
Appeal Decision

Site visit made on 5 December 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2022

Appeal Ref: APP/X1545/W/22/3297490

Asheldham Grange, Rushes Lane, Asheldham, Southminster, CM0 7NY

- 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 Bhatt against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/21/01134 dated 22 November 2021, was refused by notice dated 27 January 2022.
 - The development proposed is a detached annexe for home working/leisure facilities, including games room, tv room and outside dining.
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Decision

1. The appeal is allowed and planning permission is granted for a detached annexe for home working/leisure facilities, including games room, tv room and outside dining at Asheldham Grange, Rushes Lane, Asheldham, Southminster, CM0 7NY in accordance with the terms of the application, Ref FUL/MAL/21/01134, dated 22 November 2021, 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 outbuilding hereby approved shall only be used for purposes incidental to the residential use of the dwelling known as Asheldham Grange, Rushes Lane, Asheldham and shall not be used as a separate dwelling unit nor the land between it and the host dwelling be partitioned in any way so as to create a separate planning unit.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Plans and Elevations 1168 01B and Location Plan, Site Plan & Block Plan 1168 02B.
 - 4) The materials used in the construction of the development hereby approved shall be as set out within the application form/plans hereby approved.

Preliminary matters

2. The planning application showed the proposed development as "Proposed detached annexe for home working" this was changed unilaterally by the council to the description used in the heading above. I have adopted the council's description as I consider that more accurately and completely describes the development proposed.

Main Issues

3. The main issues in this case are: i) the nature of the relationship of the proposed development to the present dwelling, in terms of use and scale; and ii) the effect of the proposal on the character and appearance of the surrounding area.

Reasons

The relationship of the proposed development to the present dwelling

4. The application site is located on the western side of Rushes Lane, outside of the settlement boundary of Asheldham. The site is occupied by a two-storey detached former farmhouse dating from the mid to late 19th century, with an extensive curtilage. The surrounding area is predominantly rural in character, with one residential dwelling to the south west. This is not a location where the policies of the development plan would favour allowing a new dwelling house without specific justification, such as an agricultural need.
5. The proposal is for a single storey flat-roofed building, the floor plans showing a central entrance hall facing across the garden area, at the end of which is a 'bathroom' containing a wc, hand basin and shower enclosure. Off of this entrance hall are 2 rooms to either side: to the left a home office at the front with a games room behind; and on the right a TV room with a kitchen behind. It is proposed to be set in from the boundary with Rushes Lane by some 8.5m or so, with the back of the building facing the Lane.
6. The appellants explain that they worked from home during the Coronavirus Pandemic and wish to continue to do so, but do not have a suitable office space within the main house. By having an office detached and separated from the house, it affords the appellants space where they can separate work/business from typical home life, with all of the distractions and disturbance that can make working from home difficult. Kitchen and bathroom facilities are typical in office environments and will reduce the need for repeated trips to and from the main house throughout the day.
7. It is also explained that the purpose of the building is to enhance the amenity and leisure value of the property and in particular the garden providing additional living accommodation where the focus is very much on the enjoyment of the garden and outdoor living, with bi-fold doors opening onto the garden. The building is not proposed to be used as an annexe in the 'granny annexe' sense of the word, as the description of development makes clear. There is no intention to residentially accommodate a dependant relative or anyone else within the proposed building.
8. As the council points out, in situations where planning policy is restrictive of the development of additional dwellings, and where the protection of the intrinsic beauty of the open countryside is of importance, it is likely to entertain suspicions that an ancillary building, with rooms that could be sufficient to support everyday living, might become an independent dwelling. Such concerns are the main focus of the officer's report on which the refusal decision was made.
9. The officer explains that *"it is a conventional expectation that annexe accommodation will be ancillary to the host dwelling and good practice for the accommodation to have a functional link, shared services, amenities and*

facilities. It is also an expectation for there to be a level of dependence on the occupants of the host dwelling by the occupants of the annexe". This is followed by reference to the Specialist Needs Housing Supplementary Planning Document, which was adopted in September 2018.

10. The officer's approach would be supportable in a situation that the development proposed was for a home for either persons dependant on the host dwelling, such as an aged parent, or where the annexe accommodation is required for such a relative, but where a reasonable level of independence is sought. Such cases can be dealt with on the merits of the specific circumstances, almost always with a legal agreement or a planning condition attached which controls the occupancy to the original justification for the annexe.
11. But this is not the use for the proposed annexe that the appeal application proposes. It is proposed to be used for the sole purpose of providing additional accommodation for the occupants of Asheldham Grange, incidental to the use of that dwelling. It is true that the proposed building includes a kitchen and shower room, but there is no bedroom shown; although I recognise, of course, that it would be possible for one of the other rooms to be used as a bedroom. Bearing in mind the proposed uses of the building, I do not consider that it would be out of scale with the existing house.
12. I am satisfied that the appellants' stated intentions for the use of the proposed building can be accepted, and that reference to the Specialist Needs Housing Supplementary Planning Document is not appropriate. I am also satisfied that a planning condition could be imposed that would enable a future change of use to be controlled. I recognise that it is necessary for conditions to be enforceable and that the appeal site location is somewhat remote. However, any change of use to a separate dwelling would have to remain undetected for 4 years to provide immunity from enforcement action, so that I consider such a condition would not be unreasonable in terms of enforceability.

The effect of the proposal on the character and appearance of the surrounding area

13. Leaving aside the concern that the proposed annexe might be used as a separate dwelling or a 'granny annexe', the physical building proposed would be well screened by the existing hedging and would not be out of a scale with the garden setting or such that the intrinsic character and beauty of the countryside would be adversely impacted. Furthermore, being within the curtilage of an existing dwelling, there would be no additional paraphernalia of domestic life in terms of washing lines, children's play equipment, etc.

Conclusions

14. The role of development control under planning legislation is to ensure that there is no harm to the public interest. Providing possible public harm can be avoided, management of development should not interfere with private interests. In respect of the stated intended use, the fact that the location of the proposed annexe is approximately 33m from the dwelling is not unreasonable. Nor is the aim of the appellants for the use of the proposed building unreasonable. As a result of the considerations that I have dealt with above, I am satisfied with the nature of the relationship of the proposed development to the present dwelling, subject to the condition I have referred to. In terms of

use and scale, it would not harm the character and appearance of the surrounding area.

15. For these reasons I will allow the appeal.

Conditions

16. The Council has suggested a number of conditions in the event that the appeal is upheld, which include the condition that I have referred to above. I have considered these in the light of Planning Practice Guidance. Condition 2 is necessary for the reasons that I have set out in paragraph 10; condition 3 is required for certainty and avoidance of doubt as to the development permitted; and condition 4 is to ensure that the appearance of the development permitted integrates with the setting in a visually satisfactory manner.

Terrence Kemmann-Lane

INSPECTOR