



Appeal Decision

Site visit made on 14 January 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/G2435/W/24/3352850

93 Zion Hill, Peggs Green, Coleorton, Leicestershire LE67 8JP

- 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 and Mrs B Slee against the decision of North West Leicestershire District Council.
 - The application Ref is 23/01129/FUL.
 - The development proposed is erection of one self-build dwelling with detached car port/store and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one self-build dwelling with detached car port/store and associated works at 93 Zion Hill, Peggs Green, Coleorton, Leicestershire LE67 8JP in accordance with the terms of the application, Ref 23/01129/FUL, subject to the conditions in the attached schedule:

Preliminary Matters

2. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 and has been used in the determination of this appeal. Parties have been given the opportunity to comment on the changes and I have had regard to the comments received in the determination of this appeal.
3. The description of development has been taken from the decision notice which I note has also been used on the appeal form as this more accurately describes the development.
4. I have been made aware that a new local plan is being prepared. However, I have limited information on the status of the emerging local plan or whether the policy suggestions would be adopted. As such reference to any emerging policies attracts very limited weight.

Main Issue

5. The main issue is whether the location of the development would be appropriate for housing having regard to the spatial strategy of the development plan, the effect of the proposal on the character and appearance of the countryside and the accessibility of services and facilities.

Reasons

6. The development plan for the area is the North West Leicestershire Local Plan (2021) (LP). Policy S2 of the LP sets out the settlement hierarchy for the district, with growth being directed to settlements higher up the hierarchy than those lower down.
7. The site is identified as forming part of the settlement of the village of Peggs Green. This is identified as a 'small village', towards the bottom of the settlement hierarchy, with very limited services and where development is restricted to conversions of existing buildings, redevelopment of previously developed land (PDL) or affordable housing in accordance with Policy H5 of the LP.
8. The appellant contends that the site meets the definition of PDL as defined in the glossary of the Framework. The definition excludes residential gardens in built up areas. The Council acknowledge that the site is located within the residential curtilage, however they argue that the surrounding area is built-up and thus is excluded from the definition of PDL. There is no definition of what constitutes 'built-up' in the glossary of the Framework. It is a matter of judgement. Whilst there is not a defined settlement boundary for the village, the appeal site is located north of the junction of Bakewells Lane and Zion Hill where development is more dispersed and of lower density. This is in contrast to the ribbon development south of Bakewell Lane, fronting Zion Hill. To the north and west of the appeal site, there is also no built development. As such, and having had regard to the caselaw¹, I consider the land does not fall within a 'built-up' area and the land where the proposed dwelling is to be built can be considered PDL.
9. Whilst the use of PDL is supported by Policy S2, this is only the case for housing where a site is within or well related to the small village. Given that the appeal site has been classified as being within Peggs Green it satisfies this criteria. The proposed site would therefore not be in conflict with Policy S2 of the LP.
10. The site is located on land designated as countryside within the LP. In the countryside, development is strictly controlled by Policy S3 of the LP, bar a number of exceptions. One such exception is criterion e) the redevelopment of previously developed land in accordance with Policy S2. Given my findings above, the proposal would accord with the first part of the criteria of Policy S3, however where development accords with an exception criterion it will only be supported subject to further considerations set out at parts i to vi of Policy S3. I consider these below.
11. The appeal site is located on the northern edge of Peggs Green where No 93, a two storey semi-detached property is the last property on Zion Hill. Peggs Green has a variety of dwelling types and sizes, with two storey dwellings in brick or render being the prevailing character in the immediate area. The appeal site has well defined, verdant boundaries, largely surrounded by open countryside, contributing to its rural character. The surrounding development is sporadic, in contrast to the linear form of ribbon development south of No 93, along Zion Road. The property has a large garden which provides a pleasant separation to the existing ribbon development south of the appeal site, with the appeal site contributing positively to the rural character of the area.

¹ Dartford Borough Council v Secretary of State for Communities and Local Government [2016] EWHC 635 (Admin)

12. The proposed timber clad dwelling would be set back from and to the south-west of 93 Zion Hill. Its positioning within the plot would reflect the sporadic nature of development in this particular part of Peggs Green, such that it would not appear at odds with the pattern of development. Although set away from No 93, it would still be closely related to the property, sharing an existing accessway off Zion Hill and would be read in the context of No 91 - 93. It would not appear isolated. The current gap that exists with the linear band of ribbon development to the south would still be retained. Given the quantum of development, the proposals set back from No 93 and angle away from the road frontage of Zion Hill it would also not undermine either the physical or perceived separation and open undeveloped character with nearby settlements.
13. Furthermore, given that the proposed dwelling is considerably set back and angled away from Zion Hill and does not extend further along the road to the north than Nos 91 - 93, the proposed dwelling would not create or exacerbate ribbon development.
14. The Council have raised no concern with the footprint and scale of the dwelling within the plot. Given the varied scale of properties in the vicinity, whilst the footprint is large, the two storey dwelling would not appear at odds with the overall form of development in the area, thus any urbanising effect would be minimal. However, the timber cladding on all elevations would appear incongruous. Whilst the nearby garage at 93 Zion Hill has a timber clad design, it is not a prevailing characteristic of residential properties in the area. I am satisfied that the matter of materials could be dealt with by a suitably worded condition.
15. Turning to accessibility, Criterion vi) of Policy S3 states that the proposed development is accessible or will be made accessible, by a range of sustainable transport means. Peggs Green has limited services and facilities, as indicated by its position in the settlement hierarchy. It is close to Coleorton, though this also has limited services and facilities, with the local convenience store now closed. However, Peggs Green does have a pub, a church, village hall and a recreation ground all within a short walking distance. There is also a bus stop located approximately 500 metres away with a not infrequent two hourly bus service Monday to Saturday to a number of surrounding larger centres, including Ashby De La Zouch and Loughborough. Another bus stop is located 800 metres away with an hourly service to towns including Ashby De La Zouch, Loughborough and Coalville. Whilst these distances would be in excess of the specific distance to bus stops set out in the Planning for Walking (2015) publication, the same publication also advises that most people will only walk if their destination is less than a mile away. In this case, the bus stops fall comfortably within this distance.
16. These destinations would have a large variety of services and facilities and would be accessible for all future occupiers. In this regard, future occupiers would not be wholly reliant on the use of a private car. Zion Hill is a 30mph road with a pavement and street lighting, thus it would not be prohibitive for walking to the facilities in Peggs Green, even during inclement weather.
17. I have had regard to the research put forward by the Council which outlines that a walking distance of more than 30 minutes to key amenities can re-enforce car dependency. Whilst I am mindful that the Framework recognises significant development should be focussed on locations that are, or can be made sustainable, the site is not in an isolated location, the quantum of development is

not significant and the trip generation is likely to be low. Furthermore, I am also mindful that Paragraph 110 of the Framework indicates that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision-making. Considering all the above points, I find that the site would be accessible via a range of sustainable transport modes thus according with part vi of Policy S3.

18. Drawing the above together, I find the rural landscape character and distinctiveness would not be harmfully eroded, it would not undermine the separation and open undeveloped character with nearby settlements, would not create or exacerbate ribbon development, would be integrated with existing development and would be accessible by sustainable transport modes. It therefore accords with the sub-criteria set out in Policy S3 of the LP. Thus, there is no conflict with Policy S3 of the LP.
19. For the reasons above, the location of the development would be appropriate for housing having regard to the spatial strategy of the development plan. It would be accessible by a range of sustainable transport and it would not have an adverse effect on the character and appearance of the countryside. It therefore accords with Policy S2 and S3 of the LP, including sub-criteria i),ii),iii) and iv. There would also be no conflict with Policy En3 of the LP, which amongst other matters, seeks to ensure proposals do not adversely affect the character and appearance of the National Forest or wider countryside nor would there be conflict with Policy D1 which requires developments that are well designed.

Other Matters

20. The proposal is for a self-build dwelling. The Self-build and Custom Housebuilding Act 2015 (as amended) ('the Act') places a statutory duty on the Council to keep a register of persons who are interested in acquiring a self-build or custom-build plot, and to also grant enough suitable development permissions for serviced plots to meet this demand.
21. The Council accepts that there is a shortfall in supply, with the position at the start of the base year 31 October 2024 of a shortfall of 38 plots. This represents a significant unmet need. Given the shortfall, the proposal would make a small but nonetheless meaningful contribution in addressing this.
22. Sufficient visibility splays have been demonstrated, there has been no objection from the highway authority. Subject to conditions, the Council have found the proposed scheme would not have an adverse effect on neighbouring living conditions or ecology. From what I have observed on site and the submitted evidence, I have no reason to come to an alternate view on these matters.
23. The Council have drawn my attention to two recent appeal decisions² relating to the erection of single self-build dwellings and where there was discussion around the location of the development. Regarding self-build, in both of these appeals, a planning balance was undertaken as there was conflict with the spatial strategy. I have found no conflict with the development plan. In relation to the location of the development, the Inspector refers to the appeal site at Low Wood Lane as physically and visually separate from the nearest settlement, accessed via unlit road with no footway. In the appeal at land north of Aqueduct lane, the distances to

² Ref: APP/G2435/W/23/3330838 and APP/G2435/W/23/3324297

bus stops and recreation grounds differ to this appeal. Moreover, I cannot be sure the bus frequencies are comparable. These appeals are therefore not comparable and have had no bearing on my decision. Notwithstanding this, each appeal is determined on its own planning merits, based upon the issues and site specific circumstances in any one given case.

Planning Obligation

24. A Unilateral Undertaking (UU) pursuant to Section 106 of the Act is before me, dated 18 February 2025. The UU contains a provision related to self-build and custom build housing. There is no dispute between the parties relating to the provisions of the UU.
25. I am satisfied that its content is fit for purpose and secures the self-build nature of the proposal. With reference to Paragraph 58 of the Framework, the UU is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Conditions

26. The Council suggested a number of conditions, which I have considered in the light of the advice in the Framework and Planning Practice Guidance (PPG). In some cases, I have edited the suggested conditions for clarity and enforceability.
27. All pre-commencement conditions have been accepted by the appellant in writing and are consequently compliant with the necessary legislation.
28. In addition to the standard time limit condition, a condition requiring the development to be carried out in accordance with approved plans is needed for the avoidance of doubt.
29. I have included conditions requiring submission of samples of external materials and a scheme of hard and soft landscaping. These are necessary in the interests of the character and appearance of the area. It is necessary to include a condition requiring details of the finished levels to be approved, in order to protect the character and appearance of the area. The condition is a pre-commencement condition to ensure the development is constructed in accordance with the approved levels.
30. Conditions related to visibility splay, access, parking and turning are necessary in the interests of highway safety.
31. A condition is necessary to secure the implementation of adequate tree protection for the retained trees on site to ensure they are not adversely affected during construction. A condition is also necessary to safeguard and ensure appropriate opportunities for creation of suitable habitat features.
32. A condition requiring drainage details is necessary to ensure effective drainage and flood prevention.
33. To ensure sufficient space is provided for refuse bins and their collection does not cause highway safety issues, a condition is necessary to ensure this is provided.
34. I have imposed a condition to remove permitted development rights in relation to boundary treatments and upward extensions. Given the appeal site location, this is

necessary in the interests of maintaining the character and appearance of the area. I am mindful of the advice contained within the PPG regarding the use of conditions to remove permitted development rights, I consider that for the reasons given it is both reasonable and necessary.

Conclusion

35. For the reasons given above, I conclude that the appeal should be allowed.

T Bennett

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings: Location Plan (L01 Rev E), Location Plan Existing and Proposed (VS-LO1), Proposed dwelling floor and roof plans (X01 Rev F), Proposed garage and elevation plans (X02 Rev A), Proposed Tree constraints (TP01 Rev C), Proposed dwelling outline section AA (05 Rev C), Proposed dwelling elevations (04 Rev F), Proposed Site Plan (01 Rev G) except in respect of the materials shown on plan 04 Rev F.
- 3) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 4) No development shall commence until full details of the finished levels, above ordnance datum, of the ground floor of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees on site has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved
- 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - boundary treatments;
 - hard surfacing materials;
 - planting details including wetland planting, 8 oak trees and 10 horse chestnut trees
 - water features
 - implementation programme

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
- 7) No development shall take place until drainage works for foul and surface water shall have been carried out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.

- 8) The development hereby permitted shall not be occupied until such time as the access, parking and turning facilities have been implemented in accordance with the drawing titled 'Proposed Site Plan', drawing number 01 Rev G. Thereafter the onsite parking and turning provision shall be kept available for such uses in perpetuity.
- 9) The 2.4 metres by 65 metres visibility splays shown on plan no. 01 Rev G shall be free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
- 10) The development hereby permitted shall not be occupied until a bat and bird enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. All works are to proceed strictly in accordance with the approved scheme and should thereafter be retained for the lifetime of the development. The scheme shall detail the provision of a minimum of:
 - One integrated sparrow terrace nest box (with a minimum of 2 cavities), these should be placed at least 2m high in a sheltered location and close to cover for birds.
 - One integrated bat box positioned at least 4m high on the east elevation of the new building.
- 11) The development hereby permitted shall not be occupied until such time as details of a bin storage and collection area have been submitted to and agreed in writing by the Local Planning Authority. The development shall not be occupied until such time as the bin storage areas have been provided in accordance with the approved details and maintained in perpetuity.
- 12) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Class AA of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 to the Order shall be undertaken.

****End of Conditions****