



Appeal Decision

Site visit made on 23 July 2019 by L Wilson BA (Hons) MA

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/C2708/W/19/3228674

Site north of Glen Royd, Woodside Lane, Cononley, Keighley, BD20 8NJ

- 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 Mr C Calvert¹ against the decision of Craven District Council.
 - The application Ref 2018/18988/FUL, dated 31 January 2018, was refused by notice dated 19 March 2019.
 - The development proposed is for the construction of two detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two detached dwellings at site north of Glen Royd, Woodside Lane, Cononley, Keighley, BD20 8NJ in accordance with the terms of the application, Ref 2018/18988/FUL, dated 31 January 2018, and the plans submitted with it, subject to the schedule of conditions set out at the end of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Main Issue

4. Whether the proposed development would be acceptable having regard to the site's location and its effect upon the character and appearance of the surrounding area.

Reasons for the Recommendation - Location

5. Reference is made to saved Policies ENV1 and ENV2 of the Craven District (outside the Yorkshire Dales National Park) Local Plan (1999) (LP). There is some concern as to whether these policies are out-of-date. The National Planning Policy Framework (the Framework), at paragraph 213, indicates that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to them, according to their degree of consistency with this Framework (the closer

¹ Taken from the appeal form.

the policies in the plan to the policies in the Framework, the greater the weight that may be given).

6. The Council consider it reasonable to apply LP Policy ENV1 as they argue it is consistent with Framework paragraph 170, which requires policies and decisions to recognise the intrinsic character and beauty of the countryside. They contend that the site lies outside the development limits and is therefore in the open countryside. Given the nature of the development, the proposal can reasonably be regarded as small scale for Policy ENV1 purposes. Development is only permitted under this policy where it would benefit the rural economy, helps to maintain or enhance landscape character, essential for the efficient operation of agriculture or forestry and is essential to the needs of the rural community. Although small scale, the proposal would not comply with Policy ENV1. Policy ENV2 is applicable where development is acceptable in principle under Policy ENV1.
7. References have been made to other approved developments² in Cononley, which are located outside the development limits. These decisions highlight that LP Policy ENV1 is out-of-date. An Inspector has recently found Policy ENV1 to apply a more restrictive approach to the type of development that it permits outside the development limits compared to the Framework, and therefore afforded limited weight to conflict with the Policy³. However, these decisions appear to be for larger schemes. Policy ENV1 distinguishes between small and large-scale developments, hence the decisions cannot be directly compared to this appeal. In addition, since the appeal decision the Council can now demonstrate a 5-year supply of housing sites.
8. The Framework, at paragraph 78, seeks to promote sustainable development in rural areas and indicates housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 seeks to avoid isolated homes in the countryside and sets out criteria. In the context of this appeal, I too find that LP Policy ENV1 is inconsistent with the aims and objectives of the Framework and is therefore out-of-date. Although the phraseology of LP Policy ENV2 is not the same as the Framework, it is broadly consistent with it as it essentially seeks to ensure development is compatible with the character of the area. I shall proceed on this basis.
9. The appeal site is located on the eastern side of Woodside Lane to the north of Cononley, close to the development limits. The site is undeveloped, rectangular in shape and situated between two existing properties. The village contains local services which are approximately a five-minute walk from the site and the train station is approximately a ten-minute walk away. Skipton, a market town, is approximately 3 miles away and Cross Hills, a larger village, is approximately 1.5 miles away. The dwellings would be accessible to local services. The site would be suitable for this kind of residential development because dwellings would be located within walking distance to both Cononley and the train station. Future occupiers would have good vehicular access to nearby larger settlements. The site is not isolated. The scale of development is small and represents an efficient use of land. The site therefore constitutes an accessible and sustainable location.

² 21/2016/17019, 21/2016/16967 and 2017/18492/OUT

³ APP/C2708/W/18/3210048

10. Taking all of the above points together, the grant of planning permission would result in dwellings outside the development limits, but I find that the site would be suitably located for the kind and scale of residential development proposed.

Character and Appearance

11. Contrary to the Council's arguments, the site does not significantly contribute to the character of the area. The stone and hedge boundary prevent views into the site when seen from Woodside Lane. On the opposite side of the highway there is also a tall hedge. The high boundaries result in a sense of enclosure rather than openness. Given the limited scale of development proposed, the scheme would have a localised visual impact, but it would not represent unacceptable encroachment in to the countryside.
12. The properties would be sympathetically designed. The proposed detailing and materials would result in a traditional appearance, which would be in-keeping with the area. The dwellings would be of an appropriate scale, relative to the immediate setting. The proposed boundary wall and hedge to the front would help soften the impact of built development and maintain the character of the area.
13. The layout of the development would alter the appearance of the site and introduce a form of urbanisation. Nonetheless, due to the small-scale nature and sympathetic design of the new dwellings, the change to the appearance of the site would not be visually harmful to the surrounding area. Gaps between the neighbouring properties would be maintained and the dwellings would be set back from Woodside Lane. This would ensure the area would still maintain its current rural character and it would not represent encroachment given the site's location relative to the settlement.
14. I find that the development would not have a materially harmful visual effect upon the character and appearance of the surrounding area. Accordingly, the scheme would comply with LP Policy ENV2.

Other Matters

15. The Council refers to the Framework paragraph 14, but there is no made Neighbourhood Plan. The site is located close to the Cononley Conservation Area (CA), but views are limited from the CA in to the site. Given the sympathetic design of the proposed dwellings, the proposal would not harm the setting of the CA. I too agree with the Council that the proposal would preserve the setting of the CA.

Conditions

16. The Council's suggested conditions have been considered having regard to the Planning Practice Guidance. A commencement and approved plans conditions are necessary for certainty. In the interests of safeguarding the character and appearance of the area, a condition requiring sample of materials to be used on the external elevations of the dwellings is necessary. Condition 4), 6), and 7) are required for highway safety purposes. Condition 8) and 9) are necessary as soft landscaping would assist in safeguarding the character of the area given the site's location. Additionally, the Council suggested a condition requiring separate systems of drainage for foul and surface water. Condition 5) achieves that objective and is precise.

Conclusions

17. The grant of planning permission would result in dwellings in the countryside and conflict with LP Policy ENV1, but substantial weight is given to the finding that the site is suitably located for this kind and scale of residential development. Significant weight is given to the finding that the scheme would not materially harm character and appearance of the surrounding area. The perceived harm on localised views would be suitably addressed by the imposition of conditions. Additionally, the proposal would have some economic and social benefits in terms of the overall supply of housing land. I therefore attach limited weight to the conflict with Policy ENV1 and recommend that the appeal should be allowed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed subject to the conditions in the attached schedule.

A U Ghafoor

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SR-2048-1A, SR-2048-2A and SR-2048-3.
- 3) No development above slab level shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas:
 - i) have been constructed in accordance with the submitted drawing (Ref: SR-2048-2A)
 - ii) are available for use unless otherwise approved in writing by the Local Planning Authority.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

- 5) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

- 6) Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access to the site has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
- (i) The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.
 - (ii) The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details.
 - (iii) Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
 - (iv) That part of the access(es) extending 6 metres into the site from the carriageway of the existing highway shall be at a gradient not exceeding 1:20.
 - (v) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway (or vice-versa) shall be constructed in accordance with the approved details, and/or the specification of the Highway Authority, and maintained thereafter to prevent such discharges.
 - (vi) The final surfacing of any private access within 6 metres of the public highway shall not contain any loose material that is capable of being drawn on to the existing public highway.
- 7) There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 28 metres measured along both channel lines of the major road Woodside Lane from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 1.05 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 8) Notwithstanding any details shown on the approved plans, before the development is first occupied, a landscaping scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.



Costs Decision

Site visit made on 23 July 2019 by L Wilson BA (Hons) MA

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Costs application in relation to Appeal Ref: APP/C2708/W/19/3228674 Site north of Glen Royd, Woodside Lane, Cononley, Keighley, BD20 8NJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr C Calvert for a full award of costs against Craven District Council.
 - The appeal was against the refusal of planning permission for the construction of two detached dwellings.
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Decision

1. The application for an award of costs is allowed and the terms set are out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The argument is that the respondent acted unreasonably in refusing the application which has led to the unnecessary expense of an appeal. The planning application was deferred so members of the planning committee could carry out a site visit to assess highway impacts of the development, and there was no concern in relation to LP Policy ENV1 or ENV2. Subsequently, when the proposal was reconsidered the development was refused on the basis that the proposal would be contrary to Policy ENV1 and ENV2.
4. This case required an exercise of planning judgement and I have found favour with the applicant's case. The evidence presented shows that, before the planning application was determined at planning committee there was no concern in relation to the conflict with LP Policy ENV1 or ENV2. The Officer's report appraises the proposal having regard to the relevant policies and recommended granting planning permission. The respondent subsequently refused planning permission on grounds that the scheme would have a harmful effect on the character of the countryside and would fail to comply with Policy ENV1 and ENV2.
5. Members of the planning committee adopted a different view to the officer's recommendation, but it was unclear as to how other material considerations

were assessed and weighed in the overall planning balance. There was an over-reliance upon LP Policy ENV1 yet a lack of explanation as to how or why the policy was consistent with national planning policy. The respondent's statement of case provided limited explanation or cogent reasoning as to why planning permission was withheld. The respondent's defence of its stance lacked precision as to how or why the proposed scheme should be dismissed. The case advanced did not substantiate the reason for refusal. Its approach resulted in a vague and generalised assertion about the proposal's impact on character and appearance. The lack of persuasive argument in support of the reason for refusal was indicative of a misapplication of local and national planning policy.

6. Furthermore, the respondent introduced locational factors at appeal. The respondent prevented development which should clearly have been permitted having regard to local and national planning policy. There was nothing in the appeal statement that indicated the respondent properly assessed the merits of the development resulting in an unnecessary appeal and expense.
7. I therefore find that unreasonable behaviour as described in the PPG has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Craven District Council shall pay to Mr C Calvert, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in dealing with the appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Craven District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

10. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the should be allowed as set out in the Costs Order above.

A U Ghafoor

INSPECTOR