

Jennifer Wallis Planning Limited

**Proposed dwelling with detached garage
and creation of new access
(Resubmission 22/01071/FUL) (Self Build)**

Comment Appeal Statement

October 2024

1.0 Introduction

- 1.1 The Appeal Statement submitted clearly sets out the appellant's case which demonstrates that the proposed dwelling has been designed to compliment the existing built form surrounding the site and the mass and scale of the property has been designed so as not to have any impact on the site and wider surroundings. The proposal would be acceptable in terms of residential amenity and would be served by a safe access. The scheme is considered to comply with the relevant policies in the Development Plan and the NPPF. It has also clearly been demonstrated that the application site is within a sustainable location, in an established rural community, and where the proposed development would support services in villages. The dwelling also sits within the curtilage of a former Industrial School and the built form associated with the school site.

2.0 Comment on the Case for the Local Planning Authority

- 2.1 The LPA's statement in 6.3 states that the site is in an unsustainable location with no safe access and no access to services. As previously stated, Botcheston is an established thriving community and has a Public House and a village hall which organises social events and activities. Furthermore, there is a bus stop at the bottom of the access road, within 400 metres of the applicant site. The bus stop is not over 1400 m as stating in the LPA statement at paragraph 7.12. The appeal statement in paragraphs 6.15 – 6.26 and it is not intended to repeat it again.

Photograph showing the closest bus stop to the site, 400 m from the appeal site.



- 2.2 In paragraph 6.4 the LPA maintains that the adjoining site is clearly infill development. As can be seen in an extract from the committee report the LPA state that it is not infill development, Appendix 1. However, the same paragraph in the report submitted with the appeal reads differently to the extract and as follows;

11.2. The application site is located outside the settlement boundary of a Rural Hamlet (Botcheston). Policy 13 of the Core Strategy outlines that Rural Hamlets have limited, if any services and generally rely on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. Because of the limited services in these hamlets, development will be confined to infill housing

development, of which this proposal is considered to be owing to its undeveloped nature when compared to the adjacent sites.

When compared to the wording in Appendix 1, it is clear that this reported has been amended and the concluding sentence does not make sense.

- 2.3 The LPA's statement suggest that the proposed development would be clearly uncharacteristic and at odd with the surrounding countryside, paragraph 6.5. As demonstrated in the appeal statement, the proposed layout would compliment the existing properties to the north and northwest as it would be similar in layout and form, set back from the highway with generous garden and amenity space. This would mirror properties along Spinney Drive to the southwest. The design and layout is also similar to the recently approved dwelling to the north west. The property has been designed to assimilate with the surrounding property and the mature landscaping on the southwestern boundary is to be retained.
- 2.4 Paragraph 6.6 of the LPA's statement makes reference to the NPPF and that the proposal fails in the Frameworks social objective. As demonstrated in the submitted appeal statement and in paragraph 2.1 above, the dwelling would be part of a group of residential dwelling in close proximity to Botcheston which is an established thriving community. The site is within easy access of this existing community. Furthermore, as demonstrated the proposal would not impact on the intrinsic character and beauty of the countryside.
- 2.5 It would appear in paragraph 6.8 that the LPA is trying to introduce additional policy reasons into the refusal. Furthermore, they have not stated why the proposal would be contrary to Policy 21 and 22 of the Core Strategy. However, it is clear that as the proposal would not result in any loss of Woodland cover the proposal would not be contrary to Policy 21 of the Core Strategy. As demonstrated in the submitted appeal statement the proposed would not have a detrimental impact on the local character and it would complement the surrounding landscape in accordance with Policy 22 of the Core Strategy.

3.0 Response to the LPA's comments on the Appellants statement of case

- 3.1 In paragraph 7.1 the LPA seems to focus on that the proposal isn't 'self-build'. It is acknowledged that this was referred to in the Officers delegated report, however, it did not form part of the reason for refusal, which the appeal statement seeks to address. Furthermore, the guidance on 'self build' is that;

The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

The guidance goes on to state that in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer,

are not considered to meet the definition of self-build and custom housing. The appellant, who submitted the application have been involved in the design and proposed layout of the property, being fully engaged throughout the design process. Furthermore, the submitted proposal is not an 'off plan' house.

- 3.2 It is not clear why the LPA disputes the case that the site infills to the south of other residential properties, paragraph 7.5. It has clearly been demonstrated in the appeal statement that there is adjoining development to the northeast, north and north west and further to the southwest, with only intervening residential gardens.



- 3.3 The LPA have made a sweeping statement in paragraph 7.6 that the site has 'intrinsic value and beauty', yet they have failed to state why this site has intrinsic character and beauty. The majority of the frontage of the site is occupied by an access driveway, parking and turning and has the appearance of a residential garden.
- 3.4 In paragraph 7.7 the LPA have tried to discredit the appeal statement and the accuracy of the statement that the site formed part of the curtilage of the Old School House. Further evidence is submitted in Appendix 2, which includes a photograph of the appeal site which is part of the Gardener's Cottage and the Old Schoolhouse and greenhouses. The site once formed part of the Leicester Industrial School for Boys and the appeal site forms part of the curtilage of The Old School House and Gardeners Cottage.
- 3.5 Paragraph 7.9 of the LPA response is address above in 2.0. However, it should be noted that the LPA have fairly stated that the bus stop is almost a mile walk, then in paragraph 7.12 state that the bus stop is 1400 metres from the site. As previously stated the bus stop is at the end of the access, only 400 metres from the site. This would comply with the Leicestershire Highway Design Guide.
- 3.6 In paragraph 7.14 the LPA incorrectly state that the site on the opposite side of to the appeal site formed part of the rear garden to The Hovel. As demonstrated in the land registry documents submitted in Appendix 3, the opposite site was never part of the residential garden to the Hovel. The site was previously part of the Gardener's Cottage and nearby greenhouses.

- 3.7 Paragraph 7.15 of the LPA statement seems to reiterate their statement of case, paragraph 6.4. Comments on the committee report and changes to the report have been made in paragraph 2.2 above.

4.0 Suggested Conditions

- 4.1 The appellant does not agree with the suggest condition 5. In England, BNG became mandatory (under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)) for major developments from 12 February 2024 (developments over 1Ha in area) and for 'minor sites' on 2 April 2024. The application was submitted prior to the 2nd April 2024 and as such there is no requirement to provide any Biodiversity Net Gain on the site.

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