
Appeal Decision

Site visit made on 7 January 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2020

Appeal Ref: APP/N4720/W/19/3237364
108, Selby Road, Garforth LS25 1LW

- 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 John Foster against the decision of Leeds City Council.
 - The application Ref 19/03214/FU, dated 20 May 2019, was refused by notice dated 31 July 2019.
 - The development proposed is described as one new 5 bed detached house with garage and conservatory.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would accord with Policy HG3 of the development plan which identifies the site as Safeguarded Land and, if not, whether there are any other material considerations which would outweigh any identified conflict with such a policy.

Reasons

3. The appeal site is a rectangular shaped parcel of land adjacent to a detached house on the southern side of Selby Road. The host property sits at the end of a run of ribbon development which is characterised by large detached properties within substantial grounds.
4. The main parties agree that the site is used as garden land associated with the host property. Indeed, I was able to see during my site visit that the land appears to be maintained as a garden and includes domestic paraphernalia including a pond, greenhouse and a detached timber shed.
5. Access to the host property is via a private drive which also serves the neighbouring house. There is a separate spur serving the shed which sits at the northern boundary of the appeal site, adjoining Selby Road. Land to the east and south is open, to the west there is existing residential development and to the north there is a relatively densely developed modern housing estate separated from the site by Selby Road.
6. There is no dispute between the main parties that the land sits within an area of land that is safeguarded for development under Policy HG3 of Leeds City Council Site Allocations Plan 2019 (SAP). I am not certain why this garden land

was included in conjunction with the wider site. Nevertheless, Policy HG3 of the SAP indicates that the site will be safeguarded from development for the plan period to 2028 to provide a reserve of sites for longer term development post 2028 and to preserve the Green Belt.

7. Section 2 paragraph 2.58 of the reasoned justification which supports Policy HG3 states '*Core Strategy Spatial Policy 10 identifies the need to create areas of safeguarded land (called Protected Areas of Search (PAS) in the previous Unitary Development Plan) to ensure the long term endurance of the Green Belt and provide a reserve of potential sites for longer term development needs beyond the plan period (2028)*'. Whilst I accept that Section 2 paragraph 2.58 is not adopted policy, it informs Policy HG3 and makes clear that the purpose of Policy is to protect safeguarded land from development until a time when it might be needed.
8. Paragraph 139(d) of the National Planning Policy Framework 2019 (the Framework) says that planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposed development. There has not been an update to the development plan which would permit housing development on this site at this moment in time. I acknowledge that the proposal would positively contribute to the supply of housing in the area. However, this would be a limited contribution from the provision of only 1 dwelling house and, furthermore, would be in the context of a situation where the evidence before me indicates that the Council can demonstrate a deliverable five year supply of housing sites. The latter housing land supply position differs from previous years where the evidence suggests that the Council could not demonstrate a five year supply of housing sites. It is for the latter reason that some planning permissions have been approved on safeguarded sites.
9. In the context of the above, I conclude that the proposal does not accord with paragraph 139(d) of the Framework or with policy HG3 of the adopted SAP. Taking into account Section 38(6) of the Planning and Compulsory Purchase Act 2004, I afford the conflict with Policy HG3 of the SAP significant weight in decision making terms.

Other Considerations

10. I acknowledge the appellant's submissions that the land is already in residential use as a garden. Nevertheless, it is mainly undeveloped. Furthermore, the fact that the site is in use as a garden does not mean that it cannot be developed in the future in conjunction with the wider safeguarded land site. I also accept that the whilst the land may be under the control of appellant, and hence they could resist development on it or in combination with the development of the wider site, that does not in itself overcome the fact that the appeal site forms part of a safeguarded site. It is possible that land ownership may change in the future and hence the site may be capable of forming part of a wider and planned developed area.
11. The appellant cites paragraphs 48 and 49 of the Framework which relate to the weight to be afforded to emerging plans and prematurity. In this case, the land is already identified as safeguarded land in an adopted development plan: in other words, Policy HG3 does not relate to an emerging development plan.

12. In response to the Council's comment that the appeal site may be required for future infrastructure, for example a school or bypass, the appellant has drawn my attention to the fact that a previously allowed appeal shows the line of the bypass to be some distance away and secondly that the SAP makes no reference to the use of the appeal site or wider HG3 allocation being required for infrastructure. Whilst I do not have the full details of the previous appeal, it is clear from the reasoned justification to the SAP that the decisions regarding the future use of the safeguarded land will not be made until a Local Plan review has been undertaken. Consequently, if I were to allow the appeal now it would potentially undermine a process of considering the whole of the safeguarded land site for longer term development needs beyond the plan period 2028.
13. I have taken into account that there is no dispute between the main parties that there would be no adverse design, technical, locational or living conditions effects arising from the proposal. However, these are matters of neutral consequence in the overall planning balance.
14. None of the other considerations outweigh or alter my conclusion on the main issue.

Conclusion

15. For the reasons set out above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

J Hunter

INSPECTOR