



---

## Appeal Decision

Site visit made on 24 September 2018

by **V Lucas LLB MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2018

---

**Appeal Ref: APP/P3420/W/18/3204512**

**Land off Woodrow Way, Ashley, Newcastle Under Lyme, TF9 4LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Marcus Machine & Tools Limited against the decision of Newcastle-Under-Lyme Borough Council.
  - The application Ref, 17/00605/FUL dated 18 July 2017, was refused by notice dated 8 December 2017.
  - The development proposed is erection of 12 highly sustainable, low carbon dwellings and public open space.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.
3. The application was amended during the Council's consideration of the scheme to 10 proposed dwellings. That is the basis on which the Council determined the application and I shall consider the appeal proposal on that basis also.

### Main Issues

4. The main issues are:
  - Whether the development proposed would be in an accessible location; and
  - Whether the development proposed would make suitable provision for affordable housing and educational provision in the area.

### Reasons

*Whether the proposal would be in an accessible location*

5. The appeal site is a field that is approximately 1.34 hectares in size. The proposal would see the construction of 10 dwellings. Access would be taken via the field entrance on Woodrow Way.

6. In terms of the Development Plan and relevant policies for new housing development, Policy SP1 of the Council's Core Spatial Strategy (Adopted 2009) (CSS) states that new housing will be primarily directed towards Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres within the Borough. The policy also states, among other things, that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.
7. Policy ASP6 of the CSS sets out the spatial policy in rural areas. It states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, to meet identified local requirements – in particular, the need for affordable housing.
8. Policy H1 of the Council's Local Plan (Adopted 2003) (LP) states that planning permission for residential development will only be given where one of five requirements are satisfied, including that the site is within one of the 'village envelopes' as defined on the Proposals Map or that the development consists of affordable housing.
9. For the purposes of the development plan, the appeal site is adjacent to but outside of the village envelope for Ashley and therefore within the open countryside and also a Landscape Maintenance Area. Whilst the site may be within the Parish of Loggerheads, it is not within that village itself. Ashley is not identified as a key Rural Service Centre. The site is also greenfield. Information submitted with the appeal indicates that any affordable housing provision would be in the form of a financial contribution for off-site provision and so this element of the scheme would not comply with policy H1's requirement that any affordable housing should be sited within an existing group of dwellings.
10. For these reasons, the appeal proposal would not accord with the spatial strategy of the CSS for the location of new housing development and would conflict with policies SP1 and ASP6 of the CSS and policy H1 of the LP in this regard. This is a matter of agreement between the main parties.
11. The Council officer's report also went on to assess the proposal against paragraph 55 of the previous Framework. The relevant paragraph from the revised Framework is now 78 which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
12. Ashley village does have some services, including a church, a restaurant, a doctor's surgery, a pub, a village hall and a hairdressers. However these services are very limited in scope and would be unlikely to meet the basic day to day needs of future occupants of the proposed development such as food shopping, employment or access to schools.
13. The village of Loggerheads does have some services and facilities. That village is approximately 3km away and the lanes linking the site and Loggerheads are

narrow rural lanes that are unlit and do not have pavements. As such, I consider it unlikely that future occupants would choose to either walk or cycle to this village on a regular basis, particularly during winter days or inclement weather when visibility would be limited. For example, parents would be unlikely to choose to cycle with young children during dark winter mornings to access the school.

14. There is a bus service with a bus stop approximately 500m from the appeal site, this is mostly hourly during the day and finishes in the early evening. There is also no service on Sundays. Whilst this would provide residents with some choice, the limited services is likely to mean that future occupants of the proposal would be likely to choose to access services and facilities via the private motor car. Whilst Loggerhead may have a greater range of bus services available I consider it unlikely that future occupants would choose to walk or cycle to that village to access the bus there for the reasons set out above. In all likelihood future occupants would be likely to choose to drive in their car and would be likely to choose to continue to their final destination in their car rather than opt to park in Loggerheads to take a bus.
15. For these reasons, I consider it likely that future occupants of the development proposed would be predominantly reliant on the car to access a range of services and facilities necessary to meet their day to day needs. Although future occupants may choose to utilise the limited services available in Ashley this can in no way be guaranteed and the extent to which this may directly maintain or enhance the vitality of services in the area is unclear in any event.
16. Notwithstanding the proximity of other houses within the village to the appeal site, I therefore consider that it is not within a location where a range of goods and services would be accessible via sustainable transport modes. This is a factor that does not weigh in favour of the appeal proposal.
17. Several appeal decisions have been brought to my attention where previous Inspectors have also dismissed proposals for new dwellings in Ashley for reasons that include that new dwellings proposed would not be in a location where a range of services and facilities would be accessible via a range of sustainable transport modes. My conclusions on this issue therefore reflect the findings of several other Inspectors who have considered this issue specifically in relation to the village of Ashley.
18. Whilst one appeal for a single dwelling in Ashley was allowed, that site was within the village envelope and the Inspector found that it would represent infill development and would accord with policy H1 in this regard. Neither of those circumstances applies to the appeal proposal before me. Other appeals have been referred to including one in Loggerheads<sup>1</sup>. The Inspector in that appeal found that walking and cycling between the village and the site would be possible. That appeals can also be distinguished from the appeal before me as Loggerheads is identified as a key Rural Service Centre in the development plan and the services and facilities available in that village are greater than those available in Ashley.
19. Along with existing dwellings along the western boundary, there is a private rural lane bordering the northern edge of the site. Other than that the appeal site is surrounded by open fields bounded by hedgerows and hedgerow trees.

---

<sup>1</sup> APP/P3420/W/16/3149399 Decision date: March 2017

The built extent of the village is clearly situated to the east of the site. The proposal would represent a definite visual encroachment into the open countryside beyond the defined built extent of the village. I am therefore in agreement with the Council that the proposal would not represent a logical extension to the village as dwellings in this location would not relate to the visual context of the area which is very much defined by its open, rural character. This factor is also something that does not weigh in favour of the proposal.

20. However, whilst the Council has referred to the issue of precedent and several sites having come forward in a 'call for sites' exercise that are adjacent to but outside of the village envelope for Ashley, there is no firm evidence such as a formal planning application that indicates that other proposals may seek to rely on this proposal in the event that this appeal succeeds.
21. The Council has also referred to the Framework's reference to avoiding new isolated homes in the countryside which is now contained within paragraph 79 of the revised Framework. As the houses within the village along the site's eastern boundary are visible from the appeal site, it cannot be described as isolated in terms of the ordinary meaning of that term for the purposes of the Framework.
22. Accordingly, I conclude on this main issue that the proposal would not be in an accessible location. The proposal therefore conflicts with policies SP1 and ASP6 of the CSS and policy H1 of the LP and paragraph 78 of the Framework.

#### *Affordable housing and educational provision*

23. Two of the Council's reasons for refusal included the lack of a signed s.106 agreement regarding a financial contribution towards affordable housing and educational provision in the area. During the course of the appeal a signed copy of a s.106 agreement was submitted by the parties which also referenced a sum for the maintenance of onsite Public Open Space. Whilst I note the appellant's concerns regarding the content of the document, based on the information before me, the appeal scheme would be capable of overcoming these two specific reasons for refusal. However, given my conclusion on the first main issue this does not outweigh the harm that I have identified above.

#### **Other Matters**

24. At the time the original application was determined by the Council, it acknowledged that they were unable to demonstrate an up to date five year Housing Land Supply (HLS) of deliverable sites in line with the requirements of the Framework. During the course of this appeal, this position changed with the Council now asserting that it is able to demonstrate a five year HLS. This is a matter of dispute between the parties, although the appellant has acknowledged that at best the Council's HLS is marginal.
25. However, even if I were to conclude that the Council is unable to demonstrate a five year HLS and that policies SP1 and ASP6 of the CSS and policy H1 of the LP should not be considered up to date, I find that this matter would not outweigh my conclusion on the first main issue. This is because the contribution that 10 dwellings would make to any under supply situation would be limited and the principles of locating new development in locations that are accessible via a range of sustainable travel modes along with locating housing

in rural areas where it will enhance or maintain the vitality of rural communities are consistent with paragraphs 102, 122 and 78 of the Framework.

26. In addition, the appellant has identified several economic, social and environmental factors relevant to the appeal scheme and I have taken these into account in my consideration of this appeal. These are limited benefits that weigh in favour of the appeal proposal. There are also some neutral considerations that do not weigh in favour of the proposal. However, these limited benefits even taken together do not outweigh the harm that I have identified in relation to the first main issue.

### **Conclusion**

27. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*V Lucas*

Inspector

Richborough Estates