



Appeal Decision

Site visit made on 19 April 2022

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/N4720/W/22/3292553

25 The Nook, Tingley, Wakefield WF3 1EB

- 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 & Mrs Redman against the decision of Leeds City Council.
 - The application Ref 21/06027/FU, dated 30 June 2021, was refused by notice dated 30 November 2021.
 - The development proposed is residential development of 2 No. detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the appeal proposal on the character and setting of The Nook, with particular regard to density, siting and layout
 - the effect of the appeal proposal on the living conditions of the occupants of neighbouring dwellings, with particular regard to noise, disturbance and privacy
 - whether or not the appeal proposal constitutes the efficient use of land.

Reasons

Character and appearance

3. The appeal site adjoins the rear of a relatively tranquil residential street known as The Nook. Dwellings here tend to be a mixture of spacious bungalows and 2 storey detached houses situated within enclosed generous front and rear gardens with driveways providing off road car parking. In the surrounding streets plot sizes and densities are more varied.
4. The appeal site comprises an enclosed, flat, grassed parcel of land which directly adjoins and is accessed through the appellants' formal rear garden area. The appeal site is bound by similar parcels of land on either side. That of No 27 The Nook is occupied by large single storey outbuildings. Although the submitted evidence does not confirm the lawful planning status of these land parcels, during my site inspection I observed that they were being used as individual informal outdoor amenity spaces associated with Nos 23, 25 and 27 The Nook.

5. The appeal site also connects directly to a series of grassed and ploughed fields. Whilst open in character and appearance, this tract of countryside is not extensive in its extent nor is it particularly rustic in appearance. This is because of its relative narrow depth and the high level of physical containment and built presence on 3 sides. The existing use of the appeal site and the 2 neighbouring similar plots provide a materially different character and appearance to the adjoining field system. As such, they provide a transition between the domestication of the original formal garden areas of these dwellings and the surrounding agricultural land.
6. The appeal site enjoys an open aspect across the adjoining field system. The Council makes reference to site visibility from the public footpath network, although no detailed evidence was provided to substantiate the degree of harm argued. Where existing buildings and tree cover permit, glimpses back over these fields to the appeal site can be captured from longer distance vantage points through Tingley. Crucially, this affords the appeal site to be read as part of the rear part of The Nook.
7. Collectively these fields, the appeal site and the plot of land behind No 23 comprises part of housing allocation HG2-169 of the Council's Site Allocations Plan ("the SAP"). The Council have advised that a High Court decision relating to this plan does not have any implications for this site allocation. The principle of development of the appeal site has therefore already been established subject to accordance with the other relevant development plan policies.
8. In doing so, the Council has accepted that the existing character and appearance of the appeal site and surrounding fields which form part of the setting of The Nook will change. The approved scheme shows that if implemented the appeal site would be situated between the appellants' property and a large area of green infrastructure. Regardless, the appeal proposal would assimilate with that new character and appearance by virtue of its type, scale and positioning relative to the built form of The Nook.
9. The Council have raised concerns that the appeal proposal is not dissimilar to backland development which is uncharacteristic of the area. The appellant has argued that examples of similar arrangements exist in the locality. Nonetheless, in addition to the absence of harm from views across the fields, the appeal site is well screened from vantage points along The Nook itself by the appellants' dwelling and neighbouring Nos 23 and 27. The scale and massing of the other dwellings making up the remainder of this side of The Nook and Nook Green mean that the appeal site remains obscured from the wider street scene.
10. The particular positioning of the dormer bungalows proposed within the plot, coupled with their scale and finished height, mean that their presence would not be unduly obvious within this street scene. Whilst positioned at right angles to the appellants' dwelling, their orientation would not be at odds with the pattern of development in this part of Tingley given the particular positioning of dwellings in Nook Green and also the detached building located to the rear of No 27. Furthermore, the resulting density would not provide a cramped form of development or be at odds with the spacing of dwellings in The Nook or the more varied plot sizes which are typical of the wider area.

11. The new entrance and driveway to the appeal site would be visible within the vicinity of the appellants' dwelling when travelling along The Nook. Nonetheless, the generous frontage width and spacing between existing dwellings means that the insertion of the access and driveway to the required specification would not provide a cramped arrangement with No 23 and No 25. Neither the puncturing of the existing boundary wall at the point proposed or the level of front garden remaining for No 25 would be out of keeping with the surrounding street scene.
12. For these reasons, irrespective of whether the appeal proposal has credentials aligning to backland development, the particular appeal proposal would not harm the character and setting of The Nook, with particular regard to density, siting and layout.
13. Policy P10 of the Leeds Core Strategy ("the Core Strategy") states that new development should be based on a thorough contextual analysis and provide good design that is appropriate to its location, scale and function. It should respect local distinctiveness and wider setting of the place. Its scale, size, design and layout should be appropriate to its context, protect the visual amenity of the area and respect the character and quality of surrounding buildings. In the absence of harm, there is no conflict with this policy in this regard.

Living conditions

14. The original rear garden areas to neighbouring Nos 23, 25 and 27 enjoy a high level of privacy given the establishment of high boundary enclosures and the open, unfettered aspect currently provided by the surrounding field system. The approved layout for the wider housing allocation shows that through the location of green infrastructure requirements, this open aspect and high degree of privacy could be retained thereafter.
15. Albeit at a limited scale of development, the appeal proposal would bring housing development into an area which currently enjoys a high level of privacy. The proposed dwellings' principle elevations would face towards the land parcels to the rear of Nos 23 and 27 which are not currently directly overlooked at such close distances. The proposed dwellings would be off-set from the original rear garden areas of those neighbouring properties.
16. No adverse effects have been identified by the Council in respect to No 25. Given the resulting separation distances, positioning of the proposed windows and level of garden area that would be retained to serve the appellants' dwelling, I have no cause to disagree with that assessment.
17. The land associated with No 27 is currently enclosed by a high boundary fence. Its original rear garden is enclosed by a substantial hedge and fencing. There is no cause for me to dispute the Council's assessment in respect to the relationship that would result between the appeal proposal and No 27. This is because of the separation distances, the angle of sight and window treatment that would be secured from the rear elevations and garden areas of the proposed dwellings and the existing substantial boundary treatment that could be maintained.
18. The proposed dwellings' front elevations would face directly onto the amenity land associated with No 23. That land is bound by a low fence and there is no

boundary enclosure to define the original garden from that neighbour's wider land holding. From the submitted evidence and my site visit I was unable to discern the lawful status of the land that falls beyond the extent of the original garden to No 23 and therefore the level of importance that should be attached to the continued privacy levels that endures. Nonetheless, unrestricted angled views across that additional land towards the otherwise secluded original garden area of No 23 would be possible from the appeal proposal's ground floor and first floor habitable room windows. Furthermore, the necessary driveway and parking areas would fall within very close proximity along a substantial portion of the boundary with No 23.

19. Despite the location of the proposed ground floor doors and windows, driveway and parking, acceptable mutual privacy levels and attenuation of noise arising from vehicles and other domestic scale activity could be secured by a planning condition to secure appropriate boundary treatment and landscaping. Crucially however, this mitigation could not practically extend to minimising the effects of the first floor windows to both proposed units. By virtue of their design, size, positioning and orientation these first floor windows would impose an unacceptable sense of surveillance over the rear elevation and original garden area of No 23.
20. For this reason, the appeal proposal would cause unacceptable harm to the living conditions of the occupants of No 23, with particular regard to privacy.
21. Policy GP5 of the Leeds Unitary Development Plan Review (2006) document ("the UDP") states proposals should seek to avoid loss of amenity. Furthermore, Policy P10 of the Core Strategy states amongst other things that new buildings should be appropriate to their location and residential amenity should be protected through their high quality design. In view of the identified harm, the appeal proposal conflicts with these policies in this regard.

Land use efficiency

22. The appeal site forms a very small part of a much larger housing allocation, the latter of which has the benefit of an outline planning permission. The submitted evidence confirms that the appeal proposal would be built at a density of around 15 dwellings per hectare.
23. Policy H3 of the Core Strategy confirms that in this location a density of 30 dwellings per hectare is to be expected, unless there are overriding reasons which include design considerations. The Council has also confirmed that there is no provision within the SAP to ensure that site allocations come forward for development in their totality.
24. The appeal proposal's yield would fall short of that expected by Policy H3. Neither of the main parties have confirmed what the resulting density across the whole site allocation could have been had it been planned comprehensively. However, the accepted exclusion of the appeal site from the wider consented outline scheme places constraints on the developability of the appeal site. A greater yield to that proposed by the appellant would be likely to further exacerbate the identified harm to living conditions as it would have implications on building footprints, heights and separation distances.
25. It is not unreasonable for me to conclude that the comprehensive planning of the site allocation would not have provided a materially greater yield than the

sum of the consented outline and appeal schemes. This is because of the level and location of public open space proposed on the remainder of the site allocation and the very limited size of the appeal site and its outlying position. Crucially, the yield secured by the appeal proposal would be additional to the yield accepted by the Council for the wider site allocation. Moreover, the appeal proposal would facilitate otherwise underutilised land to contribute to the supply of housing in the area.

26. For these reasons, I do not find that the appeal proposal constitutes the inefficient use of land, with particular regard to density. The circumstances here mean that the appeal proposal would not conflict with Policy H3 of the Core Strategy in this regard.

Other Matters

27. The Council can demonstrate a supply of housing land in excess of 5 years and the submitted evidence does not demonstrate that the policies most relevant for determining this appeal are out of date. However, the appeal site does offer good accessibility to services and facilities and would contribute to the delivery of housing in the area. These are matters which weigh in favour of the appeal proposal.
28. The Council has expressed concerns over the appeal site being developed separately from the wider housing allocation and not providing the infrastructure contributions considered necessary to support development across the totality of the site allocation. However, this did not form part of the reason for refusal set out in the decision notice.
29. The submitted evidence does not disaggregate these requirements from the wider site allocation. Neither is there any conclusive evidence to demonstrate whether or not any harm would arise from the failure of the particular appeal scheme to fulfil the particular policy requirements. It is however conceivable that this matter could be resolved by a planning obligation should the necessity to meet such requirements be demonstrated by the Council. Therefore, in this instance, the absence of a planning obligation is not determinative to the outcome of this appeal.

Conclusion

30. I have identified unacceptable harm to the living conditions of the occupants of No 23. The appeal scheme conflicts with the development plan taken as a whole. There are no material considerations before me that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

C Dillon

INSPECTOR