



Appeal Decision

Site visit made on 23 April 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2024

Appeal Ref: APP/D3505/W/23/3331444

Land rear of The Beeches, Meadow Way, Stradbroke, Suffolk, IP21 5JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Caroline Miller against the decision of Babergh District Council.
 - The application Ref DC/23/00762 was approved on 20 April 2023 and planning permission was granted subject to conditions.
 - The development permitted is Application under Section 73 of The Town and Country Planning Act 1990 – Removal of Condition 3 (Restriction on Occupation: Annexe linked to existing Dwellings) of planning permission DC/21/04538 dated 07/10/2021 – Erection of one-and-half storey detached dwelling.
 - The condition in dispute is No 3 which states that: The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwellings known as Jubilee House.
 - The reason given for the condition is: For the avoidance of doubt as to the scope of the permission, as this is the basis upon which the application has been submitted and subsequently considered and any subdivision of the site into independent units would require the careful consideration against the current policies of the Local Planning Authority at such a time as any proposal were to come forward as the annexe is constrained by the site characteristics and may not be satisfactory as a stand alone dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

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) that was adopted in 2014 and the Babergh Local Plan (LP) that was adopted in 2006. Subsequently, 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 the appeal and provided copies of them. The appellant had the opportunity to comment on the JLP policies within their final comments.
3. Planning permission was granted by the Council for the erection of 1no one-and-half storey detached dwelling in 2021¹. Condition 3 of this permission was similar to the condition in dispute for this appeal but required the annexe to not be occupied at any time other than for purposes ancillary to the residential use of the dwellings known as Jubilee House and The Beeches.

¹ Application Ref: DC/21/04538

4. The application that is the subject of this appeal was granted and this varied Condition 3 to remove reference to The Beeches.
5. Condition 3 now refers to 'the dwellings known as Jubilee House' and this is a typographical error following removal of reference to The Beeches. However, I find that the condition remains precise as only Jubilee House is referred to and it is evident from the Officers Report as well as the approved block and location plan² which property is being referred to. As such no other dwellings would be encompassed by this condition.
6. Since the Council issued its decision the National Planning Policy Framework (the Framework) was updated in December 2023. The main parties had the opportunity to comment on the updated Framework within their evidence and as such it was not necessary to consult them further.

Background and Main Issue

7. The annexe was granted permission to provide accommodation for the appellant's parents. The annexe has been partly constructed but has not been completed. During the construction of the annexe one of the appellant's parents unfortunately passed away and the appellant now notes that the annexe is not necessarily needed anymore.
8. This appeal seeks to remove Condition 3 entirely and this would effectively allow the dwelling to be occupied in an uncontrolled way under Class C3 of the Use Classes Order³ independent of Jubilee House. Accordingly, the main issue is whether the condition is necessary having regard to policies within the development plan concerned with housing in rural areas.

Reasons

9. The appeal building has been partly built with most of the external works completed and much of the internal work appeared to be underway. The dwelling is an attractive building with low eaves and timber cladding and a red tiled roof. This reflects some of the design features of the dwellings along Meadow Way. The dwelling is located at the end of a private drive that is accessed via Meadow Way and both Jubilee House and The Beeches are also located along the private drive.
10. It is not disputed that the site is outside of the settlement boundary for Stradbroke identified in the Stradbroke Neighbourhood Plan (NP) that was Made in 2019. Policy SP03 of the JLP identifies that outside of the settlement boundaries, development will normally only be permitted under a number of criteria, only one of which must be met.
11. As far as I have been made aware the site was not allocated for development and thus the scheme would not accord with criterion a).
12. Criterion b) requires that development is in accordance with a Made Neighbourhood Plan. The Stradbroke NP has been Made and Policy Strad1 of the NP states that new development in Stradbroke Parish shall be focussed

² DRWG No PLCAM/1-5

³ The Town and Country Planning (Use Classes) Order 1987 (as amended)

- within the settlement boundary of Stradbroke Village. The site is outside of the settlement boundary and thus the scheme would not accord with criterion b).
13. Criterion d) states that development will normally only be permitted where it is in accordance with paragraph 80 of the 2021 Framework. This is now paragraph 84 in the updated Framework. 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, albeit the location is rural. As such, I do not consider the site to be isolated and accordingly the proposal would not accord with paragraph 84 of the Framework and as a result the development would not comply with criterion d).
 14. Criterion c) of SP03 permits development outside of settlement boundaries where it is in accordance with one of the policies of the JLP listed in Table 5.
 15. JLP Policy LP02 is listed in Table 5 and states that residential annexes will be supported where the proposal would accord with several criteria, and these can be built both inside and outside of settlement boundaries. The Council state that without the condition the annexe would not comply with LP02. Based on the evidence before me, I concur that with the condition the annexe complies with this policy.
 16. The supporting text for LP02 states that the Council will apply restrictive conditions or obligations to ensure annexes do not create sub-standard dwellings with inadequate standards of access, amenity and space, and potentially result in additional dwellings in unsustainable locations. To determine if the condition is still necessary for the reasons given in LP02, consideration needs to be given to relevant policies within the development plan.
 17. The annexe is a modest two-bedroom dwelling that can be accessed via a bound private drive with appropriate distances between it and neighbouring dwellings to ensure the occupiers would not overlook the neighbouring property or vice versa. Additionally, the distance between the dwellings would ensure the occupation of this building as well as the associated vehicular movements would not create a harmful level of noise and disturbance to neighbouring occupiers. The building also has a modestly sized private garden space and internally the annexe would be large enough to provide sufficient space for a small household to live comfortably. Accordingly, the condition is not necessary in these regards. However, consideration still needs to be given to whether the site is in a sustainable location with regard to local policies.
 18. JLP Policy LP01 is 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 that there are no dwellings beyond the building and because it is the final dwelling in the group of three properties accessed via the private drive, I do not consider the site accords with this definition of 'infill'. As a result, the proposal would not be windfall infill housing development outside a settlement boundary. There are additional criteria that 'infill' development would need to accord with.

19. The dwelling was mostly completed and whilst the use of the dwelling would vary slightly between an annexe and a separate dwelling, the day-to-day use of the building would be very similar with domestic paraphernalia and other evidence of the residential use of the site to be expected. Furthermore, given that the annexe is an attractive dwelling it already positively contributes towards the character and appearance of the area. Accordingly, if the annexe was used as a separate dwelling it would not be detrimental to the character and appearance of the settlement. For similar reasons it would not harm the local landscape.
20. Furthermore, for the reasons given above the use of the annexe as a separate dwelling would not harm residential amenity.
21. The annexe is located near to the Stradbroke Conservation Area as well as the Grade II listed Doggetts. As such, I have had regard to my statutory duties provided by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
22. The proposal does not seek to make alterations to the design of the building and given the distance between the site and the heritage assets, the contribution the building makes towards the significance of the setting of the CA as well as the setting of the listed building would effectively remain very similar. Accordingly, the character or appearance of the setting of the CA as a whole and the setting of the listed building and the contribution the settings make to their significance would be preserved. Accordingly, the proposal would accord with criterion a).
23. The scheme would be for a single dwelling and comply with criterion c). However, given that the dwelling is located at the end of a private drive it would consolidate ribbon development and thus not accord with criterion b) of LP01. Consequently, even if the scheme did accord with the definition of 'infill' development a separate dwelling in this location would not accord with JLP Policy LP01.
24. There is limited evidence that the proposal would accord with any of the other policies permitting development outside of settlement boundaries outlined in Table 5. Consequently, for the reasons set out above, the site would not be in a sustainable location for a separate dwelling with regard to development plan policies for housing in rural areas. Consequently, the condition is necessary in this regard.
25. Based on the evidence before me the housing development that was permitted in Stradbroke was allocated in the NP and as such those schemes would accord with Policy SP03 which permits development that is allocated or in accordance with a Made NP.
26. Based on the information before me, The Beeches was permitted outside of the Stradbroke settlement boundary. However, this was granted before the JLP was adopted and as such, the policy position has changed since this application was approved. Applications and appeals must be determined in accordance with the development plan that is before the decision maker at the time the decision is made.
27. Therefore, the condition is necessary having regard to policies within the development plan concerned with housing in rural areas. Consequently, the

development without the condition would conflict with JLP Policies SP03, LP01 and LP02 as well as Policy Strad1 of the NP for the reasons given above.

Other Matter

28. I acknowledge the appellant's comments and concerns with the Council's handling of this case, lack of communication including whether financial advice should have been given. I also note the concerns with the handling of the application by the Parish Clerk and whether a fair opportunity was provided to discuss the application. However, in reaching my decision I have been concerned only with the planning merits of this case.

Planning Balance

29. Whilst outside of the settlement boundary the site is functionally part of Stradbroke located just off Meadow Way. This is located a short walking distance along a pavement with streetlights from the services and facilities that are available in the village. The NP identifies that the village has several schools as well as multiple services and facilities including a medical centre. There are also limited job opportunities available within or close to the village. There is also a bus stop located close to the site providing some limited services to nearby settlements. Accordingly, the dwelling would be located close to services and facilities and the occupiers would be able to access these using alternative transport options.
30. Even if all the day-to-day needs of the occupiers would not be provided by services and facilities in the village, 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.
31. 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. Accordingly, the occupiers of the separate dwelling in this rural area would maintain the vitality of this rural community in accordance with paragraph 83 of the Framework and I attribute moderate weight to this in favour of the scheme.
32. The proposal would reuse an existing underutilised building and incorporate an electric vehicle charging point which would support the transition to a low carbon future in a changing climate and this is supported by paragraph 157 of the Framework. This would be a modest benefit of the scheme that attracts modest weight in favour of it.
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 complete the building. Given the limited scale of the proposal these benefits attract limited weight in favour of it.
34. Additional tree and hedge planting would provide environmental benefits, although given the limited scope of this, I give this limited weight in favour of the proposal.
35. The JLP was recently adopted in 2023 and I have no substantive evidence before me that the Council cannot identify a 5-year housing land supply, nor

have I been provided with substantive evidence that the Council is not delivering sufficient self-build properties or specialist accommodation to meet its needs.

36. Whilst I have no evidence to suggest that the Council cannot 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 and this attracts limited weight in favour of the proposal.
37. The appellant has suggested a condition to impose a 'no residential build' policy on the remaining plot. However, even if such a condition would pass the 6 tests set out in the Framework for conditions, this would not overcome my concerns as the scheme would still conflict with the development plan with regard to the location of rural housing.
38. Paragraph 82 of the Framework relates to rural exception sites that provide affordable housing to meet identified local needs. The NP did identify that one of its development and design principles was assisting those with mobility needs, including the elderly. The permitted annexe contributes towards meeting this need.
39. The Glossary for the Framework states that affordable housing is housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of a number of definitions. These are typically secured by a planning obligation which has not been provided. The separate dwelling, even if occupied by the appellant's parent does not comply with the affordable housing definitions and it has not been substantiated how a market dwelling would help facilitate the delivery of affordable housing.
40. Whether or not a development is financially viable is a matter that can be taken into consideration. I do not doubt the appellants difficulties regarding financing this scheme, however, limited substantive financial evidence has been provided in support of this appeal.
41. The planning permission without the condition would allow for financing to be secured to complete the development and once completed the house would provide accommodation to meet the needs of the appellant's family. The unaltered decision provides accommodation for the appellant's parent and whilst the financing of this due to the condition would be difficult, from a planning perspective, the original permission provides for this need. As such, both with and without the condition the building would provide accommodation for the appellant's family. However, without the condition the dwelling could then be occupied in an uncontrolled way and no longer provide for this need for which planning permission was originally granted.
42. Whilst the annexe may not currently be needed for this use, it may be required for this purpose in the future and the removal of this condition would fail to secure this.
43. The appellant identifies that the intention of the scheme is to allow their family to remain living close by, however the existing condition allows for this to continue so long as the appellant's family remain the owners of Jubilee House.

44. Whilst consideration was given by the Council regarding whether the annexe could be integrated back into the main building as a single dwellinghouse when the need no longer exists, this does not mean that all annexes should be allowed to be occupied in an uncontrolled way once they are no longer needed. Consideration must be given to development plan policies in this regard.
45. While the original planning application may have sought permission for an unlinked dwelling the Council state that permission would not have been granted without the condition.
46. In general, and subject to control by appropriate planning conditions, the proposal could be made acceptable with regard to character and appearance and other matters not in dispute. However, the absence of harm weighs neither for nor against the development.
47. The proposal would conflict with policies in the development plan that seek to deliver new development to sustainable locations. Given that the Council can identify a 5-year housing land supply it is evident that the Council's settlement and delivery strategies have not prejudiced the delivery of housing. Accordingly, I attribute significant weight to this conflict with the development plan and this weighs against the scheme.
48. Taking into consideration the evidence before me, the stated benefits of the proposal would not be sufficient to outweigh the harm I have identified above. For the reasons given above I find that the condition serves an effective and important planning purpose and is necessary in this context.

Conclusion

49. 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