



Appeal Decision

Site visit made on 27 June 2023

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

an Inspector appointed by the Secretary of State

Decision date: 26 July 2023

Appeal Ref: APP/D3505/W/22/3312103

1 Valley Lane, Wherstead IP9 2AY

- 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 O Paul (Freston Farming Ltd) against the decision of Babergh District Council.
 - The application Ref DC/22/03190 dated 23 June 2022, was refused by notice dated 27 July 2022.
 - The development proposed is retention and extension of the existing dwelling and the erection of a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are whether:
 - the location of the proposed dwelling would be a sustainable one given the countryside setting;
 - the development would have an adverse impact on highway safety.

Reasons

3. The appeal site sits towards the western end of Valley Lane close to its junction with the A137. The lane is a no through road with the appeal property and Valley House along its southern side. The north side of the lane is bounded by open arable fields.
4. No 1 Valley Lane is a brick and tile, single storey property sitting in an extensive plot stretching along the lane towards the A137 junction. It has the benefit of an extant planning permission to extend and subdivide it to form two separate dwellings (ref DC/21/03591).
5. Under the appeal proposal the existing house would be extended but would remain as one dwelling and not subdivided. Access to both it and the proposed new dwelling would be taken from a central point on the frontage to Valley Lane.

Whether the location is a sustainable one for housing in its countryside setting

6. Valley Lane and the appeal site sit well outside the village of Wherstead which is a small village with minimal services and which is not listed in the *Babergh Core Strategy* (BCS) under Policy CS2 as a village suitable for development. As such the proposal is in open countryside to be considered under the *National Planning Policy Framework* (The Framework), and Policy CS2. In the countryside outside the towns

and urban areas, BCS Policy CS2 states that development will only be permitted in exceptional circumstances subject to a proven justifiable need. No specific housing need has been argued in the evidence before me.

7. Paragraph 79 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. One additional house on the appeal site, separate from the village of Wherstead and indeed any settlement, would not be such a location. The Framework goes on in Paragraph 80 to explain the circumstances in which housing development would be acceptable in more isolated locations in the countryside. As is evident from the planning history, the site has benefitted already from planning permission being granted for the subdivision of the existing house – one of the categories under paragraph 80 where housing development is deemed acceptable in a more isolated countryside location.
8. It has been put to me that this extant permission constitutes a fallback position in that it allows two dwellings on the site and that this constitutes a material consideration and justifies the now proposed alternative of extending the existing house as a single dwelling and constructing one new detached dwelling. For a number of reasons I am not persuaded that this is the case.
9. Firstly, the subdivision has been permitted as it is a category specifically allowed for in the Framework. As such it is an acceptable form of development. The use of a fallback argument usually only carries weight as a material consideration where there is reasonable prospect of the fallback being implemented and the alternative proposal would be preferable to the fallback. In this appeal that would not be the case. Although there is reasonable prospect of it being implemented, the fallback is the acceptable form as that proposal complies with national policy and the alternative, because of its location, is not.
10. Secondly, the already permitted scheme largely uses the existing building (albeit extended) to create two small one bedroom properties. The appeal proposal by contrast proposes an extended existing dwelling with 2 bedrooms and a new detached dwelling of 3 dwellings. There would therefore be a significant intensification of both development and residential occupancy on this site in a location that is not well connected to services and facilities.
11. The result of allowing the appeal proposal would be a significant increase in built structures in this open countryside location.
12. I have been invited to conclude that the proposal demonstrates clear betterment over the extant permission as it would improve the layout of the two plots and the new house would be to an appropriate design, use compatible materials and provide substantial new landscaping. However, in respect of design, landscaping and materials this is no more than would be expected in any development. In respect of the layout that would be achieved, a better on-site arrangement would be largely a private betterment for the occupiers of the respective houses. In neither case would these amount to sufficient justification to support a form of development that is inappropriate in the open countryside and contrary to both the Framework and the Development Plan.
13. It has been put to me that the development would perform well against the three sustainability objectives set out in the Framework. However, whilst it may have a temporary beneficial impact on the economic objective, as a result of construction, and a minor positive benefit in respect of the social objective by the provision of housing, the housing would not be in a location that can be considered sustainable

for new additional development. Moreover, it would fail to meet the environmental objective because general housing development, which would result in intensification of development and bricks and mortar in the open countryside, cannot be considered environmentally sustainable. I note the appellant's point that the Council presumably concluded that the location was sufficiently sustainable to allow the subdivision initially but these are two materially different schemes. The subdivision largely used the existing building to produce two dwelling units where the appeal proposal represents a significant increase in building in the open countryside.

14. In addition to the conflict with BCS Policy CS2 the proposal would also conflict with BCS Policy CS15. This requires that development must respect the local context and character, respect the landscape and its features, make a positive contribution to the local character of the area and ensure an appropriate level of services, facilities and infrastructure are available or provided to serve the proposed development, amongst other things. The proposed development in this location would not deliver these objectives.
15. Notwithstanding the conclusion in respect of the new dwelling, the proposed extension to the existing dwelling would be acceptable in terms of its scale and design. Although it is proposed to raise the roof to incorporate the proposed rear extension this would be preferable in design terms to the previously proposed flat roof scheme. The proposal would meet the requirements of *Babergh Local Plan* (BLP) Saved Policy HS33 on extensions. However, whilst it is open to me to issue a split decision, where elements of a proposed scheme are not physically and functionally linked to each other this is not always possible. This would be the case here where the access and parking arrangement is shared between the two dwellings. I therefore do not propose to issue a split decision.

Highway Safety

16. The garden frontage to the appeal site along its length is bounded by a mature hedge with the exception of a gated access at its eastern and western ends. The proposed development would result in the opening up of the frontage in the middle of the site onto Valley Lane to allow access, with the current hedgeline substantially removed to allow the construction of visibility splays.
17. Although it has been put to me that it has not been proven that appropriate visibility splays could be achieved, the proposed access would be broadly similar to that previously considered acceptable for the proposed subdivision of the existing dwelling which also proposed access towards the middle of the site frontage. Moreover, it was apparent on site that visibility along Valley Lane from the proposed access point in the middle of the frontage was good with straight uninterrupted visibility along the requisite length once the hedgerow was set back. I am therefore satisfied that, although detailed drawings of the visibility splays were not submitted, the imposition of a condition could satisfactorily control the provision and retention of appropriate sightlines.
18. In that way adequate access could be achieved such that the development would meet the general requirements of BCS and BLP Policies. Notwithstanding the fact that adequate access could be achieved, to do so however would have a detrimental impact on the character of the lane, at least in the short term, with the removal of the hedgerow and until the replacement hedge established itself.

Other Matters

19. Although the proposal would result in an additional house contributing to housing supply in a small way, the Council can demonstrate about a 7 year supply of housing land. The policies of the development plan relevant to housing supply can therefore be considered up to date and the 'tilted balance' set out in the Framework at Paragraph 11d) is not engaged.
20. I accept that the Framework recognises the value of small sites for housing delivery at paragraph 69 and at section 11 emphasises the need for effective use of land. However, paragraph 124 in section 11 requires decision makers to take into account the desirability of maintaining an area's prevailing character and setting. In this case, for the reasons above, development of the site would have a significant, adverse impact on the countryside setting and would outweigh the minor benefit in providing a single house.

Conclusion

21. Notwithstanding the slight benefit the development would bring in adding to housing supply and the fact that a satisfactory access could be achieved by the imposition of a condition, this proposal conflicts with both the Framework and Development Plan policies. For the reasons above the appeal is dismissed.

P. D. Biggers

INSPECTOR