



## Appeal Decision

Site visit made on 2 June 2025

by **L Fern BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 JULY 2025

**Appeal Ref: APP/G2435/W/25/3360649**

**Land between 118 and 124 Battram Road, Ellistown, Coalville, Leicestershire  
LE67 1GB**

- 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 M Waring against the decision of North West Leicestershire District Council.
- The application Ref is 23/00152/OUT.
- The development proposed is erection of a self-build dwelling.

### Decision

1. The appeal is allowed, and outline planning permission is granted for erection of a self-build dwelling at land between 118 and 124 Battram Road, Ellistown, Coalville, Leicestershire LE67 1GB in accordance with the terms of the application Ref 23/00152/OUT and subject to the conditions set out in the attached schedule.

### Applications for costs

2. An application for costs was made by Mr M Waring against North West Leicestershire District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The address in the banner heading above has been taken from North West Leicestershire District Council's (the Council) decision notice. It differs slightly from that on the application form. However, it has been used by the appellant on their appeal form and I am therefore content that it has been accepted as accurate by the main parties.
4. The appeal relates to an outline proposal. The application form states that appearance is to be considered at this stage, with all other matters reserved for future consideration. However, the decision notice, the appellant's appeal form and the evidence before me from both main parties indicates that all matters are reserved for future consideration, which fits with the lack of detail submitted in relation to appearance. I have therefore considered the appeal on this basis.
5. A Unilateral Undertaking (UU) was submitted during the appeal process, which seeks to secure the self-build status of the proposed dwelling. This matter is dealt with later in my decision.

## Main Issue

6. The main issue is whether the appeal site provides a suitable location for the proposed development, having regard to the spatial strategy of the development plan, whether the site constitutes previously developed land (PDL) or not and the accessibility of the site.

## Reasons

7. Policy S2 of the Council's Local Plan (2021) (the LP) sets out a settlement hierarchy to be used when assessing the suitability of a settlement for new development. Battram is identified as a 'Small Village', which are considered as settlements with very limited services, and where development will be restricted to, amongst other things, the redevelopment of PDL.
8. Policy S3 of the LP relates to land outside the defined 'Limits to Development'. It confirms that in such locations, the redevelopment of PDL in accordance with Policy S2 will be supported subject to six considerations (i-vi), which relate to environmental, locational, built-form, retail and accessibility matters.
9. The appeal site comprises a plot of land between No 118 and No 124 Battram Road (No 118 and No 124 respectively). In the absence of defined Limits to Development in this location, it is not disputed that the site falls within the countryside. However, both main parties agree that the site is located within the built-up area of the village of Battram.
10. The main parties disagree with regards to whether the site constitutes PDL or not. The land is currently disused and has become significantly overgrown. However, some ornamental planting, a greenhouse and hardstanding towards the middle of the site were observed during my site visit. The remainder of the land was inaccessible. The hardstanding observed fits with the description and location of some of the former pigsties that are referenced in the Statutory Declaration (SD) submitted with this appeal.
11. The Council asserts that the site is part of the residential curtilage of No 124. The personal accounts set out in the SD confirm that ownership and use of the land was linked to the residential occupation of No 124. The 2006 aerial image in the SoC shows that a large proportion of the site was landscaped as a continuation of the formal lawned area of the rear garden to No 124. Furthermore, I cannot be convinced that the area of hardstanding and the then grassed area to the front did not also sit within the residential curtilage of No 124.
12. In addition, the appellant's evidence is clear that the most recent use of the former pigsties, that were adjacent to the garage to No 124, was for storage and a workshop associated with the residential occupation of No 124.
13. Having regard to the above, and all submitted evidence, I am not convinced that the appeal site constitutes PDL in this instance.
14. Even if I had found that the site constituted PDL, it is located within a settlement that contains few services and facilities, which are limited to a village hall and recreation ground, and poor access to public transport networks. Future residents of the proposed development would inevitably be heavily reliant on use of the private car. Furthermore, no evidence has been forwarded by the appellant to suggest otherwise. For these reasons, the proposed development would have

failed the test at point (vi) of Policy S3 in any case, which supports proposals for the redevelopment of PDL in accordance with Policy S2 that are accessible or will be made accessible by a range of sustainable transport.

15. The appellant has drawn my attention to three decisions by the Council<sup>1</sup>. However, from the information before me, the first of these relates to development of PDL, the second was considered under different development plan policies and the third determined at a time when the Council could not demonstrate a 5-year supply of deliverable housing sites. As such, they are not directly comparable to the appeal proposal before me, and I am required to consider the appeal on its own merits.
16. It therefore follows that the appeal site would not provide a suitable location for the proposed dwelling having regard to the spatial strategy of the development plan, whether the site constitutes PDL or not and the accessibility of the site. As such, it would be contrary to Policies S2 and S3 of the LP, the aims of which I have outlined above.

### **Other Considerations**

17. It is common ground between the main parties that the Council has a significant unmet need for self-build and/or custom-build housing (SBCB housing), which is required by the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). This is a matter of serious concern and the provision of housing in this respect should be attributed significant weight. Despite the proposal being for just a single dwelling and the Council advising of other applications currently being considered for SBCB housing, it would assist in reducing the Council's deficit and would be secured by the UU submitted with this appeal.
18. The proposal would also make a positive contribution to general housing supply and make efficient use of a currently underused plot of land within the built-up area of an existing village, with associated social and economic benefits during the period of construction and once the dwelling is occupied. However, I am mindful that the proposal is for only a single dwelling and any facilities and services that may benefit from an increase in population are limited locally.

### **Planning Balance**

19. The National Planning Policy Framework (the Framework) does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the LP, with the associated conflict leading to the provision of a dwelling in an unsuitable location with poor accessibility to services, facilities and public transport networks. This would cause unacceptable harm, although qualified to some extent by the small scale of the proposal, seeking the provision of only one dwelling with associated limited numbers of additional residents.
20. The proposal conflicts with the development plan taken as a whole and should be refused unless other material considerations indicate otherwise.
21. Both the Council and the appellant agree that the development plan is silent with regards to the provision of SBCB housing, which is what is proposed in this instance and therefore is most important for determining this appeal.

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<sup>1</sup> 18/00413/FUL, 15/00349/FUL and 13/00672/OUT.

22. Paragraph 11 d) of the Framework explains that in such circumstances, planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. Nevertheless, I have taken account of the fact that the proposed development is within the built-up area of an existing village and that a dwelling on this site has the potential to sit comfortably as an infill between existing residential properties. It would also make use of a currently unused plot of land. These factors, together with the contribution that the proposed development would make towards the provision of SBCB housing in a location where there is a significant shortfall of serious concern, weigh in strong favour of the proposed development. Overall, I attribute moderate weight to the benefits of the proposed development.
24. Taking account of the circumstances of this case, I conclude that the harm arising from the provision of a single dwelling in this location, when considering accessibility, does not significantly and demonstrably outweigh the benefits when assessed against policies of the Framework taken as a whole. Therefore, the proposal does benefit from the presumption in favour of sustainable development as articulated in paragraph 11 d) of the Framework.

### **Planning Obligation**

25. A UU pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) is before me, dated 5 February 2025. The UU contains provision to secure the proposed development as SBCB housing. There is no dispute between the parties relating to the provisions of the UU and I am satisfied that its content is fit for purpose and secures the SBCB nature of the proposal. With reference to the Framework, the UU is necessary to make the proposed development acceptable in planning terms, is directly related to and is fairly and reasonably related in scale and kind to the proposed development.

### **Conditions**

26. I have had regard to the planning conditions suggested by the Council in their final appeal comments and I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance.
27. In the interests of certainty and clarity, I have imposed the standard conditions relating to the approval of reserved matters, the commencement of development and the approved plans.
28. In the interests of mitigating any effects of the proposed development on biodiversity and ensuring the development brings about an associated enhancement, I have imposed a condition requiring a mitigation and enhancement strategy to be submitted and approved. I have removed any specifics as they are unnecessarily prescriptive.
29. The Council has suggested the imposition of a condition requiring detailed evidence of how and when the purchaser has had primary input into the design and layout of the dwelling to be submitted with all subsequent applications for reserved matters. This condition is considered unnecessary given that the UU adequately secures the SBCB housing status of the proposed development in-line with the requirements of the Act.

30. The Council has also suggested the imposition of a condition requiring full details of the existing and finished floor levels to be submitted with the application for approval of reserved matters, and subsequently requiring the development to be carried out in accordance with the approved levels. No detailed plans are before me at this stage, and this is a standard matter for consideration at reserved matters stage. Such a condition would therefore be unnecessary.

## **Conclusion**

31. The proposal would conflict with the development plan taken as a whole. However, there are material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be allowed.

*L Fern*

INSPECTOR

## **Schedule of Conditions**

- 1) Details of the access, layout, scale, appearance and landscaping, (hereinafter called "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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 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: Location Plan.
- 5) The first application for approval of reserved matters shall be accompanied by a biodiversity mitigation and enhancement strategy. The biodiversity mitigation and enhancement measures shall thereafter be implemented in accordance with the approved details and shall be retained thereafter.

**\*\*\*End of Conditions\*\*\***