



Appeal Decision

Site visit made on 2 July 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/W4705/W/24/3344401

Land off Pasture Avenue, Oakworth, Keighley BD22 7QF

- 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 Mr W J Poole against the decision of City of Bradford Metropolitan District Council.
 - The application Ref is 24/00116/FUL.
 - The development proposed is a terrace of three dwellings and associated car parking, garages, gardens, emergency vehicle turning, bin storage and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was accompanied by an amended 'highway sketch' together with correspondence from the local highway authority which confirms that the revisions would address its concerns over the driveway gradients. The Council did not raise any objection to submission of the amended plan and no further comments were made on this matter. Given this, and the very minor nature of the changes, I am satisfied that no party would be prejudiced by accepting the amended plan. Furthermore, as it appears that this is no longer a contested issue, I have not considered the matter any further in this decision.
3. A number of objections refer to the appeal site as Green Belt land. For the avoidance of any doubt, the appeal site does not lie within the Green Belt.

Main Issues

4. In light of the above, and based on the evidence before me, I consider that the main issues in this appeal are:
 - whether the development would preserve or enhance the character or appearance of the Oakworth Conservation Area, and
 - the effect on the integrity of designated sites of nature conservation.

Reasons

Integrity of designated sites of nature conservation

5. The evidence indicates that the proposal would be within the zone of influence (Zone C) of the South Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC), which are European Sites afforded protection under the Conservation of Habitats and Species Regulations 2017

- (the Regulations). The features of interest for which these sites are designated include breeding populations of bird species and their habitat.
6. The Regulations require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone or in combination with other plans and projects. While the Council did not object on these grounds, the responsibility to carry out an appropriate assessment now falls to me in the context of this appeal.
 7. The Council has been working in partnership with Natural England to develop a strategy for protecting the habitats and birds from recreational activities associated with occupants of new dwellings. The research underpinning this strategy has identified that any additional dwellings within Zone C would be likely to result in significant effects on the protected habitats and species.
 8. Policy SC8 of Bradford's Core Strategy 2017 (the CS) states that a potential mitigation for the impact could be a financial contribution towards various habitat and access management measures to preserve the integrity of the SPA and SAC. The South Pennine Moors SPA/SAC Supplementary Planning Document (SPD) sets out further detail on how the mitigation strategy will be operated, and the measures upon which any contributions will be spent. It further explains that the appropriate mechanism to secure the tariff will be via a completed planning obligation pursuant to Section 106 of the Town and Country planning Act 1990.
 9. A Unilateral Undertaking (UU) to provide a financial contribution towards mitigation measures was submitted with the appeal. However, the UU has not been signed and dated. The Procedural Guide to Planning Appeals makes clear that for appeals following the written representations procedure, the appellant must ensure that an executed and certified copy of the planning obligation is received at the time of the making of their appeal.
 10. I have considered whether the matter could be resolved by planning conditions. However, the Planning Practice Guidance advises that positively worded conditions cannot be used to secure payment of money, and that negatively worded conditions to require a planning obligation should only be used in exceptional circumstances. This may be where there is clear evidence that the delivery of the development would otherwise be at serious risk, such as in particularly complex development schemes. There is no such clear evidence before me, nor does the proposal appear to be particularly complex.
 11. I therefore do not have an appropriate mechanism before me which would secure the mitigation expected by Policies SC8 and the SPD. In these circumstances, I am unable to undertake the appropriate assessment or address the matter further.
 12. Consequently, I conclude that the development proposal would adversely affect the integrity of the SPA and SAC, contrary to Policy SC8 of the CS, the SPD, and Chapter 15 of the National Planning Policy Framework (the Framework). Moreover, section 63(5) of the Regulations precludes the proposal from proceeding as it can only be agreed if it has been ascertained that it will not adversely affect the integrity of the SPA and SAC.

Conservation Area

13. The appeal site is a rectangular parcel of land within the development limits of Oakworth, and is also within the Oakworth Conservation Area (the CA). It is bordered to the west by a late 20th century housing estate. To the north, east, and south are more traditional stone terraces, cottages, and farm buildings along Dockroyd Lane. The gradient falls quite steeply to the south and at the bottom end of the site is an existing gated access from Pasture Avenue and a driveway which serves buildings at Dockroyd Farm. The site boundaries are mostly formed by low stone walls.
14. The Oakworth Conservation Area Assessment 2005 (CA Assessment) explains that the village previously consisted of several agricultural hamlets which expanded and developed into a busy mill village during the 18th and 19th centuries. In addition to its diverse range of stone and slate buildings, the CA includes several small areas of open space which are considered to make an exceptional contribution to the setting and character of the CA. Thus, for the purposes of this appeal, I consider that the significance of the CA is partly derived from the architectural interest and aesthetic appeal of its stone and slate vernacular buildings, and the relationships of these to each other and the open spaces of the settlement.
15. The Council describes the site as enclosed grazing land and consider that it helps to maintain the separation of the former farming hamlet of Dockroyd from the main settlement in Oakworth. The appellant acknowledges that the site would have been part of the former field system associated with Dockroyd Farm, but contends that it is now part of a residential curtilage and that the separation between the areas has been eroded due to recent housing developments and planning permissions. I saw that the existing gates and driveway give the lower part of the site a very domestic character, while the rest of the site is mainly maintained grass, which is neither strongly rural nor strongly domestic. Either way, the largely undeveloped character of the site makes a positive contribution to the significance of the CA as a whole, notwithstanding that it is not one of the 'Key Open Spaces' identified in the CA Assessment.
16. The proposed dwellings would be confined to the upper part of the site where they would be well contained by surrounding development. Their design would reflect the local vernacular in scale, style, and materials, particularly the traditional terraced housing to the north and east along Dockroyd Lane. Existing boundary walls would be retained, while new garden boundaries would be in a similar style and appearance. Although there would be an increase in vehicular hardstandings and gardens within the lower part of the site, this part of the site already has a domestic character and would remain largely free of buildings. In these respects, the development would integrate well with its surroundings and would not appear overdeveloped.
17. Notwithstanding these factors, the change from mostly undeveloped to more developed land would constitute a noticeable change in the appearance of the site, particularly when viewed from Dockroyd Lane and the properties that overlook the site. However, the effect would be very localised and further moderated by the positive design credentials of the scheme. The development would not appear visually dominant, and I am satisfied that no key views into or out of the CA would be significantly harmed. Nonetheless, there would be

some harm from the reduction in the open and undeveloped character of the site generally, and in turn, to the contribution it makes to the significance of the CA in this regard. This is contrary to Policy EN3 of the CS which seeks to conserve and where appropriate enhance the heritage significance of Bradford's heritage assets.

18. In the terms of the Framework, the level of harm would be classed as less than substantial and I attach considerable importance and weight to the harm, even though it would be minor in degree. On the other hand, the proposal would bring forward three dwellings in a context where it appears that the Council is unable to demonstrate a five-year housing land supply (5YHLS) as required by national policy. As a small development, it is likely that the dwellings could be built relatively quickly. Future occupiers would also help to maintain and or support the vitality of services and facilities in Oakworth in the long term, and there would be some short-term economic benefits from the construction activities. Collectively, these benefits weigh significantly in favour of the scheme. On balance, I find that the benefits of the scheme are sufficient to outweigh the less than substantial harm to the significance of the CA in this instance.

Other Matters

19. In addition to matters already addressed above, local residents have raised a variety of other concerns, including in relation to traffic, wildlife at the site, pressure on local infrastructure, and construction effects. However, these matters did not feature in the Council's refusal reasons, and on the evidence before me, I have no reason to disagree with the Council's assessment in these respects.

Planning Balance and Conclusion

20. As it appears that the Council has a deficient 5YHLS, paragraph 11 d) of the Framework is relevant. In this regard, I have found that there would be less than substantial harm to the significance of the CA, but the benefits of the scheme would outweigh the harm.
21. However, in the absence of an appropriate mechanism to secure mitigation in respect of the effects of the proposal on the integrity of the SPA and SAC, the proposal conflicts with policies in the Framework relating to habitat sites. This provides a clear reason for refusing the development proposed. Consequently, paragraph 11 d) of the Framework is disengaged and the presumption in favour of sustainable development does not apply.
22. Notwithstanding the benefits which have already been identified, the adverse effect on the integrity of the SPA and SAC is an overriding consideration and means that the proposed development would be contrary to statutory provisions, the Framework, and the development plan when taken as a whole. For this reason, the appeal fails.

A Caines

INSPECTOR