



Appeal Decision

Site visit made on 15 August 2023

By Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2024

Appeal Ref: APP/A1530/D/23/3321520

Somerson House, New Road, Aldham, Colchester, CO6 3PN

- 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 Shelton against the decision of Colchester Borough Council.
 - The application Ref 222689, dated 14 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is the demolition of existing cart lodge and annex and erection of a two-bedroom annexe for purposes ancillary to the residential use of the existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the appeal proposal is tantamount to the creation of two separate dwellings; and
 - Whether the appeal site is an acceptable location for the proposed development.

Reasons

Separate Dwellings

3. The appeal site comprises a large dwelling, which is situated in a large and spacious plot in a semi-rural location, outside of any defined settlement boundary. For planning purposes, the site is considered to be within the countryside. It is also within the Conservation Area and the locality also contains several listed buildings.
4. The site contains an existing single-storey timber-clad building, which is partly open fronted and is described as an annex and used for domestic storage and vehicle parking. The rear wall of the building abuts the highway boundary with New Road. Consequently, it is visually prominent in the streetscene.
5. The proposal is to demolish the existing building and replace it with a part single/part one and a half storey building that would contain two separate areas for living, sleeping, cooking and bathing. The building would be taller than the existing and it would occupy a larger footprint. The appellants state

that it would be ancillary to the main dwelling and it would be occupied by two teenage members of the family. The plans do not show any physical division within the garden area of the site. The appellants also point to, what they consider to be a similar proposal for a change of use of an existing garage to a residential annex at Tile House, New Road (reference: 210288). That also contained all facilities necessary for day to day living. The appellants argue that the current appeal proposal is no different in principle. They maintain that the occupants would also share living space and they would be able to eat and socialise with the occupants of Somerson House. Furthermore, the surfaced courtyard between the buildings would allow easy access between. There would also be shared vehicular access, parking space and garden area.

6. The proposal is described as a resubmission of an earlier application (reference: 221146), which was to demolish the building and it replace it with a new building, described as a two-bedroom annex for purposes ancillary to the existing dwelling. The Council refused that application for reasons similar to the current appeal.
7. The Council contend that the current appeal proposal would be tantamount to the creation of two separate self-contained dwellings, which would conflict with the provisions of the Development Plan, in terms of the spatial location of new housing development. In response to a follow up request for further comments, the Council has referred to numerous cases where Inspectors have found that proposals for an annex have been considered as separate dwellings. However, the decision largely comes down to fact and degree.
8. I have given this issue considerable thought and by balanced assessment is that the proposal is tantamount to the creation of two separate dwellings. Whilst proposals that contain facilities for day-to-day living are not necessarily determinative (as found in *Uttlesford District Council v Secretary of State for the Environment and White [1992]*), this, coupled with the separation distance between the appeal building and the main dwelling, means that any functional link with the main dwelling is less likely. In comparison, I note that the physical relationship between the proposed annex and Tile House was/is much closer.
9. Furthermore, whilst the proposal may help to address to housing requirements locally, I have not been provided with any detailed evidence to substantiate the particular needs or requirements of the proposed occupants. Therefore, this argument carries limited weight in my assessment.
10. Policy DM13 of the Colchester Borough Local Plan 2017 – 2033 Section (9LP), states (amongst other things) that residential annexes will be supported where the need for additional space cannot be made within the existing dwelling or within buildings suitable for conversion. It also states that annexes should be physically attached or closely related to the main dwelling. For the reasons given above, I consider that the proposal conflicts with Policy DM13.

Appropriate Location

11. It is a statutory requirement that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The location of new development in the Borough is laid out in Policies SG1, OV1 and OV2 of the LP. These seek to direct housing development towards accessible and sustainable locations.

principally the main towns and larger villages within the Borough.
Development in the countryside is restricted.

12. In reaching my decision, I have taken into account the extent and proximity of other dwellings in the vicinity of the appeal site. I have also noted that there are bus stops and bus services a short walk from the site on Ford Street. Furthermore, my attention has been drawn to an earlier allowed appeal (APP/A1530/D/16/3156407) which granted planning permission for two new dwellings on land at Tile House, which is on the opposite side of New Road from the appeal site. The Inspector concluded that the development would be a sustainable form of development in terms of accessibility and its impact on the character and appearance of the area.
13. However, the above appeal was determined under the provisions of an earlier Development Plan, whereas I am required to give weight to the more recent Local Plan, which was adopted in February 2021 and July 2022, and which reinforces the spatial distribution of development within the Borough. Furthermore, the Government continues to stress the importance of a plan-led system.
14. I consider that the proposal would conflict with the relevant policies of the Development Plan, as referred to above and if the appeal was to be allowed, would undermine the Council's policy of ensuring that new residential development is situated in sustainable locations.

Other Matter

15. The Council has considered the impact of the proposal on the character and appearance of the Conservation Area and on the setting of nearby listed buildings (in particular, the dwelling on the opposite side of New Road). It points out that the proposal was discussed prior to submission with the Council's Heritage Officer and that there is no harm to the designated heritage assets.
16. I have no reason to disagree with the Council's conclusion on this matter. The proposal would be of a design and finish that would be in keeping with the character and appearance of the area. Furthermore, it would not have an adverse effect on the setting of the listed building because of the separation distances between and the fact that both buildings would not be viewed together from most vantage points.

Conclusion

17. For the reasons given above, it is concluded that the appeal be dismissed.

Ian McHugh

INSPECTOR