

**Appeal against the decision of Ribble Valley Borough Council to refuse an application for the change from a domestic annexe to an independent dwelling at Mount Pleasant, Ribchester Road, Hathersall, Preston PR3 3XA**

Application ref: 3/2022/0829

**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 H. and J. Worthington against the decision of Ribble Valley Borough Council.
- The application Ref, 3/2022/0829, dated 9 August 2022, was refused by notice dated 3 November 2022.
- The proposed development is for the change from a domestic annexe to an independent dwelling at Mount Pleasant, Ribchester Road, Hathersall, Preston PR3 3XA

**The proposed development**

Mount Pleasant comprises the main detached dwelling plus a separate, single storey, detached annexe.

The annexe was previously used as a holiday let. Application 3/2008/0168 was approved for a bedroom extension, making the building a two-bedroom property.

On 19 March 2020, under application 3/2020/0071, planning permission was granted for the change of use of the building from a holiday let to an annexe.

Until recently the main house was occupied by the applicant's daughter and her husband. Her parents were glad to live adjoining them in the annexe to give help to their son-in-law who had a serious illness. Unfortunately, he has now passed away. The main house is now far too big for their daughter, and it also represents a financial burden.

The result is that the current position presents some uncertainties and the applicants, who are beyond retirement age, wish to remain in their present accommodation if the main house has to be sold. Hence the current application.

### **The Main Issues**

The main issues are (i) whether the proposed development is in a suitable location having regard to development plan policies and (ii) the sustainable location of the proposed development.

#### *Suitable location and development plan policies*

The local planning authority (LPA) considers that the proposed development is contrary to the Ribble Valley Core Strategy 2014 (CS) policies DMG2 and DMH3.

Policy DMG2 states ‘that *development should be in accordance with the core strategy development strategy and should support the spatial vision*’. Outside the defined settlement areas, Policy DMG2 states that in rural areas development must meet at least one of six criteria. These include development essential to the local economy or social wellbeing, for the purposes of agriculture or forestry, for local needs housing, small scale tourism, other small scale uses appropriate to the rural area and development associated with the Enterprise Zone. The proposed development would be a small-scale use appropriate to a rural area.

The policy adds that in the open countryside, new development should be accommodated through the re use of existing buildings, which in most cases is more appropriate than new build. The subdivision of the property accords with this.

Policy DMH3 relates to dwellings in the open countryside and in the AONB and states ‘*within areas defined as open countryside or AONB on the proposals map, residential development will be limited to:*

*2. the appropriate conversion of buildings to dwellings providing they are suitably located and their form and general design are in keeping with their surroundings. buildings must be structurally sound and capable of conversion without the need for complete or substantial reconstruction*’.

The LPA raises no objections with regard to general design in keeping with the surroundings, nor regarding the structural soundness of the building or its capability to be used as a separate dwelling. The issue of its sustainable location is dealt with later in the appeal statement.

But in any event, the above policies predate the publication of the National Planning Framework 2021 (the Framework) and there is some conflict with the latter. The provisions of the Framework are a significant material planning matter. Where conflict occurs the Framework states: -

*218. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this Framework has made.*

*219. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

Paragraph 80 is clear with regard to the subdivision of existing rural housing, even if it is in an isolated location: -

*'Rural housing*

*80. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*d) **the development would involve the subdivision of an existing residential building**' (My highlighting).*

Similar issues were raised elsewhere within the Borough concerning a planning appeal relating to the use of a residential annexe as a separate dwelling at **Tippings Meadow, Wilpshire (appeal ref: APP/T2350/W/21/3285462)**, allowed on 24 February 2022.

While the appeal related to development in the Green Belt whereas the current application is not, there are many similarities. In both cases there would be no physical external changes, and the properties have been occupied effectively as two separate dwellings in any case.

The Inspector concluded that, while in his opinion there was some conflict with CS policy DMG2, these other matters outweighed any such conflict with the CS.

The Inspector concluded as follows: -

*'The proposal raises no highway issues, and it causes no harm to residential amenity. As there are no external alterations proposed the development would have no impact on the character or appearance of the area in compliance with Key Statement EN2 and Policy DMG1 of the Core Strategy'*

*'I therefore find on the basis of the evidence before me in this case, that the conflict with the development plan, which post-dates (sic) the current Framework, is outweighed by other material considerations'.*

The same applies in the case of the current proposal and where the development would not have any planning harm in terms of the development strategy of the LPA, the character and appearance of the area, or in terms of precedence where it is unlikely that the particular circumstances of this case would be replicated to any degree. As the Inspector concluded in the Wilshire case - *'even if they were, the likely number of cases would be so limited, that there would be no adverse impact on the development strategy for new residential development in the borough.'*

Therefore, the proposed development would accord with CS policy DMG2 in so far as it would form a small-scale development appropriate to a rural area, and there are social well-being considerations in this case and as included in the policy. But even if it is found that there is some conflict with the policy, other matters as outlined outweigh this and as the Inspector concluded at the Tipping Meadow appeal case.

As in that case *'the proposal raises no highway issues, and it causes no harm to residential amenity. As there are no external alterations proposed the development would have no impact on the character or appearance of the area in compliance with Key Statement EN2 and Policy DMG1 of the Core Strategy'*

*'I therefore find on the basis of the evidence before me in this case, that the conflict with the development plan, which post-dates (sic) the current Framework, is outweighed by other material considerations'.*

Furthermore, the proposed development would comply with paragraph 80 of the Framework, and which postdates the CS.

In summary, even if it is concluded that there may be some slight conflict with the CS, the proposed development would not adversely affect the development strategy of the CS and would not cause any planning harm. The lack of any planning harm is a very significant material consideration. Moreover, the subdivision of the property, even if it is deemed to be within an isolated location, would accord with the specific exception included in the Framework at paragraph 80 which promotes the subdivision of existing dwellings. In addition, such an exception in the Framework post-dates the CS and provides more up to date policy guidance.

It would also accord with CS policy DMH3 relating to the appropriate conversion of buildings to dwellings in the countryside.

### *Sustainability*

*The LPA considers that 'the creation of a new residential dwelling in this location would lead to an unsustainable pattern of development, without sufficient or adequate justification, insofar that occupants of the residential dwelling would fail to benefit from adequate walkable access to local services or facilities - placing further reliance on the private motor-vehicle contrary to the aims and objectives of Key Statement DM12 and Policy DMG3 of the adopted Core Strategy and the National Planning Policy Framework presumption in favour of sustainable development*

CS policy DM12 aims to locate new development to minimise the need to travel and DMG3 is supportive of development where transport links are not dependent on private vehicles.

However, the Framework recognises the difference between urban and rural transport considerations and at paragraph 105 states as follows: -

*'Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. (My highlighting).*

The subdivision of the property into two dwellings, in accordance with paragraph 105 of the Framework, can hardly be 'significant development'.

Furthermore, the proposed subdivision of the dwelling into two houses will not increase the overall living accommodation or the number of bedrooms, such that the number of persons living there is unlikely to be significantly different, whether it is one dwelling or two. Therefore, the need to travel is unlikely to differ significantly. It might be argued that the subdivision leads to more visits from friends and by deliveries, but even if the occupants were to live as one household, their social circumstances in terms of friends visiting are different, as are their separate purchases via deliveries or visits to shops, work and facilities.

But in any event, the site is not reliant on private cars. In our application submission we have included bus timetables into adjoining towns. The bus stop is virtually outside the appeal property.

### **Other Matters**

The Highway Authority requires a minimum width for the access, if it serves both the host property and the annexe, of 4.75 metres. It also would prefer sight lines at the junction with the main road of 2m by 65 metres or, given that the properties already exist, the best possible sight lines in the circumstances.

The proposed development shows an existing joint access comprising two accesses with a wall down the middle. We would accept a condition that the joint access should have a minimum, uninterrupted width of 4.75 metres.

The Highway Authority also requires two parking spaces for the proposed development. There is sufficient space within the submitted red edge of the application for such provision. We would accept a condition requiring its provision.

## **Summary**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

While it may be argued that there is some minor conflict with the CS development strategy for the Borough, set against this, is that the property is already in a residential use and where the Framework allows, as an exception even to isolated properties, their subdivision. Furthermore, while the development strategy requires the majority of new development to be within identified strategic sites and specified settlements, the policy does not require all such development to be within them. In this instance, the subdivision of one dwelling into two where there are no external changes and which would accord with the provisions of the Framework (which post-dates the CS), is not going to result in planning harm to the development strategy or to any other planning harm. Therefore, even if it is found that the proposed development conflicts slightly with the development strategy, it is outweighed by the above material considerations, as illustrated in the appeal decision relating to Tippings Meadow, Wilpshire and also in the Framework.

Furthermore, it would not lead to any appreciable increase, if any, to unsustainable activities due to its location, given that the annexe is already in residential use and given the ready availability of a bus service virtually on the doorstep.

Therefore, the proposed development would accord with the aims and objectives of Key Statement DMI2 and Policy DMG3 of the CS and the Framework's presumption in favour of sustainable development.

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