



Appeal Decision

Site visit made on 27 March 2023

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/C1570/D/23/3315899

Jareth, Cutlers Green Lane, Cutlers Green, Thaxted, Essex CM62QE.

- 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 Grant against the decision of Uttlesford District Council.
 - The application Ref UTT/22/3022/HHF dated 4 November 2022, was refused by notice dated 28 December 2022.
 - The development proposed is part garage conversion and single storey extension to form separate annexe ancillary to main dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. It was apparent on the site visit that work had been commenced on the extension but not advanced beyond foundation level.

Main Issue

3. The main issue in this case is whether the proposed development would have an adverse effect on the character and appearance of the host dwelling and its countryside setting in terms of intensifying development and introducing a more urban character.

Reasons

4. Jareth and its plot sit on the north-east side of Cutlers Green Lane which at this point takes the form of a ribbon of residential development on one side of the lane beyond the settlement boundaries of Thaxted. The main house is a large, two storey, double-ridged house facing the road with a detached garage with accommodation in its roof space on its east side but set back into the plot.
5. A certificate of lawfulness (ref UTT/14/0755/CLP) was sought prior to construction of the detached garage which was granted, confirming that a garage would comprise permitted development under the *General Permitted Development Order* (GDPO). Subsequently planning permission for a cart lodge was granted on the site of the current garage (Ref UTT/18/0582/FUL). However, the garage was not built in accordance with those plans or as permitted development and now takes the form of a double garage at ground floor level with residential accommodation in the roof space. The garage in its current form therefore is not permitted although I note that the authority has closed the enforcement case relating to it.

6. The appeal proposal would convert the rear part of the garage and add an extension on its north end to provide a single storey residential annexe. The garage space to the frontage would remain as would the upper level accommodation. In view of the unauthorised nature of the garage in its current form the appeal proposal would have the effect, if allowed, of granting retrospective approval for the garage.
7. Over the years, evidenced by the extensive planning history, there has been significant intensification of development in this location. This includes Jareth itself - a redevelopment of a previous cottage, the neighbouring detached house to the north west (the Warrens) and the two semi-detached houses to the south east Treetops and Lorne cottage and their attendant outbuildings. Permission was also given for the change of use of agricultural land to the north of the four properties to form an extension of the garden.

Character and Appearance

8. Being outside a defined settlement boundary the site lies within the countryside and subject to Policy S7 of the *Uttlesford Local Plan 2005* (ULP) which states that countryside will be protected for its own sake. However, in view of the age of the ULP and the fact that it predated the *National Planning Policy Framework* (the Framework) a *Compatibility Assessment* was carried out in 2012 immediately following the publication of the first version of the Framework. This found that protecting the countryside for its own sake was no longer consistent with the Framework. The matter of the weight that can be attached to Policy S7 in the light of subsequent revisions to the Framework has been considered in several recent appeals within the district. The consensus arising out of the appeal decisions and with which I concur, is that of the three elements to the Policy, the only element carrying weight and remaining consistent with the Framework at paragraph 174, is the last clause. This requires the appearance of development to protect or enhance the particular character of the part of the countryside within which it is set. The *Thaxted Neighbourhood Plan* (TNP) reflects this at Policy LSC4 which, whilst allowing extensions in the outlying settlements such as Cutlers Green, requires development to have regard to the character and appearance of the landscape.
9. Development of the annexe would result in a large, stand-alone structure significantly extending the existing garage to the north-east and beyond the rear building line established in immediately adjacent plots. Whilst it has been put to me that the garden is already a space characterised by domestic paraphernalia, in fact it was clear on the site visit that the garden, including the extended area, is very open and in character links to the open countryside to the north. The annexe would intensify the level of development within the plot and would impact on its open character to the detriment of the wider landscape.
10. It has been put to me that development within the plot already and the recent granting on appeal of a cart lodge on the north-west side of Jareth (Ref APP/C1570/D/21/3284935) demonstrates an acceptance of a more urbanised form of development within Cutlers Green which justifies allowing the proposed annexe. Whilst certainly the level of development on the plot has increased significantly, by and large this has been contained on the frontage and not in depth. The same is true of the cart lodge proposal in that it would be attached to the side of the main dwelling not extending in depth into the plot and would be a subordinate and well-designed structure. I am not therefore persuaded that the grant of permission for

the cart lodge has a bearing on the current appeal proposal. I have therefore determined the proposed annexe on its own merits.

11. The substantial scale of the proposed annexe in terms of the combined footprint of garage and annexe would appear disproportionately large and not subordinate to the main house. Moreover, in design terms the proposed extension with its shallow monopitched roof, awkward link to the garage and wider footprint is poorly conceived, and would neither relate well to the existing garage or to the main house. I have been invited to conclude that as the annexe extension would be largely contained behind the garage and not visible from the road that it would be acceptable. Whilst I acknowledge that most of the structure would be screened from the road its widened footprint over that of the garage means that part of the building would be visible from the road and would impact on the streetscene.
12. I have been referred to the fact that a 'fallback position', exists in-as-much as a similar sized structure to the garage and extension could be constructed under permitted development rights under Class E of Part 1 to Schedule 2 of the GDPO and then converted to a residential annexe later once built. However, for a 'fallback position' to constitute a material consideration there must be a reasonable likelihood that the permitted development rights would be taken up. As Paragraph E.1(i) of Class E quite clearly excludes development under this class if it is to form a dwelling it is highly unlikely permission would be subsequently granted for its use as a residential annexe. In that regard there is no reasonable likelihood that this route would be followed and I therefore attach little weight to the 'fallback'.
13. For the reasons above the proposed annexe (both in itself and cumulatively), largely due to its positioning, scale and poor design, would adversely impact on the character and appearance of Jareth and its open countryside setting. It would therefore conflict with both that section of ULP Policy S7 to which I can give weight and TNP Policy LSC4 both of which require development to protect and enhance the character of the countryside. It also would be in conflict with ULP Policy GEN2 which requires development to be compatible with the scale, form, layout, appearance and materials of surrounding buildings amongst other things and with Policy H8 on extensions which looks to ensure the scale, design and materials respect those of the original building. These policy objectives would not be met by the proposal.

Other Matters

14. I accept that the appellants, in proposing the annexe to meet the special needs of Mrs Grant, thus avoiding the need to move to another home, are seeking to make sustainable and effective use of housing land to meet specific housing requirements, objectives which are encouraged by the Framework in sections 5 and 11. However, Paragraph 124 in Section 11 of the Framework makes clear that maintaining an area's prevailing character and setting (including residential gardens) must be taken into account. There is no detailed evidence before me as to why these needs could not have been achieved in a different way without harm to the character and appearance of the property and its countryside setting.
15. I note the appellant's argument that concern about the annexe becoming a separate dwelling is unfounded as retention of the annexe as an ancillary structure to the main house could be controlled by condition. However, even if such a condition was to be imposed it would not resolve the fundamental concern over the impact of the positioning, scale and design of the development on the countryside setting.

Conclusion

16. I have had regard to the Public Sector Equality Duty contained in the Equality Act 2010 and understand the appellants' wish to construct the annexe to meet family needs. However, for the reasons above, this does not outweigh the harm that the annexe would cause to the character and appearance of the property and particularly the countryside setting. Accordingly, the appeal is dismissed.

P. D. Biggers

INSPECTOR