



Appeal Decision

Hearing Held on 22 September 2020

Site visit made on 25 September 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2021

Appeal Ref: APP/N4720/W/20/3252189

Land south of Pool Road, Pool in Wharfedale, Leeds

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Taylor Wimpey UK Limited against the decision of Leeds City Council.
 - The application Ref 19/02959/RM, dated 9 May 2019, was refused by notice dated 11 November 2019.
 - The development proposed is described as "Reserved Matters application for 57 dwellings, relating to scale, layout, appearance and landscaping pursuant to Outline Application (17/02068/OT)".
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Decision

1. The appeal is dismissed.

Application for costs

2. Prior to the Hearing an application for costs was made by Leeds City Council against Taylor Wimpey UK Limited. This application is the subject of a separate Decision.

Procedural Matters

3. As a result of information submitted in support of the appeal, the Council confirmed that they are satisfied that the appeal scheme is in compliance with the provisions of Condition 5 and as such has withdrawn the reason for refusal related to Condition 5 of the outline permission.
4. The appeal site already benefits from outline planning permission by virtue of a successful appeal¹. Therefore, planning permission has already been granted and the acceptability of the specific reserved matters only are subject of this appeal.

Main Issues

5. The main issues are:
 - i. Whether the details of the reserved matters are consistent with the outline planning permission, with particular regards to condition 10 relating to the "Wharfedale Greenway route".

¹ APP/N4720/W/17/3187334

- ii. The effect of the proposed development on highway safety, with particular regards to car parking provision and pedestrian and cycle routes.
- iii. The effect of the proposed development on the character and appearance of the area, including the adjacent Pool-in-Wharfedale Conservation Area.
- iv. Whether the proposed development would provide adequate landscaping, with particular reference to the protection of existing trees, local ecology and creation of open space.
- v. Whether the proposed development would provide acceptable living conditions for future occupiers, with particular reference to the arrangement of the dwellings on the site.

Reasons

Condition 10

6. Condition 10 controls the details and provision of the Wharfedale Greenway route (WGR). The appellant is not seeking the approval of these details at this time and as such the acceptability or otherwise of the details of the GWR as shown on the submitted plans is not a matter for consideration at this appeal.
7. The submitted plans demonstrate that a route could be provided that fulfils the most basic requirements of the WGR controlled by condition 10, that is creating a link suitable to form part of the WGR.
8. On this basis, while the Council and third-party representations have made clear that, in their view, the detail of the proposals are not acceptable, the appeal scheme is nonetheless in broad compliance with the outline planning permission in this respect.
9. I therefore find that the appeal scheme is consistent with the outline planning permission, with particular regards to condition 10 relating to the WGR. Therefore in this respect the appeal scheme is not contrary to policies SP13, P10, T2 and G1 of the Core Strategy (as amended by the Core Strategy selective Review 2019) (the CSSR) and saved Policies GP5, LD1 and LD2 of the Leeds Unitary Development Plan (Review 2006) (the UDP) which, amongst other matters, collectively seek to the provision of green infrastructure, access and recreation facilities.

Highway safety

10. As a result of information submitted in support of the appeal, it was stated at the hearing that the Council is satisfied that sufficient visitor car parking is provided within the scheme. Furthermore, it was also stated at the hearing that the Council is satisfied that the dimensions of the proposed driveways are satisfactory. On the basis of the evidence before me I see no substantive reason to disagree.
11. Turning to outstanding matters of dispute, the submitted plans show that properties to the eastern side of the proposed development do not benefit from a footpath directly to the front of the properties. Paragraph 3.136 of the Leeds City Council Street Design Guide Supplementary Planning Document (the SPD) details that "Minimum footway (and footpath) widths should normally be 2 metres to either side of the carriageway although in certain situations one

- footway may be acceptable if there is no likelihood of pedestrians utilising a second footway”.
12. Furthermore, the accompanying text box to paragraph 3.31 vi) confirms that a “2m minimum designated pedestrian route (usually on both sides of road)” is to be provided on sharded surface streets, such as those proposed here.
 13. The SPD does not set out a detailed criteria or other considerations for exceptions to these detailed standards. Nonetheless, the appellants Highways & Transport Appeal Statement, Optima Highways and Transportation Consultancy Ltd (7 May 2020) table 4.2 confirms that there would be a total of 39 vehicle trips at the PM peak (1700-1800) for all 55 dwellings, this is significantly below the up to 100 vehicles referred to in the table titled ‘type 3a: shared space streets of the SPD.
 14. The appellant has referred to a number of developments where pavements, of a similar configuration to that shown on the submitted plans, have been accepted by the Council. In turn, the Council have referred to other developments that support their case. I have not been provided with all of the details of these developments, they are nonetheless material considerations but in the absence of substantive details I only afford them little weight.
 15. For the reasons detailed previously I find that on balance I am satisfied that the pavement provision proposed in the appeal scheme will be satisfactory and does not harm highway safety.
 16. Turning to the connection that links the site to Church Close, I note that for a distance of approximately 60m along Church Close pedestrians would not benefit from appropriate pavement provision. The submitted plans show that the route would also be used by Church Close residents’ vehicles and cyclists, horse riders and other users of the WGR. After the hearing closed the appellant submitted a legal obligation that would provide an improved point of access removing this conflict, the details of which could be controlled by a suitably worded condition attached to any approval resulting from this appeal.
 17. I therefore find that the appeal scheme as it stands would not cause harm to highway safety and is not therefore contrary to CSSR policies SP13, P10, T2, G1, saved UDP policies GP5, LD1, LD2, and the guidance contained within the Council's Neighbourhoods for Living SPG, Street Design Guide SPD, Parking SPD, and Accessible Leeds SPD that collectively seek to provide a safe environment for all residents with particular regards to highway safety.

Character and appearance, including the Conservation Area.

18. The proposed housing is located in a prominent position near to the entrance to the settlement. CSSR Policy SP13 designates the appeal site as Strategic Green Infrastructure and the site is within Wharfe Valley and Chevin Ridge Key Corridor. CS Policy P10 requires new buildings and spaces to be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function. The policy requires developments to respect and enhance existing landscapes, waterscapes, streets, spaces and buildings according to the particular local distinctiveness and wider setting.
19. The site is outside of but abuts both the designated Green Belt and the Pool-in-Wharfedale Conservation Area (the CA). CSSR Policy P11 requires the conservation and enhancement of the historic environment, including

- townscapes and landscapes. Saved UDP policy N19 requires new buildings within or adjacent to Conservation Areas to preserve or enhance the character or appearance of the area by ensuring appropriate siting of buildings, through the use of appropriate design and materials, and through careful attention to boundary treatments and landscaping
20. Paragraph 200 of the National Planning Policy Framework (the Framework) states that proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced. Consequently, whether the significance of the conservation area would be affected by development outside it is a material consideration.
 21. The CA's special interest is defined in the Council's Conservation Area Appraisal and Management Plan (CAAMP) as its retention of an idyllic rural location which is defined by its landscape setting and geographical surroundings. Views around the Wharfe valley of expansive and open countryside enable Pool to retain significant independence from its surroundings. This independence and the strong core of historic structures help establish Pool's identity and special interest. My site visit confirmed that this is the case.
 22. The CAAMP specifically identifies that inappropriate development outside of the CA affecting important views both towards and away from the CA can have a negative impact on the CA. While the site already benefits from outline planning permission, at the Hearing the Council identified a number of aspects of the appeal scheme, including dormer windows and 2½ storey properties being features not commonly found in the local area, that would harm the CA.
 23. The appellant's Design Statement details that the proposed development has been designed to reflect the predominant character, architectural vernacular and design of the neighbouring development to the site. I note that the appeal scheme does comply with some aspects of the Development Plan, including some elements of the Council's Design Guidance².
 24. The appellant has submitted report³ with the appeal, undertaking a detailed analysis study of the surrounding area. I note that this was not submitted with the application but has been produced since the application was determined. The report conclusions include that "the layout, density and urban grain of the proposals are not out of character with the local area".
 25. However, the submitted plans show that the resultant development consisting of a significant mix of house types and styles that are not readily found in the adjacent areas of the settlement is of an overall design that fundamentally fails to reflect or incorporate into the development the local distinctiveness of the adjacent settlement, including the CA.
 26. Furthermore, the appellant has provided a plan⁴ specifying the materials to be used in the development and requested that these be included as a condition on any resulting planning permission. The proposed materials, in particular

² Neighbourhoods for Living SPG, Greening the Built Edge SPG, Street Design Guide SPD, Greening the Built Edge SPG

³ Land South of Pool Road, Pool in Wharfedale – Contextual Analysis Study – (31795) May 2020, Barton Willmore

⁴ Materials Layout - dwg.no. 1702.ML, dated 18.09.19

- 'palette 2' were not commonly found in the local area, the use of inappropriate materials would harm character and appearance of the area including the CA.
27. At my site visit I spent some time in the wider settlement and my observations confirmed that, while there are some limited examples and elements of the use of materials that are not dissimilar to that proposed by the appellant, nonetheless I find that the proposed materials are not reflective of the character and appearance of the local area.
28. The proposal would therefore in my view make a negative contribution to the overall quality of the area and would not sit well close to the boundary of the CA in a prominent location in particular where the views into the CA contribute to the significance of the CA.
29. The Framework is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The development plan policies similarly set clear design principles and expect development to deliver good design which reflects the local area.
30. For the reasons given, I conclude that the design of the proposal would fail to respect or contribute to the local distinctiveness of Pool and the CA and would thus fail to preserve or enhance the character and appearance of the CA.
31. Consequently, the development would conflict with CSSR policies P10, P11, P12 and G1, saved UPD policies GP5 and LD1 that seek to protect the character and appearance of the area including the historic environment.

Landscaping

32. The submitted plans show that the appeal scheme incorporates a number of distinct areas of green space, including an area identified as a drainage basin, a larger central greenspace and smaller elements of greenspace throughout the site. With the exception of the former, these areas would be provided as Public Open Space (POS).
33. With regards the drainage basin, this part of the appeal site lies within the Green Belt but it is accepted that this use would not be an inappropriate use of land within the Green Belt. At the hearing the appellant detailed that while this green area would exist, the use of this area is as a drainage basin predominates and as such the use is appropriate in the Green Belt. Based on the evidence before me I find no substantive reason to conclude otherwise.
34. There was some discussion at the hearing with regard the overall quantum of POS required to be delivered as part of the appeal scheme. It is detailed in the Statement of Common Ground that Policy G4 of the CSSR results in a POS requirement for the appeal scheme of 2520sqm. This is a considerable reduction in the requirement of the now replaced Policy G4 of the old Core Strategy (CS) that was effective at the time that the outline planning permission was granted. The Council has sought to link the requirement for POS to Policy G4 of the CS via the legal obligation that accompanied the outline application.
35. The Development Plan, as it stands at this time, includes Policy G4 of the CSSR. Policy G4 of the old CS has been withdrawn and as such no longer forms part of the Development Plan. Therefore, whether or not the Legal Obligation

that accompanied the outline planning permission indicates otherwise, the policy relevant to the determination of this appeal is Policy G4 of the CSSR. The enforcement of any legal agreement is a separate matter to the determination of this appeal scheme.

36. Submissions by both the Council and the appellant confirms that the appeal scheme would provide some 4400sqm of POS, dependent upon which areas are included in the calculation. On the basis of the evidence before me I am satisfied that the appeal scheme would meet the quantitative requirements of Policy G4 of the CSSR.
37. In support of the appeal, the appellant's Landscape Statement and Design Statement confirms that "all homes are within an 80m distance of an area of POS" and that each "POS parcel" has functionality, referring to the incorporation of existing trees and hedgerows and "an integrated network of green infrastructure".
38. The submitted plans show that with the exception of the green space to the entrance of the appeal site the POS created by the appeal scheme would be relatively small and fragmented or otherwise transected by paths limiting the usability of the space by future residents. To the eastern boundary of the site, the POS appears to largely relate to the crown spread of the adjacent trees and hedges rather than forming part of a clear overall concept. While this approach this does appear to create adequate separation distances between dwellings and trees the relationship of the POS with the adjacent residential properties is show as being poor, in particular with regards overlooking and natural surveillance.
39. Turning to ecology, and in particular Bats, the appellant identifies a number of benefits to bats including bat boxes and the retention and improvement of foraging routes, concluding that the "overall net impact upon bats is therefore predicted to be positive".
40. At the Hearing the Council confirmed that additional information provided by the appellant did provide some comfort. In particular, clarification was offered with regards the location of many of the boundary trees and hedgerows as being outside of the appeal site and thus at a reduced risk of removal or pruning as a result of the appeal scheme. On the basis of the evidence before me I am satisfied that the proposed scheme will not have an adverse impact on ecology and in particular bats.
41. The submitted plans show that outside of the western boundary of the appeal site, adjacent to the proposed WGR, additional planting in the form of landscaping and buffer planting would be provided. This planting and landscaping would provide screening to the built development including the appeal scheme.
42. The proposed landscaping and planting would not be located inside the appeal site. Indeed, adjacent to the western boundary of the spine road there is very little space for any planting or landscaping. However, on the basis of the evidence before me I am satisfied that a suitably worded condition could be attached to any permission resulting from this appeal to control the detail and provision of appropriate planting and landscaping.

43. To conclude this main issue, for the reasons detailed previously I have found that the appeal scheme would provide an adequate quantity of POS and while the plans lack a clear overall concept I find that on balance the appeal scheme is not contrary to Policies SP13, P10, P12 G1 and G4 of the CSSR, saved policies GP5 of the UPD that seek to control the provision of new green space and landscaping.

Living Conditions

44. The Neighbourhoods for Living Supplementary Planning Guidance (NfL SPG) sets specific standards for separation distances between properties and for outside garden space for residential gardens. While it is acknowledged by the Council that the appeal scheme broadly complies with the relevant guidance, plot numbers 38, 44 and 4 have been identified by the Council as falling short of the guidance.
45. The NfL SPG requires a 10.5m minimum distance from the house to the rear boundary treatment for garden space. With regards Plot 38, the appellant details that the garden depth is some 12m long at its maximum and 7.5m at its minimum. The garden of plot 44 is similarly set at an angle resulting in distances of approximately 22m at its maximum and 7.5m at its minimum. Based on the evidence before me it is clear that the minimum depth of the rear gardens do fall short of that detailed in the NfL SPG. Nonetheless, I find that the gardens of plot 38 and 44 are overall of a sufficient depth and size to be in broad compliance with the NfL SPG and are sufficient to protect the living conditions of future occupiers.
46. Turning to the back-to-back distance of plot 38, the appellant submits that this is 28m and the back-to-side distance to plot 36 is 12.5m. the diagram after paragraph 4.72 of the Design Statement (May 2020) (the DS) shows that the detailed back to back distance is very much a best case figure. However, the submitted plans show that as a result of the orientation of the proposed dwellings, the separation distance would be sufficient to protect the privacy of future occupiers in broad compliance with the NfL SPG.
47. Plot 4 is identified by the Council as being too close to the neighbouring property, Underwoodlee Cottage to the east. The submitted plans show that the rear of the property on plot 4 would look towards the rear garden of Underwoodlee Cottage separated by the retention of the existing hedge. The rear garden of Underwoodlee Cottage is small, and all of the garden would be in view from plot 4. However, the diagram after paragraph 4.74 of the appellants DS details that the separation distance is 16m. I find that this separation distance is sufficient to protect the living conditions of the residents of Underwoodlee Cottage and future residents of the appeal scheme.
48. Turning to the proposed properties fronting the main spine road. The appellant's statement of case, paragraph 4.74, acknowledges that the relevant front gardens are "in the region of 3-4m" but that the dwellings are "set back from the spine road by 8-9m". The appellant's approach to the relationship of residential dwellings and the spine road, described in the Statement of Case as the creation of a clear frontage and enclosure to the streetscene with a landscaping to the spine road appears reasonable. I therefore find that, on balance, the separation distances and garden layouts are sufficient in this respect to protect the living conditions of future occupiers.

49. At the hearing there was some discussion with regards the effect of air quality on the living conditions of future occupiers of the proposed properties, with particular regards to the use of the main road in the site as a bypass. I have no substantive evidence before me regarding the impact of the proposed road use on future residents of the appeal scheme and in any event the bypass scheme does not form part of the appeal scheme. As such, I find that it has not been demonstrated that the appeal scheme would not provide satisfactory air quality for future residents.
50. To conclude this main issue, for the reasons detailed previously I find that the appeal scheme would provide acceptable living conditions for future occupiers, with particular reference to the arrangement of the dwellings on the site. The appeal scheme is therefore not contrary to CSSR policies SP13, P10, T2 and G1, saved UPD policies BD5, GP5, LD1 and LD2 and the guidance set out in Neighbourhoods for Living SPG, Greening the Built Edge SPG, Street Design Guide SPD, Greening the Built Edge SPG.

Other matters

51. The appeal site ready benefits from planning permission and this appeal scheme would provide 57 homes, including 20 affordable dwellings. The contribution of the houses in the appeal scheme towards the housing land supply in the area is a material consideration that weighs in favour of the appeal scheme.
52. In granting the outline planning permission in respect of this site the Inspector⁵ found that the Council could not demonstrate a 5-year housing land supply. The appellant's planning statement⁶ that accompanied the application to Leeds City Council detailed a number of other decisions⁷ where it was concluded that the Council could not demonstrate a 5-year housing land supply. I have not been provided with all of the details of these appeals or the circumstances in which led to their determination. I have no substantive evidence before me regarding the current housing land supply situation. As such it has not been demonstrated that the Council cannot demonstrate a 5-year housing land supply at this time and in respect of this appeal.
53. I note that the appeal scheme would have a direct on-site work force of 20 construction jobs at any one time and that there is a commitment to employ local labour and to provide training opportunities for young people.

Planning Balance

54. The Government's objective is to significantly boost the supply of housing and the proposal would provide 57 homes, including 20 affordable dwellings, in a location with access to existing services. Given the scale of the proposal the provision of the additional housing attracts some weight. The scheme would also result in the development of the spine road of a standard to serve as a future bypass of Pool and create local employment opportunities.
55. Conversely, the proposed development would harm the character and appearance of the area, including the adjacent Pool-in-Wharfedale

⁵ APP/N4720/W/17/3187334 -18 June 2018

⁶ Planning Statement – Johnson Mowat 8 May 2019

⁷ APP/N4720/W/17/3186216 – 14 December 2018; APP/N4720/W/18/3198312 –11 February 2019; APP/N4720/W/18/3200471 –11 February 2019; APP/N4720/W/18/3203770 – 13 March 2019.

Conservation Area. These matters attract significant weight and outweigh the benefits associated with the proposed development.

56. The proposal would therefore conflict with the Development Plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

57. For the reasons outlined above, I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR