



Appeal Decision

Site visit made on 17 June 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th July 2024

Appeal Ref: APP/D3505/W/23/3327183

Farmside, Main Road, Shotley, Suffolk IP9 1EY

- 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 & Mrs Andy & Lauren Chittock & Meredith against the decision of Babergh District Council.
 - The application Ref is DC/23/02181.
 - The development proposed is an annex for main house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form referred to the proposal as being a revised application. A revised application is not an act of development under s55 of the Act and so I have not included this within the description above.
3. On 20 November 2023, the Council adopted the Babergh and Mid Suffolk Joint Local Plan (JLP), which supersedes the Babergh Local Plan Alteration No.2 (2006) (LP) and the Babergh Local Plan 2011-2031 Core Strategy & Policies (CS), and now forms part of the statutory development plan. Policies HS33, HS35 of the LP and CS1, CS2 and CS15 of the CS, as referred to on the decision notice, are therefore no longer relevant. Policies LP02 and SP03 of the JLP are, however, relevant and the appellant has had an opportunity to comment on these.

Main Issues

4. The main issue is whether the proposed development would be tantamount to a separate dwelling and, if so, whether the site is a suitable location, with regard to the development plan policy.

Reasons

5. The appeal site is located to one side of Main Road (the B1456) with a detached dwelling set back from the front boundary. To the centre of the site frontage is a vehicular access, leading to a detached cart lodge, which faces towards the dwelling. To the rear of the cart lodge, the site extends way from the dwelling towards the side boundary.
6. The proposal is for a detached single-storey annex associated with the main dwelling at Farmside. Policy LP02 of the JLP sets out the Council's approach to residential annexes in the District and requires them to be ancillary and subordinate in scale and to not involve subdivision of the curtilage. While the

policy does not specify that annexes should only be attached to the host dwelling, it does require that annexes can be integrated into the main building when no longer required.

7. Although single-storey, the building would be of a substantial and permanent construction. It would be separated from the host dwelling by a significant distance, as well as by the cart lodge and the access. Although no boundary treatments are proposed, the position of the annex would create a private sitting out area and garden to the rear detached from the main garden of the host dwelling.
8. While smaller than the host dwelling, it is nevertheless a large building that would contain all the necessary facilities for day-to-day living. This would include a bedroom, bathroom, kitchen/living room and a utility room. The provision of such facilities is not necessarily determinative, however the separation distance and intervening features, would undermine the sense that there would be a shared relationship or dependence between the occupiers of the annex and the dwelling.
9. The annex would be occupied by the appellants' parents and would allow for a mutual living assistance and greater family integration. This has not been disputed by the Council. Nonetheless, there is no substantive evidence before me, and there is no indication within the submitted plans, that shows how the annex would be incorporated into the use of main dwelling when the need for the accommodation no longer exists.
10. A condition to restrict the ancillary use and/or occupancy of the annex would not prevent it from being used as an independent dwelling, as no physical alterations would be required to change its use or occupancy. As a result, compliance monitoring and enforceability of such a condition would be onerous and impractical and, accordingly would not meet the relevant tests for conditions, as set out in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance.
11. The proposal has not been submitted on the basis of the building being used as a separate dwellinghouse. Nevertheless, the building would be tantamount to a separate dwelling. The site is detached from the nearest settlement and is outside of the defined built-up area boundary. Accordingly, the site is within the countryside.
12. Policy SP03 of the JLP sets out the overarching approach to the sustainable location of new development across the district. The policy makes provision for housing outside of settlement boundaries in a range of defined circumstances, including where the site is allocated for development, in accordance with a made Neighbourhood Plan, in accordance with one of the policies listed in Table 5, or in accordance with Paragraph 80 (now numbered Paragraph 84) of the Framework.
13. There is no information before me to indicate that the site is allocated for development or that there is a Neighbourhood Plan. Furthermore, it has not been suggested that the proposal would accord with any of the policies listed in Table 5. Consequently, a dwelling at the site would conflict with Policy SP03 of the JLP.

14. I conclude that the proposal would be tantamount to a separate dwelling, and the location is not suitable for a dwelling. The development therefore conflicts with Policy LP02 of the JLP, which requires proposals to be ancillary and subordinate in scale, and to allow for the annex to be integrated when the need no longer exists, and Policy SP03 of the JLP, which seeks to direct development to settlements where the need to travel can be reduced.

Other Matters

15. The proposal was submitted following discussions with the Council. Although pre-application advice is a useful tool to enable an early understanding of the likely site constraints of a proposal, this is not a guarantee of planning permission at a later date. Moreover, this does not affect the material planning considerations of the case and I have considered the proposal on its own merits.
16. The appellant has drawn my attention to planning permission reference DC/23/01466 for an annex. While there are some similarities with the scheme before me, I note that the annex at the other site would be attached to an outbuilding and would be closer to the host dwelling than the proposed annex. Moreover, the annex would have a path linked to the host dwelling and would involve the removal of intervening features to ensure connection and clear intervisibility with the annex.

Conclusion

17. The proposal conflicts with the development plan. Material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR