where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Although the appellant has identified that the outbuilding is being proposed to meet a specific personal circumstance associated with an elderly relative, no material public benefits have been identified which are sufficient to outweigh the less than substantial harm caused by the design and materials of the appeal scheme to the significance of this Listed Building. Further, because the outbuilding would be a new building it would not directly secure the optimum viable use of the designated heritage asset itself.
12. For the reasons given, there would be a conflict with the heritage requirements of DP Policy HA1, the high standard of design required by DP Policy DES4 and the specific requirements in DP Policy HOU11 for the design of residential outbuildings being appropriate to the character, appearance and setting of the host dwelling.

13. The unacceptable harm and conflict with the heritage and design policies which have been identified significantly and demonstrably outweighs the proposed development satisfying the scale and siting requirements for residential outbuildings. Accordingly, it is concluded that this appeal should be dismissed because the proposed development would cause unacceptable harm to the character and appearance of the host dwelling and, as such, it would conflict with DP Policies HA1, DES4 and HOU11.

D J Barnes

INSPECTOR