



Appeal Decision

Site visit made on 23 April 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/D3505/W/23/3326749

Raworth Park, Upper Street, Layham, Suffolk IP7 5JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Julian Cox against the decision of Babergh District Council.
 - The application Ref is DC/23/01042.
 - The development proposed is change of use of annexe to separate dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Babergh and Mid Suffolk Joint Local Plan – Part 1 (JLP) was adopted by Babergh District Council in November 2023 and replaced the Babergh Core Strategy (CS) and the Babergh Local Plan (LP). The JLP was adopted after the Council issued its decision. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision. The Council identified the policies within the JLP most relevant to this appeal and provided copies of them with its evidence. The appellants commented on the JLP policies within their final comments. As such, it was not necessary to consult the main parties further.

Main Issues

3. The main issues are:
 - whether the proposed development would be in a suitable location having regard to local policies concerned with housing in rural areas
 - whether the proposed development would be in a suitable location having regard to access to services and facilities
 - the effect of the proposal upon the living conditions of the occupiers of Raworth Park with regard to the loss of accommodation, privacy, noise and disturbance
 - the effect of the proposal upon the character and appearance of the area; and
 - the effect of the proposal upon highway safety.

Reasons

The appeal site and planning history

4. The annexe is a modestly sized building covered by black weatherboard with red clay tiled dual pitched roofs. The building is accessed via a private drive off the B1070 that is shared with several other houses, including Raworth Park. Raworth Park is a substantially sized building with extensive grounds that are subdivided by fencing and hedges. The immediate garden around Raworth Park is bound by tall hedges that are situated on the boundary between it and the annexe. Next to the annexe is an area of land bound by metal fencing and the annexe sits between this land and Raworth Park. There is space for parking vehicles available in front of both properties and next to Raworth Park is a modest stable block and ménage where I noticed vehicles were also parked.
5. An appeal was allowed in 2013 for internal and external alterations and conversion of existing outbuildings to form annexe accommodation¹. This appeal was determined prior to the adoption of the JLP and as such the policy position has since changed. This appeal considered the merits of converting the existing buildings to an ancillary annexe and Condition 3 of the appeal decision required the use and occupation of the accommodation to be incidental or ancillary to Raworth Park. This differs from the appeal before me which relates to the material change of use of the annexe to a separate dwelling which would create a separate planning unit.

Whether the proposed development would be in a suitable location having regard to local policies concerned with housing in rural areas

6. The appeal site is outside of the settlement boundary for Layham as identified in the LP. Policy SP03 of the JLP identifies that outside of the settlement boundaries, development will normally only be permitted subject to a number of criteria, only one of which must be met. The site is not allocated for development nor is there a made Neighbourhood Plan for the area and as such the proposal would not comply with criteria a) or b).
7. Criterion d) states that development will normally only be permitted where it is in accordance with paragraph 80 of the 2021 National Planning Policy Framework (the Framework). This is now paragraph 84 in the Framework which was updated in 2023. This relates to isolated homes in the countryside, however for development to accord with this paragraph it must be in an isolated location. Given that the annexe is located close to other dwellings it cannot be said that it would be far away from other places, buildings or people. As such, I do not consider the site to be isolated and as such the proposal would not accord with paragraph 84 of the Framework and as a result the development would not comply with criterion d).
8. Criterion c) permits development outside of settlement boundaries where it is in accordance with one of the policies of the JLP listed in Table 5. Policy LP04 is listed in Table 5 and relates to replacement dwellings and conversions.
9. Part 2 of LP04 states that proposals for conversions of buildings to residential use must demonstrate the structure is capable of accommodating the use and the development would reuse redundant or disused buildings and enhance its immediate setting. The annexe is already in residential use and as such the structure is capable of accommodating the use. The appellants state that the annexe is currently occupied by their daughter's family and having viewed inside the building it appeared to still be in use.

¹ APP/D3505/A/13/2205455

10. The supporting text for Policy LP04 does not qualify the terms redundant and disused. The ordinary meaning of redundant is 'not needed or useful' and disused is 'no longer being used'. Given that the building is currently occupied, it is needed and useful and is currently being used. Accordingly, the proposal would not reuse a redundant or disused building. The annexe at this time is still providing an incidental/ancillary use to Raworth Park. The appellants state that the building is underused. Even if I were to accept that this is the case that is not the criteria that development should be assessed against as set out in Part 2 of LP04.
11. Criterion d) of Part 3 of LP04 refers to the reuse of redundant or disused buildings where possible and as concluded above, the proposal would not reuse a redundant or disused building. Part 3 has a number of additional criteria that development must be assessed against concerning matters including living conditions, character and appearance as well as highway safety and these have been considered later in this decision. However, given that the proposal would conflict with Part 2 as set above, I do not need to consider these factors with regard to this policy.
12. JLP Policy LP01 is also listed in Table 5 of SP03 and permits windfall infill housing development outside settlement boundaries. However, 'infill' in the development plan is defined as the filling of a small undeveloped plot in an otherwise built-up highway frontage. Given the sporadic siting of the houses in the immediate area and the distance between the annexe and the other buildings nearby, I do not consider the site accords with this definition of 'infill'. Furthermore, given the distance between the annexe and the surrounding dwellings, it is not located within a cluster of at least 10 well related dwellings. As a result, the proposal would not be windfall infill housing development outside a settlement boundary and thus the scheme would not comply with Policy LP01.
13. Therefore, for the reasons given above the proposed development would not be in a suitable location having regard to local policies concerned with housing in rural areas. Consequently, the proposal would conflict with JLP Policies SP03, LP01 and LP04, insofar as they relate to this matter.

Whether the proposed development would be in a suitable location having regard to access to services and facilities

14. Whilst outside of the settlement boundary the site is functionally part of Layham situated just off the B1070 that passes through the village. Layham itself has very limited services and facilities. However, Hadleigh is located to the north of the village and is a significantly sized settlement that has many of the services and facilities needed to meet the day-to-day needs of the future occupiers.
15. There is a pavement between the appeal site and the centre of Hadleigh although there are no streetlights along this section of the road which would make this route unsuitable during adverse weather conditions as well as in times of darkness. However, there are bus services between the two settlements and these run throughout most of the week and the bus stops are located a short walk along a pavement from the appeal site. Hadleigh would also be within a suitable cycling distance for most people from the annexe. Even if the bus services are limited to certain times of the year, paragraph 109 of the Framework identifies that opportunities to maximise sustainable

transport solutions will vary between urban and rural areas, and this should be taken into account in decision making.

16. Consequently, given that the future occupiers would have the option to meet their day-to-day needs via sustainable transport options they would not be solely reliant on private car use. Therefore, the proposed development would be in a suitable location having regard to access to services and facilities. As such, it would accord with paragraph 83 of the Framework which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that where there are groups of settlements, development in one village may support services in another village.

The effect of the proposal upon the living conditions of the occupiers of Raworth Park with regard to the loss of accommodation, privacy, noise and disturbance

Loss of accommodation

17. Raworth Park is a substantially sized building and if the occupiers of that house decided that the uses currently provided for within the annexe were necessary there is ample space within the house to accommodate those needs without extending the dwelling or erecting new buildings. There is also the stable block next to the house which could provide additional storage space or parking, subject to planning, if necessary. Accordingly, the loss of the accommodation provided by the annexe would not harm the living conditions of the occupiers of Raworth Park.

Privacy

18. Given the distance between Raworth Park and the annexe as well as the intervening trees and hedges the privacy of the occupiers of both dwellings would be preserved.

Noise and disturbance

19. The day-to-day use and vehicular movements of the proposed dwelling would be very limited given that they would relate to a single household. Furthermore, the proposed use would not be substantially different from the existing residential use. As a result, this would not cause harmful noise and disturbance to the occupiers of Raworth Park. Additionally, there is ample space for parking multiple vehicles around the annexe without disrupting the occupiers of Raworth Park.

Conclusion

20. Therefore, the proposal would not harm the living conditions of the occupiers of Raworth Park. Accordingly, it would comply with Policy LP04 of the JLP insofar as it relates to this matter. This policy states that development must consider the amenity for both existing and for future occupiers. The proposal would also accord with paragraph 135f) of the Framework which seeks to ensure that developments create places with a high standard of amenity for existing and future users.

The effect of the proposal upon the character and appearance of the area

21. The annexe is an attractive building that positively contributes towards the character and appearance of the area and thus enhances its immediate setting.

The work to change the use of the building is proposed to be very limited. There is already a metal fence that demarcates the land next to the annexe and there is already domestic paraphernalia around the building. The land next to the annexe would be used for more domestic purposes with associated domestic paraphernalia. However, the effect of this upon the character and appearance of the area would be limited given that the land is located within a residential setting where domestic paraphernalia would be expected.

22. The proposal does not seek to erect a new building and as such it is already part of the pattern of development for the area and has been for a substantial period of time. Given that the proposal would reuse an existing building that is already in residential use and already has a street frontage from this private drive, I do not consider that this proposal would be backland development.
23. The more intensive use of the building as a separate dwelling would not result in a significant change to how the building is currently used on a day-to-day basis, especially when viewed within this residential setting. Furthermore, the annexe is located a considerable distance from the B1070 and is well screened from public viewpoints.
24. The proposed changes to the building would be very limited and a high standard of design was used when the buildings were originally converted. The setting and modest scale of the building is also appropriate in this residential context and the scheme does not seek to alter these aspects of the building. Consequently, the scheme would not be more visually intrusive than the original building and would continue to enhance its immediate setting.
25. For the reasons given above, the proposal would not harm the character or appearance of the area and would comply with JLP Policy LP04 insofar as it relates to this matter. The policy states that development must be of an appropriate scale and setting for the area and use materials to achieve a high standard of design in response to the context, and the character and appearance of the surroundings. It would also comply with paragraph 135b) of the Framework which seeks to ensure developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

The effect of the proposal upon highway safety

26. The converted annexe would use the existing private driveway that is shared with several houses. If the annexe was used as a separate dwelling with no connection with Raworth Park another household could live in the separate dwelling. This would lead to a very limited increase in the number of vehicular movements as there would be an additional household using this driveway. This driveway takes its access via the B1070, and this is already a relatively wide access. Whilst I have not been provided with vehicle tracking plans, it would appear wide enough for most vehicles to enter whilst another waits to exit.
27. The Council has identified that there are trees with Tree Preservation Orders near to the shared access via the B1070. The appellants have not disputed this point and based on the evidence before me I see no reason to disagree. Whilst these trees are located either side of this access point, the Highways Authority did not object to the development and suggested several conditions none of which required specific visibility splays to be provided for the access. I also

found on my site visit that I was able to see oncoming road users for a moderate distance in both directions via the access.

28. There is sufficient space around Raworth Park for vehicles to be parked without using the parking provided within and around the annexe. The annexe has space both within and around the building to park several vehicles and as such there would be sufficient space available to both properties to park vehicles without causing disruption to the occupiers of either property.
29. As a result, the existing visibility would not need to be upgraded and the very limited additional movements via the access point would not have an unacceptable impact on highway safety. Accordingly, the proposal would have safe and suitable access and parking and thus it would accord with JLP Policies LP04 and LP29 insofar as they are relevant to this matter. These policies require all development to demonstrate safe and suitable access for all. It would also accord with paragraph 115 of the Framework insofar as it states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

30. The decision notice also refers to JLP Policy SP01. However, this sets out the housing targets over the plan period as well as identifying that the mix of tenure, size and type of new housing development should be informed by the relevant district needs assessment, or any local housing needs survey. As such, this policy is not relevant to the matters before me.

Planning Balance

31. The proposal would reuse an existing building and incorporate electric vehicle charging points which would support the transition to a low carbon future in a changing climate and this is supported by paragraph 157 of the Framework. The Framework also supports the reuse of under-utilised land and buildings, especially if this would help meet identified needs for housing. Accordingly, these benefits of the scheme attract moderate weight in favour of it.
32. A condition has been suggested that would ensure a 10% biodiversity net gain could be achieved by this development and this would make a limited contribution towards biodiversity given the limited scale of the scheme. As such I attribute modest weight to this in favour of the proposal.
33. The occupiers of the separate dwelling would contribute towards the local economy as well as contribute towards the social aspect of the village. There would also be an economic contribution to the area during the works to change the use of the building. Given the limited scale of the proposal these benefits attract limited weight in favour of the scheme.
34. Whilst it is not disputed that the Council can identify a 5-year housing land supply, the delivery of a single dwelling would still make a limited contribution to both local and national housing land supply. The separate dwelling would also provide a modest sized house and make a positive contribution towards the local housing mix. To this I attribute limited weight in favour of the proposal.
35. The appellants identify that the intention of the change of use is to allow the two families to remain living close by to support each other. However, the

existing annexe allows for this and provides permanent accommodation so long as the appellants remain the owners of Raworth Park. While the existing annexe would not allow the building to be registered separately, the annexe would still allow for the familial support to continue.

36. In general, and subject to control by appropriate planning conditions, the proposal could be made acceptable regarding ecology and other matters not in dispute. Furthermore, I have determined that the proposal would not harm the living conditions of the occupiers of Raworth House, the character and appearance of the area as well as highway safety. However, the absence of harm weighs neither for nor against the development.
37. Whilst the separate dwelling would be in a location where the occupiers would not be reliant on private car use to meet their day-to-day needs the proposal would conflict with policies in the development plan regarding the distribution of housing outside of settlement boundaries. Accordingly, I attribute significant weight to this conflict with the fundamental spatial strategy of the development plan and the stated benefits of the scheme would not outweigh the identified conflict.

Essex Coast Recreational disturbance Avoidance and Mitigation Strategy

38. Within the appellant's Design and Access Statement they note that the appeal site lies within the zone of influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. Whilst the Council has not confirmed if this is the case, the Conservation of Habitats and Species Regulations 2017 requires that a competent authority makes an Appropriate Assessment (AA) of the implications of the plan or project on the integrity of the sites in view of their conservation objectives. Even if the site would lie within the zone of influence given my findings on the main issues in this appeal, I have not carried out an AA or reached a finding in respect of the proposed development's effect on the impact of recreational use by increased visitor numbers upon designated sites.

Conclusion

39. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR