



Appeal Decision

Site visit made on 29 November 2021

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2021

Appeal Ref: APP/N4720/W/21/3280389

Land between 15 and 19 The Valley, Alwoodley, Leeds, LS17 7NL

- 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 Grahame White against the decision of Leeds City Council.
 - The application Ref 21/02738/FU, dated 29 March 2021, was refused by notice dated 13 July 2021.
 - The development proposed is 40m2 GIFA Office Pod.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site is variously described as 15 The Valley, land between 15 and 19 The Valley and 17 The Valley on the application form, decision notice and the appeal form. In the above heading I have used the address as given on the decision notice as this appears to most accurately describe the site's location.
3. During the course of determining the application the plans were revised on a number of occasions. The appellant has indicated that he would like the appeal to be determined on the basis of the most recent plans - 9 of which were submitted on 13 May 2021 and 2 submitted on 7 June 2021. The decision notice indicates the Council's decision was made on the plans submitted on 24 April 2021. However, from the evidence before me it is clear that the Council did consult internally on the later plans and they have indicated that as the changes made to these plans were technical in nature, they did not consider further consultation with third parties was necessary. Furthermore, the Council has had opportunity to make comments on the later plans through the appeal process. As such, I consider that no party would be prejudiced by my determining the appeal on the basis of the latest amended plans.

Main Issues

4. The main issues in the appeal are:
 - The effect of the proposed development on the vitality and viability of nearby centres;
 - The effect of the proposed development on greenspace provision;
 - The effect of the proposed development on protected trees; and
 - Whether the proposed development would provide adequate working conditions for future users with particular regard to light.

Reasons

Vitality and Viability

5. The appeal site is located between No 15 and No 19. It is currently occupied by an electricity substation which has a gated access onto the road and a large number of trees that are protected by a Woodland Tree Preservation Order (TPO). A second gated access is provided adjacent to No 19. The surrounding area is predominantly residential. The appeal scheme proposes the removal of the substation walls and the erection of a small office building that would be constructed off the existing foundation.
6. Policies SP2, SP8 and EC2 of the *Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019) (adopted September 2019)* (LCS) seek to direct new office development to the city centre and designated town and local centres. To provide flexibility for businesses Policy EC2 indicates that small offices (under 500sqm) will not be required to carry out a sequential test if they are in regeneration areas, smaller settlements without an identified centre or rural areas but otherwise the policy requires that office developments are expected to be accompanied by a sequential test irrespective of their size. Similarly, paragraph 87 of the *National Planning Policy Framework* (the Framework) requires that a sequential test is carried out for main town centre uses (which includes offices) which are neither in an existing centre nor in accordance with an up-to-date plan. The only exception being for small scale rural offices.
7. The appeal site is not located in any of the areas identified within Policy EC2 where a sequential test is not required. Nor is it within a rural area. Therefore, as the proposal is not accompanied by a sequential test it is contrary to both the Framework and the LCS policies outlined above.
8. The appellant has stated that the office would be for his own use providing an office base close to both his home and the majority of his clients, and that its size would not undermine the centre-first approach of national and local policy. Given this he considers a sequential test is not necessary. However, as planning permission runs with the land there is no guarantee that the office would be used in this way either now or in the future. Moreover, whilst the proposal itself may be small, the cumulative effect of allowing small out-of-centre developments such as this would undermine the centre-first approach.
9. Therefore, in the absence of a sequential test, I consider that the proposal would have a detrimental impact on the vitality and viability of nearby centres and would be contrary to Policies SP2, SP8 and EC2 of the LCS outlined above, and the Framework.

Greenspace

10. The appeal site, together with the land to the rear, is designated as Green Space within the Leeds Site Allocations Plan (adopted July 2019) (SAP). As the SAP was adopted more recently than the *Alwoodley Neighbourhood Plan (made July 2018)* (NP), it takes precedent over the NP and any decisions made on whether or not to designate the site as green space in the preparation of the NP.
11. Policy G6 of the LCS protects such land from development unless it meets one of three criteria. Whilst the proposal would not meet either the second or third

criteria the appellant has argued it would accord with the first. This indicates that development may be allowed where there is an adequate supply of accessible green space / open space within the analysis area and the development site offers no potential for use as an alternative deficient open space type as illustrated in the Leeds Open Space, Sport and Recreation Assessment.

12. Whether the site forms a type of green space that has a surplus in the area or not is disputed between the main parties, as the appellant has considered it on the basis of it being natural green space whereas the Council have considered it more specifically as an area of woodland. Given this, I have considered the impact of the proposal on the green space on the basis of what I observed on my site visit.
13. Although not publicly accessible, in a relatively densely developed suburban residential environment the area of green space provides an attractive natural area that gives an element of visual relief between the buildings. The area occupied by the substation is currently fenced off from the wider site and contributes little to the wider green space, other than the front part of the site adding to the open undeveloped character of the site.
14. The proposed office pod building would be slightly larger than the existing substation. It would therefore reduce the openness of the site to a small degree. However, subject to its impact on the trees which is discussed below, in replacing an existing functional utilitarian building that adds nothing to the green space designation with a slightly larger building, the proposal would not detract from the surrounding woodland nor would it diminish the beneficial visual impact the woodland has on the area.
15. Therefore, I consider that the proposed development would not have an adverse impact on green space provision and would accord with the aims and objectives of Policy G6 of the LCS outlined above.

Protected Trees

16. Whilst the fenced off area around the substation contains no trees the canopies and root protection areas of a number of the protected trees on the wider site extend over, and into, this part of the site. The Council have highlighted inconsistencies in the tree information provided on various plans, as well as the fact that some of the information is not up to date. Overall, I agree with the Council that the proposal lacks a comprehensive tree survey based on a topographical survey and an Arboricultural Impact Assessment as recommended by *BS5837:2012 Trees in relation to design, demolition and construction*.
17. The Design and Access Statement indicates that the proposed office building would be built off the existing substation foundations and so would not disturb tree roots and that a combined service duct would be provided adjacent to the boundary with No 15. In addition, it is stated that the small panel kit timber construction to be used for the building means it can be supplied and installed without the need to bring heavy machinery onto the site. However, this does not negate the need to provide a comprehensive assessment of the impact of what will be a larger building on the surrounding trees. This assessment should not only consider the impact on the trees of constructing the building itself but

also the impact on the trees of related works such as those needed to provide the access and parking areas and drainage/other services.

18. I note the submitted Woodland Management Plan and the works the appellant has already carried out in accordance with this. However, this does not provide an assessment of the current proposal on the protected trees.
19. All in all, in the absence of the evidence outlined above, I consider that the proposal has not adequately demonstrated that it would not have a detrimental impact on protected trees. Consequently, it would be contrary to Policies P10 and P12 of the LCS, Policy GP5 of the *Leeds Unitary Development Plan (Review 2006) (adopted July 2006)* (UDP) and Policy Land 2 of the *Natural Resources and Waste Development Plan Document (adopted January 2013)* which seek to ensure that developments protect the visual amenity of the area, conserve and enhance the character, quality and biodiversity of townscapes and landscapes, conserve trees and resolve detailed design considerations.

Working conditions for future occupiers

20. Although not a residential property, users of the building could still spend a considerable part of each day within the building. Relatively tall windows would be provided on one side and on the rear elevation of the building. As such, all rooms, other than the service areas would be provided with windows, and the latter would have rooflights to provide natural lighting. Whilst the close proximity of the trees would create overshadowing and would reduce light penetration, particularly during summer months, I consider that the size of the windows would mean light levels would not be unacceptable for an office. Moreover, views over the woodland would provide an attractive outlook.
21. The Council have stated the proposal would not comply with the guidelines on distances to trees. I have not been provided with these guidelines and there is no evidence as to by how much or little they fail to conform to them. Moreover, there is no indication of whether these guidelines have been formally adopted following public consultation. As such, I have given this little weight.
22. The Council have highlighted that under permitted development rights it would be possible for the building to be converted to a dwelling. However, such a change of use would be subject to the prior approval process which, amongst other things, would have to consider whether all habitable rooms would be provided with adequate natural light. As such, the Council would have the opportunity to assess this issue should such an application be made in the future.
23. Therefore, I consider that the proposed development would provide adequate working conditions for future occupiers with particular regard to light. Given this, it would not conflict with Policy P10 of the LDS and Policies GP5 and BD5 of the UDP which require a high quality of design that gives consideration to both their own amenity and that of the surroundings, including in relation to the provision of satisfactory penetration of sunlight and daylight, and that resolves detailed design considerations. Nor would it conflict with the Framework (paragraph 130) which seeks to ensure developments have a high standard of amenity for existing and future users.

Other Matters

24. Reference has been made by the appellant to the garden use on the site and how this relates to the Woodland TPO, as well as to what is and is not allowed within a Woodland TPO. The Council have indicated that the garden use has not been proven or tested through a certificate of lawfulness. However, whether or not this is the case is not a matter before me in this appeal, nor is it determinative in my decision.

Planning Balance and Conclusion

25. In the absence of a sequential test and an Arboricultural Impact Assessment I have concluded that the proposal would have a detrimental impact on the vitality and viability of nearby centres and on protected trees. Whilst I consider the proposal would not adversely impact on green space provision and would provide adequate working conditions for future occupiers, an absence of harm in these regards is a neutral matter. Although the provision of a small office space close to a home could be seen as a benefit there is no guarantee the office would be used by someone in the immediate vicinity either now or in the future. Even if it was used in this way, it would not be sufficient to outweigh the harm I have identified the scheme would cause.
26. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR