



Appeal Decision

Site visit made on 26 October 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2023

Appeal Ref: APP/P3420/W/23/3320812

Land adjacent to Farcroft, Manor Road, Baldwins Gate, Newcastle-under-Lyme ST5 5ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs G Adams against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref 22/00836/OUT, dated 28 September 2022, was refused by notice dated 8 December 2022.
 - The development proposed is outline planning application (all matters reserved), for a detached dwelling, self-build.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with all matters reserved. An illustrative site layout plan was submitted with the application and where relevant I have had regard to it in reaching my decision.
3. The appellant submitted a Unilateral Undertaking (dated: 13 September 2023) during the appeal. I shall return to the matter below.

Main Issue

4. The main issue is whether the site would be a suitable location for housing, with particular reference to reliance on the private car.

Reasons

5. The appeal site is a grassed paddock located adjacent to Farcroft and fronting the road. Farcroft is a large, detached dwelling situated at the end of a small cluster of dwellings on Manor Road. A detached dwelling is also located to the rear of the site. The surrounding area is rural.
6. The proposal is for a self-build dwelling that would be located outside any defined settlement boundary and, consequently, would be within an area of open countryside.
7. The Council and the appellant agree that Policy SP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (2009) (Core Strategy) is out-of-date. The general aim of the policy, however, to prioritise the use of previously developed land where it can support sustainable patterns of development and provide access by public transport modes other than

private motor vehicles generally accords with the National Planning Policy Framework (Framework). As such, I afford this policy significant weight.

8. The nearest main settlement to the appeal site is Baldwins Gate. The appellant indicates that the site is located approximately 650m “as the crow flies” from the settlement boundary, with all services and facilities that exist within the settlement being approximately 1600m actual walking distance.
9. There is no bus stop served by a regular bus service in the immediate vicinity of the appeal site. Furthermore, walking to services and facilities including bus services would entail use of unlit roads with no pavements. Although there are some grass verges adjacent to the carriageway, these are uneven and unsuitable for use. The unlit nature of these routes would limit the prospect of future occupants of the proposed dwelling using them to regularly access a range of services and facilities year-round. In addition, the roads are narrow with no cycle lanes.
10. The absence of a welcoming environment for pedestrians and cyclists is likely to cause conflict with the movement of motor vehicles, which would potentially be travelling at greater speeds. This conflict is likely to deter travelling by foot or bicycle and, in turn, encourage travelling by private car. Therefore, the proposal would result in a high level of reliance on the private motor vehicle by future occupants of the proposed dwelling.
11. The appellant indicates that the reliance on private car could be offset through the provision of electric vehicle charging points and cycle parking provision. However, it would be impossible to control by condition the type of vehicles that would be used by the future occupiers or visitors to the dwelling. Moreover, it would not overcome my concerns regarding the absence of an appropriate environment for pedestrians and cyclists.
12. I note the Framework at paragraph 105 recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, this does not justify locating development in an inherently unsustainable location. Given my findings above, there would be conflict with the Framework in these respects.
13. My attention has been drawn to other previous approvals for self-build developments beyond a defined village envelope. Nevertheless, these previous approvals are sited near to a different settlement, and so the context is not comparable to the proposal before me. Accordingly, I have determined the appeal on its own merits and do not find that the presence of these previous approvals requires me to alter my decision.
14. My attention has also been drawn to a previous appeal decision¹ for a development of 200 dwellings located on the edge of Baldwin’s Gate. However, the appeal site would not be physically connected to this approved development, as it would be separated from it by a swathe of greenfield. There are no public footpaths or cycleways from the appeal site to it. Furthermore, it is likely to take several years to complete the development.
15. For the reasons above, essential services and facilities would not be readily accessible from the appeal site. Therefore, the occupants would be largely reliant on private vehicles to access essential services and facilities, due to the

¹ APP/P3420/W/23/3314808

lack of safe pedestrian and cycle routes and having limited options for alternative modes of sustainable transport.

16. As such, the proposal would fail to accord with Policy SP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (2009). Amongst other things, this policy seeks to ensure development is directed towards sustainable areas within the borough. It would also fail to accord with the Framework in respect of achieving sustainable development.

Other Considerations

17. The proposal would provide one self-build dwelling. A Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 has been submitted in support of the appeal. This was completed following the Council's decision on the application. It requires the development to be undertaken in a manner that accords with the legal definition of self-build and custom housebuilding as defined in the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). I am satisfied that the signed Unilateral Undertaking meets the three tests set out in Paragraph 57 of the Framework for planning obligations. As a result, I have taken the completed Unilateral Undertaking into account.
18. The Act imposes certain duties on planning authorities, one of which is to keep a register of all individuals and organisations who are interested in acquiring a self-build/custom-build site. Paragraph 62 of the Framework states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).
19. The appellant suggests that the Council is not granting sufficient permissions to meet its duties under the Act and that the development plan does not address the matter of self-build. The Council do not dispute this. Therefore, the unfulfilled demand for self-build sites within the borough is a material consideration.
20. However, the advice in paragraph 62 of the Framework relates to policy making, rather than to individual decisions. Neither the Framework nor the PPG indicate that open market self-build housing is acceptable in locations where residential development would not normally be permitted. Furthermore, whilst the proposal would contribute towards meeting the need for self-build plots in the locality, as it would be for one dwelling only the benefits of the proposal would be relatively minor. As such, it would attract only limited weight.
21. The appellant has cited a previous appeal decision² allowing self-build and custom housebuilding development, where weight had been applied in favour of the proposal due to the failure to grant sufficient permissions to meet self-build and custom-build demands. Nevertheless, that scheme was larger than the appeal scheme before me. It is therefore not directly comparable to the appeal proposal and does not alter my decision.
22. The proposal would make a contribution to the housing supply, albeit a very limited one to which I therefore attach limited weight.

² Appeal references 3309281 and 3314990

23. There would be short term economic benefits resulting from the construction stage, along with longer term economic and social benefits from the use of local shops and services by the occupants. However, these would be likely to amount to small benefits relating to just a single dwelling and therefore attract limited weight.

Other Matters

24. I note the comments relating to the Council's pre-application advice, but this has no bearing on my decision. Local representations have been received raising a number of other concerns, including loss of agricultural land, potential harm to the character and appearance of the area, and living conditions of neighbouring occupiers. Nevertheless, as I am dismissing the appeal I do not need to consider these matters further.

Planning Balance

25. Both parties agree that the housing policies most important for determining the proposal contained within the Core Strategy and the Saved Policies of the Newcastle-under-Lyme Borough Local Plan 2011 (adopted 2003) are out-of-date. The Council also concedes that it cannot demonstrate a 5-year supply (5YHLS) of deliverable housing sites as required by the Framework. The Council refer to a supply of 4.84 years; this figure has not been disputed by the appellant.
26. The lack of a 5YHLS triggers the presumption in favour of development within paragraph 11d) of the Framework. This indicates that, where the requisite land supply does not exist, the most important policies for determining the application should be deemed out-of-date. However, part ii. of paragraph 11d) clarifies that permission should not be granted if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
27. There would be harm arising from this proposal that is so significant that the adverse impacts of granting permission relating to the main issue would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. In addition, Policy SP1 of the Core Strategy is broadly consistent with the sustainability principles set out in the Framework, in particular paragraphs 11a and 79 in terms of promoting a sustainable pattern of development and is therefore not out-of-date for the purposes of paragraph 11d) of the Framework. I therefore give the conflict with this policy significant weight in this appeal.
28. Thus, overall, the modest benefits are insufficient to outweigh the harm I have found in regard to poor accessibility to local services and facilities and the reliance on private motor vehicle. Consequently, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

29. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR