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## Appeal Decision

Site visit made on 23 April 2025

**by J Moore BA (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 21 May 2025**

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### **Appeal Ref: APP/A3010/W/24/3353375**

#### **Ivy Nook, 48 Retford Road, Blyth, Worksop, Nottinghamshire S81 8ER**

- 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 Paul Dickenson against the decision of Bassetlaw District Council.
  - The application Ref is 24/00389/OUT.
  - The development proposed is erection of single storey dwelling and garage.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The appeal form is in the name of Mr Paul Dickenson only, and I have therefore used this name as indicated on the appeal form in my banner heading above, rather than the names of Mr and Mrs Paul Dickenson as stated on the planning application form
3. The appeal scheme relates to an outline proposal with access and layout to be considered at this stage. All other matters (appearance, landscaping and scale) are reserved for further consideration. The proposed plans are annotated to indicate a proposed detached bungalow and detached garage. I have considered the appeal accordingly. I note that the appellant's submissions suggest that as the appeal scheme is an outline proposal, the proposed layout is indicative. However, it is clear from the application form that this is not what was applied for, as layout is not a reserved matter.
4. An amended plan (Drawing Ref: 103/24/1A) was submitted to the appeal which increases the width of the proposed access and includes a proposed refuse bin collection point. The appellant contends that no opportunity was provided by the Council to make such amendments during the determination phase. In the appellant's view, the amendment addresses concerns raised by the local highway authority. I note that the design and access statement submitted with the application clearly refers to a refuse bin store being provided on the frontage at Retford Road.
5. Procedural advice<sup>1</sup> is that the appeal process should not be used to evolve a scheme; an applicant should normally make a fresh planning application if they consider that amending the scheme would overcome the Council's reasons for refusal; and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested

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<sup>1</sup> Procedural Guide – Planning Appeals – England

people's views were sought. Having regard to the interests of fairness and principles outlined in case law<sup>2</sup>, the amendment would not fundamentally alter the proposed development in substantive terms as it would remain a proposal for a dwelling and a garage. The evidence indicates that during the determination phase, no comments on access or refuse arrangements were made by any other party save for the local highway authority. While the written representations appeal procedure allows the Council the opportunity to submit a statement of case, the Council indicated it did not wish to do so in the appeal questionnaire and no statement was submitted to the appeal. Overall, I am therefore satisfied that no party would be prejudiced by my consideration of the amended scheme.

6. The Council's reasons for refusal refer to policies of an adopted and draft Bassetlaw Local Plan. The evidence before me includes the officer report (OR) which considered the application, the front cover and certain policies of the adopted local plan and the appellant's statement of case. Taken together, this evidence clearly demonstrates that the relevant local plan is the Bassetlaw Local Plan 2020-2038, adopted on 29 May 2024 (LP), and this date is confirmed on the Council's website. I am therefore satisfied that there is no draft or emerging local plan to be considered in the appeal.
7. The development plan includes the Blyth Neighbourhood Plan 2018-2035, whose cover includes a date of June 2020 (BNP). However, the OR indicates that the BNP was made following a referendum on 6 May 2021, and I have therefore used the May 2021 date as the relevant date of the BNP, which is also confirmed on the Council's website.
8. The evidence before me refers to the Neighbourhood Profile Report (NPR) of the BNP. While sections of this document are quoted in evidence, I have accessed the full version of this publicly available document on the Council's website.
9. On 12 December 2024, the National Planning Policy Framework (the Framework) was revised, with a further amendment made on 7 February 2025 which does not constitute a change to policy. The revisions do not have a material bearing on the matters at dispute between the parties in this case. I have therefore found it unnecessary to seek further comments as neither party would be prejudiced by my consideration of the revised Framework.

## **Main Issues**

10. The main issues are:

- whether the appeal site is an appropriate location for residential development, with particular regard to the spatial strategy of the development plan and the effect of the proposal upon the character and appearance of the area;
- the effect of the proposal upon the living conditions of existing and future occupiers, with particular regard to levels of noise and disturbance and privacy; and
- whether the proposal would provide safe and suitable access for all users.

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<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]; Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin).

## Reasons

### *Location (spatial strategy, character and appearance)*

11. The appeal site comprises part of the rear garden/amenity space of the host property at No 48 Retford Road, to include a stable building and a barn in equestrian use and the existing driveway serving No 48. The land outside of the appeal site towards the south also appears to be in equestrian use, accessed via a gate. The proposal would result in the removal of the barn and a stable building which includes about six individual stables and the erection of a detached dwelling and detached garage with a rear garden space.
12. LP Policy ST1 sets out that the district's spatial strategy for the plan period will be delivered through managed sustainable development and growth in accordance with a settlement hierarchy. The appeal site is located within the settlement boundary of the larger rural settlement of Blyth, for which LP Policy ST2 sets out a minimum requirement for 113 dwellings over the plan period. The supporting text sets out that Policy ST2 seeks to ensure that growth in such settlements is sensitive to place, ensuring that each rural community retains its identity and distinctiveness, built form and character. Policy ST2 supports residential development provided it meets all of certain criteria. Such criteria include that where the proposed development positively responds to design principles as identified in LP Policy ST33 and any relevant characterisation studies and/or design codes informing a made neighbourhood plan.
13. LP Policy ST33 states that all development must be of a high-quality design that, amongst other things, has a clear function, character and identity based upon a robust understanding of local context, constraints and distinctiveness, while reflecting the principles of relevant national and local design guidance; uses land efficiently and ensures density reflects local character.
14. Taken together, BNP Policies 1 and 2 seek to ensure that development is located according to the principles of the BNP and does not adversely affect the character and appearance of that part of the village where it is located, and that the design and specification complements the established character of the built-up area as described in the relevant neighbourhood profile. The BNP includes allocations to meet the majority of growth within the settlement, while infill housing within frontages and within the development boundary is to provide the rest.
15. The appeal site is not an allocated site within the development plan, and therefore BNP Policy 3 (windfall sites) applies. This policy sets out that residential development on infill and brownfield sites within Blyth will be supported where (among other things) it fills a small gap in an existing frontage or on other appropriate sites within the proposed development boundary; and the density of the scheme reflects the site's location and the immediate surrounding area; and the design and specification complement the established character of the particular area as described in the NPR.
16. The appeal scheme would not comprise infilling of a small gap within an existing frontage. However, it would be within the settlement boundary. Furthermore, residential gardens in built up areas and equestrian land and buildings are not excluded from the definition of previously developed land (or brownfield land) in the Framework, although the definition clearly states that it should not be assumed that the whole of the land should be developed. There is no substantive evidence

to demonstrate that it would not be an appropriate location in terms of the BNP, and there is no dispute that it is not in an accessible location. Consequently, in purely locational terms it would be in accordance with the spatial strategy of the development plan, and the main area of dispute is the effect of the proposal on the character and appearance of the area.

17. The appeal site falls within character area 4 of the NPR, which indicates that the area comprises detached and semi-detached houses either set on the road or set back with sizeable front gardens. Dwellings either front Retford Road or form a cul-de-sac accessing Retford Road, which includes a mix of a few terraced houses, some bungalows and predominantly semi-detached and detached housing; and the road has a mix of styles. My observations indicate that Retford Road has a largely linear development pattern, and as set out in the NPR, there are cul-de-sac developments, largely comprising detached forms. Parking is generally accommodated within the frontage along Retford Road, with some properties having garages to the side or rear. I saw two bungalows with a garage sited well forward of the principal elevation on the opposite side of the road, but I did not find such siting to respect the prevailing pattern of development.
18. The Council's evidence is that dwellings along Retford Road are predominantly two storey detached dwellings within long plots which have deep frontages and deep rear gardens. Taking account of the NPR, my own observations and the appellant's case, I recognise that character area 4 has a wide variation in character and appearance. However, it is the run of long plots along this southern section of Retford Road that provides the immediate context for the assessment of the proposal in accordance with BNP Policy 3.
19. The proposal would result in the subdivision of the plot, such that the new plot would be of a more regular shape, wider and shallower than the surrounding and predominant plot pattern along Retford Road, with a relatively shallow rear garden and frontage. This would be discordant to the prevailing character of long and narrow plots fronting this section of Retford Road and the subdivision of the plot would increase the prevailing density in the immediate surrounding area. Given the nearby bungalow forms on the same side of the road, a single storey form would not be discordant to the surrounding character. However, as a backland site for a single dwelling with a shared driveway between two detached two storey forms, the proposal would be discordant to the immediate character of properties fronting this section of Retford Road.
20. The proposed dwelling would be sited centrally within its plot, with distances of between 7m and 9m to its side boundaries, such that its main elevation would appear in limited view from the road. The proposed garage would be well forward of the main elevation of the proposed dwelling, near to the side boundary of the neighbouring rear garden. Even if the proposal meets the Council's standards for private amenity space, access and/or parking spaces, it would appear as a residential property within the rear garden setting of adjacent properties including the host property at No 48. Overall, therefore, the proposal would be in sharp contrast to the prevailing pattern of residential development in the immediate area and along this southerly section of the road.
21. For the above reasons, the proposal would result in a cramped plot pattern, discordant to the prevailing plot size, density, setting and arrangement of properties in the immediate surrounding area.

22. The appellant draws my attention to five examples of other developments in the area, and I saw these during my visit. However, I do not have full details of the circumstances that led to these proposals being accepted and so I cannot be certain that they represent a direct parallel to the appeal scheme, including whether they were granted under the same policies as those before me. Many of these examples are located at some distance from the appeal site and all have their own immediate contexts. In any case, I have determined the appeal on its own merits.
23. Three examples (Aysgarth Gardens, The Hollies and Orchard Close) appear to be schemes involving more than one dwelling and/or are a cul-de-sac form of development and are therefore not directly comparable. The bungalow to the rear of an existing property at Blyth Gardens faces the accessway alongside the property at Retford Road, and there is a further property beyond, with further new development under construction on land opposite the bungalow towards Ryton Fields. The dwelling at 5A Retford Road is sited towards the rear of No 5 and is stated to be for a new dwelling on a more restricted site and closer to an existing dwelling than that before me. However, the host plot appears to be wider than that before me and of a more tapered shape towards the rear. The accessway runs parallel to Back Lane and is largely separated from that serving No 5. Consequently, I find that these examples do not share the same characteristics as the appeal scheme.
24. I therefore conclude that the proposed development would be an appropriate location for residential development. However, it would be discordant to the immediate character and appearance of the area, conflicting with the spatial strategy, which seeks to ensure that development is located without harming the character and appearance of the immediate surrounding area. The harm I have identified brings the proposal into conflict with BNP Policy 3 and LP Policies ST2 and ST33, whose objectives I have set out above, and with the Framework's objective to achieve well-designed and beautiful places.

### *Living Conditions*

25. The proposed dwelling would be accessed by a shared driveway arrangement with the host property at No 48. Parking for vehicles serving No 48 would be provided within its frontage, and there would be a detached garage and a turning area within the frontage of the new plot.
26. The rear elevations of No 48 and neighbouring properties include windows serving habitable rooms, including those at the first floor which appear to serve bedrooms, and at the ground floor level which appear to serve living areas. The neighbouring property at No 48A has a shorter plot, and its rear boundary would be in close proximity to the turning area within the frontage of the proposed dwelling. This corner of the garden at No 48A appears to include a patio/seating area. The proposed detached garage would be sited towards the rear boundary of No 48 and the side boundary of a neighbouring rear garden.
27. Due to the proposed access arrangement, there would be vehicular movements to and from the proposed dwelling between the flank elevations of Nos 48 and 48A within proximity to rear facing habitable rooms and their rear gardens. Such movements could also involve vehicle movements during the hours of darkness, whereby headlights would be in use. There could also be movements from visitors

or delivery vehicles. This would result in an increased level of noise and disturbance to neighbouring residents, including when neighbouring occupiers and their families would have a reasonable expectation of a peaceful sleep at nighttime. The effect of the proposal upon levels of noise and disturbance would be significantly adverse upon neighbouring occupiers.

28. The appellant suggests that vehicle movements occur at present towards the rear of No 48 and given that parking for No 48 would be within its own frontage, net vehicle movements would not be materially different. While the existing equestrian use is considered to generate vehicle movements, including those by diesel vehicles such as horse boxes, there is no substantive evidence before me to demonstrate that this generates vehicular movements at night, and/or that such movements are of such a frequency or impact that the movements associated with the new dwelling would be less harmful. The proposed access way would not be commensurate with an estate access road, as the appellant suggests. It would be a relatively narrow access in proximity to the flank and rear elevations of neighbouring dwellings.
29. The proposal is within 100 metres of the A1, which is a source of vehicle noise that could affect the living conditions of future occupiers. However, the evidence indicates that this matter can be controlled by a suitable condition to assess noise impacts and any necessary mitigation measures. I find no reason to disagree.
30. The proposed single storey dwelling would be within view from the rear first floor windows of neighbouring properties. It is possible that some degree of overlooking could occur into habitable rooms in its main elevation, depending on the final internal layout and siting of any windows. By way of reciprocity, this could adversely affect the privacy of neighbouring occupiers. Views from within the proposed frontage or from any front facing windows of the proposed dwelling towards rear facing habitable rooms of neighbouring properties could also be possible. Should there be any windows to serve roof accommodation in the proposed dwelling, this could result in unacceptable overlooking into neighbouring gardens. However, any effects upon privacy would be limited by the angle of view and separation distances, and some degree of screening would be provided by boundary treatments and/or landscaping. Moreover, the design of the dwelling and landscaping are reserved matters, and therefore any significant adverse effect on privacy for future occupiers as contended by the Council is not demonstrated in the outline scheme before me.
31. Drawing all the above together, I conclude that the proposal would significantly harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance. The proposal therefore conflicts with LP Policy 46, which seeks to ensure that proposals avoid and minimise impacts on the amenity of existing occupiers, individually and cumulatively, and do not have a significant adverse effect upon the living conditions of existing residents in terms of level of activity and noise which cannot be mitigated to an appropriate standard.

*Safe and suitable access for all*

32. The amended scheme responds to the concerns of the local highway authority, such that it incorporates a proposed refuse store adjacent to the public highway; the proposed accessway would be a minimum width of 4.8m and 0.5m clearance either side for the first 8m from the boundary of the highway; and two parking

spaces are proposed within the detached garage. However, it is not clear whether the proposed turning space would accommodate a delivery van of up to 3.5 tonnes, and to exclude any land required for parking, as sought by the local highway authority in order to avoid reversing manoeuvres. I am therefore not satisfied that it has been robustly demonstrated that there would be sufficient space within the frontage to accommodate this. In such circumstances, vehicles could reverse onto the highway, which could increase risk to the safety of pedestrians and other highway users. Given my findings and conclusions on the previous main issue, I would not be content to leave this matter to a condition.

33. For the reasons above, I conclude that the proposal does not demonstrate that adequate turning space has been provided within the site to ensure safe and suitable access for all users. The proposal therefore conflicts with LP Policies ST33 and ST53. Taken together, these policies seek to ensure that development is of a high-quality design which prioritises safe, convenient movement of all highway users and does not compromise the free flow of traffic and/or increase the risks to pedestrians and other road users.

### **Other Matters**

34. The appellant draws my attention to the absence of an objection by Blyth Parish Council, who are given to be the body who prepared the BNP. The response made is one of no comment. However, the absence of objection does not in itself render the scheme acceptable.
35. The appellant states that the occupiers of No 48 no longer need a larger home and require more accessible ground floor accommodation. The stated purpose of the proposal is a self-build bungalow potentially for the applicants to move into, following the sale of their existing large, detached dwelling, which would free up housing stock for others. The appellant's evidence draws attention to national and local planning policy which seeks to meet the needs of older persons, and those with disabilities. I have therefore had due regard to the Public Sector Equality Duty (PSED) within section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity. I do not have sufficient or detailed evidence upon which to consider whether the needs of any particular person would fall within the auspices of the PSED. Nevertheless, a single storey dwelling would be a positive consideration in terms of eliminating discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others. However, it has not been shown that the scheme before me is the only way of achieving the objective sought. Therefore, from the details before me, the harm I have identified does not outweigh those benefits. If I were to dismiss the appeal, it would be a necessary and proportionate approach in the wider public interest, including the living conditions of neighbouring occupiers.
36. The application is submitted as a self-build and custom build development. There is no substantive evidence before me as to whether the Council is meeting its statutory duties in relation to such housing, although self-build housing is supported by the Framework. In the absence of a suitable mechanism to secure the proposal as a self-build/custom build project, this potential benefit attracts limited weight.

37. While the proposal would make a small contribution to meeting the residual requirement for 13 dwellings within Blyth (as evidenced in August 2023), this would not overcome the policy conflict that I have found, and there is a considerable period of time until the end of the plan period in 2038. Furthermore, the evidence indicates that the Council can demonstrate a five-year supply of deliverable housing sites, with the supply given to be over 7 years, such that paragraph 11 d of the Framework is not engaged in this case. Even so, the proposal would assist in the government's objectives to significantly boost the supply of land for homes, to meet wider housing needs and use land efficiently. As a small site it could be delivered quickly, with temporary economic benefits during the construction phase, and permanent economic benefits arising thereafter from additional household expenditure. Such benefits would be limited by the scale of the proposed development.

### **Conclusion**

38. For the reasons given above, I have found against the proposal in relation to each main issue, and conflict with policies of the development plan. The collective and limited benefits of the proposal do not outweigh the totality of the harm that I have found. The proposal conflicts with the development plan read as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

*J Moore*

INSPECTOR