
Appeal Decision

Site visit made on 20 June 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7TH July 2022

Appeal Ref: APP/A1530/D/22/3294439

Tocia, Chappel Road, Great Tey CO6 1JW

- 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 Tony Palmby against the decision of Colchester Borough Council.
 - The application Ref 212902, dated 21 October 2021, was refused by notice dated 16 December 2021.
 - The development proposed is 'convert the existing garage to ancillary accommodation to the main building (annexe). The proposals include omitting, enlarging existing fenestration to the existing building and adding new windows and door'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant refers to a previous unsuccessful application for the same conversion of the garage for use as an annexe as in this case¹, including the intention to appeal against that decision. However, the current appeal involves a separate proposal which I have considered on its own merits. Although the application sought planning permission for the proposal described above, the appellant contends that this is not required. Whether or not such permission is required is not a matter for me to decide in the context of this appeal, which is made against the Council's decision on the submitted planning application.
3. The Council relies on a policy from the Section 2 Colchester Local Plan, which it indicates is at an advanced stage having undergone examination hearing sessions and consultation on main modifications following receipt of the Inspector's report. Given that the plan is well advanced towards adoption I see no reason not to give substantive weight to the relevant policy for the purposes of determining this appeal².

Main Issue

4. The main issue is whether the proposed annexe would be an appropriate form of development in this location, with particular regard to whether it would be

¹ Ref 210380.

² In accordance with paragraph 48 of the National Planning Policy Framework.

tantamount to the creation of a new dwelling and its effect on the character and appearance of the appeal site and surrounding area.

Reasons

5. The appeal property is a detached two storey dwelling set in a generous plot with a large garden to the rear. This includes a separate building already in use as a residential annexe and the garage, which is proposed for the same use. The surrounding area is residential with a mix of different property types and open countryside to the rear.
6. Policy DP13 of the Colchester Borough Development Policies document (2010, amended 2014) and Policy DM13 of the Section 2 Colchester Local Plan both concern domestic development, including residential annexes. The two policies include similar criteria against which proposals for such annexes should be assessed.
7. The appellant contends that these policies should only apply to new buildings and not conversion of an existing building as in this case. However, I accept the Council's view that the wording concerning conversions applies to those instances where planning permission is not sought and that it is logical for a planning application involving a proposed annexe to be assessed against the relevant criteria for such uses included in the relevant development plan policies.
8. While the garage is well-separated from the host dwelling there is a shared rear garden area between them, with unimpeded access between the two buildings. However, as the Council notes, there is also separate pedestrian and vehicular access to the side of the host dwelling and the proposed annexe would be self-contained with all the necessary facilities for day-to-day living.
9. The proposed use is for the appellant's grandchild and occupation would follow the same approach as the existing annexe, currently occupied by the appellant's grandson and family. The appellant explains that occupation is as a single household with the occupants of the main house; meals are regularly taken within the main house and access to the main house and annexe is available to all members of the household.
10. It is not unusual for residential annexes to include some self-contained facilities that are necessary for a degree of independent living. However, in this case the proposed building appears to include all the facilities for day-to-day domestic existence without the need for any reliance on facilities within the main dwelling. Nonetheless, I accept from the information provided that there is intended to be a familial connection between the use of the proposed annexe and host dwelling, and I note in this regard the appeal decision referred to by the appellant³. However, acknowledging the Council's concerns, it is necessary to ensure that it is not used as an entirely separate dwelling with no familial connection as this would be contrary to Policies DP13 and DM13.
11. While the Council suggests a condition to ensure that occupation of the annexe is ancillary to Tocia, it would provide a greater degree of control to limit occupancy to a dependant relative or other member of the household in

³ APP/C1570/X/04/1166679 dated 14 November 2005.

accordance with what is proposed in this case. This would ensure a more direct relationship between the occupation and use of the two buildings than would be the case with a more general occupancy condition. It would also provide greater clarity about appropriate occupation of the annexe and so would address monitoring compliance.

12. I note the Council's concern that the physical layout of the garage in relation to the house and garden could result in a separate curtilage being created. While this is not part of the current proposal, the creation of a separate curtilage or further development to the proposed annexe could erode the relationship between the use of the two buildings. It is also possible, therefore, subject to the parties' views that exceptionally in the circumstances of this case a condition could be imposed to remove permitted development rights to control further changes to the annexe.
13. With such controls in place and recognising the use that is sought in this case, I conclude that the proposal would not be tantamount to the creation of a new dwelling and there would be no conflict in this regard with Policies DP13 and DM13.
14. Turning to the effect on the character and appearance of the appeal site and surrounding area, both Policies DP13 and DM13 include the requirement that the proposal should respect and enhance the context of the surrounding area. The settlement boundary coincides with the rear garden boundaries of properties south of Tocia. Consequently, due to the greater depth of the appeal property's garden, both the garage and existing annexe are outside the settlement and, therefore, are located in the countryside.
15. There is a largely uniform pattern of development along the eastern side of Chappel Road, with properties laid out on a broadly consistent building line, with some examples of modest outbuildings to the rear or side of dwellings. By contrast, the garage while single storey is a relatively large building that, together with the existing annexe are positioned well beyond the established layout of development. Despite the ancillary use of the proposed annex, I agree with the Council that due to its residential appearance and position it would be seen as a discordant feature from neighbouring properties.
16. Moreover, the ancillary residential use in this location would be uncharacteristic compared to use of the existing domestic outbuilding and would be readily apparent from the comings and goings between properties and use of lighting during hours of darkness. The use of the proposed annexe in this regard would be exacerbated by its relationship with use of the existing annexe. The two properties close to each other would create an intensity of use outside the settlement boundary in the open setting that would not respect the context of the surrounding area. I acknowledge that there are benefits to annexes, as contended by the appellant, but the proposal in this case would result in specific harm that would not be overcome by the personal circumstances underpinning the proposal.
17. Accordingly, for these reasons, I conclude that the proposed annexe would not be an appropriate form of development in this location due to its unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. As such, it is contrary to Policy DP13 of the Colchester

Borough Development Policies document and to Policy DM13 of the Section 2 Colchester Local Plan, as described above.

18. I have had regard to the representations made by interested parties, which raise matters addressed under the main issue in this case.

Conclusion

19. For the reasons given above it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR