

Appeal Decision

Hearing Held on 2 December 2020

Site visit made on 7 December 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2021

Appeal Ref: APP/N2739/W/20/3249599

Land west of Garden Lane, Sherburn-in-Elmet

- 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 Classic Developments Ltd against the decision of Selby District Council.
 - The application Ref 2017/0621/OUTM, dated 5 June 2017, was refused by notice dated 25 September 2019.
 - The development proposed is described as residential development for up to 27no. dwellings with access (All other matters reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Part E of the appeal form details that the description of development has not changed from that detailed on the application form. Nonetheless a different description has been entered relating to the number of dwellings proposed and highlighting that planning permission is sought in outline. I have used this description in the banner above because it more accurately describes the development proposed.
3. The application to which this appeal relates sought permission in outline only with all matters reserved. I have determined the appeal on this basis.
4. The parties submitted a very comprehensive Statement of Common Ground (SOCG) clarifying areas of agreement and issues that are at dispute between the parties.

Main Issues

5. The main issues are:
 - i. Whether the proposed development complies with saved Policy SL1 and Policy SP2 of the Development Plan.
 - ii. If there is a conflict with the Development Plan, whether there are material considerations which would justify a grant of planning permission.

Reasons

The Development Plan

6. The appeal site is part of a wider area of safeguarded land around Sherburn in Elmet. Saved Policy SL1 of the Selby District Local Plan 2005 (SDLP) states that 'it is intended that the release of safeguarded land, if required, will be carried out in a controlled and phased manner extending over successive reviews of the Local Plan'. The National Planning Policy Framework makes clear that development on safeguarded land "should only be granted following an update to a plan which proposes the development".
7. Policy SP2 of the Selby District Core Strategy (CS) directs development to existing settlements in line with the level of services available, restricting development in the open countryside. The appeal site is on the edge of but outside the defined development limits of Sherburn-in-Elmet.
8. Thus, the release of the appeal site for housing at this time would conflict with Saved Policy SL1 of the SDLP, as the release would not be as part of a review of the Local Plan. This is not disputed by the appellant and indeed is agreed in the SOCG.
9. At the Hearing, the Council detailed the progress being made in respect of the Local Plan review. I understand that consultation was last carried out between January and March last year, with further consultation planned this year and adoption in 2023. Therefore, there remains the potential for the site to be released for development in accordance with its status as safeguarded land.
10. Furthermore, it is not at dispute between the parties that the Council is able to demonstrate a 5-year housing land supply. That said there was some discussion at the hearing with regards the impact of the COVID-19 pandemic on the delivery of housing in the area. However, I was not provided with any substantive evidence to qualify or quantify the level of impact on housing completions or the effect that this may have on the supply of housing.
11. To conclude this main issue, for the reasons detailed above I find that the appeal scheme is contrary to Saved Policy SL1 of the SDLP, Policy SP2 of the CS and the provisions of the National Planning Policy Framework.
12. Material Considerations
13. It is the appellants case that material considerations, specifically the provision of the proposed Affordable Housing (AH) and dwellings for Self-Builders (SB) by the appeal scheme, outweigh the conflict with the DP.
14. The submitted planning obligation, amongst other matters, seeks to secure 15 of the 27 dwellings as AH and the remaining 12 dwellings for SB. The proportion of affordable dwellings proposed by the appellant is notably in excess of the that required Policy SP9 of the CS that requires 40% of new dwellings to be provided as AH. Furthermore, at the Hearing it was heard that the actual proportion of AH secured on housing sites is often significantly lower than that sought by Policy SP9.
15. Therefore, while I acknowledge that the Council has provided a reasonable level of AH in proportion to established demand, the provision of affordable

housing is nonetheless a material consideration that weighs in favour of the proposal and I give it considerable weight.

16. Turning to SB properties, I note that the DP policies, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Nonetheless the Council has a duty to give enough suitable development permissions to meet identified SB demand.
17. Furthermore, the appellant has drawn my attention to an appeal decision¹ where consent was granted for a number of SB homes. In that instance the shortfall in SB homes was described as “significant” and it was concluded in that instance that the appeal scheme would make a modest contribution to supply.
18. The Council has provided evidence relating both to the number of units already provided as SB and also demand for SB. Specifically, paragraph 7.41 of the Council’s Statement of Case details that “the Council has been able to provide 103 homes through self-build applications and self-build relief. There are 58 people on the Self Build Register to provide homes for as of the 5 November 2020”. I understand that none of the persons on the register have expressed an interest in SB properties in Sherburn. On the basis of the evidence before me I conclude that there is not a significant shortfall in the provision of SB housing.
19. Nonetheless, the provision of SB housing is a material consideration that weighs in favour of the proposal and I give it considerable weight.
20. The supply of AH and SB are material considerations that weigh in favour of the appeal scheme in the planning balance. However, on the basis of the evidence before me, in particular relating the current supply and demand situation with regards both AH and SB, I find that they do not outweigh the conflict with the Development Plan that I have previously found.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR

¹ APP/W0530/W/19/3230103, 23 September 2019

APPEARANCES

FOR THE APPELLANT:

Roger Lee - Roger Lee Planning
Adrian Moore - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Yvonne Naylor – Selby District Council
Richard Welch – Selby District Council

INTERESTED PERSONS:

Cllr Michael Jordan - Selby District Council
Mark Johnson - Johnson Mowat Planning