



Appeal Decision

Site visit made on 6 August 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2024

Appeal Ref: APP/N4720/W/24/3344369

Land adjacent to 50 The Crescent, Micklefield, Leeds LS25 4DB

- 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 London Property Investments Ltd against the decision of Leeds City Council.
 - The application Ref is 23/04836/FU.
 - The development proposed is the construction of two dwellings and associated works (resubmission of application ref. 22/04508/FU).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- (i) The effect of the proposal on the character and appearance of the area
- (ii) The effect of the proposal on trees
- (iii) Whether the proposal would provide acceptable living conditions for the future occupiers of the dwellings, with regard to outdoor amenity space
- (iv) Whether the proposal would make an adequate provision for parking

Reasons

Character and appearance

3. The appeal site consists of an area of mown grass, with a belt of trees that are subject to a tree preservation order running down one side adjacent to it. It provides a visual break at the end of several rows of terrace dwellings which extend in some length along the curve of Great North Road. Those terraces create a visual consistency along the road as a result of their regular forms, design and use of materials and they contribute positively to the character and appearance of the area. To the other side of the appeal site and the tree belt is newer development consisting of smaller rows of terraced houses. Due to the separation provided by the appeal site and the screening afforded by the mature trees, those newer terraced dwellings appear visually separated from the older terraces to the north-west.

4. The area of open and undeveloped space that the appeal site provides offers visual relief at the end of the constant built form of the older terraced dwellings. It has a value within the street scene as such, but I am conscious that in a previous appeal¹ the Inspector did not object to the principle of the loss of this area of open space. Instead, the reason for dismissing the appeal was more directly related to the scale and design of the dwellings that had been put forward at that time. Subject to the trees being retained and a visually appropriate form of development being achieved, I would not seek to take a different overall view on the loss of the open space and therefore I am content that in principle there would be no conflict with the aims of Policy H2 of the Core Strategy 2019 (CS).
5. However, the development subject to this appeal would not integrate successfully into the street scene. It would be a pair of semi-detached dwellings sited very close to the end terrace at 50 The Crescent. Because of a need to address surface water flooding concerns, it would also have a higher eaves height than those existing terraces. It would not read as a continuation of the terrace as it would not be attached to it, yet the limited separation between the two built forms would only serve to accentuate the differences in dwelling types and eaves heights. It would also be relatively close to the adjacent tree line to the other side. As a result, it would be an incongruous addition to the street scene and would appear cramped within the constraints of the appeal site.
6. The proposal would use facing materials to match the existing terrace and likewise it would utilise a hipped roof form. Consideration has also been given to window proportions and I acknowledge the point made by the appellant in terms of the symmetry of No 50 in relation to the rest of the terrace to which it is attached. However, those considerations do not overcome the other harm I have identified that would be caused by the appeal development.
7. In conclusion, the replacement of the area of open space with what would be a wholly unsympathetic building form would result in significant harm to the character and appearance of the area. Consequently, the proposed development would fail to accord with Policy P10 of the CS and Saved Policy GP5 of the Unitary Development Plan 2006 (UDP) where they seek to safeguard character and appearance and to promote high quality design. There would also be a conflict with the aims of the Neighbourhoods for Living Supplementary Planning Guidance 2003 (NSPG) in the same respect and with the National Planning Policy Framework (the Framework) where it seeks to achieve well-designed and beautiful places.

Trees

8. The proposed dwellings would be outside of the root protection areas (RPA) of the adjacent protected trees as identified by the Arboricultural Impact Assessment (AIA). However, part of the proposed car parking area, the diverted public right of way and the shed to one of the dwellings would encroach into the RPAs. The AIA sets out that these works would, or in the case of the shed may, take place using no-dig principles and that this solution must be installed on the existing ground levels. In terms of the parking area in particular, there is no comfort provided in the AIA that this could be achieved,

¹ APP/N4720/A/08/2075519

given the topography of the site and the relationship of the existing ground levels to the level of the existing public highway.

9. It would seem from a visual inspection and without drawings to demonstrate otherwise, that to lay surfacing on the current ground levels would create an uneven parking area and potentially lead to difficulties in terms of the level and gradient where it would meet with the existing level of the public highway. In that regard, the request from the Landscape Team to have provided such details before the application was determined is reasonable. Without those details, I cannot conclude that the proposed no-dig solution would be practical or achievable, and thus that the work specified within the RPAs of the protected trees could be undertaken without harm to their health.
10. There is dispute between the parties as to whether the separation between the trees and the proposed development would meet with the distances set out in the Guideline Distances from Development to Trees 2021. The aims of the distances are to ensure that damage is avoided to the roots and branches of existing trees from development and to allow for the trees to grow to maturity. I have found that the former has in any instance not been addressed and in terms of the latter it is stated in the AIA that almost all of the trees are mature. It would appear therefore that notwithstanding the distances set out, the proposed development would not compromise the aim of leaving space for trees to grow to maturity.
11. The reason for refusal refers additionally to pressures to alter or remove trees to improve sunlight provision to the garden areas and living spaces of the proposed dwellings. I will return to this matter later in my decision, however the trees are subject to formal protection by a tree preservation order and matters of their relationship to any proposed development requires consideration before any planning permission can be granted. On that basis, I do not consider that there would be a strong case for any party to come forward at a later date and seek to remove trees, or to cut them back beyond their form when planning was granted, unless there were sound arboricultural reasons for doing so.
12. In conclusion, the proposal fails to demonstrate that the principles of no-dig could be achieved in the RPAs of the protected trees, owing to the topography of the site. Consequently, the submissions fail to demonstrate that the proposed development would accord with Policies P10 and P12 of the CS, Saved Policies GP5 and LD1 of the UDP and Policy LAND2 of the Natural Resources and Waste Development Plan Document 2013 (DPD), where they collectively seek to protect natural assets and to conserve trees. The proposal would also conflict with the aims of the Framework where it seeks to conserve and enhance the natural environment.

Outdoor amenity space

13. Each proposed dwelling would be provided with a small area of outdoor amenity space to its rear. Whilst the appellant refers to all of the outside space in their calculations of amenity provision, the area to the front of the dwelling would be located directly adjacent to Great North Road and its pavement. It would therefore in terms of privacy and being close to the movement of traffic along a main road, not be an attractive space to use for sitting or other outdoor activities. The areas to the side of the dwellings would be limited in width and

therefore also limited in their potential for use. The outdoor space requirements set out in the NSPG which refer to private gardens would not be met.

14. The ability to provide outdoor amenity space is constrained by the presence of the turning head on the public highway and the need to provide a level of car parking to serve the proposed development. However, it remains that what is proposed to be provided would be very limited, in particular in terms of its depth. This would fail to provide acceptable living conditions for future occupiers. I acknowledge that in the scheme subject to the previous appeal the deficiency that existed in comparison to the Council's guidance was not considered by the Inspector as being sufficient to justify the refusal of planning permission. However, it is evident that there was a larger area of garden proposed to the side of the dwellings in that case, and hence the two schemes are not directly comparable in that regard.
15. The protected trees that run along the side boundary of the appeal site are of considerable height and form a continuous screen when in leaf. The shading plan provided with the AIA shows that the trees would indeed cast a shade over the proposed dwellings and their garden areas. The plan is limited as it only shows shading at one time of the day, however it is sufficient to suggest that as the sun moves on its path there is a likelihood that the proposed dwellings and their rear gardens would benefit from sunlight in the later part of the afternoon and evening. The frontages of the dwellings would also benefit from sunlight in the early morning. Subject to it being shown that that would be the case, sunlight levels would be acceptable. This would also mean that there would not be a justifiable argument to cut back or remove trees in the future.
16. Whilst I have found it to be likely that the dwellings and their gardens would have acceptable sunlight levels, the size of the rear garden areas would be inadequate and would result in a conflict with Policy P10 of the CS and Saved Policies GP5 and BD5 of the UDP where they seek to address matters relating to amenity and useable space. There would also be a conflict with the aims of the NSPG and the Framework in the same regard.

Parking

17. Micklefield has a railway station which is within a reasonable walking distance from the appeal site. Timetables have been submitted to show that this provides good accessibility to other areas, including to Leeds. The settlement is also served by bus services. Future occupiers of the proposed dwellings would therefore have good access to alternative modes of transport other than a private motor vehicle.
18. The proposed development would provide one off-street parking space for each dwelling. The Transport Supplementary Planning Document (TSPD) sets out an expectation that 1 – 1.5 spaces are provided at a two-bedroom dwelling in this location. In requesting that an enhanced provision of two spaces per dwelling is provided, the Highway Authority outlines concerns as to parking pressure on The Crescent, that cars associated with the proposed dwellings might themselves block the turning head and that the access to the footpath that runs across the site might be impeded.
19. At the time of my visit there was parking available on The Crescent, albeit there were two vehicles parked in the turning head. Whilst I appreciate that

this is only a snapshot in time and that my visit took place during the day when residents are more likely to be away from their house at work or undertaking other daily activities, there was also ample space available to park along Great North Road. There were a number of vehicles parked on Great North Road and there is nothing before me to suggest that this existing occurrence is unsafe in terms of its impact on the public highway.

20. Given the alternative modes of transport that are available, the provision of one parking space per dwelling is reasonable. But, even if residents of the proposed dwellings did have more than one car, I am satisfied that there would be the possibility to park on the public highway, and that to do so would not have an unacceptable impact on highway safety. Cars that currently park in the turning head may be displaced, but I am satisfied that there would be alternative parking options as highlighted.
21. There is nothing substantive to suggest that the future occupiers of the proposed dwellings might themselves choose to park in the turning head, but if they did it would be no different to the current situation. I have not been made aware that such a situation has been so hazardous to highway safety that moves to prevent it have been considered or implemented. There is also nothing substantive to suggest that future occupiers would park so to impede access to the relocated public footpath.
22. In conclusion, the proposed parking provision would be adequate to serve the proposed development and would not lead to harm to highway safety. As a result, there would be no conflict with Policies P10 and T2 of the CS and Saved Policy GP5 of the UDP where they seek to address matters relating to parking provision and highway safety. There would also be no conflict with the aims of the TSPD or the Framework in the same respect.

Other Considerations

23. The proposal would deliver two new dwellings, which would make a contribution to the Government's objective of significantly boosting the supply of homes which is set out in the Framework. It would do so on a site which would have good access to public transport and would utilise land on which there is currently no development. The appellant further suggests that the proposed dwellings would be retained for rental and would address what they highlight as being a demand for rental properties in the region. Due to the quantum of the proposed development, these are considerations which offer moderate weight in its favour.

Planning Balance and Conclusion

24. The development would cause significant harm to the character and appearance of the area and would fail to provide adequate external amenity space to meet the needs of its future occupiers. It has also not been demonstrated that works could be undertaken within the RPAs of protected trees without causing harm to their health. Consequently, it would fail to accord with Policies P10 and P12 of the CS, Policies GP5, LD1 and BD5 of the UDP and Policy LAND2 of the DPD, and with the development plan taken as a whole. Balanced against this it would provide the benefits I have outlined which collectively offer moderate weight in its favour. Those benefits do not outweigh the harm that would result and the conflict with the development plan.

25. In conclusion therefore, I find that the other considerations in this case do not indicate that a determination should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR