
Appeal Decision

Site visit made on 29 April 2014

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 14 May 2014

Appeal Ref: APP/R4408/A/14/2212711

Land Adjoining 26 Cross Lane, Royston, Barnsley, S71 4AT

- 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 N Smith Wakefield Ltd against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2013/0537, dated 10 May 2013, was refused by notice dated 19 November 2013.
 - The development proposed is a residential development of 14 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A number of plans, showing variations to the site layout have been provided. The Council have confirmed that the application was determined on the basis of Site Layout Plan Rev C and a revised site location plan at 1:1250 scale which includes land along the southern boundary occupied by proposed plot P1.
3. Although no postcode was submitted with the original application, I have used the postcode supplied with the appeal, which appears to accurately locate the proposed development site.
4. Planning Practice Guidance (PPG) was published after the appeal was submitted. The content of the guidance has been considered, but in light of the facts in this case the Planning Practice Guidance does not alter my conclusions.

Main Issues

5. The main issues are:
 - Whether the proposal would make efficient use of land;
 - The effect of the proposal on the living conditions of adjoining residential occupiers;
 - The effect of the proposal on highway safety;
 - The effect of the proposal on protected species.

Reasons

Efficient Use of Land

6. Policy CSP14 of the *Barnsley Local Development Framework Core Strategy (CS)* seeks development which makes efficient use of land, and identifies minimum residential densities in order to achieve this. This is consistent with the aims of the *National Planning Policy Framework (the Framework)*, which directs local authorities to set out their own approach to housing density to reflect local circumstances.
7. The development site is a grassed field, currently used for grazing horses, with a number of mature trees and some existing sheds on site. The proposal relates to a scheme for 14 dwellings, arranged around a central area of landscaping and comprising detached, semi-detached and terraced units. Whilst the entire field is indicated as being within the applicant's ownership, a significant portion of the north-eastern corner is excluded from the scheme, although vehicular access is extended to the edge of the area.
8. The scheme would include a significant proportion of space given over to access and circulation, and would locate development towards the north west and south eastern portions of the site. The resulting layout would be disproportionately distributed across the site, with development concentrated towards the northwest corner. This would result in shallow rear gardens to plots P9 and P10 and the high proportion of space to the front of dwellings given over to access and parking at P4 – P8. Furthermore, the proposed open space towards the southern boundary would be illogically laid out, its shape and position in relation to Plot P1 reducing its value as amenity space. Whilst these factors are not decisive in themselves, together they are indicative of a poorly composed layout which would not best utilise the available site and which would as a result fail to function well.
9. The proposal falls below the expected minimum density level of 40 dwellings set out in policy CSP14. The policy makes provision for lower densities provided it can be demonstrated that this is necessary for sustainable design reasons. The Council also consider that the proposed layout is contrived in order to fall below the threshold of 15 units which would trigger an affordable housing requirement as laid out in Policy CSP15 of the CS. I note the appellant's stated aim of providing a development with a central landscaped area which would provide openness and play space, and which he considers would improve the appearance of the site. I am also mindful that the layout provides a range of dwelling and plot sizes to suit a variety of occupiers. Nevertheless, the layout proposed would not make effective use of the land available, and would not as a result comprise a sustainable pattern of development.
10. On the first matter I therefore conclude that the proposal would conflict with the requirements of Policy CSP14 of the CS which seeks residential layouts which make efficient use of land. It would also run contrary to guidance contained within the Framework paragraph 58 which seeks to optimise the potential for development sites to accommodate development.

Living Conditions

11. Within the proposed development, plots P9 and P10 have two storey dwellings with rear facing windows facing the boundary of the site. These would be located between approximately 6 and 7 metres of the boundary to the garden of 4 Station Terrace. Although the relative position of adjoining dwellings would be unlikely to lead to any direct overlooking between dwellings, the upper floor windows of plots P9 and P10 would have a direct view of the adjoining garden which would not be effectively screened by boundary vegetation. This would be likely to be intrusive and would detract from the enjoyment of the garden as a private space, harming the living conditions of occupiers of the adjoining property.
12. On the second matter I therefore conclude that the proposal would fail to comply with saved policies H8a and H8d of the *Barnsley Unitary Development Plan* (UDP) and would conflict with guidance contained within the *Designing New Housing Development Supplementary Planning Document* (SPD), all of which seek to ensure that the layout of new development, including the distances between proposed dwellings and existing gardens, does not harm the residential amenity of existing occupiers. This is consistent with guidance within the Framework Paragraph 17 which seeks to secure a good standard of amenity for all existing and future occupants of development.

Highway Safety

13. The proposal comprises an internal access road which forks to two separate turning heads. Provision is made within the site to allow future access to land within the appellant's ownership which adjoins the site. The submitted plans indicate that plots P4 and P5 provide one parking space per dwelling, with limited opportunity available for on street parking on the adjacent narrow access road. Even though the level of parking provision would appear to meet the minimum requirement for a two bedroom dwelling advised in the *Supplementary Planning Document - "Parking"*, the constrained nature of the access would result in any visitor or other casual parking creating a "pinch-point" in front of plots P4 and P5. This would potentially impede access for larger vehicles, including refuse and fire services to plots P7, P8 and P9. I note the appellant's comments in relation to the potential benefits of the access arrangement in reducing the potential for crime. However, any such benefits of the proposed arrangement would not outweigh the potential impact of the constrained access upon wider highway safety.
14. On the third matter I therefore conclude that the proposal would conflict with the requirements of Policy CSP26 of the CS which seeks new development which includes safe, secure and convenient road access for all users. It would also conflict with guidance contained with the Framework Paragraph 32 which seeks development where safe and suitable access to the site can be achieved for all people.

Protected Species

15. During the application process the Council's Biodiversity Officer identified the ecology report accompanying the application as being deficient on a number of grounds, including the need to adequately evaluate the existing habitat through a Phase I habitat survey and to provide recommendations for any necessary

mitigation measures. Additionally, further detailed survey work is recommended in relation to great crested newts, which have been located at Rabbit Ings Country Park, within 500m of the site. Great Crested Newts are a protected species. Circular 06/05¹ advises in paragraph 99 that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. Based on the information before me I am not aware of any circumstances which would negate the need to address this issue as a material consideration. The failure to do so runs contrary to national policy in relation to protected species and must be given significant weight.

16. On the fourth matter I therefore conclude that the proposal would fail to take appropriate account of the impact of the development on protected species and would thereby conflict with guidance contained within the Framework and Circular 06/05 which seeks to implement a precautionary approach in relation to developments which may impact upon the habitats of protected species.

Conclusions

17. The proposal would fail to make efficient use of land and would be harmful to living conditions and highway safety. It would also fail to take appropriate account of the potential effects of the development upon protected species. I am mindful that the proposal would provide 14 dwellings and that taking into account the encouragement for growth within the Framework this must carry significant weight. Nevertheless, this benefit would not outweigh the substantial harm that would arise as a result of the development.
18. For the reasons given above, and having regard to all other matters raised, I dismiss the appeal.

Anne Jordan

INSPECTOR

¹ Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System.