



Appeal Decision

Site visit made on 4 July 2023

by A Caines BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2023

Appeal Ref: APP/N4720/W/23/3320368

Sandy Lodge, Roundhay Park Lane, Shadwell, Leeds LS17 8AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Iain Chadwick against the decision of Leeds City Council.
 - The application Ref 22/03729/OT, dated 24 May 2022, was refused by notice dated 4 November 2022.
 - The development proposed is described as 'Outline planning application for residential development with all matters reserved except for access'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application has been made in outline with access to be determined at this stage, and all other matters reserved for future consideration. Although the description does not specify the amount of development proposed, it is clear from the documents and plans before me that the proposal seeks consent for 3 dwellings. The access details submitted for consideration show the point of entry/egress off Roundhay Park Lane and a new internal access road and manoeuvring space for the 3 dwellings.
3. Since the time of the Council's decision, a number of trees have been removed from the site. An updated Preliminary Arboricultural Impact Assessment (AIA) and application drawings were submitted with the appeal to reflect the current circumstances. I am satisfied that this new evidence does not alter the proposal. Furthermore, as this evidence has been submitted with the appeal submission, the Council and other interested parties have had sufficient opportunity through the appeal process to consider it. As such, I have proceeded on the basis it is evidence before me to consider.
4. Shadwell Grange Farm lies approximately 100 metres to the west of the appeal site and contains a number of Listed Buildings. The main parties agree that the proposed development would not have an adverse effect on the setting of these buildings. Pursuant to the duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, having considered the proposal and visited the site, I agree. Accordingly, it is my view that the development proposed would preserve the setting of the designated heritage assets and I shall make no further reference to this matter.

Main Issues

5. As the appeal site is located within the Green Belt, the main issues are:
- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - the effect on the character and appearance of the area, including the effect on trees.
 - the effect on biodiversity, climate change, and air pollution.

Reasons

Whether inappropriate development in the Green Belt

6. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. One of the exceptions to this is paragraph 149 e), which refers to limited infilling in villages. Saved Policy N33 of the Leeds City Council Unitary Development Plan (Review 2006) (the UDP) reflects this approach. While Policy H2 of the Leeds City Council Core Strategy (amended 2019) (the CS) includes a requirement to satisfy Green Belt Policy, it has no bearing on the assessment of inappropriateness.
7. The appeal site is located within the Slade Hill area, which has a degree of convergence with the suburb of Alwoodley to the west. However, Slade Hill is very much on the periphery of the wider urban area and is surrounded by fields to the north, east, and south which afford it a rural setting. It also has its own range of services and facilities which are focused within the Slade Hill Local Centre. I am therefore satisfied that Slade Hill can be reasonably regarded as a village for the purposes of paragraph 149 of the Framework.
8. The appeal site forms part of the garden of Sandy Lodge, a large detached property on the west side of Roundhay Park Lane. Whilst it lies just outside the settlement boundary of Slade Hill, it is flanked by housing estates immediately to the north and on the east side of Roundhay Park Lane. The dwelling of Sandy Lodge lies to the south. To the west is another detached dwelling and the development at Shadwell Grange Farm further beyond. As such, the site is surrounded by houses on all sides, albeit to different degrees. It does not adjoin the fields that surround Slade Hill and is just a short walk to the Slade Hill Local Centre. Thus, having regard to the facts on the ground, I find that, from a visual perspective, the site falls within the built-up area of the village.
9. Furthermore, at around 31 metres in width, the site represents a modest gap between Sandy Lodge and the dwellings in Park Lane Mews. It is only beyond the southern extent of the garden of Sandy Lodge that the land very clearly changes to open countryside on this side of the road. On the east side of the road the housing development continues for some distance past the site. As a result, I consider that the proposal would represent infilling. Given that the proposal is for three dwellings, the infilling would be limited.
10. Taking these considerations together, I find that the appeal proposal would represent limited infilling within a village. It would therefore be one of the exceptions identified within paragraph 149 e) of the Framework and saved

Policy N33 of the UDP. Accordingly, the proposal is not inappropriate development in the Green Belt. Where a proposal is found not to be inappropriate when applying paragraph 149 e) of the Framework, it should not be regarded as harmful either to Green Belt openness or to any of the purposes of including land in the Green Belt. As such, there is no requirement to consider these potential effects separately.

Character and appearance

11. For reasons already set out above, I consider that the appeal site has a closer connection with the settlement than the open countryside. Nevertheless, at approximately 0.25 hectares in area, and being devoid of built development, it has spacious and verdant qualities, including a number of mature trees along the road frontage. These qualities help to soften the transition from the more built-up edge of the settlement to the open countryside, and overall, add positively and distinctively to the character and appearance of the area.
12. The site layout plan before me shows a cramped arrangement of three closely spaced detached dwellings at the end of the new access road, with two of the dwellings pushed close up to the southern boundary with Sandy Lodge. There might be some scope at the reserved matters stage to improve the space and landscaping about them on the individual plots and I have taken into account that the dwellings would be set back from the road. Even so, a development of three dwellings together with the extensive areas of hard surfacing for access and manoeuvring as indicated would introduce significant built development where currently there is none. This would unavoidably erode the spacious and verdant qualities of the site and therefore diminish the positive contribution it makes to the transitional character of this edge of settlement location.
13. The AIA identifies just one low value 'category C' tree (T10) for removal in order to construct the access. However, it also identifies that the new access road would pass through the Root Protection Area (RPA) of a 'category B' tree (T8). T8 is a positive feature with a life expectancy of many more years. Since the removal of other trees at the site, T8 has gained increased prominence and its valuable contribution to the site and street scene will only increase with the proposed removal of T10.
14. According to the AIA, the incursion into the unsurfaced RPA of T8 would be approximately 35%. The default position of BS 5837:2012 – 'Trees in relation to design, demolition and construction' is that structures should be located outside of RPAs, and only where there is an overriding justification for construction within the RPA should technical solutions be considered to prevent root damage.
15. It is not in dispute that the access is in the optimal location for highway safety reasons. However, even with the special 'no dig' construction techniques that are recommended in the AIA, the incursion into the unsurfaced RPA of T8 would be significantly greater than the maximum 20% recommended in BS 5837:2012. The AIA suggests that viable root matter is unlikely to be located within the area of incursion, but no substantive technical evidence has been presented to support this claim. Furthermore, I am not persuaded that the land to the west and north of T8 can be relied on to compensate for the encroachment, as has been suggested in the AIA. This is because the visitor parking bays would be located immediately to the west of T8; while the land to the north includes the gardens of neighbouring properties and is therefore not

entirely in the appellant's control. I am also not satisfied that the long-term impacts of the use of the access through the RPA, or the routing of drainage and other underground infrastructure in the location of this tree, have been addressed. These are important matters which should not be left to a later stage. Consequently, I am unable to rule out the possibility that the construction and use of the access would result in significant damage to or the future loss of T8 due to root damage or disturbance, the effect of which would further erode the verdant qualities of the site to the detriment of the character and appearance of the area.

16. Also within influence of the development is T9, which is identified as a category A tree in the AIA. This tree is a high value specimen with a wide spread and a height of some 16 metres. It is an important component of the tree cover at the front of the site. Whilst the tree is not proposed for removal as part of the development, and I note that the AIA provides some assurance that it can be adequately protected during construction, it would be particularly close to any dwelling on plot 1. The AIA indicates that any shading effects would mainly be experienced within the garden of the plot, but recommends reducing the crown by 1.5 metres to prevent canopy encroachment onto the dwelling. Based on the indicative layout details, this would achieve a separation of approximately 4 metres to the dwelling, albeit regular pruning would be required to maintain the separation.
17. To my mind, this relationship would still be very close when considering the size of the tree. I have serious concerns that future residents may seek to remove the tree due to the perceived risk of tree fall and/or the effect on outlook and overshadowing of the garden. The potential for an acceptable relationship to be achieved on this plot at the reserved matters stage appears to be limited given the proposed access arrangement. Therefore, based on the proposals as indicated, I am not satisfied that it has been demonstrated that the scheme would ensure the long-term retention of T9 and the important contribution it makes to the character and appearance of the area.
18. I have had regard to the appellant's intentions to enhance tree cover at the site as part of any future landscaping proposals. The development plan requires replacement planting at a ratio of 3:1. However, on the evidence before me, I am not persuaded that there would be sufficient space left within the development to achieve a meaningful amount of new tree planting, especially outside of private gardens. Furthermore, any new landscaping introduced along the site frontage would only be likely to partially screen the development. It would not remove views of, and down, the access road and from neighbouring properties.
19. I therefore conclude that the proposal would have an adverse impact on the character and appearance of the area. I am not satisfied, on the evidence before me, that this harm could be adequately mitigated. Accordingly, the proposal conflicts with Policies P10, P12, and G2 of the CS; and Policy Land2 of the Leeds Adopted Natural Resources and Waste Local Plan (2013), in so far as they encourage good design that respects the character and quality of its surroundings, protects natural site features, and seek to maintain and increase tree cover in urban and rural areas generally. The harm to the valuable contribution that this greenfield site makes to the visual and spatial character of the area also brings some conflict with CS Policy H2. There is also conflict with the general requirements of Policy GP5 of the UDP where it expects

proposals to avoid problems of environmental intrusion and loss of amenity. In addition, the proposal is contrary to paragraphs 130 and 131 of the Framework, which state that development should add to the overall quality of the area; and retain existing trees wherever possible, recognising that trees make an important contribution to the character and quality of urban environments.

20. However, due to the site's relationship with the settlement, I do not consider that the proposal would be harmful in wider landscape character terms, and therefore, I find no conflict with UDP Policy N37A.

Biodiversity, climate change and air pollution

21. An outline biodiversity net gain (BNG) assessment was carried out as part of the appellant's Ecological Impact Assessment. Although some trees have subsequently been removed at the site, these appear to correspond to trees that were originally identified for removal at the time of the BNG assessment, and so, the relevant baseline would not have been affected by this change.
22. Based on the appellant's preliminary worst-case calculation, the proposal would potentially result in a -35.12% (-0.87 units) net loss in habitats. As a result, the appellant intends to provide enhancement measures which are predicted to achieve a positive outcome of 3.9% (0.1 units) net gain of habitats, and 32.48% (0.4 units) net gain of hedgerows. Due to the outline nature of the application, specific details of the proposed enhancement measures are not given, but reference is made to 'reasonable enhancement objectives' to retained habitats (grassland, orchard and hedgerow) and the creation of wildflower grassland along the northern boundary.
23. Policy G9 of the CS seeks an overall net gain for biodiversity, but does not specify the precise level to be achieved. Therefore, even minor gains such as those indicated above would be capable of satisfying Policy G9. Whilst I note that the Council has produced guidance which seeks 10% BNG in line with the requirements of The Environment Act 2021, the guidance does not have the status of planning policy and the 10% requirement set out in the Act has yet to come into force. Accordingly, there is no policy basis to achieve 10% BNG in this case.
24. However, I have identified that the proposal could potentially result in the loss of two mature trees that have not previously been identified for removal. This brings into doubt the minor habitat gains identified. Moreover, given the absence of orchard habitat within the development site, it is unclear whether all of the envisaged enhancement measures would be carried out within the development site boundary; and if not, where, and by what mechanism this could be secured?
25. Therefore, on the evidence before me, I cannot be certain that the proposal would deliver a net gain in biodiversity. Thus, the proposal conflicts with CS Policy G9, and paragraphs 174 d) and 179 b) of the Framework.
26. Furthermore, the effect of the loss of trees on carbon sequestration would not assist the Council's 'climate change emergency' objectives, albeit to a minor degree. This is contrary to the Framework's aims of reducing greenhouse gas emissions and meeting the challenge of climate change.

27. However, there is little evidence that the proposal would have a material effect on air quality in the area, so I find no conflict with the air pollution provisions of CS Policy P10 and GP5.

Other Matters

28. Although advanced principally in relation to Green Belt matters, I have had regard to the submitted plan showing how householder permitted development rights could potentially be exercised at the site. However, in my view, any such development would not be comparable in its nature, scale, and siting to the appeal scheme. Moreover, there is little to suggest that this suggested fallback position is any more than hypothetical. I therefore give little weight to this matter.
29. I have no substantive evidence before me that the Council is unable to demonstrate a 5-year housing land supply at this time. Nevertheless, this does not negate the benefits of additional housing supply, including social and economic benefits from construction, support for local services, and expenditure from future occupiers. The Framework refers to the Government's objective of significantly boosting the supply of housing, and the importance of small sites as they can be built out relatively quickly. Having regard to the scale of the development, these are factors in the scheme's favour which amount to modest public benefits.

Conclusion

30. I have found that the proposal does not amount to inappropriate development in the Green Belt. However, it gives rise to significant conflict with the contents of the development plan relating to character and appearance and BNG. As such, the proposal conflicts with the development plan as a whole. There are no material considerations, including the benefits that would arise, which indicate that a decision should be taken other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

A Caines

INSPECTOR