
Appeal Decision

Site visit made on 7 July 2016

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 10 August 2016

Appeal Ref: APP/N4720/W/16/3147242

The Manor, Calverley Lane, Leeds LS13 1NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Trimac Structures Ltd against the decision of Leeds City Council.
 - The application Ref 15/00824/OT, dated 11 February 2015, was refused by notice dated 28 September 2015.
 - The development proposed is described as "demolition of vacant public house and the construction of 10 new build houses with associated works"
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The application is in outline with all matters reserved except for access and layout. The access proposed is in the same location as the existing vehicular access to the public house (which has in fact now been demolished) and is shown on the Block Plan/Layout Plan referenced 142-100 Revision D referred to on the Council's decision notice, along with the site location plan referenced 144-102. The proposed layout is also shown on the former drawing.
3. This shows a layout for 10 dwellings, reflecting the change in the description of the development that has occurred as between the original application form, the Council's decision notice and the appeal form. The latter documents both refer to 10 dwellings rather than 11 as originally proposed and I therefore adopt that number for the purposes of this appeal. The appellant has confirmed that a condition limiting the number of houses to a maximum of 10 would be acceptable. The Council has confirmed that its first reason for refusal, concerning the demolition of the public house is no longer a reason it wishes to pursue. Indeed, Appendix 1 to the appellant's statement indicates this was in fact authorised by the Council on 12 February 2015.
4. The eastern margin of the site contains a group of trees subject to a preservation order and there is an ongoing dispute with the Council regarding alleged unauthorised works affecting certain of these. That is not a matter for me. I also note that trees along the northern boundary of the site, but lying outside it, are similarly protected.

Main Issues

5. I consider the main issues in this case to be as follows:-

- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on the living conditions of future occupiers with particular reference to private amenity space;
- Whether the proposal adequately reflects the intention of relevant policy concerning greenspace; and
- Whether the proposal adequately reflects the intention of relevant policy concerning affordable housing.

Reasons

6. The appeal site is a relatively small parcel (3,000 m² - or 0.30 hectare - according to the application form) of unused previously-developed land adjacent to a wide expanse of recreational open space. This is to be maintained as public open space as a consequence of the redevelopment of the former Clariant Works on the opposite side of Calverley Lane, for around 300 dwellings. Immediately to the south is a dwelling (Station House) associated with the railway line that separates the site from various commercial premises. The vacancy and apparent dereliction of the site, albeit fringed with, for the most part, attractive trees, contrasts with the pleasantness of the open surroundings to the north and east, which are within both a 'Special Landscape Area' and the Green Belt. The pleasantly suburban appearance of the new houses to the west is also marred by the contrasting impression given by the site. By one means or another it requires improvement, if it is not to remain an eyesore in the otherwise attractive scene north of the railway.
7. The Council relies in good measure on the officer's report, supplemented by its statement of case in respect of the appeal. Both indicate that redevelopment of the site for housing is acceptable in principle to the Council, subject to other material planning considerations.
8. Access and layout are the matters fixed by the application as submitted and brought to appeal. Bearing in mind the relationship of the site frontage to the bridge over the railway on Calverley Lane, the form and location of vehicular access proposed has little scope for variation.
9. The same cannot be said of the scale, appearance and landscaping of the proposed housing. Nevertheless, and perhaps somewhat unusually, the proposed layout is not a reserved matter and therefore falls to be determined as submitted on the basis of the Block Plan/Layout Plan 142-100 Revision D. While it is clear from the content of the iterative discussions that have taken place with the Council that there are different layout options, this means that I am obliged to consider the reality of the layout before me, rather than a more generalised concept, and this impacts on how I am able to assess how the proposed development would appear in context. This is a constraint which must inevitably tie the acceptability of what is proposed to the actual layout proposed, rather than the general principle of development for housing.
10. Moreover, the separation of the determination of layout from contemporaneous determination of the scale and appearance of the proposed development does not mean that a free hand would be available to the designer in the context of a reserved matters application concerning those particular matters. On the contrary, an approved layout would substantially constrain the room for

manoeuvre in achieving a scale and appearance of development appropriate to the site and I take the appeal as I find it with that principle in mind. While I am conscious that, for sites without specific factors constraining design solutions, a site density of circa 33 dwellings per hectare would not be unusually dense in a modern suburban area, I am not persuaded that such circumstances prevail here; owing to visually sensitive boundaries to the north and west and constraining factors on the western and southern boundaries arising from topography and proximity of existing development respectively. This includes Station House, the occupier of which indicates opposition to the specifics of the current proposal, albeit not opposition in principle to housing development.

Effect on character and appearance of the area

11. The proposed layout allows for a landscape buffer to the northern and eastern margin associated with the protected trees and this would in principle, and potentially in practice, make for a pleasantly filtered prospect of the development on the site from the surrounding open land. Other aspects of design, including scale and appearance, could no doubt address the relationship of the development to the adjacent open land and, given the prominence of certain of the commercial development to the south of the site, I consider the proposition that the proposed development should be completely hidden by peripheral landscaping to be unnecessarily restrictive.
12. Plots 7 – 10, as proposed to be laid out, allow for relatively conventional car parking and garaging arrangements with gardens to the rear adjoining a substantial landscape buffer. I have no reason to consider this aspect of the layout would, of itself, necessarily lead to unacceptably unsightly development.
13. Plots 1 – 6, on the other hand, are fundamentally flawed in that the proposed layout would necessitate cars to be wholly garaged or sheltered integral to the dwellings or else parked on the road to the front in a manner which would indeed dominate the scene as the Council contends, with no scope for even driveway parking of the type routinely undertaken by residents of such properties. If one or more of the households owned more than one vehicle, which would very likely be the case, additional kerbside parking would perforce in the main be opposite and would probably impinge on the landscape buffer opposite in order not to impede ready access to the integral parking arrangements required by the layout. Consequently, the access into the development would in a practical and visual sense be wholly dominated by awkwardly parked cars. It seems to me that the layout here would in principle preclude avoidance of that scenario, bearing in mind the lack of scope for other parking solutions or parking elsewhere within the scheme of development.
14. The Council's Core Strategy was adopted in November 2014 following independent examination and may therefore be taken as consistent with the National Planning Policy Framework ('the Framework') published in March 2012. Policy P10 concerns design and, amongst other things, requires that car parking within developments should be designed in a positive fashion. Given that layout is fixed, it seems to me that the flaw I have identified is insurmountable in the context of the scheme currently proposed, even though the scale and appearance of the dwellings could be evolved to a limited degree from the concepts presented, in effect, illustratively. The parking arrangements cannot be said to have been designed in a positive fashion and

therefore there is a direct conflict with the development plan which in this case would have a seriously be seriously harmful effect on the character and appearance of the area for the lifetime of the development.

15. Moreover, within the site itself it seems to me probable that overly intense development would serve to exacerbate the negative effect on the character and appearance of the area that much of the necessary parking would create as a consequence of the proposed layout. The scheme as it actually stands, and as it would be likely to evolve within the straitjacket of that layout, cannot be said to represent good design in context of the type sought by policy P10 of the Core Strategy and by the Framework. The latter stresses that *"good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people"*. Paragraph 64 of the Framework is quite clear that *"permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."*
16. Although the site requires improvement, it seems to me that to allow development that is unnecessarily flawed in terms of design quality, as the proposed layout in my view is, would be wholly contrary to that central tenet of national policy, quite apart from the conflict with the development plan.

Living conditions of future residents

17. The Council contends that the generally small garden areas incorporated in the layout relative to the apparent but undefined scale of development intended are unacceptable for family housing. It supports this by careful numerical analysis more useful than a casual comparison with the large 'Horsforth Vale' development on the Clariant works site which in any event appears to conform to fairly conventional expectations of suburban development.
18. The Council's 2003 *Neighbourhoods for Living* SPG leads on this matter with the following words: *"The level and form of private open space provision will vary with the scale and character of the development and should be determined by the overall design concept for the scheme. The overall quality and relationship to context will be the primary consideration when assessing private space provision."* The so-called "requirement" of the document that that private garden areas for family housing should be a minimum of 2/3 of the gross floor area of the dwelling excluding vehicular provision is explicitly cast as *"a general guide"* on page 31 of the document, which is in any event guidance which does not carry the weight of the development plan.
19. People have varying preferences and in this case the site has scope for semi-private space in the context of peripheral landscape to the eastern margin in particular and it is, moreover, adjacent to a substantial area of good quality open space with public access. I therefore place less weight on the suggestion that that the living conditions of residents would be harmed by small gardens than does the Council. However, the degree of departure from the Council's guidance does serve to reinforce the contention that the concept promoted could lead to a cramped development with the appearance of being cramped. On this issue I therefore find a degree of conflict with the development plan and national policy (i.e. policy P10 of the Core Strategy paragraph 17 of the Framework in respect of amenity) but the issue is not in itself decisive; bearing in mind that not all aspects of design are fixed by the proposal and that the gross floorspace of the proposed dwellings could conceivably be reduced at

reserved matters stage. Although not decisive, it does nevertheless lend further weight to the proposition that poor design of the layout should lead to rejection of the proposal.

Green infrastructure

20. Lack of on-site greenspace is a reason for refusal that stems from the adoption of the Core Strategy and the Council suggests that in default of on-site provision an appropriate sum for off-site provision could be contributed through a planning obligation, albeit no such obligation is before me. There is no reason to consider that the relevant standard cited in policy G4 of the Core Strategy could be met on-site and I have no evidence to confirm whether or not the adjacent open space counts as a 'community park' for the purposes of the policy. Given the Council's stance on the matter, I can only assume that not to be the case.
21. The appellant indicates that the matter was not raised in pre-application discussions and the Council notes that this was so because the requirements are "new" as a consequence of the adoption of the UDP; albeit common sense suggests that the likely requirements of the emerging UDP are likely to have been well known, by the appellant as well as by the Council.
22. Be that as it may, I am obliged to consider the application of policy as it stands at the time of my decision and at face value there would appear, given the lack of any planning obligation or evidence that the proposed development is not required to comply with the standard therein, a clear and harmful conflict with policy G4. Such conflict clearly weighs significantly against the proposal.

Affordable Housing

23. Similar failures of communication and anticipation apply to the issue of whether or not affordable housing should be provided. Policy H5 is clear that sites of 10 or more houses in Zone 1 should normally provide for 35% affordable housing. The Framework is clear as to the importance of affordable housing provision and I have no evidence to suggest that the appeal site should be exempted from the requirements of the development plan in this regard.
24. The lack of affordable housing provision need not, however, weigh against the proposal because, as the Council suggests, the shortcoming can be readily addressed by the imposition of a planning condition. Purely on that basis, the apparent lack of provision for affordable housing therefore carries little weight in the decision making balance.

Other matters and overall conclusion

25. The appellant cites paragraph 49 of the Framework, but offers no evidence to suggest that paragraph 14 is engaged by virtue of policies for the supply of housing not being up-to-date. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. The meaning of that for decision-taking is made clear at paragraph 14 of the document. Policies relevant to the proposal remain up-to-date and are not silent on the main issues. I accord substantial weight to those policies.
26. I have no doubt that development of the site could result in an environmental improvement with social and economic benefits and note that the Council does

not resist the principle of housing. Nevertheless, the appeal process is not intended to be a substitute for the productive negotiation of an acceptable scheme between an applicant and a local planning authority. An appeal can only be decided on the basis of the evidence and circumstances germane to the proposal at issue.

27. In this case, for the reasons I have given, I have found that the current proposal conflicts with the development plan and no material considerations sufficient to outweigh that conflict have been identified. Taking policies 18-219 of the Framework as a whole, the balance of planning advantage is very clearly against the current proposal, which cannot therefore be said to represent sustainable development. Even if paragraph 14 of the Framework were to be engaged by virtue of paragraph 49, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. For these reasons, and having taken all other matters raised into account, I conclude that the appeal should be dismissed.

Keith Manning

Inspector

Richborough Estates