



Appeal Decision

Site visit made on 23 September 2025

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 October 2025

Appeal Ref: APP/G2435/W/25/3366561

15 Botts Lane, Appleby Magna, Leicestershire DE12 7AL

- 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 and Mrs A Fowkes against the decision of North West Leicestershire District Council.
 - The application Ref is 24/00989/OUT.
 - The development proposed is erection of a self-build detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration except for means of access. Appearance, landscaping, layout, and scale are reserved matters for future approval. I will proceed on the basis that details shown on the submitted drawings in respect of matters that are reserved for future approval are for illustrative purposes only.
3. A Unilateral Undertaking (UU) was submitted during the course of the appeal, which seeks to secure the proposal as a self-build dwelling, as well as securing a landscape management plan and a non-mains system management plan.

Main Issues

4. The main issues are:
 - Whether the proposal would be suitably located having regard to relevant development plan policies concerning the location of housing; and
 - The effect of the proposed development on the adjacent Appleby Magna Conservation Area (CA), the setting of nearby listed buildings and the character and appearance of the wider area.

Reasons

Location

5. The site lies outside of the defined settlement of Appleby Magna which is defined as a sustainable village within the North West Leicestershire Local Plan (2021) (LP). The site is therefore located in a countryside location and conflicts with Policy S2 of the LP. The proposal also does not fall within any of the exceptions for residential development set out under Policy S3 of the LP. As a consequence, the

proposal would be at odds with the settlement hierarchy and strategic housing aims of the development plan.

6. I understand that the Council has previously concluded that self-build dwellings within the countryside have been found to be acceptable despite conflicting with Policy S2 and S3 of the Local Plan. Similarly, the appellants refer to an appeal decision¹ where the Inspector found conflict with the spatial strategy policies but found the appeal site was sufficiently accessible via a range of sustainable travel modes, and the Inspector therefore attached limited weight to the conflict.
7. Limited information has been provided regarding those cases. In any event the sites cannot be directly compared, for example due to their context and other material considerations. The Council highlight that the local examples provided relate to applications where the tilted balance in favour of sustainable development, as defined by Paragraph 11d(ii), was applied as these cases did not involve harmful effects on designated heritage assets. In any event, I have considered the appeal proposal on its own merits.
8. For these reasons, the proposal would not be suitably located having regard to relevant development plan policies concerning the location of housing. Consequently, it would conflict with Policies S2 and S3 of the LP. The proposal would also conflict with chapter 2 of the National Planning Policy Framework (the Framework) which seeks to achieve sustainable development.
9. Both main parties agree that future occupiers of the dwelling would not be heavily reliant upon a private vehicle to access most basic day to day services and facilities. Having said that, considering the findings of the Inspector in the above appeal case, there would be clear conflict with the LP's spatial strategy. To permit development outside of the defined limits to development, even where the location is accessible (as required by Policy S3(vi)), undermines the plan-led and evidenced led approach to development. Such harm must be weighed in the planning balance.

Heritage assets and the character and appearance of the wider area

10. The Council highlight that the lawful use of the land is for agriculture, and the land currently appears to be in unauthorised use as part of the curtilage to 15 Botts Lane. There is existing residential development nearby and the site is well screened by mature hedgerows along Top Street and Botts Lane. Due to the topography of the area, the site sits higher than the nearby highways. The undeveloped nature of the site and its verdant character, provides a positive contribution to the area as it provides a green break in development.
11. The special character of the CA is derived from the historic inter-relationship of the Moat House site and the Parish Church and from the grouping of farmhouses, their outbuildings and cottages along the curvatures of Church Street, Top Street and Mawby's Lane. The buildings within the CA are of various periods and reflect the transition from vernacular building traditions to the polite architecture of the late Georgian and Victorian periods.
12. There is limited reference to the site area in the Appleby Magna Conservation Area Appraisal and Study, and it is identified as land that previously formed a sensitive area of open space under the old Local Plan. Nonetheless, the site provides an

¹ APP/G2435/W/24/3343890

undeveloped, rural setting to the CA. Historically, the site was farmed, forming an economic and physical connection to the farmhouses along Top Street and reaffirming the historic agricultural origins of the village and its rural setting. The site makes a positive contribution to the setting of the CA as it provides an undeveloped parcel of former farmland and reinforces the rural setting and historic layout of the settlement.

13. There are two Grade II listed buildings towards the west of the site; Home Farm House and Overstreet House. Whilst the previously refused planning application did not mention the listed buildings, I have a statutory duty to have special regard to sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
14. Home Farm House is a red brick and partly rendered dwelling with a tiled roof and chimneys. Overstreet House is a distinctive red brick cottage with a thatched roof and Dutch gable with chimneys. Part of the listed buildings significance is derived from the adjacent pasture land which reinforces the functional relationship between the agricultural land and buildings and the rural setting of the village. As such, the site, along with the wider pasture paddock, plays a role in the setting of these two buildings.
15. A new access point is proposed off Botts Lane. This would require the removal of the existing bank and hedgerow fronting Botts Lane. The appellants highlight that this would be significantly less impactful in comparison to the hedgerow removed nearby². Furthermore, I acknowledge that the wider paddock has already been subject to numerous planning approvals. Nonetheless, this part of the paddock is more sensitively located close to designated heritage assets, and as large parts of the paddock have been eroded, it is especially important that any future development is appropriate.
16. The existing landscaping is to be retained and would be supplemented by additional mature landscaping. Furthermore, the UU secures a landscape management plan. The Council highlight that the existing trees and hedgerows along the site's peripheries appear to be within the highway verge and thus fall outside of the control of the appellants.
17. At this outline stage it is not possible to fully determine how much of the site would include built development. A dwelling with a significantly reduced footprint than that shown in the indicative drawings could be provided at reserved matters stage. Additionally, matters relating to the scale of development and the layout of the site are reserved for future consideration. Given the outline nature of the proposal, it is also not possible to fully assess the extent to which the development would be visible from public vantage points and inter-visibility between the proposal and the CA as well as the listed buildings, particularly as it has been suggested that a single storey dwelling could be provided (which the appellants suggest could be conditioned). Nonetheless, it is likely that views of the development would be possible from the proposed access point and nearby public footpath.
18. The development of the site for one dwelling would poorly relate to nearby development on Botts Lane and Top Street. This is because these dwellings, whilst some of which are relatively large, are positioned on notably smaller plots and tightly positioned along the highway with modest gaps to one another. Furthermore,

² 18/02070/FUL and 19/02478/FUL

whilst other parts of Top Street are characterised by built development on both sides of the road, this section between Botts Lane and Snarestone Road only has built development on the opposite side of the highway. The proposal would therefore fail to be well integrated with existing development and existing buildings.

19. Consequently, the proposal would erode the current open and undeveloped pasture land which, due to the size of the plot, would be at odds with the established pattern of development. It would also not respect the settlement pattern along Botts Lane or Top Street. In relation to the CA, the development would erode the spatial qualities of the designation which contributes to the rural setting and historic layout of the settlement. The proposal would result in harm to the character and appearance of the area by reason of the loss of open undeveloped pasture which, as set out above, positively contributes to the setting of the heritage assets and the character of the area.
20. The appellants set out that the Council has supported self-build dwellings in similar (and more exposed) countryside locations on many occasions. However, again, limited information has been provided regarding those cases to justify the development proposed. In any event, the context of the sites cannot be directly compared.
21. I recognise that the site contains no ecological designations and is large enough to provide a net gain to biodiversity. In addition, the site contains no important views and no specific designations from a landscape perspective. No rivers or watercourses would be affected, and no historic field patterns would be affected. Moreover, the application site does not contain any significant industrial heritage which would be affected. Both main parties also acknowledge that the proposal would comply with parts (ii) and (iii) of Policy S3. However, such matters do not outweigh the harm identified.
22. For the reasons set out above, I find that the proposal would result in harm to the rural and historic setting of the CA, would fail to preserve the special interest of the listed buildings, and would not respect the character and appearance of the wider area. The proposal would therefore conflict with Policy S3 of the LP. This seeks, amongst other things, to ensure the appearance and character of the landscape, including its historic character and features such as settlement pattern and local distinctiveness is safeguarded and enhanced.
23. Considering the findings of the Inspector in the highlighted appeal decision³, and the requirements of Policy D1 of the LP, there would not be a clear conflict with this policy's requirement given the outline nature of the development. The Council highlight that the policy states that development should be responsive to their context. However, that element of the policy relates to non-residential development.
24. The proposed development would also conflict with paragraph 135 of the Framework which states developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting. In addition, it would conflict with the Good Design for North West Leicestershire Supplementary Planning Document for New Developments (2017). This states that new development should respond positively to its context.

³ APP/G2435/W/24/3348375

25. In relation to the listed buildings and the CA, Paragraph 212 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
26. Taking into account the existing and proposed landscaping, there would be limited removal of hedging, and considering the wider characteristics of the area, I find the harm to be less than substantial in this instance. Within the less than substantial categorisation, the amount of harm would be at the lower end of the spectrum. Nonetheless, mindful of my statutory duties, this is a matter to which I attach considerable importance and weight. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

Benefits of the development

Self-build

27. A legal agreement has been provided to secure the proposal as a self-build dwelling. Self-build and custom housebuilding are a key element of the government's agenda to increase the supply of housing.
28. The Self-Build and Custom Housebuilding Act 2015 requires local planning authorities (LPA) to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. The Housing and Planning Act 2016 added to this Act a duty to grant planning permission subject to exemptions at s2A. This provides that authorities must give development permission (for the carrying out of self-build and custom housebuilding) in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. The legislation does not specify how LPAs must record suitable permissions, but the Planning Practice Guidance provides guidance.
29. The appellants set out that there is a significant shortfall in addressing the self-build demand in the District. They consider that the 30 self-build plots at Hepworth Road should be removed from the Council's self-build supply as the site is not viable to come forward as a self-build scheme and is not deliverable. Removal of this site would significantly affect the shortfall. Furthermore, the appellants set out that the 20 entrants previously removed need to be added back onto the self-build register.
30. The Council has provided an updated position in respect of self-build plots, including permissions granted subject to the completion of a legal agreement and self-building applications pending determination. Furthermore, they acknowledge that whilst there is ongoing uncertainty about the Hepworth Road's delivery, it remains an extant planning permission. The Council also confirm that they no longer remove entrants from the register now that best practice and guidance is clearer. However, it appears that the previously refused entries have not been re-added.

31. My attention has been drawn to appeals dealing with self-build dwellings, including within North West Leicestershire⁴. These show that the weight Inspectors have given to the provision of a self-build and custom build houses varies. In any event, the decisions cannot be directly compared to the proposal before me given the number of dwellings proposed, and evidence regarding self-build.
32. The Council acknowledges that there is a significant unmet need. The development would contribute to addressing the existing and future shortfall. Based on the evidence submitted it appears that the shortfall is greater than that suggested by the Council. Given the scale of the development proposed, I attribute the benefit of the provision of a self-build dwelling at the high end of moderate weight.

Other benefits

33. I recognise in a similar case an Inspector gave significant weight to the economic benefits. Nonetheless, limited evidence has been provided regarding the economic benefits of the proposal before me. Based on the information presented and taking into account the scale of the development as well as the associated economic benefits of self-build development, I give the economic benefits limited weight.
34. A range of other benefits have been highlighted. These include the management and maintenance of existing landscaping of the site, contribution towards council tax, high quality design and sustainability credentials, support the Government's objective of significantly boosting the supply of homes, and supported by paragraph 63 of the Framework. Considering the scale of the development and information presented, I give these benefits limited weight.

Heritage balance

35. I have concluded that there would be less than substantial harm to the CA and setting of the listed buildings. On balance, the above public benefits would not be sufficient to outweigh the harm that I have identified. I therefore conclude that the proposal would fail to preserve the special historic interest setting of the Grade II listed buildings, and would cause harm to the significance of the CA. Consequently, the proposal would fail to satisfy the requirements of the Act, paragraph 215 of the Framework and would conflict with Policy HE1 of the LP.
36. I have had regard to the appeal decisions involving self-build development, where public benefits have outweighed the harm to designated heritage assets⁵. However, the level of harm to designated heritage assets and the benefits associated with different sites cannot be directly compared. Furthermore, the Wiltshire case related to considerably more self-build dwellings than that proposed here.

Other Matters

37. The site lies within the catchment area of the River Mease Special Area of Conservation and Sites of Special Scientific Interest. The UU requires a non-mains system management plan. Given my findings above, I have not considered this matter further as I have found the scheme to be unacceptable for other reasons.

⁴ Including APP/G2435/W/24/3343890, APP/G2435/W/24/3348375 and APP/G2435/W/23/3330838

⁵ Including APP/Y3940/W/23/3317252 and APP/F2415/W/24/3340449

Planning Balance and Conclusion

38. I have found that the proposal would fail to preserve the special historic interest setting of the Grade II listed buildings, would cause harm to the significance of the CA. Furthermore, the proposal would cause harm to the character and appearance of the wider area and would not be suitably located having regard to relevant development plan policies concerning the location of housing. On balance, the highlighted benefits would not be sufficient to outweigh the harm that I have identified.
39. The appellants consider that paragraph 11 d) is engaged because the LP does not contain a policy relating to self-build housing. The fact that there is no development plan policy to cover self-build housing does not automatically mean that paragraph 11 d) is engaged. Rather consideration needs to be given to whether there are any relevant policies for deciding the appeal and not whether they are missing on particular topics.
40. Based on the information presented, the policies most important for determining the application are Policies S2, S3, He1, D2, IF4, IF7, En1, En2, Cc2 and Cc3. From the evidence before me these policies are not out-of-date as they are broadly in line with the Framework. Thus, the overall basket of policies which are most important for determining the application are not out-of-date.
41. Even if paragraph 11 d) of the Framework is engaged, then the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed, given the harm identified to the designated heritage assets.
42. For the reasons given above, to conclude, the proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal does not succeed.

L Wilson

INSPECTOR