



Appeal Decision

Site visit made on 31 July 2023

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2023

Appeal Ref: APP/C1570/D/23/3316209

Treetops, Latchmore Bank, Little Hallingbury, Essex CM22 7PH

- 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 Mrs Faye Heard against the decision of Uttlesford District Council.
- The application Ref UTT/22/2475/FUL, dated 6 September 2022, was refused by notice dated 2 December 2022.
- The development proposed is demolish existing single storey self-contained 1-bedroom annex and construct a new 2-bedroom annex.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - whether or not the proposal would amount to a separate dwelling and if so, whether this would be inappropriate development in the countryside;
 - the effect of the proposed development on the character and appearance of the area; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal site is occupied by a two-storey detached dwelling. Within its rear garden there is a one-bedroom self-contained single-storey annexe. The site lies outside the development limits of Little Hallingbury and within the Metropolitan Green Belt.

Whether inappropriate development in the Green Belt

4. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 sets out that the construction of new

buildings is inappropriate within the Green Belt subject to a number of exceptions, one of which is d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

5. The proposal is to replace an existing residential annexe of 86 square metres (sq.m) with a larger residential annexe of 122.35 sq.m. The existing building is 3.56m to ridge height, 2.63m to eaves height, 6.67m wide and 12.92m long. The replacement building would be taller, with a ridge height of 4.6m and an eaves height of 2.7m. It would also be 9.34m wide and 13.1m long.
6. The replacement building would be in residential use, the same as the existing building is. The Council consider the replacement building is tantamount to a new dwelling and not a replacement annexe which the existing building is. I discuss this in more detail later in my decision. Nevertheless, the replacement building would be around 40% larger in terms of area due to its increased width. It would also be just under a third taller due to the increased ridge height. Neither the Framework nor the local plan set out thresholds for what would be considered as appropriate in terms of increase in size. However, in my view, the increase in size would be significant and materially larger than the building it would replace.
7. As such, the proposal would not meet the exception set out under paragraph 149 (d). It would therefore be inappropriate development in the Green Belt.

Openness

8. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development.
9. The Planning Practice Guidance¹ sets out that assessing the impact of a proposal on the openness of the Green Belt requires a judgment based on the circumstances of the case. An assessment of openness is capable of having both spatial and visual aspects. The duration of the development and its remediability; and the degree of activity likely to be generated, such as traffic generation are also relevant considerations that may need to be taken into account.
10. The appeal site comprises a domestic garden, an existing dwelling and annexe, enclosed by fences. The proposed replacement building would be sited further back within the site than the existing annexe which would be demolished. It would be larger and would therefore cause some loss of openness in both spatial and visual terms. However, there are other outbuildings in the rear gardens of nearby properties, including Waverley directly adjacent to the site which has two outbuildings, one of which is also set back within its plot. I also observed a substantial outbuilding under construction in the rear garden of a nearby property to the south. In this context, the increase in size and visual impact on openness would be limited.
11. The development would be permanent in nature. Although intended as an annexe, it seems to me that a domestic building of this size and nature with its own parking area and an access at the rear would give rise to day-to-day

¹ Paragraph: 001 Reference ID: 64-001-20190722

comings and goings associated with a domestic dwelling. However, these would occur in close proximity to the existing settlement. For all these reasons, taken together, I find the proposal would cause limited harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. I give significant weight to that harm.

Separate dwelling

12. The existing annexe is a detached building with a sizeable footprint. It is located approximately halfway down the rear garden of Treetops. Internally, it provides a large open plan living / kitchen area, a separate bedroom and bathroom. The entrance to the annexe is through sliding glazed doors set within the west elevation, facing away from the host property. A timber fence has been erected across the rear garden which effectively divides it, forming a garden area for the host property and one for the existing annexe. A parking area exists at the far end of the garden as well as an access lane leading to the public highway on Port Lane.
13. The proposed building would be located in a more central position within the rear garden and further from the host property. The existing fence subdividing the garden would be repositioned further west to create a larger garden area for the host property whilst providing a generous amount of private garden space for the proposed development. A gated access would be provided within this to allow access between the two properties. It would utilise the same rear access and parking area available to the existing annexe.
14. In comparison to the existing building, the proposal would provide significantly more living space. It would comprise a generously sized entrance lobby, two double bedrooms, one with an ensuite bathroom, a separate bathroom and a large open plan living and kitchen area with a separate utility.
15. With two double bedrooms, it would exceed that which would be required to accommodate an elderly relative as proposed here. Even if the second bedroom were to provide accommodation for a carer or relative providing care, the large size of the bedroom seems unnecessary for this purpose. In any event, as I understand it, the intention is for an annexe to enable care to be provided to the elderly relative by occupants of the host property thereby reducing the need for a carer's bedroom.
16. I appreciate that many of the features that reinforce the sense of this being a separate dwelling already exist, namely the severance of the existing garden, parking spaces and a separate access. Given this, in some regards the existing annexe is akin to a separate dwelling.
17. However, the existing annexe is relatively unobtrusive being positioned against the boundary fence and having a basic form. The proposed building, by contrast, would be substantial, centrally positioned within the site with more clearly defined garden space around it. The proposed building would also have a formal front entrance and porch, which does not exist within the existing annexe. This would be positioned in the furthest elevation of the building which adds to the sense of it functioning separately. Taken together, on balance, I find that these features would make the proposal much more akin to a separate dwelling.

18. The Uttlesford Home Extensions Supplementary Planning Document (2005) provides guidance on residential annexes. It states that they should normally be single-storey and provide one bedroom, fully accessible to someone in a wheelchair. It should also be joined to the main house and share the same garden and access.
19. The existing annexe has its own garden, access and is detached. Therefore the proposed is not materially different in that regard. However, the proposed development would be significantly larger. There is no justification for the size of the accommodation and the number of bedrooms proposed. In this regard, I therefore share the Council's view that the proposal would be tantamount to a separate dwelling.
20. As the appeal site lies outside the development limits of Little Hallingbury. It is therefore in the countryside for planning purposes. The proposal would therefore amount to an additional house in the countryside.
21. The appellant has asserted that the annexe would be ancillary to the main house. She proposes a condition restricting occupancy of the annexe so that it remains ancillary to the host property. However, the needs of the appellant are likely to change over time. Once constructed and if no longer required as an ancillary use to the property, it may be difficult to resist a request to vary or remove the condition restricting occupancy of this building. I am not satisfied that this would avoid the creation of a separate dwelling in this location.
22. The Council refused permission on the basis that the proposal would amount to an additional residential dwelling resulting in inappropriate development within the countryside, citing Policies S6, GEN2 and H7 of the ULP and the Framework in its decision notice. Given that the existing annexe is very similar to a self-contained dwelling, it is reasonable to assess the proposal against Policy H7 which deals with replacement dwellings. I address matters in relation to character and appearance in detail in my next main issue where I conclude it would be adversely affected by the development. As such, I find that the proposal would conflict with Policy H7.
23. I have found no specific conflict with Policy S6 which relates to Green Belt locations and development allowed on land within settlements excluded from the Green Belt which would not apply here. I also find that Policy GEN2 which is a design policy and makes no reference to a countryside location to be not relevant to this main issue. No specific policies within the Framework have been cited in respect of the location of development within the countryside.

Character and appearance

24. Development along Latchmore Bank is characterised by houses set back a similar distance from the road frontage and extending rearwards as long rectangular plots. The appeal site follows this pattern of development. Beyond these rear gardens, the area is characterised by fields, paddocks and stables which are rural in character. The rear gardens forms part of the transition between the built form along the road and the countryside beyond.
25. As I have set out in my reasoning above, I consider the proposed building would be tantamount to a new dwelling. It would be much more prominent than the existing annexe which is positioned nearer the host property, close to the boundary and adjacent to outbuildings within adjoining gardens.

26. A new dwelling set behind the established linear pattern of development along Latchmore Bank would be uncharacteristic. It would occupy a sizeable footprint, and whilst single-storey would appear large within the rear garden of Treetops where it would be prominent in views from surrounding properties. With a private garden of its own, parking and a front door, it would have a strongly domestic appearance. Thus, whilst I recognised that there are outbuildings in neighbouring gardens, the proposal would appear uncharacteristic of these.
27. The presence of a dwelling set behind the linear residential development would appear anomalous and would encroach into the more rural landscape behind the built development within the village. Consequently, it would fail to enhance the character and appearance of the area.
28. I conclude that the proposed development would harm the character and appearance of the area. It would therefore conflict with Policies GEN2 and H7 of the ULP and the Framework which together require development to be compatible with the scale, form and layout of surrounding buildings, to enhance the character of the countryside in which it is set and to be sympathetic to local character, maintaining a strong sense of place.

Other considerations

29. The annexe is intended to provide accommodation for an elderly relative who, due to mobility issues, requires accommodation on one level. This would provide them with independence whilst also providing support nearby. In the longer term, the appellant has suggested that they would retire to the annexe whilst younger relatives would occupy the main house. It is not intended to either rent or sell the annexe off separately from the main dwelling.
30. The existing annexe is poor quality and of substandard construction. It offers poor insulation and would therefore not provide suitable living conditions for the proposed occupant. Furthermore, the replacement annexe would be more energy efficient and would result in less carbon emissions than the existing building. This would both contribute to carbon reduction as well as provide the private benefit of costing less to run for the occupant.
31. The adjoining property to the north, Waverley, has two detached garden rooms, one at 77 sq.m granted planning permission², and the other, of approximately 65 sq.m for which no planning history has been provided. In combination, these have a larger footprint than the proposed development would. Whilst I note this, I have very limited information about these garden rooms, including any details of what was granted permission, whether they were replacement or new buildings and what their use is. I am therefore unable to draw any meaningful conclusions about them in the context of the appeal proposal before me. In any event, I must judge the appeal scheme on its own merits which I have done.
32. My attention has been drawn to an approved development at Latchmore Bank Farmhouse, some 160m north of the appeal site. In this case, planning and listed building consents³ were granted for the proposed conversion and extension of outbuilding to create annexe. The scheme resulted in a two-storey annexe for elderly relatives. From the submissions, the Green Belt

² Council Ref: UTT/12/5490/CLP

³ Council Ref: UTT/16/1846/FUL and UTT/16/1847/LB

considerations in this case related to whether the proposal would amount to infill and its effect on openness. The considerations are not therefore comparable.

33. The scheme was not refused on the basis of harm to neighbouring occupants although this is referred to in the Council's report, where concerns are raised about the scheme having an overbearing impact. However, the position of the proposed building is some distance from nearby dwellings as well as their private amenity space. There would therefore be little impact on neighbouring occupants in this regard. The absence of harm in this regard would be a neutral factor.
34. Policy S6 of the Uttlesford Local Plan 2005 (the ULP) relates to the Green Belt. It allows for infilling, limited development or redevelopment compatible with the character of the settlement and its setting within certain villages, including Little Hallingbury which is excluded from the Green Belt. However, the appeal site lies within the Green Belt and outside the development limits and this policy is not therefore directly relevant to the proposal before me.

The Green Belt Balance

35. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause limited harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.
36. In addition to my finding that the proposed development would be inappropriate development I have identified that it would cause harm to the character and appearance of the area. This weighs heavily against the development.
37. The proposal would provide living accommodation for an elderly relative. It would also upgrade the existing accommodation available for this purpose as well as provide a more energy efficient building. However, there is existing accommodation that could be used for this purpose and upgraded to be more energy efficient without requiring the need for development on this scale. As such, I attribute limited weight to these factors which would not outweigh the substantial harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
38. As such the proposed development would be contrary to the Framework which sets out that the Green Belt should be protected against inappropriate development.

Conclusion

39. For the reasons set out above, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR