



Appeal Decision

Hearing held on 29 May 2024

Site visit made on 29 May 2024

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th June 2024

Appeal Ref: APP/N4720/W/23/3335709
Ashfield Works, Westgate, Otley, LS21 3AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Norwood Westgate Ltd against the decision of Leeds City Council.
 - The application reference is 23/04793/FU.
 - The development proposed is the erection of nine dwellings and two commercial units with associated works.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. After the appeal was submitted, the appellant submitted an amended site plan, reference 8430 254 Rev A, and amended elevations and plans, reference 8430 249 Rev A, in respect of the proposed dwellings. The amended drawings contained minor changes including canopies to some of the entrances, bin stores and electric vehicles charging points. They did not change the nature of the application or prejudice anyone's interest and they have been taken into account in this appeal decision.
3. Following a discussion at the hearing, the appellant submitted a letter dated 5 June 2024 and accompanying documents concerning the ownership of the Beech Hill Car Park and the relationship of the scheme with the 2022 permission and unilateral undertaking. The Council very helpfully provided its comments on this material later the same day. I have read all these submissions and have addressed them in this decision insofar as they are relevant to this appeal.

Main Issue

4. The main issues are:
 - a) whether the scheme would hinder the proper planning of this part of Otley Town Centre;
 - b) the design of the scheme and its effect on the character and appearance of Otley Conservation Area;

- c) the effect of the scheme on the safety of road users;
- d) whether the scheme should allow for the provision of affordable housing.

Reasons

Issue a): whether the scheme would hinder the proper planning of this part of Otley Town Centre

5. The site forms part of a site allocation in the Leeds Site Allocations Plan (2019, amended 2024) under reference MX2-1, Westgate – Ashfield Works, Otley. The plan indicates that the allocated site is suitable for a mix of residential and town centre uses, including older persons' housing, and states that redevelopment should address the relationship with site MX2-2 to the south of Westgate and should preserve or enhance the character or appearance of Otley Conservation Area. The earlier development brief for the wider Ashfield Works site, published in 2012, saw it as a major opportunity to promote design excellence, create and improve public space, protect and enhance the architectural, archaeological and historic heritage and provide an attractive and safe environment for business, shops and residential use.
6. Site allocations MX2-1 and MX2-2 are subject to an extant planning permission under reference 17/07108/FU for a 15,000 square foot food store, a care home and the conversion of former historic industrial buildings, together with six dwellings and a new pay and display car park on the south side of Westgate. The food store would have been built on the Beech Hill Car Park and accessed through the present appeal site, and parking would have been decanted to site MX2-2. The food store and its car park, the care home and, former industrial units 4 and 5 would have been served by a signalised junction with Westgate. The provision of the junction and other highways works was made a pre-occupation requirement under condition 4 of the planning permission.
7. The permitted scheme has been partly implemented. The former industrial buildings are either now occupied or awaiting conversion to commercial and residential uses in accordance with subsequent planning permissions. The care home has been built and occupied. An access has been allowed by the Council under planning permission reference 22/01175/FU, as a variation of permission 17/07108/FU, to enable the occupation of the care home and the development of two commercial units, known now as Phase 1, to take place pending the construction of the approved junction with Westgate. This was subject to upfront funding for the signalised junction secured through a legal agreement and bond agreement.
8. However, the appeal scheme represents a significant change of direction. The food store is not being taken forward owing to a lack of commercial interest, and the Beech Hill Car Park, on which the food store would have been built, and site MX2-2, on which the six houses and the pay and display car park would have been constructed, are not included in the appeal site. The 9 proposed homes in the appeal scheme would prevent the Beech Hill Car Park site from being accessed through the appeal site. They would be arranged in a line of three groups of three, in a position where there would have been parking for the food store under the extant permission. Access from Westgate would be from a simple priority junction, and the two proposed commercial units adjacent to the access would be positioned within the area that would have been taken up by the signalised junction.

9. The position of the 9 dwellings and two commercial units in the appeal scheme would make it impossible to implement the parts of planning permissions 17/07108/FU and 22/01175/FU which relate to the food store and the signalised junction, but this is not in itself unacceptable. There is no local plan policy commitment to a food store, or to a road junction with the scale, design geometry and degree of signalisation permitted under reference 17/07108. The site allocation refers only to an in/out arrangement with a signalised pedestrian crossing. The highways implications of this are discussed in more detail under Issue c), but in short, without the food store there is no need for the approved signalised junction, and the priority junction arrangement in the appeal scheme would be acceptable. Any issues arising from the planning obligations and conditions connected with the implemented parts of those planning permissions are discussed below under "Other Matters" but are basically not for this appeal decision to address; the appeal scheme has been decided on its own merits.
10. The scheme would prevent any possibility of using the appeal site to gain access to the Beech Hill Car Park or to serve any future development on it, but there is no convincing evidence that any other more beneficial scheme would arise from such an arrangement. The Council argue that the existing access to the Beech Hill car park is substandard and that it would be preferable to take access through the appeal site; however, the existing car park access is well used and appears to function effectively in practice. There is no local plan policy commitment to require access to be taken through the appeal site and no convincing evidence has been submitted to demonstrate that it would be better in planning or highways terms to do so. There is also no local plan policy commitment to the relocation of the car park to site MX2-2, and no convincing evidence that it is important to do so for planning purposes. There is no clear reason why good quality development could not come forward on MX2-1 and MX2-2 independently.
11. The appeal scheme together with the care home and the commercial and residential conversions would broadly fulfil the site requirements for site allocation MX2-1 and the earlier site development brief, other than the design shortcomings discussed under issue b) below. Leaving those aside, the appeal scheme represents a potentially better approach to the remaining part of site MX2-1 than the unimplemented parts of planning permissions 17/07108/FU and 22/01175/FU. It would create a street of homes and gardens served from an access better suited to the conservation area, rather than a wide access, an area of parking, and a large floorplate food store. In respect of site MX2-2, there is a strong likelihood that by not using the site for decanted car parking, the site would be developed in a manner more in keeping with the Local Plan allocation, which states that the site is suitable for a mix of residential and town centre uses.
12. For all the above reasons, the appeal scheme would not hinder the proper planning of this part of Otley Town Centre.

Issue b): the design of the scheme and its effect on the character and appearance of the conservation area;

13. The site lies in Otley Conservation Area, which is characterised by narrow streets and tight knit traditional terraced forms of development. The appeal scheme, with its 9 homes laid out in street form behind front gardens, its small commercial units, and its narrower priority junction, would be more appropriate

in scale and form in the conservation area than the scheme permitted under reference 17/07108/FU. The siting of the homes in the appeal scheme would create a street with a view terminated by the care home, more in keeping with the character of the conservation area.

14. In contrast, the scheme permitted under reference 17/07/07108/FU would have featured a large footprint food store with a substantial and highly visible area of car parking in front, together with a very wide signalised junction. It would have appeared as an incongruous and unattractive feature in this close-knit conservation area and would have detracted from its significance.
15. The appeal scheme takes the right general approach towards the development of the site in terms of its uses, scale and general siting. At the hearing, the Council indicated that if housing were to proceed on the site it would prefer the houses to be moved back to the eastern boundary, removing the proposed rear parking court. But this would take away the opportunity to create a street, and it would bring car parking to the front of the houses, to the detriment of the street scene.
16. But although the scheme's general approach is acceptable, its detailed design has not been resolved to the degree necessary to ensure that the character of the conservation area is conserved. There are three reasons for this.
17. Firstly, there is a significant lack of detail in the elevational design, even taking into account the revised drawing submitted for the appeal. It is appreciated that many traditional buildings in the conservation area are plain, but information about materials, eaves, doorways, reveals and canopies is inadequate. The window proportions do not appear to reflect the traditional forms seen in the conservation area, and unlike most buildings in the conservation area, the roofline would not be punctuated by chimneys or other features. The design of the homes in three triplets as opposed to a terrace would be out of keeping with the terraced development patterns in the area.
18. Secondly, the site layout is unresolved, particularly the proposed parking layout at the rear of the proposed homes. Whilst a rear parking layout might be acceptable in principle, as it would allow for the more effective creation of a street, the indicated parking spaces would be too narrow and manoeuvring areas would be very tight. The absence of adequate information about sightlines and boundary treatments in this area creates uncertainty about the safety of children who may be attracted to play behind their homes. Although this would be a private parking area, it is important that it functions effectively in the interests of safety and to avoid overspill parking from taking place at the front of the houses to the detriment of the character and appearance of the site. There are also unresolved questions about how refuse collections would operate.
19. Thirdly, the relationship between the commercial units and the junction and driveway would be awkward. The units would not adequately address the alignment of the road and there is insufficient elevational detail to conclude that this part of the scheme would be acceptable in the conservation area. The area of blank wall on one of the units could attract graffiti and other unsociable behaviour and there is little information as to how the external area between the units and the road would be treated.

20. For these reasons the scheme would fail to protect the character and appearance of the conservation area. I have considered whether planning permission might be granted subject to conditions seeking an appropriate level of detail, but this would not be appropriate for two reasons. Firstly, it is important that a planning application which has the potential to affect the character or appearance of a conservation area contains adequate design detail at the outset, to enable the Council and the community to comment on the quality of development. And secondly, the changes needed to make the scheme acceptable in this case would go beyond the submitted scheme as shown on the drawings. These changes for example could include adjustments to the siting of the houses and the commercial units, their elevational and roof design, and the dimensions of the parking and manoeuvring areas.

Issue c): the effect of the scheme on the safety of road users

21. The proposed scheme in combination with the care home and the conversion of the existing buildings would generate a much smaller amount of traffic than the scheme permitted under references 17/07108/FU and 22/01175/FU, which included the food store. The scheme therefore proposes a simple priority junction, the capacity of which would be adequate for the number of vehicles predicted to use it.
22. The Council would prefer to serve the site from a junction similar to that permitted under references 17/07108/FU and 22/01175/FU, which would have had the capacity to deal with the number of traffic and pedestrian movements attracted by the food store. That scheme had one inward and two outward lanes and light controlled pedestrian crossings and was connected with other related improvements in Westgate. The Council's highways officers argue that the purpose of such a junction was not just to handle traffic capacity but also to ensure the safety of other road users, notably pedestrians and cyclists.
23. However, whilst the Council place considerable importance on the benefits of such an arrangement for Westgate, it would go well beyond what is necessary to address the lower number of vehicle and pedestrian movements associated with the appeal scheme, the care home and the converted industrial units. These only justify a priority junction. Infrastructure and contributions to off-site works should only be sought where they are necessary to make the development acceptable. Further negative points in respect of the signalised junction permitted under references 17/07108/FU and 22/01175/FU include the detrimental effect such a wide junction would have on the street scene, discussed in Issue b), and the fact that it would also present pedestrians walking along Westgate with a much wider junction mouth to cross, albeit light controlled with a refuge, than that proposed in the appeal scheme.
24. Visibility splays at the junction proposed in the appeal scheme would be about 42m from a 2.4m setback. This would be a little less than the 45m Y distance sought by the Leeds Transport Supplementary Planning Document (SPD), but would not be unusual in historic locations. It would be well within the standards, based on stopping sight distances, set out in Manual for Streets. The latter focuses on residential streets, but many of its principles may be applicable to other types of street, for example high streets.
25. A659 Westgate is a high street, not a trunk road, and is subject to a 20mph speed limit. It is busy and is often subject to queueing. Inevitably, vehicles emerging from the development would sometimes need to force an exit into

the traffic stream or edge out to see around queueing vehicles. But this is not unusual in tightly developed, historic towns. Road users in such situations are alert to the reduced visibility and added complexity of the urban environment. Traffic on Westgate is relatively slow. In this instance the visibility at the junction would be acceptable.

26. The care home and the proposed homes would create a pedestrian desire line across Westgate to the commercial premises opposite, and to the path which provides a back route towards the town centre. Other crossing facilities are some way to the west, near Waitrose, and at a signalised junction some distance to the east. The appellant has suggested a Grampian condition which would prevent development from being brought into use until a new zebra crossing has been provided across Westgate in an agreed location. But without further design work such a condition would be inappropriate because, for reasons of pedestrian safety, the nature, location and design of any pedestrian crossing facility would need to be carefully considered and agreed with the Council.
27. Overall therefore the junction design and junction visibility would be appropriate given the limited number of vehicle and pedestrian movements associated with this development, in combination with the care home and other units. However, any pedestrian crossing facility would need to be agreed with the Council. Subject to the successful resolution of the latter point, the scheme would have an acceptable effect on road users, including pedestrians.

Issue d): whether the scheme should allow for the provision of affordable housing.

28. Policy H5 of the Leeds Core Strategy seeks 35% on site affordable housing for schemes at or above a 10 dwelling threshold. Given the high level of need for affordable housing in Leeds, the Core Strategy also seeks financial contributions from sites below that threshold.
29. The permissions for the other residential units within Ashfield Works did not require any affordable housing contribution. Whatever the reason for that, it does not mean that the appeal scheme should not address the need for affordable housing.
30. It would be disproportionate to expect the appeal scheme to provide affordable housing at the rate of 35% of all permitted dwellings on the Ashfield Works site together with the permitted 6 dwellings on site MX2-2, but it should provide affordable housing proportionate to the 9 units which are part of this appeal. The appellant has put forward a suggested condition which would require 3 of the residential units to be provided as affordable housing in accordance with a scheme to be submitted and approved by the local planning authority. Whilst affordable housing provision is normally dealt with through planning obligations, the wording of the proposed condition would ensure that an appropriate amount of affordable housing would be provided. However, this does not alter my conclusion that the appeal should be dismissed for design reasons.

Other Matters

31. As discussed above, in 2022 the Council granted a section 73 permission under reference 22/01175/FU to amend conditions 2 (approved plans) and 4 (junction details) of permission 17/07108/FU. In accordance with a unilateral

undertaking dated 25 August 2022, a deposit was paid towards the cost of highway works. However, the appellant has indicated that planning permissions 17/07108/FU and 22/01175/FU are not being implemented further, and a unilateral obligation has been submitted dated 5 June 2024 to that effect. The position regarding the paid deposit and invoices for highway works, as well as the resolution of any outstanding requirements from previous planning permissions and related obligations, are matters for the Council and the landowners to discuss and are not for this appeal. The proposed scheme has been dealt solely on its merits.

32. The contractual position regarding the ownership of the Beech Hill Car Park and any option to purchase, raised at the hearing, is not a matter for this appeal.
33. I have considered the judgments in respect of *Hillside Parks Ltd v Snowdonia National Park Authority* (2022) and *Pilkington v. Secretary of State for the Environment and Others* (1973). These provide legal context in respect of the effect of implementing one planning permission on another planning permission relating to the same site, but it is important to stress that this appeal scheme has been dealt with on its own merits.

Conclusion

34. The scheme would generally accord with the Ashfield Works Development Brief and Policy MX2-1 of the Leeds Site Allocations Plan, and it would not hinder the proper planning of the area. Subject to the provision of an adequate pedestrian crossing facility in Westgate, it would be acceptable in highways terms. A mechanism has been proposed which would enable the provision of an adequate amount of affordable housing. However, owing to the scheme's design shortcomings, and its failure to preserve the character of the conservation area, it would not accord with Policy GP5 of the Leeds Unitary Development Plan Review, Policies P10 and N19 of the Leeds Core Strategy, and Policy MU2 of the Otley Neighbourhood Plan.
35. I have considered all the other matters raised, but they do not alter my conclusions. For the reasons given above, the appeal is dismissed.

Jonathan Bore

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jo Kemp	Senior Planning Manager, LNT Care Developments
Timothy Schofield	Director, Norwood Westgate Ltd
Richard Ellam	Divisional Director, Pell Frischmann

FOR THE LOCAL PLANNING AUTHORITY:

Laurence Hill	Principal Planning Officer, Leeds City Council
John Booth	Principal Engineer, Highways, Leeds City Council
Ahmad Huneidi	Senior Engineer, Highways, Leeds City Council
Stephen Varley	Design Officer, Leeds City Council

OTHER PARTIES

Cllr Colin Campbell	Ward Councillor for Otley
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DOCUMENTS

Hearing statement and appendices from the appellant
Highways statement of case from the appellant
Hearing statement and appendices from the local planning authority
Highways statement of case from the local planning authority
Statement of common ground
S106 unilateral undertaking dated 5 June 2024
List of suggested conditions and appellant's comments on them
Letter from Freeths on behalf of the appellant dated 5 June 2024
Copy of bond agreement dated 25 August 2022
Hillside Parks v Snowdonia National Park, judgment dated 2 November 2022
Letter from Freeths to Leeds City Council dated 20 March 2024
Planning permission 22/01175/FU and associated site plan
Responses from the Council to the appellant's letter of 5 June and attachments

PLANS

Location plan 8430 253
Site plan 8430 254
Elevations and floor plans residential 8430 249
Site plan commercial 8430 246
Elevations and street context commercial 8430 247
Proposed site access DW 104958100-001 Rev 5
Amended elevations and plans 8430 249 Rev A
Amended site plan 8430 254 Rev A
Proposed scheme overlay plan 8430 267