



Appeal Decision

Site visit made on 14 June 2022

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2022.

Appeal Ref: APP/J1915/D/22/3297249

The Goose, Moor Green, Ardeley, SG2 7AT

- 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 Mackervoy against the decision of East Herts Council.
 - The application Ref 3/21/2498/HH, dated 30 September 2021, was refused by notice dated 15 March 2022.
 - The development proposed is a residential annex (ancillary).
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Decision

1. The appeal is allowed and planning permission is granted for a residential annex (ancillary) at The Goose, Moor Green, Ardeley, SG2 7AT in accordance with the terms of the application, Ref 3/21/2498/HH, dated 30 September 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin no 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: Drawing Numbers: 001-P02; 002-P02; 010-P02; 100-P01; 110-P01; 200-P01; 210-P01; 220-P01; and 300-P01.
 - 3) The building shall be used only as a residential annexe ancillary to the dwelling and for no other purpose including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Main Issue

2. The main issue is whether the position of the proposed annex is well related to the main dwelling.

Reasons

3. The Goose is a detached dwelling, which is situated within a cluster of other dwellings and buildings in, what is otherwise, open countryside. The property also includes land at the rear which is used as domestic garden, stables and garaging. It also includes a riding enclosure.
4. The appeal proposal is to construct a residential annex on an area to the rear of the existing stables and garaging. The building would be single-storey and would contain bedroom, workspace and storage areas. Materials to be used on the external faces of the building would be black timber clad walls and a black

- metal roof. In terms of the building's design and appearance, I consider it to be sympathetic to its surroundings and it would not be harmful to the character or appearance of the area.
5. The Council considers that the proposed annex would not be well related to the existing dwelling, because it would not be within the curtilage of the property and because of the separation distance between the annex and the main dwelling. Consequently, the Council's decision notice states that the proposal would conflict with Policy HOU13 of the Esat Herts District Plan 2018 (DP). This policy allows for the development of residential annexes provided (amongst other things) they are close to and well related to the main dwelling. In addition, Policy HOU11 of the DP provides detailed design criteria for assessing outbuildings.
 6. The appellants point to the Council Officer's report, which concludes that the annex would be acceptable in terms of its design and appearance and effect on the character of the area. In terms of its position, the appellants consider that the annex would be within the curtilage of the dwelling and that it would be conveniently located in terms of the proposed separation distance.
 7. Whether the land is within the curtilage of the dwelling or not is debateable. There is no authoritative definition of the term and it should not be confused with the use of land as a garden. It is generally accepted however that for land to fall within the curtilage of a dwelling, it should serve the dwelling in some reasonably necessary or useful manner. The size of the land can also be a factor, but as with many planning matters, it is a case of fact and degree.
 8. In this case, it is not a matter for me to formally determine whether the appeal site forms part of the residential curtilage, as this would normally be the subject of a lawful development certificate application. However, during my site visit, I observed that the land in question was connected to the dwelling in terms of its use and appearance, notwithstanding the intervening small post and rail fencing, track and some planting.
 9. In terms of the separation distance between the proposed annex and the dwelling, the appellants state that this would be around 20m. In their opinion, they do not consider it to be excessive and it is comparable to the distance between the dwelling and the existing garages. Whilst the existing garages are closer, I am not persuaded that the Council's concerns are justified, as it would only be a short and relatively easy walk between the house and the proposed annex. It would also be clearly visible from the dwelling itself.
 10. For the above reasons, I consider that the position of the proposed annex would be well related to the existing dwelling and, in that regard, it accords with Policy HOU13 of the DP.

Conditions

11. The Council has suggested conditions in the event of the appeal being allowed. In addition to the condition relating to the standard 3-year time period in which to commence the development, I have also attached a condition that restricts the use of the building to a residential annex. This is necessary to ensure that other uses are controlled in the interests of the amenities of the occupants of nearby dwellings.
12. A condition specifying the approved plans is also imposed.

Other Matter

13. The appellants' grounds of appeal also refer to delays and communication issues with the Council. These matters are addressed in the decision on the appellants' application for costs.

Conclusion

14. For the reasons given above, it is concluded that the appeal be allowed.

Ian McHugh

INSPECTOR