

Appeal against the decision of Ribble Valley Borough Council to refuse an application for the change of use of a domestic annexe to form a separate dwelling at Tippings Meadow, Lyndale Avenue, Wilpshire, Lancs BB1 9LP

Application ref: 3/2021/0820

Appeal Statement

- 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 and Mrs J. Evans against the decision of Ribble Valley Borough Council.
- The application Ref, 3/2021/0820 dated 7 August 2021, was refused by notice dated 21 October 2021.
- The proposed development is for the change of use of a domestic annexe to form a separate dwelling at Tippings Meadow, Lyndale Avenue, Wilpshire, Lancs BB1 9LP

The proposed development

Tipping Meadow is a detached dwelling in extensive grounds.

It includes a detached, 3-bedroom annexe which was originally a 4-car domestic garage. The annexe is the building on the right: -



On 30 May 2008, the local planning authority (LPA) issued a Certificate of Lawfulness for its *'conversion to form a 'Granny Annex' to be uses as ancillary accommodation to the main dwelling'* (Ref 3/2008/0450) and for the following reason: -

'As the garage building is considered to be lawfully used for private and domestic purposes in association with Tippings Meadow, it is considered that the proposed works to convert and the use of that structure as ancillary accommodation to the main house can also be carried out lawfully'.

The 'annexe' has all the facilities associated with an independent dwelling and is occupied as such by the occupants, albeit they are directly related to the occupants of the main house.

The annexe was assessed for Council tax payments as a separate dwelling in November 2016. The property has been occupied continuously for more than 4 years.

The application building is within the Green Belt

Matters not in dispute

Green Belt

Paragraph 147 of the Framework states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*

Paragraph 150 adds that *'certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include:*

'a) the re-use of buildings provided that the buildings are of permanent and substantial construction;

e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds';

NB exception (e) is not a 'closed list'.

The LPA, in its officer report concludes that *'The proposal seeks to re-use an existing building and would require no physical alterations. It would not result in any negative impact on Green Belt openness'*.

Isolation and sustainability

In its email of the 21 October 2021, the LPA wrote that the proposed development would not result in a new isolated dwelling.(submitted with the appeal).

In its officer report, the LPA notes that *'future occupiers of the proposed dwelling would have reasonable access to public transport with a bus stop around 400 metres away on Whalley Road. Wilpshire does however offer only a limited range of services and facilities, with the nearest convenience store selling day-to-day food items being a butcher on Whalley Road around 1.2km away. As such, there is likely to be some reliance on the private motor vehicle'*.

Visual Amenity/External Appearance

The LPA notes in its officer report that *'the application proposes no alterations to the appearance of the existing building. In the event that consent is granted, permitted development rights for the dwelling could be removed if necessary'*.

Impact Upon Residential Amenity:

The LPA considers that *'there would be no impact on neighbouring residents as a result on the development proposals. The relationship between buildings would enable the building to be used as a separate residence without impacting on privacy'*.

Highways

The officer report notes that *'on matters of highways and accessibility, the County Highways Surveyor has raised no objection to this arrangement'*.

Parish/Town Council

'No objection'

Neighbour consultations

'No representations have been received'.

The Main Issues

The main issues are (i) the principle of the proposed development and(ii) the issue of precedence

Principle

While the LPA considers that the proposed development is not inappropriate in the Green Belt, is not isolated, and is not raising an objection specifically concerning sustainability, it has nevertheless refused the application as it considers that it would not accord with its strategic policy DMG2 of the adopted Ribble Valley Core Strategy 2014 (CS) and which states as follows: -

'Policy DMG2: strategic considerations

10.5 development should be in accordance with the core strategy development strategy and should support the spatial vision.

1. Development proposals in the principal settlements of Clitheroe, Longridge and Whalley and the tier 1 villages should consolidate, expand or round-off development so that it is closely related to the main built up areas, ensuring this is appropriate to the scale of, and in keeping with, the existing settlement.

Within the tier 2 villages and outside the defined settlement areas development must meet at least one of the following considerations:

- 1. The development should be essential to the local economy or social well being of the area.*
- 2. The development is needed for the purposes of forestry or agriculture.*
- 3. The development is for local needs housing which meets an identified need and is Secured as such.*
- 4. The development is for small scale tourism or recreational developments appropriate to a rural area.*
- 5. The development is for small-scale uses appropriate to a rural area where a local need or benefit can be demonstrated.*
- 6. The development is compatible with the enterprise zone designation.*

Within the open countryside development will be required to be in keeping with the character of the landscape and acknowledge the special qualities of the area by virtue of its size, design, use of materials, landscaping and siting. Where possible new development should be accommodated through the re-use of existing buildings, which in most cases is more appropriate than new build.

In protecting the designated area of outstanding natural beauty the council will have regard to the economic and social well being of the area. However the most important consideration in the assessment of any development proposals will be the protection, conservation and enhancement of the landscape and character of the area avoiding where possible habitat fragmentation. Where possible new development should be accommodated through the re-use of existing buildings,

which in most cases is more appropriate than new build. Development will be required to be in keeping with the character of the landscape and acknowledge the special qualities of the AONB by virtue of its size, design, use of material, landscaping and siting. The AONB management plan should be considered and will be used by the council in determining planning applications.

For the purposes of this policy the term settlement is defined in the glossary. Current settlement boundaries will be updated in subsequent DPDs.

This policy assists the interpretation of the development strategy and underpins the settlement hierarchy for the purposes of delivering sustainable development. In establishing broad constraints to development the council will secure the overall vision of the core strategy'

The 'development strategy' referred to above is described as follows in CS policy DS1: -

4.2 The Development Strategy

KEY STATEMENT DS1: DEVELOPMENT STRATEGY

The majority of new housing development will be:

- concentrated within an identified strategic site located to the south of Clitheroe towards the A59; and
- the principal settlements of:
 - Clitheroe;
 - Longridge; and
 - Whalley.

Strategic employment opportunities will be promoted through the development of:

- the Barrow Enterprise Site as a main location for employment; and
- the Samlesbury Enterprise Zone

New retail and leisure development will be directed toward the centres of:

- Clitheroe;
- Longridge; and
- Whalley.

In addition to the strategic site at Standen and the borough's principal settlements, development will be focused towards the Tier 1 Villages, which are the more sustainable of the 32 defined settlements:

- | | |
|---------------|----------------------|
| • Barrow; | • Mellor; |
| • Billington; | • Mellor Brook; |
| • Chelburn; | • Read & Simonstone; |
| • Gisburn; | • Wilpshire. |
| • Langho; | |

In the 23 remaining Tier 2 Village settlements, which are the less sustainable of the 32 defined settlements, development will need to meet proven local needs or deliver regeneration benefits. The Tier 2 Village settlements are:

- | | | |
|----------------------|----------------|------------------|
| • Bolton-by-Bowland; | • Holden; | • Sawley; |
| • Brockhall; | • Hurst Green; | • Stalldurn; |
| • Calderstones; | • Newton; | • Tosside; |
| • Chipping; | • Osbaldeston; | • Waddington; |
| • Copster Green; | • Pendleton; | • West Bradford; |
| • Downham; | • Ribchester; | • Wiswell; |
| • Dunsop Bridge; | • Rimington; | • Worston. |
| • Grindleton; | • Sabden; | |

In general the scale of planned housing growth will be managed to reflect existing population size, the availability of, or the opportunity to provide facilities to serve the development and the extent to which development can be accommodated within the local area. Specific allocations will be made through the preparation of a separate allocations DPD.

In allocating development, the Council will have regard to the AONB, Green Belt and similar designations when establishing the scale, extent and form of development to be allocated under this strategy. The relevant constraints are set out as part of the strategic framework included in this plan.

Development that has recognised regeneration benefits, is for identified local needs or satisfies neighbourhood planning legislation, will be considered in all the borough's settlements, including small-scale development in the smaller settlements that are appropriate for consolidation and expansion or rounding-off of the built up area.

Through this strategy, development opportunities will be created for economic, social and environmental well-being and development for future generations.

Wilpshire is a tier 1 village

The Spatial vision, as referred to in policy DMG2 above is stated in the CS as follows: -

The Glossary to the CS states that the definition of 'Settlement' is as follows: -

DEFINED SETTLEMENT – *A defined settlement is one which contains at least 20 dwellings and a shop or public house or place of worship or school or village hall, ie they are of a size and form that justifies treatment as a settlement.*

Settlements smaller than this limit will not be given settlement boundaries as they are not considered to be large enough or to contain enough facilities to allow for growth beyond that delivering regeneration benefits or local needs housing.

Settlement boundaries will:

- ☐ *Include all properties physically linked to the main (built) part of the settlement*
- ☐ *Include all undeveloped areas of e*
- ☐ *Existing planning consents relating to the settlement*
- ☐ *Include residential curtilages*
- ☐ *Boundaries do not include properties separated from the main body of the settlement by areas of open land not*
- ☐ *forming a residential curtilage*
- ☐ *In most cases single depth development (ribbon development) along roads leading out of settlements will be excluded unless they are physically well related to the settlement'.*

Appellant comments

The purpose of the above development strategy can be described as the avoidance of new residential development in isolated, unsustainable rural locations, being poorly located for local services. In this, it accords with the National Planning Policy Framework 2021(the Framework) which states at paragraph 80 that '*planning policies and decisions should avoid the development of isolated homes*' (but where exceptions apply).

However, in this instance the LPA acknowledges that the proposed development would not be isolated.

In our own Planning statement, we have referred to the Braintree High Court case which concluded that where development is not isolated it can help to sustain the

rural economy, can provide housing in rural areas and can thus be sustainably located.

The LPA in its officer report, perhaps reluctantly, half acknowledges the sustainability of the site location.

Even if the proposed dwelling was not sustainably located, it is and would remain in residential use providing 3-bedroom accommodation. There would be no additional traffic movements or any adverse impact on sustainability or upon the development strategy. This situation has existed since the approval of a lawful development certificate by the LPA in 2008.

In all this, the Framework emphasises at paragraph 79 that houses so located can *'enhance or maintain the vitality of rural communities'*

In summary, while there may be some slight conflict with the wording of CS policy DMB2, the proposed development would not adversely affect the development strategy of the CS as the lawful, residential use of the premises already exists. The creation of a planning unit in the form of a separate dwelling would accord with the Framework which post dates the CS.

The creation of a separate planning unit for the annexe would not cause any planning harm to the development strategy or to any other planning policy. Planning decisions must be made in accordance with the development plan unless there are material considerations which indicate otherwise. The lack of any planning harm is a very significant material consideration.

Precedent

The LPA considers that an approval would *'create a precedent for the acceptance of other similar unjustified proposals which would cause harm to the development strategy for the borough and have an adverse impact on the implementation of the planning policies of the Council contrary to the interests of the proper planning of the area in accordance with core principles and policies of the NPPF'*.

However, it is a maxim of decision making that every application will be dealt with on its individual merits.

In this instance there are special circumstances that are unlikely to be replicated, if at all: -

1. The proposed development adjoins the settlement boundary
2. It is not isolated and is sustainably located
3. The property is already in residential use, with a lawful development certificate dating from 2008 and with all the facilities for independent living including a large amenity area.
4. It has been occupied as an independent residence since that time
5. It is rated for Council tax purposes as a separate dwelling house.
6. There are no objections from County Highways, from the Parish Council or any other consultee.

The LPA has not produced any evidence of similar circumstances applicable to other sites, and even if there are any, they are unlikely to be in sufficient numbers to have any adverse impact upon the development strategy of the CS.

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HPDA

October 2021.