



Appeal Decision

Site visit made on 11 February 2025

by **L C Hughes BA (Hons) MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/P3420/W/24/3348254

Land off Lordsley Lane, Ashley, Market Drayton, Shropshire TF9 4EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jonathan Leat, Leat Solutions Ltd against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref is 24/00269/OUT.
 - The development proposed is development of one serviced plot for self-build and custom housebuilding (all matters reserved except access).
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Decision

1. The appeal is allowed and outline planning permission is granted for development of one serviced plot for self-build and custom housebuilding (all matters reserved except access) at land off Lordsley Lane, Ashley, Market Drayton, Shropshire TF9 4EQ in accordance with the terms of the application, Ref 24/00269/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application of costs was made by Mr Jonathan Leat, Leat Solutions Ltd against Newcastle-under-Lyme Borough Council. That application is the subject of a separate decision.

Preliminary Matters

3. I have taken the description of development from the decision notice, as this more succinctly describes the proposal.
4. The application is submitted in outline with all detailed matters reserved apart from access. I have dealt with the appeal on that basis, treating any details of other reserved matters shown on the plans as illustrative.
5. The appellant submitted a Unilateral Undertaking during the appeal, dated 10 February 2025. I shall return to this below.

Main Issue

6. The main issue is whether the location of the appeal site is suitable for a new dwelling, with particular reference to sustainable transport.

Reasons

7. The proposal is for a self-build dwelling that would be located outside any defined village envelope, and as such would be within an area of open countryside. There are a small number of other properties in proximity.

8. The development plan for the area consists of the saved policies of the Newcastle under Lyme Local Plan 2011 (2003) (LP), the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006-2026 (2009) (CS) and the Loggerheads Neighbourhood Plan 2019 (NP).
9. Saved Policy H1 of the LP directs new development to sustainable locations and seeks to protect the countryside. Policy ASP6 of the CS sets out a spatial policy for rural areas. It indicates that there will be a maximum of 900 net additional dwellings on brownfield land within the village envelopes of the key rural service centres. Policy LNPG1 of the NP supports housing development within the village envelope of Loggerheads.
10. The policies are not based on an up-to-date assessment of housing needs and do not reflect the Government's objective of significantly boosting the supply of homes, and can be considered to be out-of-date. However, they do direct development to identified, or otherwise sustainable, locations that provide access to services and are not reliant on private motor vehicles. As such, they are not inconsistent with the National Planning Policy Framework (the Framework) in this regard, and therefore I have attributed them some weight.
11. The appeal site lies along Lordsley Lane, which has a 60mph speed limit, is narrow, unlit and which has no pavements. However, the lane serves a very small number of properties and is a no through road. The number of vehicles using this lane would therefore be limited and it would, I consider, be a safe route for walking and cycling. Moreover, there is a gate at the far corner of the appeal site, which could be used by future occupiers to gain access onto the A53 on foot, without the need for them to walk along Lordsley Lane.
12. The A53 is a busy, highly trafficked and fast road. The road in the vicinity of the appeal site has no pavements, and there is little doubt that it would not be a safe or attractive pedestrian route. The nearest key rural service centre settlement to the appeal site is Loggerheads, which is approximately 1.3 miles away. However, Loggerheads could be reached by walking along a footpath (Footpath 27) which connects the appeal site to the village of Ashley, and then on to Loggerheads, rather than having to walk along the A53.
13. Footpath 27 would be accessed from the opposite side of the A53 from the appeal site, and would not entail walking along the A53 for any distance from the access gate at the corner of the appeal site. Whilst the A53 would have to be crossed to reach the footpath, the road at this point is straight, with good visibility, and could be safely crossed with caution.
14. The footpath provides an option to walk to Ashley and then on to Loggerheads, particularly during the daytime and in good weather. Due to it being unlit, the lane would not be attractive during the hours of darkness. However, this is not uncommon for many public footpaths in rural areas. During daylight hours, I consider that it would be a realistic and attractive walking route for the occupants of the proposed development to utilise and would provide a safe and continuous route segregated from vehicular traffic.
15. There is a bus stop at Ashley, which could be reached via Footpath 27, which is served by the Number 64 bus service which provides services to Loggerheads, along with to the larger settlements of Shrewsbury, Market Drayton, Newcastle under Lyme and Hanley in Stoke-on-Trent, where a range of employment, retail

and leisure opportunities are sited. From the evidence before me, the service times indicate that there are 6 buses a day on weekdays, and 5 buses per day on Saturdays. The bus service would enable acceptable peak time services, weekend services and sufficient off-peak services to larger service centres, and would provide a genuine alternative to car travel.

16. The Framework recognises that opportunities for sustainable modes of transport will vary between rural and urban areas, and it is to be expected that residents would require a vehicle even within village envelopes such as Ashley, given the likely need to travel beyond the village for work, shopping and education. Whilst it is likely that occupiers of the proposal, particularly those of limited mobility, would use private vehicles to reach certain services and facilities, the number of vehicle movements arising from a single dwelling would be modest, and alternative modes of travel would be available.
17. Therefore, notwithstanding its countryside location, I conclude that the site would represent a suitable location for a new dwelling, with particular reference to sustainable transport. The proposal would be in accordance with the general spatial strategy of CS Policy ASP6, LP Policy H1 and NP Policy LNPG1, and with the Framework which seeks to direct development to sustainable locations.

Unilateral Undertaking

18. The proposal seeks to 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, dated 10 February 2025. It requires the appellant to submit details of a program for the marketing of the self-build and custom house building plot in accordance with details approved by the Council. I am satisfied the planning obligation would be effective in securing the development of a self-build dwelling and is necessary to ensure the development reflects the description in the decision header.

Other Matters

19. My attention has been drawn to a recent appeal decision¹ for a self-build dwelling within the borough. This appeal was dismissed as the Inspector considered that the site would be in an unsustainable location and future occupiers would be reliant on private vehicles for their transport needs. Whilst it is inevitable for comparisons to be made, each case will have its own site-specific circumstances and merits upon which it is considered. I do not have all the details of the appeal scheme before me, but note that the Inspector made no mention of a segregated footpath available between the appeal site and the nearest settlement or bus stop, which I consider is an important material consideration in this case. As such, the cited appeal decision is not directly comparable to that which is before me.
20. I note concerns regarding the location of a pipeline at the appeal site. However, the British Pipeline Agency clarified that the pipeline would not be affected by the proposed development.
21. Although the most relevant policies are out of date, it is not necessary for me to consider Paragraph 11d of the Framework in detail as I have found no overall conflict with local or national policies.

¹ APP/P3420/W/23/3320812

Conditions

22. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. I have amended a number of the conditions in the interest of clarity.
23. As the application was made in outline, I shall impose the standard conditions relating to the submission and approval of reserved matters. I have attached a condition detailing that the development should be in accordance with the submitted plans with regard to access, in the interest of certainty (Conditions 1-4).
24. Condition 5, relating to site investigations and the assessment of ground conditions on site is necessary, and is pre-commencement, in order to ensure the safety and stability of the development from the outset.
25. Condition 6 requires a construction method statement and is necessary in the interests of highway safety and to protect the living conditions of nearby occupiers. A condition is necessary to ensure that any contamination is identified and remedied in order to protect the health of occupants (condition 7). I have attached a drainage condition in order to manage the risk of flooding and pollution (condition 8).
26. I have not include a condition requiring the proposal to meet the definition of a self-build dwelling, as the description of development describes the development as self-build, and the use is covered by the submitted UU. I have not attached a condition relating to electric vehicle charging points since this matter falls under the Building Regulations.

Conclusion

27. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
28. As a result, the appeal is allowed.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Visibility Plan, 2024 Lordsey Lane, 4, but only in respect of access.
- 5) Prior to or concurrent with the submission of the reserved matters application, a scheme must be undertaken of intrusive site investigations, undertaken by a competent person and which assesses the ground conditions on the site and establishes the risks posed to the development by past coal mining activity (shallow mining/ mine entries). As part of the reserved matters application a report of findings arising from the investigations, and any remedial and/or measures necessary, including the submission of the proposed layout plan, which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of suitable 'no-build' zones must be submitted to and approved by the local planning authority in writing. The remedial works must be implemented prior to the commencement of the development.
- 6) Any reserved matters application must be supported with a Construction Method Statement to be approved in writing by the local planning authority. The Statement shall provide for:
 - i) construction access;
 - ii) routing of HGVs;
 - iii) earthworks/construction programme and the location of contractors' compounds, cabins, loading and unloading areas;
 - iv) temporary Public Rights of Way closures/diversions;
 - v) plant/material storage areas and contractors parking;
 - vi) measures to control the emission of dust and dirt during construction including the provision of a vehicle wheel wash; and
 - vii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 7) Any reserved matters application must be supported with an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), which shall be submitted to and approved in writing by the local

planning authority. If any contamination is found, no development shall take place until:

- i. a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
- ii. the site has been remediated in accordance with the approved measures and timescale; and
- iii. a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i. additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
- ii. a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

- 8) The reserved matter application shall be supported by a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, to be approved in writing by the local planning authority.

The submitted details shall:

provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

include a timetable for its implementation; and,

provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

*****END OF SCHEDULE*****