

Appeal Decision

Site visit made on 31 May 2022

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2022

Appeal Ref. APP/X1545/D/21/3289927

2 Mount Villas, 38 Kelvedon Road, Wickham Bishops, Witham CM8 3LZ

- 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 Peter Sims against the decision of Maldon District Council.
 - The application ref. FUL/MAL/21/01016, dated 14 September 2021, was refused by notice dated 24 December 2021.
 - The development proposed is described on the application form as "*demolition of Existing outbuildings, currently used for garden office and storage, and replaced with granny annexe for dependant*".
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Decision

1. The appeal is dismissed.

Main issue

2. I consider the main issue to be whether the proposed development would represent an appropriate change to the local residential environment, taking into account the principle of the intended occupation as a residential annexe and its effects upon the amenity of neighbouring occupiers with regard to the potential for overlooking and loss of privacy and upon highway safety.

Reasons

3. The appeal site is within a residential area close to the junction between Kelvedon Road, Tiptree Road and Beacon Hill. It contains a semi-detached, 2-storey house. The appellant wishes to construct a single-storey residential annexe at the end of the back garden, where the land is somewhat elevated above the ground level next to the house, in place of a notably smaller existing timber and felt outbuilding which is mainly used for the storage of household items. The annexe building would have a living room/kitchen, 2 double bedrooms and a bathroom. It would reach a stated 51 sq. m in floor space.
 4. The annexe would provide all the facilities required for independent day-to-day living. As a matter of fact and degree, in terms of the accommodation that is being proposed, this 2-bedroom (4-bed spaces) unit would not be obviously subservient or subordinate to the existing dwelling. It has not been made clear, either in the application or in the appeal, exactly who the intended occupiers would be or their relationship to the residents of the main house. The reference
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in the appeal to initial occupation by "*a dependant and part time carer*" is too vague. There is no firm indication that it would involve occupation by a close family member who is likely to share various living activities with the family in the main dwelling. The functional link with the main dwelling is therefore weak on the basis of the material provided. Similarly, it is unclear as to whether the main dwelling and the annexe would be in the same ownership. Given the size of the proposed building and its physical separation from the main house, the development would not be designed in such a manner so as to enable it to be used at a later date as an integral part of the main dwelling. As I return to later, there would not be adequate parking facilities to meet the needs of those living in the annexe and the main dwelling.

5. For these reasons, I consider that the Council's doubts about the principle of the intended occupation as a residential annexe are justified and that the scheme would not comply with the guidance on annexes in the Council's Specialist Needs Housing Supplementary Planning Document. On the basis of the information put before me and notwithstanding the description of the proposal, I am not satisfied that the proposed building could be classed as providing ancillary accommodation to the main dwelling. This leaves open the prospect that the effect of a planning permission could be to create a separate dwelling. Consequently, restricting the building's use by condition so that it would remain ancillary to the residential use of the main property, as suggested by the Parish Council at the application stage and by the District Council in its questionnaire, would not be reasonable.
6. Concerns about a loss of privacy through overlooking were lodged by the neighbours at 3 Mount Villas, 36 Kelvedon Road. It is not made exactly clear in the officer's report or the decision notice but the Council appears to be concerned about overlooking of both nos 36 and 40. The appellant says that following a discussion with the neighbours at no. 36, they are happy, once planning permission is granted, for the appellant to work with them to address any overlooking issues. However, this is not substantiated in any accompanying correspondence from those neighbours and the appellant has not offered any specific proposals that might address the expressed overlooking concerns.
7. The proposed building would be used for residential purposes rather than storage, contain a main elevation with a very wide opening to the living room/kitchen significantly closer to the opposing rear elevations of nos 36-40 than the existing outbuilding and stand on elevated land. With only low fencing along parts of the common boundary and no significant intervening vegetation, there would be an unacceptable degree of overlooking towards the rear-facing windows (including a large, ground floor, glazed door to a habitable room) and back garden of no. 36. This material planning consideration cannot be left to be informally addressed after planning permission is granted. As things stand, the proposed development would therefore harm the amenities of the occupiers of the neighbouring dwelling at 3 Mount Villas, 36 Kelvedon Road through overlooking and loss of privacy.
8. I am less concerned about the potential impacts on no. 40 on account of the substantial amount of mature vegetation growing on or next to the common boundary, most of which appears to be growing from within the grounds of no. 40 itself. There is no basis to assume that this vegetation, which provides

excellent screening, would be removed or die for any reason or not be supplemented by new vegetation over time.

9. The Council said the scheme would not comply with its relevant adopted vehicle parking standards. A total of 3 parking spaces would be required at the property. At my site visit, I saw that the appeal property's forecourt accommodates 2 car parking spaces, including one parallel to the front of the house and one to the side, with a limited but useful degree of manoeuvring space remaining available. This concurs with the Council's findings. The appellant explains that as the frontage has a depth of 5.21 m and a width of 9.75 m, it could accommodate 4 or even 5 vehicles. No detailed plans were submitted to show a parking layout. The paved hard surface is only approximately 3.85 m deep in the vicinity of the front step to the entrance door. Having 3 or 4 cars parked on the frontage would result in little or no manoeuvring space and an increase in hazardous reversing movements at a point where visibility of oncoming traffic joining this section of Kelvedon Road from Beacon Hill is severely restricted by the bend around the junction and by vegetation growing inside the front garden of no. 40. Further on-street parking would be less than ideal here and would also be to the detriment of pedestrian and highway safety and the free flow of traffic.
10. I find on the main issue that the proposed development would represent an inappropriate change to the local residential environment, taking into account the principle of the intended occupation as a residential annexe and the harmful effects upon the amenity of the neighbouring occupiers at 3 Mount Villas, 36 Kelvedon Road with regard to the potential for overlooking and loss of privacy and upon highway safety. This outcome would run contrary to various aims within Policies D1 (Design Quality and Built Environment), H4 (Effective Use of Land) and T2 (Accessibility) of the Maldon District Approved Local Development Plan 2014-2029. These policies are consistent with the National Planning Policy Framework.
11. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations.
12. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR