



Appeal Decision

Site visit made on 2 May 2025

By S. Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 May 2025

Appeal Ref: APP/Y3425/D/25/3362929

13 Blythe Road, Moss Pit, Stafford, Staffordshire, ST17 9SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mariana Angelica Stan against the decision of Stafford Borough Council.
 - The application Ref is 24/39261/FUL
 - The development proposed is described as *'the change of use of land adjacent to residential use including installation of fence around revised curtilage and addition of dropped kerb'*.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in full for the purposes described in the banner heading above. However, the local planning authority (LPA) has completed its questionnaire on the basis that the appeal relates to a householder development. The difference is potentially important in the way in which biodiversity net gain (BNG) is to be considered.
3. On my site visit, I was able to note that the appeal land to the side of No.13 Blythe Road, while it is said to be in the ownership of the appellant, is a grassed, unenclosed area abutting the side gable to the property and with a footpath to its opposite border. The appeal land contrasts with the enclosed land which more obviously forms the curtilage to the dwelling.
4. Having taken note of the appellant's description of the proposed development and the references to the change of use of the land and to the revised curtilage to the property, I have determined the appeal on the basis that it relates to a full and not to a householder application.
5. The LPA states in its officer report, that had it been able to support the proposal, the issue of BNG could have been determined by way of a condition. I consider that this matter is one of fundamental importance in legal terms, and therefore I have dealt with it as a main issue.

Main issues

6. In view of the above the main issues are the impact of the proposed development upon (i) public safety and (ii) BNG.

Reasons

Public safety

7. There is currently a footpath used by the public along the side of the currently unfenced and open appeal land leading from Blythe Road to Trent Close. The proposed fencing of the appeal land would not prevent the use of the footpath, though it would create a greater tunnelling effect.
8. The Police Designing Out Crime Officer has expressed concerns that this might create an area for antisocial behaviour and where the public using the footpath might be in greater danger than now or might feel so. These matters are potentially exacerbated as the footpath is not lit, with the nearest streetlamp some distance away, with intervening hedging and vegetation.
9. On my site visit, I was able to note that the footpath is straight between the two roads, allowing views along it, even though there is the slight possibility of hidden areas. I consider that this does reduce the likelihood of crime and the fear of crime.
10. In addition, I have no information before me of such criminal or anti-social activity in this residential area. I was able to note on my site visit that there are other such unlit passageways close by. Given the relatively straight and short distance of the path adjacent to the proposed development, I do not find that the proposal would place the public at a significantly enhanced risk. I find that a reasonable degree of surveillance would still be possible in this case. Moreover, I have noted that the Police Designing Out Crime Officer has expressed concerns rather than an outright recommendation for the refusal of the appeal proposal.
11. Therefore, for the above reasons, I conclude that the proposed development would not be contrary to policy N1 of the Plan for Stafford 2011-2031 (2014) which requires that designs for new development shall provide safe, secure and crime resistant layouts, or with paragraph 135(f) of the National Planning Policy Framework 2024 (the Framework) which also requires designs to create safe, inclusive and accessible spaces.

Biodiversity

12. In England, biodiversity net gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) and where, subject to certain exceptions, development must result in at least a 10% improved natural habitat than was there before the proposed development.
13. The LPA, in its officer report, considers that the proposed development is not exempt from this legal requirement. However, I have no evidence before me as to the current base-level BNG value of the site or how a 10% enhancement might be achieved. In the absence of such information, and as the 10% minimum level of enhancement is a legal requirement, I am unable to deal with the matter by way of a condition.

Other Matters

14. The LPA and the Highway Authority raise no objections to the proposed off-road parking or to the proposed dropped crossing. I have no reason to disagree, but these matters do not alter or outweigh my conclusion regarding BNG.

Conclusion

15. While I have concluded that the proposed development would not have a significantly adverse impact upon public safety, and also that there would be no adverse impacts to the proposed off-street parking and the proposed dropped crossing, there is a lack of evidence to indicate that at least a 10% improvement to BNG can be achieved relative to the existing BNG baseline position. Therefore, I am unable to conclude that the proposal would be acceptable in respect of the statutory BNG. This is a matter of overriding concern and therefore the appeal should be dismissed.

S. Hartley

INSPECTOR