



Appeal Decision

Site visit made on 17 December 2024

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th February 2025

Appeal Ref: APP/A1530/W/24/3343268

Lions Farm, Langham Lane, Boxted, Essex CO4 5HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Steve Bays against the decision of Colchester City Council.
 - The application Ref is 240261.
 - The development proposed is new two bedroom annexe to support aging relative with supported living on ground floor with two garages to the front with access from existing drive. First floor office and games room. The roof to accommodate solar panels to supply green energy to the new annexe and the existing main dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, but with matters of access, layout and scale to be considered at this stage. Matters of appearance and landscaping are 'reserved' for future consideration.
3. The application was accompanied by a range of plans, including existing and proposed site plans and a site layout plan entitled 'Annexe Position' showing the proposed building's position relative to the existing bungalow and access point. These plans are consistent with those matters of access, layout and scale to be considered at the initial 'outline' stage. I have treated the elevational detailing shown on these drawings to be indicative.
4. Plans were also submitted showing ground and first floor plans and elevations of the proposed annexe building which are, particularly in the case of proposed elevations, more consistent with matters of appearance. These plans are not specifically referred to as being 'indicative' or 'illustrative' but I have nevertheless considered their content at this stage insofar as they inform consideration of matters of scale, and how matters of scale and layout relate to each other.
5. Since the Council's determination of the planning application, a revised version of the National Planning Policy Framework (the Framework) was published in December 2024. I am satisfied that, other than changes to paragraph numbering and paragraph structure between the current and previous version of the Framework, the sections relevant to the matter before me have not materially changed. References to Framework paragraphs hereafter are to the current December 2024 version. I have determined the appeal accordingly and in so doing I am satisfied that neither main party would be disadvantaged.

Main Issues

6. The main issues are:

- The effect of the proposed annexe building upon the character and appearance of the appeal property and surrounding area, with particular regard to layout, scale and access; and
- The location of development.

Reasons

Character and appearance

7. The existing dwelling at the appeal site is a large, detached bungalow that provides generously proportioned accommodation within a garden large plot. The bungalow has an extended L-shaped plan form with a projecting rear 'wing' and a conservatory on the rear elevation. At the front, it has three peaked 'bays' across its façade. The site frontage is largely laid to gravel hardstand with a twin point of access / egress from Langham Lane, which also provides further access to land outwith the appeal site to side and rear of the property.
8. There is an area of enclosed garden land to the northern side of the existing bungalow, laid at the time of my visit to a mix of grass and hardcore surfaces, and it is here that the proposed annexe building would be sited. The proposed site layout plan, ground and first floor plans and elevations all show a building of considerable depth. The floor plans and elevations also show a building of substantial height and massing that would provide accommodation at both ground and first floors. Whilst the first floor would be accommodated within the roof space and served by rooflights the building would nevertheless be of considerable height.
9. At the rear it would be broadly in line with the rear of the rearward 'wing' of the existing bungalow, whilst at the front it would extend forward of the front of the existing property. In total, the building would measure in the region of 7.6 metres in width and 18.3 metres in depth, the depth of which would present a substantial flank elevation visible across an open access splay to Lions Barn when approached from the north. Although there is a detached outbuilding adjacent to the roadside hedge immediately to the south of the appeal site, partially obscuring longer views of the front of the appeal property, the proposed annexe's scale, and the layout of the site, would be such that it would be a particularly strident and incongruous feature.
10. Langham Lane is characterised by its pleasant rural setting and verdant roadside hedges. Houses are generally sporadically located along the lane, with a mix of building scales. Detached outbuildings and garages forward of the main houses are not uncommon, as evidenced by that at a neighbouring plot. However, what is proposed in this instance would be of such a scale, and in a position relative to the existing house and the roadside street scene, that it would be incongruously at odds with the prevailing character and pattern of built development, and of the smaller and more modest garages and outbuildings that can be found elsewhere along Langham Lane. The scale of the building, its height, significant depth along its flank elevation and its position forward of the existing house are such that it harmfully dominates the existing building and challenges the convention hierarchy of main dwelling and subservient and proportionate outbuilding.

11. Colchester Borough Local Plan (LP) Policy DM13 sets out the Council's approach to domestic development, including proposals for residential alterations, extensions and outbuildings, and for residential annexes. It states that proposals will be supported where a need for additional space cannot be met within the existing dwelling or other buildings suitable for conversion exist within the site. It goes on to set out further criteria which proposals are expected to meet.
12. The appellant has confirmed the wording of the proposed development and that what is being applied for is a residential annexe for an elderly relative and carer's accommodation, not a separate dwelling. The existing bungalow is large and provides generously proportioned accommodation on a single level however, and whilst I have some sympathy for the appellant's intention to provide annexe accommodation it has not been demonstrated how or why the need for additional space cannot be met within the existing building. Moreover, what is proposed would go beyond just a residential annexe for an elderly relative requiring care and assistance as it is proposed that the building would also accommodate a large double garage, together with an office at first floor, along with a snooker and games room for other family members.
13. However, compellingly in the context of a proposal for a residential annexe, the proposed building is of a scale in terms of its height, width and depth, and of a layout in terms of its prominent siting relative to both site frontage an existing bungalow, that it would fail to respect or enhance the character of the original dwelling, or that of the surrounding area and the context within which it lies. That it also seeks to provide further additional accommodation in the form of office space, garages and a snooker and games room is a significant factor in reaching this conclusion regarding the building's scale and the proposal's layout. Although there would be no loss of amenity to, or harm to the living conditions of, occupiers of neighbouring properties, the harm that I have identified to character and context clearly outweighs the other criteria of LP Policy DM13. The proposed annexe building would be contrary to the aims and provisions thereof as a consequence. For these same reasons, it would also fail to accord with LP Policies SP7 or DM15 which set out the Council's approach to securing high quality design that is appropriate to its context.
14. Matters of appearance are reserved matters and not therefore for determination at this stage. Thus, the methods of construction, solar panels and the external materials, all of which are components of the building's appearance, are not matters to which I have given any weight at this stage.
15. The appellant has sought to critique the criteria set out within LP Policy DM13 regarding annexe buildings. However, and notwithstanding the Council's concerns regarding the manner in which the building might be occupied, I have determined the application on the basis of that for which permission was sought by the appellant. For the reasons set out above, I conclude that the appeal scheme would fail to accord with LP Policy DM13, and LP Policies SP7 and DM15, in respect of this main issue.
16. The appellant has also referred me to other examples of nearby properties where detached garages and outbuildings are situated forward of a dwelling and close to the roadside. Applications for planning permission from 2018, 2019 and 2020¹ are

¹ LPA Ref Nos: 180610, 190276 and 202693, respectively

also referred to, albeit that no further details of those schemes have been submitted, other than a photograph of the latter. Nor is it clear if the 2018 and 2019 applications relate to photographs of other properties submitted with the appeal scheme.

17. Nevertheless, of those photographic examples, it appears to me that none are directly comparable with the appeal scheme in terms of the combinations of their scale, layout and siting within the plot, relationship with the main dwelling within the site in terms of scale and proximity, context and the nature and layout of their immediate surroundings. Nor is it clear what the planning status of these buildings is or the development plan context under which they were considered. These examples are not therefore material considerations to which I give any significant weight.

Location of development

18. Whilst the Council accept in its Statement of Case (in relation to wildlife mitigation) that it is an annexe that was applied for, the proposal was nevertheless considered as being tantamount to a new dwelling in locational terms. As such, it was assessed against development plan policies that consider the principle of new dwellings beyond defined settlement limits and, thus, in open countryside. Certainly the ground floor layout of the proposed building has all the facilities for the building to be occupied independently of the existing bungalow and as a self-contained dwelling.
19. However, a separate self-contained dwelling is not what the appellant has applied for. Whilst capable of independent occupation the appellant has explained that the purpose of the building is to provide close-at-hand accommodation for an elderly relative who currently lives a short distance away. The proximity of the building to the existing bungalow would, the appellant states, remove the need for current levels of comings-and-goings in terms of care giving and support whilst still giving affording a degree of independence.
20. LP Policy DM13 is broadly supportive of the provision of residential annexe buildings and does not penalise such proposals merely because of their location. Whilst remote from services, the appeal proposal may well, as the appellant states, be likely to reduce the travel burden on the appellant in providing care and support to the family member. I agree that suitably worded conditions can be capable of providing sufficient comfort to discourage separation and the creation of a separate dwelling, as the Council allude to in the first of their reasons for refusal. Importantly, if such a building is not built or used as proposed, or if there is a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required and the building would be at risk of enforcement action should permission not be granted.
21. The building would be positioned reasonably close to the existing bungalow which has a number of windows along its side elevation. The integral double garage would provide garaging for vehicles belonging to the appellant and his family where presently there is no provision for garaging within the bounds of the application site boundary. The office space and a games room on the first floor are, the plans indicate, intended for use by family members and, given the appellant's stated intended use for the building and its manner of occupation as a residential annexe, the question of whether or not the appeal site is a suitable

location is not a matter that it is necessary for me to consider further in this particular instance.

Other Matters

22. Matters of access were also sought at the outline application stage, but such matters did not form a reason for refusal of the application. The site is served by two entrance points from Langham Lane that lead in to a large gravelled forecourt area. Sufficient space exists, and would continue to exist, within this area for the manoeuvring of vehicles and to gain access to the proposed double garage.
23. Although there is currently a low brick wall along the site's roadside frontage, it is generally low and set back from the carriageway behind a grass verge. Visibility is generally reasonable in both directions and I have not been directed towards any concerns regarding the suitability of the access in connection with the proposed development. I have no reason therefore to reach a different conclusion to that reached by the Council in that matters of access did not form a reason for refusal of the application.
24. The appeal site is described by the Council as being within the zone of influence of the Essex Coast RAMS (Recreational disturbance Avoidance and Mitigation Strategy). A proposal for a new dwelling in this area would be subject to a mitigation payment under the RAMS scheme. However, even if I were to have concluded that the proposed outbuilding amounted to a new dwelling, as I have found harm in respect of character and appearance and the appeal fails for those reasons, this would not have been a matter necessary for me to consider further.

Conclusion

25. The appellant has clearly stated on the application form, accompanying drawings and plans and subsequent submissions, that it is the intention that the proposed outbuilding would provide residential annexe accommodation for an elderly family member. There is no dispute that the internal layout of the building is capable of providing independent residential accommodation for that relative, as well as carer's accommodation. Whilst the appellant has not demonstrated that the need for additional space could not be met within the existing dwelling, this does not amount to the building being a self-contained dwelling, tantamount to, or otherwise.
26. Proposals for residential annexes are not prevented on locational terms by the development plan policies that I have been provided with. For the reasons I have set out, I have found that the proposed building, by virtue of its significant and incongruous scale which, as a consequence of the proposed layout of the site and building, would result in an excessively dominant and intrusive scheme. As such, it would fail to respect or enhance the character of the appeal property or the pleasant rural surroundings and context in which the appeal site lies.
27. Thus, for the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR