



Appeal Decision

Site visit made on 6 October 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2022

Appeal Ref: APP/N4720/W/22/3300896

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 failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Grahame White against Leeds City Council.
 - The application Ref 22/01015/FU/NE, is dated 10 February 2022.
 - The development proposed was originally described as 40m2 GIFA Office Pod.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. Nonetheless, the Council's statement of case sets out its concerns.
3. During the application, an amended parking layout plan was submitted to the Council. This showed two parking spaces within the woodland, detached from the proposed office building, off an existing shared access track. However, the appellant has requested that the appeal be determined on the basis of the original submission drawings. These show a single parking space to the front of the office building and another single space on the shared access track. As these, have been through the consultation process during the application, there would be no prejudice to any party by my consideration on this basis. As such, I have made my decision based on the original submission drawings.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The vitality and viability of nearby centres;
 - Protected trees;
 - Highway and pedestrian safety in The Valley road with particular reference to parking; and
 - Local electricity infrastructure.

Reasons

Vitality and viability

5. The appeal site is in a residential area, outside of the city centre or any designated town or local centre. In such a location, Policy EC2 of the Council's

Core Strategy (CS) (2019) says 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. Otherwise, the policy expects office developments to be accompanied by a sequential test, irrespective of their size.

6. Map 14 of the CS illustrates the geographical areas where the requirements for the sequential test are in place, and this includes Alwoodley, where the appeal site is located. Policy EC2 is to be read alongside Policy P8 of the CS. This takes the size of any proposed main town centre use into account, by reducing the scope of the sequential test required so that it is commensurate with the floor area proposed.
7. Policies EC2 and P8 are consistent with the provisions of the National Planning Policy Framework (the Framework). This, at paragraph 87, requires that a sequential test is carried out for main town centre uses, including offices, except for small scale rural offices, which are neither in an existing centre nor in accordance with an up-to-date plan.
8. Appendix 21 of the Appellant's appeal submission is labelled as a Sequential Test. Any permission for a small office would go with the land, not with the individual. As such, I am not persuaded by the approach to restrict the scope of the sequential test to plots that meet the specific personal needs of the appellant of being able to contain an office pod, have space for gardening and a woodland setting.
9. As the size of any proposal is already taken into account in the scope of the sequential test, as set down in Policy P8, the small size of the proposed office is not sufficient grounds to not undertake a sequential appraisal of alternative sites. I am also mindful that incrementally, small-scale developments can have cumulative harmful effects. The document submitted does not provide any sequential appraisal of alternative sites. As such, a robust appraisal of alternative sites has not been undertaken and the scheme before me does not pass the sequential test.
10. The appellant advises that other office developments have been approved by the Council without being required to provide a sequential test. However, I do not have the full details of these other schemes to understand whether they are directly comparable to the scheme before me. Moreover, they do not alter the requirements of the CS or the Framework. I have, in any case, determined the appeal on its own merits based on the evidence before me.
11. I therefore find that, as the scheme does not pass the sequential test, the proposals would have a harmful effect on the vitality and viability of nearby centres. I therefore find that the proposals would conflict with the requirements of Spatial Policy 2, Policies EC2 and P8 of the CS and the Framework, insofar as they relate to this matter. These broadly seek to direct new office development to the city centre, designated town, and local centres.

Trees

12. The proposals would be within the root protection area (RPA) of several trees covered by a Tree Preservation Order (TPO). These trees provide a visual break in the residential built environment along the street. The number of trees and their maturity, combined with the natural, organic, and undeveloped qualities

- of most of the appeal site, make a significant positive contribution to the amenity of the local area.
13. Paragraph 5.3.1 of BS 5837:2012 states that *"the default position should be that structures are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree"*. In this case, no overriding justification has been put forward for development within the RPAs.
 14. The appellant has provided an Arboricultural Impact Assessment (AIA), which outlines how the development would be undertaken having regard to the trees. This includes, amongst other things, using the existing foundations of the substation, using a no dig system for the access and parking area and hand digging a trench for the utilities.
 15. The AIA is based on the original submission drawings, and I am therefore satisfied that it is up to date. However, the level of detail provided in respect of the measures to protect the trees is at a high level. The AIA suggests that full details of such methods, including details from a structural engineer, should be included in an Arboricultural Method Statement (AMS). However, given the location of the building within such close proximity to trees and the location of the access and service trench within the RPAs, I cannot be satisfied, from the level of information before me, that the proposals would not have an adverse impact on the long-term health of the trees. In this regard, it would not be appropriate to reserve all of the detailed mitigation by way of a condition.
 16. In addition, the AIA indicates that the site compound must be located away from the trees and outside of the RPAs. However, given the extent of tree coverage within the application site, it is unclear where, or how, such elements would be located.
 17. There would be a fundamental change in the relationship between an office to the trees and the smaller substation, as there would be significantly greater light and activity from the office and associated activities. Developing the site as proposed would result in the site acquiring a more manicured and developed appearance than it has at present. This would erode the natural, organic, and undeveloped qualities that characterise most of the appeal site.
 18. There are trees that are in very close proximity to the proposed office pod, and the proposed parking would be underneath tree canopies. In this regard, I consider that there would be future pressure to undertake works such as removing overhanging branches. This would be a direct consequence of a more active use within the RPA of the trees. Moreover, there would be a small ongoing risk to the trees from the car parking, such as from oil seeping through to the root system.
 19. For the combined above reasons, I find that the proposals would not have an acceptable effect on protected trees. I therefore find that the proposals would conflict with the requirements of Policies P10 and P12 of the CS, Policy GP5 of the Council's Unitary Development Plan (UDP) (2006) and Policy Land 2 of the Natural Resources and Waste Development Plan Document (2013). These seek, amongst other things, 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.

Parking

20. The use of the shared access track by others may mean that it is not always available to park a vehicle on it. Moreover, there may be occasions where vehicles connected with the office park on the highway, out of convenience, rather than driving on to the parking spaces and reversing onto the highway.
21. The Valley road (the road) is a residential road and I saw that it, and other streets, in the vicinity of the site have no parking restrictions in place. Properties in the vicinity of the site have off-street parking. However, there was some on-street parking occurring along the road during my site visit. This site visit represented a snapshot in time and the level of parking would likely be different in the evenings and weekends. However, given the nature of the office use, I consider that it would generate less activity in the evenings and weekends than during the day's midweek. In any case, there is no substantive evidence before me as to whether there is an existing problem with the capacity of on-street parking at any time of the day.
22. As such, even if all vehicles associated with the office parked along the road, given the small scale of the office, the prevalence of off-street parking associated with other properties, the long frontage of the appeal site onto the highway, the width of the road being sufficient to enable other vehicles, including larger vehicles, to pass, I do not consider that there would be an unacceptable highway or pedestrian safety risk.
23. As such, even if there is an infringement of the Council's The Street Design Guide or Parking Supplementary Planning Documents (SPDs), I find that the proposals would not result in an unacceptable effect on highway or pedestrian safety in the road with regards to car parking. As such, the proposals would not conflict with the wider aims of Policy T2 of the CS or paragraph 111 of the Framework. These seek, amongst other things, to ensure that development does not have an unacceptable impact on road safety.

Local electricity infrastructure

24. Concerns have been raised regarding the local electricity infrastructure from the loss of the substation. However, there is no substantive evidence before me that the proposals would compromise the statutory undertaker's ability to provide electricity to local residents.
25. As such, I am unable to find that the proposals would have a harmful effect on the local electricity infrastructure or would be contrary to the requirements of Policy P9 of the CS. This says, amongst other things, that where proposals for development would result in the loss of an existing facility or service, satisfactory alternative provision should be made elsewhere within the community if a sufficient level of need is identified.

Other Matters

26. There would be good working conditions at the office, given the attractive outlook and environment that the trees would provide, even though they would cast shade to the building. The evolution of the appeal site from its initial plot

numbering to its present-day use, form and character does not alter or outweigh the harmful effects identified in the main issues.

27. Concerns regarding the processing of the application are not matters that I can assess as part of the appeal and do not affect the merits of the proposals before me.

Conclusion

28. For all the reasons given above, the proposals would conflict with the development plan and there are no material considerations that would outweigh that conflict.

29. Therefore, I conclude that the appeal should be dismissed, and planning permission is refused.

Mr R Walker

INSPECTOR