

Appeal Decision

Site visit made on 20 December 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Appeal Ref: APP/A1530/D/22/3310467

Floral Dene, Park Lane, Langham, Essex CO4 5NN

- 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 David Harrison against the decision of Colchester Borough Council.
 - The application Ref 220512, dated 24 February 2022, was refused by notice dated 27 September 2022.
 - The development proposed is replacement of garage with cart lodge with annex above for family use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed replacement building on the setting of Floral Dene, a Grade II listed building; and whether the proposal constitutes a residential annex in accordance with the development plan.

Reasons

Effect on the Setting of Floral Dene

3. Floral Dene is an attractive seventeenth century timber framed dwelling with a thatched roof set within a generous curtilage with garden to the side and rear. It is located at the settlement edge with neighbouring dwellings to the west and open agricultural land to the east. The existing single storey garage which is to be replaced lies directly behind the host dwelling with access via a driveway from Park Lane. As such, the replacement building would be within the same residential curtilage close to Floral Dene and, therefore, this location forms part of the listed building's setting.
 4. While Floral Dene's footprint is not insignificant, I agree with the Council's assessment that it is a modest thatched cottage, which is particularly apparent from its limited height with upper floor rooms evident from the small windows close to the eaves. As a single storey structure the detached garage is subordinate in size to the host dwelling and, therefore, is readily seen as an ancillary building.
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5. The proposed replacement building, comprising a carport and ground and upper floor accommodation, would utilise appropriate materials for this semi-rural location. However, it would be materially larger than the garage it would replace, with a frontage width almost twice that of the existing building. Moreover, it would be a substantively taller building to facilitate the upper floor accommodation and would include a significant number of prominent rooflights, which would not be in keeping with the character of the thatched host dwelling. Consequently, due to its overall size it would not be subordinate to the scale of the listed building, but rather would compete with it in terms of the predominant built form within the same residential curtilage. Furthermore, elements of its design, notably the rooflights, would be incongruous and uncharacteristic in this setting.
6. There is a boundary hedge to the road frontage that screens the existing garage from most views from the public realm. However, assessing the effects of development on the setting of a heritage asset is not dependent on public views being available. Moreover, the greater height of the replacement building means that some views are likely to be available. As such, the existence of the hedge does not overcome the harm to the listed building's setting that would occur. Similarly, the fact that there were formerly buildings to the east of the site or existing buildings outside the curtilage does not have a direct bearing in this case in overcoming the effects of the proposed building as found above.
7. Accordingly, the proposal would fail to preserve the setting of Floral Dene. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation¹. Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
8. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal². I acknowledge that the proposed building is intended to create both parking and additional living space, but this relates to a private rather than public benefit in this instance and, therefore, this is not sufficient basis to outweigh the harm that would occur.
9. Therefore, for the above reasons, I conclude that the proposed replacement building would not preserve the setting of Floral Dene, a Grade II listed building. Consequently, the proposal is contrary to Policy SP7 of the Colchester Borough Local Plan 2013-2033 Section 1 (2021), which requires that all development must meet high design standards and respond positively to local character and context. It is also contrary to the following policies from the Colchester Borough Local Plan 2017-2033 Section 2 (2022): ENV1 and DM16, which require the conservation and enhancement of the historic environment, including the setting of listed buildings; DM13, which requires that residential annexes must respect and enhance the character of the original dwelling; and DM15, which requires high design standards, including responding positively to context and character.

¹ Paragraph 199.

² Paragraph 202.

10. In reaching this conclusion I am particularly mindful of the statutory requirement for decision makers to have special regard to the desirability of preserving the setting of a listed building³.

Residential Annex

11. Policy DM13 of the Local Plan Section 2 concerns domestic development, including residential annexes. For an annex to be supported, the policy requires it to be closely related to the main dwelling so that it cannot be subdivided from it; and some form of demonstrable dependence on the main dwelling, such as shared access and communal amenity spaces.
12. The appellant explains that the annex building would be used as family accommodation ancillary to the use of Floral Dene as a single dwellinghouse. The proposed building would be in relatively close proximity to Floral Dene within a common domestic curtilage and, as such, I see no basis to suggest that it could not function effectively as a residential annex. Moreover, the inclusion of the carport as a replacement for the existing garage, which is intended for use by occupiers of the host dwelling, would make subdivision of the buildings less likely. However, due to the internal facilities proposed it would in principle be capable of residential occupation independent of any familial relationship with occupiers of the host dwelling, although I acknowledge that is not what is proposed here.
13. Nonetheless, the use of the building needs to be considered in the long term as well as in relation to any initial occupation. As such, it is important that it would retain its original purpose and remain ancillary and tied to use of the main dwelling. An appropriately worded condition could achieve this, in particular ensuring that occupation is undertaken only by a dependant relative or other household member and that any other uses are incidental to the use of Floral Dene, recognising both the current proposal and longer-term use.
14. Accordingly, I conclude that in the particular circumstances of this case, with an occupancy condition in place as described, the proposal would constitute a residential annex. As such, there is no conflict with Policy DM13 of the Colchester Borough Local Plan 2017-2033 Section 2, as described.

Other Matters

15. I have had regard to all the representations made by interested parties. These do not, however, raise any additional matters in relation to the main issues in this appeal that would lead me to reach a different overall conclusion.
16. The appellant's contention that the Council's Heritage Officer might not have undertaken a site visit does not have a direct bearing on consideration of this appeal, which is based on all the appeal submissions and my own site inspection.

Conclusion

17. I have found in the appellant's favour with regard one main issue, concerning the use of part of the building as a residential annex. However, this is not sufficient to outweigh the fact that the proposal is contrary to the development

³ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

plan as it would not preserve the setting of Floral Dene. There are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR