



Appeal Decision

Site visit made on 7 July 2019

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2019

Appeal Ref: APP/N4720/W/19/3227983

Land south of Church Close, Pool-in-Wharfedale, Leeds

Grid Reference Easting: 424416, Grid Reference Northing: 444972

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Messrs Clough Hey Limited against Leeds City Council.
 - The application Ref 18/02284/OT is dated 6 April 2018.
 - The development proposed is residential development with new access roads and landscaping.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Application for Costs

2. An application for costs was made by Messrs Clough Hey Limited against Leeds City Council. This application is the subject of a separate Decision.

Procedural and Preliminary Matters

3. The appellant's response to the Council's Appeal Statement states at paragraph 1.3 that the appeal application was made in outline only with all matters reserved. However, paragraph 2.6 of the appellant's Statement of Case states that the application was made in outline with all matters, apart from access, reserved for consideration at a later stage. Furthermore, the application was made on a form entitled 'Application for Outline Planning Permission With Some Matters Reserved', and section 3 of that form indicates that approval is being sought for access. I have therefore considered the appeal on that basis.
4. Paragraph 1.3 of the appellant's response to the Council's Appeal Statement asserts that 'no particular number of dwellings... have been put forward for approval'. However, as set out in the Planning Practice Guidance on making an application, under the heading 'What details need to be submitted with an outline planning application?' (Reference ID: 14-034-20140306), information about the proposed use or uses, and the amount of development proposed for each use, is necessary to allow consideration of an application for outline planning permission. I note that Section 17 of the application form states that the total proposed residential units is 35, and paragraph 2.6 of the appellant's Statement of Case confirms the proposal seeks consent for about 35 dwellings; I have considered the amount of development proposed on that basis.

5. Paragraph 2.7 of the appellant's Statement of Case states the 'indicative site layout (shown on Fairhurst plans 8001.A and 8002 B) demonstrate how this can be achieved and shows 33 dwellings from 2 – 5 bedrooms.' Whilst I note the plans indicate a potential rather than a definitive layout, I have therefore had regard to them in considering the appeal proposal.
6. The Leeds City Council Site Allocations Plan (SAP) was adopted in July 2019, after the appeal was submitted. Both main parties have had the opportunity to comment on the bearing of this change in policy circumstances upon the case; I have taken these comments into account and had regard to the SAP as a material consideration.

Main Issues

7. The Council failed to give notice of its decision within the appropriate period and did not issue a Decision Notice. Taking account of the putative reasons for refusal set out in the Council's Appeal Statement, and the matters raised in evidence, the main issues are:
 - (a) Whether the appeal site is an appropriate location for the proposed development, with regard to local and national planning policy for the delivery and location of housing and protecting Green Belt land;
 - (b) The effect on the highway network; and
 - (c) The provision of green space and effect on landscape, ecology and the setting of the adjacent Pool-in-Wharfedale Conservation Area (CA).

Reasons

The site

8. The appeal site is located immediately to the south of Pool-in-Wharfedale and is in agricultural use, primarily for grazing. It is separated from existing houses to the north by a substantial belt of mature trees. This adjacent development forms part of the CA, which is characterised by a generally linear historic core surrounded by 20th century housing, scattered 19th century villas and workers' cottages all situated within a strong landscaped setting on the south side of the River Wharfe.

Housing and Safeguarded land

9. Leeds City Council Core Strategy 2014 (CS) Spatial Policy 1 (SP1) sets out the principles to be followed in relation to the distribution and scale of development to ensure the spatial development strategy is achieved. This is based on the settlement hierarchy and the concentration of the majority of development within and adjacent to urban areas, using an appropriate balance of brownfield and greenfield land. The policy sets out the preferred locational choices for new housing, stating that the largest amount of development will be located in the Main Urban Area and Major Settlements, and that Smaller Settlements will contribute to development needs, with the scale of growth having regard to the settlement's size, function and sustainability. Pool-in-Wharfedale is identified as a 'smaller settlement' in the settlement hierarchy. The recently adopted SAP gives effect to the requirements of Policy SP1 in the allocation of sites.
10. The appeal site is part of an area of safeguarded land designated as a 'Protected Area of Search' (PAS) under Leeds Unitary Development Plan

(Review 2006) (UDP) review Policy N34. The policy stipulates that within such areas, development will be restricted to that which is necessary for the operation of existing uses together with such temporary uses as would not prejudice the possibility of long term development.

11. The explanatory text to Policy N34 makes clear that this is to 'ensure the necessary long-term endurance of the Green Belt' and 'provide land for longer-term development needs', and that 'the suitability of the protected sites for development will be comprehensively reviewed as part of the preparation of the Local Development Framework.... Meanwhile, it is intended that no development should be permitted on this land that would prejudice the possibility of longer-term development'.
12. The appeal site was reviewed as part of the SAP site selection process, and SAP Policy HG3 retains the PAS designation as safeguarded land (reference HG-5), as part of a reserve of potential sites for longer term development needs beyond the plan period and to protect the Green Belt.
13. As set out in the Inspectors' Report on the Examination of the SAP, all PAS sites were assessed to determine their suitability for housing allocation. Paragraph 103 of the Inspectors' Report concludes that the Council's approach to the assessment of the continued suitability of these sites for housing or as safeguarded land as reasonable alternatives is justified. The report goes on to conclude at paragraph 109 that the overall process represents a sound approach to identifying those sites considered to represent the best and most sustainable choice for development.
14. I therefore conclude that the proposal conflicts with SAP Policy HG3, which aims to provide a reserve of potential sites for longer term development and protect the Green Belt. This policy is consistent with the Green Belt protection aims of the National Planning Policy Framework (Framework), which states at paragraph 139 that planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development. Consequently, conflict with the Framework would also arise.
15. In arriving at this conclusion, I have had regard to the appeal decision on the site to the north west (Pool Road¹). However, in that case the SAP was an emerging plan which the Inspector did not consider to be at an advanced stage. As such, the circumstances are not directly comparable to the case before me.

Highway network

16. Main Street, at the historic core of Pool-in-Wharfedale, is the confluence of the north-south A658 and the east-west A659. I noted during my site visit, which took place on a Sunday afternoon when traffic levels would be expected to be fairly quiet, that the road was carrying a considerable amount of traffic and that the junctions at both the north and south end of Main Street were busy.
17. In respect of the Pool Road scheme, which allowed residential development on the adjacent site, I note the Inspectors comments that the quantity of traffic likely to be generated by the development is not high in relation to the traffic these main roads already carry but, because Main Street in particular is nearly

¹ APP/N4720/W/17/3187334

at capacity, the capacity of its junctions, with Pool Road at the north of the village and with Arthington Lane at the south of the village, is particularly sensitive to the volume of traffic likely to be generated by the development.

18. The Inspector in that case went on to conclude that, with conditions in place to limit the quantity of development to a level which would be likely to generate no more traffic than could be accommodated and to require the implementation of improvements to the junctions at the north and south end of Main Street, the proposal would not have an unacceptable effect on highway safety.
19. The Pool Road appeal decision was dated 18 June 2018. The appeal before me was submitted on 2 May 2019. However, the Transport Assessment submitted with this appeal does not take account of the committed development on the adjacent site.
20. I note the summary tables included in the appellant's response to the Council's Appeal Statement, which seek to assess the cumulative impact of both developments. However, these tables are not supported by complete analysis which would be expected as part of a Transport Assessment and therefore I am unable to verify the input data parameters of the modelling work undertaken.
21. The Pool Road appeal decision states that 'the area designated as PAS to the south and west of Pool...includes land required for a possible west of Pool bypass which would be funded from the possible housing development'. However, other than the 'UDP By-pass plan' dated June 1995 which is included at Appendix 4 of the Council's Statement of Case, I do not have details in the evidence before me of any policy requirement relating to the provision and funding of a bypass. Moreover, whilst the appeal proposal does not include any part of a bypass, as provided for on the Pool Road scheme, nor would it appear to prejudice provision of such a road in the future and in that regard its effect would be neutral.
22. However, for the foregoing reasons, I have insufficient evidence before me to conclude that the proposed development could be accommodated safely and satisfactorily on the local highway network. As such, I conclude that the proposal is contrary to the sustainable transport aims of UDP Policy GP5 and CS Policies T1, T2 and H2 and the Framework.

Green space, landscape, ecology and the setting of the Conservation Area

23. The appellant states that the indicative site layout demonstrates how the amount of development proposed can be achieved. No alternative site layout has been put before me. I have therefore assessed the indicative plans to determine whether they provide evidence that an acceptable scheme is capable of being advanced at the reserved matters stage.
24. Based on these indicative plans, which show development either side of an access road, many of the dwellings would have very small rear gardens close to either the existing northern mature tree belt or to the proposed enhanced southern boundary planting. This would be likely to give rise to pressure to reduce or remove the vegetation, which is important both in terms of the verdant landscape setting of the CA and for its ecological value.
25. In addition, the modest area of green space indicated at the western extent of the site would appear to represent a significant under provision when assessed against the requirements set out in CS Policy G4. I also note that the submitted

Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) makes no provision for green space.

26. I acknowledge that precise details of the layout of the proposed development is a reserved matter. However, based on the indicative layout, I am not satisfied it has been demonstrated that the amount of development proposed can be satisfactorily accommodated on the site without adverse effects on landscape, ecology and the setting of the adjacent CA and inadequate provision of green space. Accordingly, the proposal is contrary to CS Policies P10, P11, P12 and G4, UDP Policies GP5, LD1, N24 and N25 and the Framework, which seek to protect amenity, encourage good design and conserve and enhance the natural and historic environment.

Other matters

27. The submitted UU would secure, amongst other things, the necessary affordable housing provision, a contribution towards a pedestrian improvement scheme and a bus stop improvement contribution. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Based on the submitted details, I am satisfied that the UU meets these tests. I have therefore taken the planning obligation into account and attached weight to it in reaching my decision.
28. Progress on the appeal application was delayed, by agreement between the Council and appellant, pending the outcome of the appeal and High Court proceedings in relation to the Pool Road scheme. Whilst I note that the appellant did not expect the Council to oppose the scheme following the outcome of the judicial proceedings, it is acknowledged in paragraph 4.7 of the appellant's Statement of Case that during this time the development plan progressed. Given this material change in circumstances, I do not consider that the Council took an unreasonable approach. In any event, this matter does not materially affect my consideration of the planning merits of the proposal.

Planning balance

29. The proposal conflicts with SAP Policy HG3, which aims to provide a reserve of potential sites for longer term development needs beyond the plan period and to protect the Green Belt, is recently adopted and is fully consistent with the Framework. This conflict should therefore be given significant weight.
30. In addition, I have insufficient evidence to demonstrate that the development could be accommodated safely and satisfactorily on the local highway network. Moreover, on the basis of the indicative layout, I am not satisfied that the amount of development as set out in the application form can reasonably be provided on the site without harm to landscape features, wildlife and the setting of the adjacent CA and creation of insufficient green space. As such, there would also be conflict with other development plan policies which are most important for determining the application.
31. Framework paragraph 213 makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the

publication of the Framework; due weight should be given to them, according to their degree of consistency with it.

32. The Framework seeks to promote sustainable transport and healthy communities, achieve well-designed places and conserve and enhance the natural and historic environment. Even taking account of the Framework's objective of boosting significantly the supply of homes, the conflict between the appeal proposal and Policies T1, T2, H2, P10, P11, P12 and G4 of the CS and Policies GP5, LD1, N24 and N25 of the UDP should therefore be given significant weight.
33. Set against the harm identified, the development would provide up to 35 market and affordable homes, which would make a modest contribution to the overall supply of housing. There would also be some local economic benefits in jobs created by the initial building work and subsequently sustained by the income of future residents. I afford these benefits moderate weight.
34. The Council considers that it can demonstrate a housing land supply of at least 5.5 years against the current CS requirement, although this is disputed by the appellant. However, even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, 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. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

35. For the reasons set out above I conclude that the appeal site is not an appropriate location for the proposed development, with regard to local and national planning policy for the delivery and location of housing and protecting Green Belt land and the effect on green space, landscape, ecology and the setting of the adjacent CA. Moreover, I have insufficient evidence to demonstrate that the development could be accommodated safely and satisfactorily on the local highway network.
36. The proposal would conflict with the development plan as a whole and there are no other material considerations, including the provisions of the Framework, which indicate that the decision should be taken otherwise than in accordance with it. Consequently, the appeal is dismissed, and planning permission is refused.

CL Humphrey

INSPECTOR