



Appeal Decision

Site visit made on 3 October 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2022

Appeal Ref: APP/C2708/W/22/3300451

Land at Wend Gardens, The Wend, Carleton, Skipton BD23 3EH

- 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 and Mrs J and M Glover against the decision of Craven District Council.
 - The application Ref 2021/23318/FUL, dated 17 September 2021, was refused by notice dated 11 January 2022.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposed development would be contrary to the spatial strategy for the local area, having regard to the location of the site;
 - The effect of the proposed development on the character and appearance of the surrounding area, having regard to the Carleton Conservation Area;
 - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to outlook, sunlight, daylight and privacy;
 - The effect of the proposed development on protected species and biodiversity; and
 - The effect of the proposed development on flood risk.

Reasons

Spatial strategy

3. The site is unallocated land, and Carleton is identified as a Tier 4a settlement in the Craven Local Plan 2012 to 2032 (2019) (LP). Policy SP4 of the LP directs limited growth towards Tier 4a settlements to sustain their vitality and function. The policy supports proposals for additional housing growth on non-allocated land for housing within the main built up areas of Tier 4a settlements. The term main built up area is defined within the policy.

4. Towards the north of the appeal site is a bungalow and a terrace. These dwellings are closely linked and form part of the main built up area of Carleton. The appeal site is not closely grouped or visually well related with these buildings. This is due to Catlow Gill and the distance between the appeal site and those buildings which results in them appearing physically and visually separated. I recognise that there are residential properties close to the appeal site (including those mentioned above, Intake Glen and a recently permitted new dwelling¹) but the site cannot be reasonably described as being enclosed by other buildings and reads as detached from the main built up area. For these reasons and taking into account the definition, the appeal site is not located within the main built up area of Carleton.
5. Part I of Policy SP4 also supports the release of non-allocated sites for housing that adjoin the main built up area of Tier 1 to 4 settlements where it can be demonstrated that the planned growth in the spatial strategy for the settlement will not be delivered during the plan period. To my mind, the appeal site does adjoin the main built up area.
6. Copies of the Council's Settlement Growth Monitoring Report have been submitted to demonstrate that the planned growth in the spatial strategy for Carleton is not being delivered during the plan period. The most recent Housing Growth Monitoring indicates a shortfall in 9 dwellings, and it is unlikely that the identified shortfall will be met in the short-term. My attention has also been drawn to an appeal decision² which predates the latest monitoring report. The information before me indicates that housing growth is not currently being met in the short-term. However, taking into account the exact wording of the policy, there is insufficient evidence to demonstrate that the planned growth in the spatial strategy for the settlement will not be delivered during the plan period.
7. In any event, both part H and I of Policy SP4 only support proposals which accord with all other relevant local plan policies or neighbourhood plan policies. For the reasons set out below, the proposed development does not accord with other relevant local plan policies.
8. Part k) of Policy SP4 relates to residential development in the countryside. There is no clear justification before me which suggests that the proposal complies with any of the listed circumstances.
9. Consequently, the proposed development would be contrary to the spatial strategy for the local area, having regard to the location of the site. Accordingly, it would conflict with Policies SP1 and SP4 of the LP. These policies seek, amongst other matters, to support a sustainable pattern of housing growth.

Character and appearance

10. The appeal site is located within the Carleton Conservation Area (CA). The appeal site consists of open grassland bounded by a drystone wall and Catlow Gill. It has been drawn to my attention that the appeal site formerly comprised part of a mill dam, known as Top Mill Dam, which was subsequently infilled during the 20th Century.

¹ 2021/22497/FUL

² APP/C2708/W/21/3269595

11. This part of the CA is characterised by the close-knit, generally traditional and stone, dwellings towards the north of the appeal site, Catlow Gill and the countryside character towards the south. Trees and the mill chimney are also prominent features.
12. The Council has drawn my attention to parts of the Carleton Conservation Area Appraisal (2016) (CCAA). The appellant highlights that this is a draft document and has never been formally adopted. In addition, they state that good quality materials are proposed, and the North Yorkshire County Council's Heritage Services has advised that they have no objections to the application. I note that this consultation response relates to archaeology rather than the CA.
13. Even though the site is not specifically mentioned in the CCAA and the proposal would not notably impact on any of the key views identified in the CCAA (including HD4), that does not necessarily mean that the site does not positively contribute to the CA. The openness of the appeal site reflects the spaciousness and generally undeveloped nature of this part of the CA and The Wend. The site enables views to appreciate the CA, as well as the mill chimney, woodland and countryside. Subsequently, the appeal site makes a positive contribution to the CA.
14. I am mindful that the approved dwelling, close to the appeal site, would alter the character and appearance of this part of the CA through adding further development to the locality. Intake Glen and Wend Gardens are more recent additions, than the nearby traditional properties, and are detached bungalows of a relatively suburban design. These properties, as well as Glen Cottage and Cedar Lodge, are situated outside of the CA. Nonetheless, the proposed development would be seen in connection to these dwellings.
15. The proposed dwelling would be visible from the surrounding area, including public footpaths. The scheme would appear constrained within the site and would have a poor relationship with the surrounding landscape, including the countryside and built development. This is because it would be a dominant addition, due to the openness of the appeal site and low boundaries, and would erode the spaciousness and urbanise this part of The Wend. The development would not respond to the context or conserve the surrounding countryside and landscape. For these reasons, the proposal would cause harm to the character and appearance of the CA.
16. The proposed dwelling would have a suburban appearance. Nonetheless, having regard to the mixed character and appearance of the surrounding buildings, the proposed design of the bungalow would not be in itself a reason to withhold planning permission.
17. I am satisfied that the development would have a neutral effect on listed buildings in the locality and would preserve the special interest of these heritage assets. This is due to the distance between the appeal site and listed buildings, as well as the intervening built development.
18. Paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Framework paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Where there is less than substantial harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

19. The level of harm would be at the low end of the spectrum of less than substantial harm. This is due to the scale of the proposal within the context of the CA as a whole, the dwelling would be single storey in height and the context of the surrounding area. Nevertheless, mindful of my statutory duties³, this is a matter to which I attach considerable importance and weight.
20. The appellant sets out the benefits of the proposal, including that it would provide a house which would help to meet the district's housing requirements. Paragraph 69 of the Framework states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and local authorities should give great weight to the benefits of using suitable sites within existing settlements for homes. The appellant re-emphasises that the Council's Settlement Monitoring report reveals that the village of Carleton is failing to deliver sufficient new housing to meet the planned spatial strategy for the village. In my view, the public benefits associated with the proposed development are not sufficient to outweigh the harm that I have identified.
21. Given the above and in the absence of any defined significant public benefit, I conclude that, on balance, the proposed development would be visually harmful to the character and appearance of the surrounding area, and would fail to preserve the character and appearance of the CA. Therefore, it would fail to satisfy the requirements of the 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and conflicts with Policies ENV1, ENV2 and ENV3 of the LP. These seek, amongst other matters, to ensure development responds to the context and support proposals that would preserve or enhance the character or appearance of a Conservation Area. It would also conflict with sections 12, 15 and 16 of the Framework which require developments to be sympathetic to local character, recognising the intrinsic character and beauty of the countryside, as well as conserving and enhancing the historic environment.

Living conditions

22. The appellant states that the dwelling would have a large open plan kitchen/dining/living area. They consider that the dwelling is generously proportioned, well lit, private, would have an excellent outlook and the public footpath is lightly used. In contrast, objection comments suggest that the public footpath is well used.
23. The proposed dwelling would have three bedrooms. The windows serving the bedrooms would be small. Due to the size of the bedroom windows, they would provide insufficient outlook, sunlight and daylight for future occupiers.
24. Slit windows are proposed on the south elevation which would be adjacent to the lane which serves as a public footpath. Although I recognise the slit windows would be small, due to the proximity of the windows and private amenity space to the public footpath, the proposal would result in an

³ 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

unacceptable degree of overlooking, and lack of privacy, that would create oppressive living conditions, for future occupiers. Consequently, the development would result in poor quality accommodation.

25. For these reasons, the proposed development would not provide acceptable living conditions for future occupants, with regard to outlook, sunlight, daylight and privacy. Consequently, it would conflict with Policy ENV3 of the LP. This states, amongst other things, that development proposals should be able to demonstrate that they will secure a good standard of amenity for all existing and future occupants of land and buildings. It would also conflict with chapter 12 of the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future users.

Protected species and biodiversity

26. The appellant states that the grass is regularly mown, and the site's ecological value is minimal. Moreover, they highlight that new planting, nesting boxes and a new landscaped garden area are proposed which would compensate for the ecological value of the existing site. The appellant asserts that this matter should not be a reason to refuse the application, as it could be conditioned, and have drawn my attention to an appeal decision⁴.
27. As stated above, the appeal site consists of grassland and is adjacent to Catlow Gill, which is a stream, and area of woodland. Protected species are likely to be found in such habitats. The characteristics of the site before me cannot be directly compared to the highlighted appeal decision.
28. Although compensatory measures are proposed, without an assessment of the baseline of the appeal site, it has not been adequately demonstrated that the proposed development would achieve the required biodiversity benefits. Considering the evidence submitted and having regard to the characteristics of the site, planning conditions would not be acceptable or an appropriate course of action in this case.
29. For these reasons, in this instance, I am not satisfied that the proposal's effect on protected species and biodiversity would be acceptable. Consequently, it would conflict with Policy ENV4 of the LP. This states, amongst other things, that development proposals should achieve benefits in biodiversity that are equal to, or where possible exceed the biodiversity value of the site prior to development. It would also conflict with chapter 15 of the Framework which states decisions should contribute to and enhance the natural and local environment.

Flooding

30. The appeal site is located within flood zone 1 (low probability) on the Environment Agency's (EA) flood map. However, the EA's long-term flood risk map indicates that the site is subject to high, medium and low risk from surface water flooding.
31. The appellant highlights the size of the appeal site, and that the Council did not request a Flood Risk Assessment (FRA) when validating the application or during the application process. Additionally, they state that the constraints for the application site do not identify the site as suffering from critical drainage

⁴ APP/C2708/W/20/3255975

- problems, at risk of flooding in the future by the local authority's strategic flood risk assessment, or at risk of flooding from other sources.
32. Furthermore, there was no consultation with the Environment Agency, Lead Local Flood Authority, or any other appropriately qualified drainage engineer raising concerns with respect to flood risk. The appellant also asserts that such concerns were not raised in relation to the recently approved development close to the appeal site and the adjacent beck is found with a deep cutting which reduces the risk of flooding at the site.
33. Footnote 55 of the Framework requires that a FRA should be provided in flood zone 1 where land may be subject to other sources of flooding and development would introduce a more vulnerable use. Paragraph 162 of the Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source...the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
34. The Council highlights that the application form indicates that surface water would be disposed of via the existing watercourse. The submitted information has not demonstrated that the incorporation of a sustainable drainage system (SuDS) is not possible, feasible or appropriate. They go on to state that cumulatively, the proposed development would put future occupants at risk of flooding and would exacerbate local surface water flooding. Moreover, the lack of SuDS and the discharge of surface water to the watercourse would likely increase flood risk downstream in the main village and beyond.
35. The evidence before me demonstrates that the long-term flood risk map indicates that the site is subject to surface water flooding, and the proposal would introduce a more vulnerable use. A FRA has not been submitted, as required by footnote 55 of the Framework. Given that the site is currently open grassland, it is likely that it provides flood resilience through the natural capacity of the soil and vegetation. Based on the information presented, it is likely that the proposed development would have a significant adverse impact on the flood resilience of the existing application site and would not incorporate a SuDS.
36. For these reasons, having regard to the evidence submitted, I am not satisfied that the proposal would be acceptable in terms of flood risk and drainage. Consequently, the proposed development would conflict with Policy ENV6 of the LP which seeks to avoid and alleviate flood risk. It would also conflict with chapter 14 of the Framework which seeks to ensure flood risk is not increased elsewhere and the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Other Matters

37. In addition to matters relating to the main issues, the appellant and support comments have drawn my attention to a range of other matters. These include that a similar proposal on land nearby was approved⁵, highway safety (including public right of way), there are no unacceptable impacts on the living conditions of nearby residents and benefits of the proposal. The appellant also

⁵ 2021/22497/FUL

highlights that in numerous places the Council's statement does not relate to the appeal scheme and has provided a copy of a letter encouraging objections.

38. Limited evidence has been submitted regarding the nearby approved development, including the considerations taken into account in making the decision, to make a comprehensive comparison. Whilst the approved scheme is located close to the appeal site, it is located on the opposite side of Catlow Gill and is a less visually prominent site due to the surrounding built development. That scheme therefore cannot be directly compared to the proposal before me.
39. I acknowledge the benefits of the proposal, including housing supply and economic. However, given the small scale of the development, the benefits associated with the appeal scheme carry very limited weight. Furthermore, compliance with local and national planning policy, and the other matters raised, do not amount to a positive factor in favour of the scheme. The other matters raised, and benefits of the proposal, do not outweigh the harm identified above.

Conclusion

40. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR