



Appeal Decision

Site visit made on 4 April 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2023

Appeal Ref: APP/X1545/W/22/3290850

Heath House, Braxted Road, Little Braxted, WITHAM, CM8 3JY

- 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 Mike Saunders against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/00844, dated 22 March 2021, was refused by notice dated 20 October 2021.
 - The development proposed is Construction of extension to existing detached garage and conversion to provide ancillary accommodation to the main dwelling for use as a "granny annexe".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relevant to this appeal are:
 - the effect of the development on the character and appearance of the surrounding area;
 - whether the proposed developments would represent a self-contained dwelling; and
 - the effect of the development upon protected nature sites.

Reasons

Character and appearance

3. The appeal site contains an existing outbuilding, which is within the curtilage of a large dwelling. The outbuilding is of more modest proportions and is near to several other outbuildings. The appellant's dwelling has a large curtilage. However, the precise siting of the appeal site is some distance away from the more formal gardens of the property. The immediate surroundings of the outbuilding have a more natural appearance. The wider area is rural in nature and is therefore mainly open. This arises from the site being outside of any allocated settlement boundary.
4. By reason of this character, the presence of buildings in the vicinity is limited. In consequence the proposed development would result in a notable increase in the overall level of built form. In reaching this view, I have had regard to the fact that although the proposed development would have a height lower than

the existing dwelling. It would therefore contribute to a notable footprint of development and physical form to the rear of the dwelling.

5. In addition, although the proposed development would have a ridge height that would be lower than the existing building, the degree of difference is small. This means that the proposal would result in a notable increase in the perceptible level of built form even though the development would be constructed from materials that harmonise with the original building.
6. The proposed development would result in an extension between the precise appeal site and the neighbouring, existing outbuildings. Given the projection and height of the extension, it would result in a notable enclosing effect at the appeal site given that the development would result in a diminished amount of open space between buildings. This means that the proposed development would result in an erosion of the verdant character of the appeal site and the wider area.
7. This is of a concern as the presence of an enlarged outbuilding would erode the open character of the site given that it would result in an agglomeration of built form. This arises from the notable combined footprint of the existing and proposed developments. Therefore, the proposal would result in a great urbanising effect upon the rural surrounding area. In particular the proposal would result in a greater amount of built form, which would be more reminiscent of a settlement.
8. This is also concerned given a defining character of the surrounding area is the presence of regularly proportioned dwellings in landscaped settings. The proposal element resulting in some of the sites garden area which would then mean that there is a notable increase in the build form.
9. In addition, the proposed development would be visible, albeit to a limited degree, from the road. This means that the reduction in gaps between buildings would be perceptible from the wider area, which would render it a strident addition to the locality.
10. In addition, any existing screening arises from the presence of landscaping. There is, therefore, a possibility that over time the level of screening would diminish due to adverse health. Therefore, the development would become more prominent over time. For these reasons, it is not possible to impose a condition requiring the retention of the existing screening.
11. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, would conflict with Policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (2017) (the Local Plan). Amongst other matters, these seek to ensure that developments emphasise the importance of high quality design; support sustainable developments within the defined settlement boundaries; respect and enhance the character and local context; and have regard to the setting of the site.

Whether a separate dwelling

12. The proposed development would consist of an annexe located next to the existing dwelling. However, the proposed building would be physically separate from the dwelling and would have its own entrance as well as other features such as bathroom facilities and a bedroom.

13. However, although there would be some degree of physical separation, the proposed development would share garden facilities with the existing dwelling. There for recreation would take place in the same location for both sets a residence. Furthermore, access to the wider site would be shared between residents of both the existing dwelling and the proposed annexe. the degree of sharing would also be accentuated by the fact that the driveway and vehicle manoeuvring area would also be shared.
14. In addition, the proposed development would not feature any kitchen facilities. Therefore, the occupiers of the proposed development would be reliant upon the main, existing dwelling for access to such facilities. This means that, although not physically attached to the main dwelling, the proposal would be operationally connected to it.
15. It has been suggested that the distance between the site of the proposed annexe and the main dwelling is such that it would not be attractive for occupiers of the annexe. However, if I were minded to allow this appeal, I could have imposed a condition that would have required the development to have been carried out in accordance with the submitted plans. In consequence, this would mean that there would have been a mechanism in order to have prevented kitchen facilities from being installed.
16. Therefore, although the proposed development would be physically separate from the main dwelling, it would be operationally connected to it. Therefore, I cannot conclude that it would be a separate dwelling given the into relationships that would exist between both the occupiers of the dwelling and the proposed annexe.
17. In addition, I note that the application for Planning Commission was submitted on the basis of the proposed development being an annexe ancillary to the occupation of the main dwelling. Had I been minded to have allowed this appeal, any Planning Commission would have been on the same basis.
18. Therefore, should there be a desire to change the use of the annexe to a self-contained dwelling at some point in the future, this would stimulate the needs for a future planning application. This would mean that the council would be able to consider the merits of the development being a dwelling at that juncture. In addition, should the change be made without an application for planning permission being submitted, the council would, of course, have planning enforcement controls in order to take action if required.
19. I am aware of a Unilateral Undertaking prepared by the appellant. This means that the annexe would not be disposed of independently of the main dwelling. However, this would not control the use of the annexe. Nonetheless, for the preceding reasons, I do not believe that this would render the proposed development unacceptable in this regard as there are sufficient other mechanisms to prevent the proposed annexe from becoming a separate dwelling.
20. I therefore conclude that the proposed development would not represent a self-contained dwelling. The development, in this regard, would comply with the requirements of Policies S1, S8, D1 and H4 of the Local Plan. Amongst other matters, these seek to ensure that developments deliver sustainable housing growth; protect the countryside; maximise connectivity within the development; and optimise the use of land.

Effect on protected nature sites

21. The proposed development is near to protected nature sites. This is of significance as the environmental sensitivity of these areas such that an increase in people undertaking recreation in the area has the potential to adversely affect the environmental significance of this area.
22. In order to overcome this potential adverse effect, the Council seeks to secure financial contributions for certain types of development that would fund, amongst other matters, alternative provision for recreation. This is referred to as the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).
23. The proposed development would result in an increase in the overall number of people potentially resident at the appeal site. However, given the nature of the development and the scale of the existing dwelling, this is unlikely to be a notable increase in the number of residents. It therefore follows that there is unlikely to be a significant increase in the demand for recreation in the area covered by the RAMS.
24. In considering this matter, I have been directed towards policies that seek to the securing of a financial application in order to fund alternative recreation space.
25. However, the development before me is not for a new dwelling given that it is for an annexe. As set out previously, I am satisfied that there are sufficient means to secure this type of occupation. Therefore, it should be treated in a manner akin to an application for a new domestic extension. This is because the proposed development would not result in a new household occupying an area near to the sensitive site.
26. Although I acknowledge that I have been referred to several adopted Local Plan policies, which seek to ensure that there are no adverse effects upon protected sites and that financial contributions are made to fund the RAMS, the evidence before me is not indicative that such financial contributions should be made in instances where the type of development proposed is, in effect, an intensification in the use of an existing site that is operating as a domestic dwelling.
27. In consequence I do not find that there is a compelling case to secure a financial obligation given that there would not be a notable adverse effect upon the environmentally sensitive sites. This is because controls can be imposed that would control the usage of the appeal proposal.
28. I therefore do not conclude that there would be an adverse effect on the nearby protected nature sites. The development, in this regard, would comply with the requirements of Policies S1, D1, I1, N1 and N2 of the Local Plan. Amongst other matters, these seek to ensure that developments conserve and enhance the natural environment; make a positive contribution to the natural environment; manage green infrastructure; and where any potential adverse effects to the conservation value or biodiversity value of designated sites are identified, the proposal would not normally be permitted; and ensure that existing infrastructure and services are protected and/or improved.

Other Matters

29. Heath House is a Grade II Listed Building. However, as I am dismissing this appeal, I do not need to give consideration to the effect of the proposed development upon the setting of heritage assets given that there would not be a change in this regard.
30. I note that the development was not the subject of objections from local residents or the Parish Council. Whilst these are matters of note, they are only some of all the matters that must be considered and therefore do not outweigh, or overcome, my findings in respect of the first main issue.

Conclusion

31. The proposed development would have an adverse effect upon the character and appearance of the surrounding area. This would outweigh the fact that the proposed development would not represent a self-contained dwelling and would not have an adverse effect upon protected nature sites. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR