



Appeal Decision

Site visit made on 10 December 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2025

Appeal Ref: APP/N4720/W/24/3348071

Land Off The Spinney, Wigton Moor, Moortown, Leeds LS17 6SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by GJS Properties against the decision of Leeds City Council.
 - The application Ref is 23/03836/FU.
 - The development proposed is erection of two residential units.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the above banner heading has been taken from the original application form. The decision notice includes associated landscaping and parking and I have determined the appeal accordingly.
3. An update to the National Planning Policy Framework (the Framework) has been published dated 12 December 2024 but there are no material changes relevant to the substance of the appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed development on trees including their wider benefits;
 - The effect of the proposed development on the character and appearance of the site and surrounding area; and
 - Whether the proposed development would provide adequate living conditions for future occupiers of the site with particular regard to accommodation size, layout and private amenity space.

Reasons

Trees

5. The appeal site is located on land north of an existing private car park within The Spinney residential estate. It is understood that the parking area is associated with the flats located to the southeast of the site. Residential garden land and communal bin and bike stores are located to the east of the site, with Moortown Park beyond the western boundary. The site is located between areas of protected

trees to the north and south. The site benefits from an existing vehicle access off The Spinney.

6. The proposed development seeks planning permission for the erection of a single building consisting of ground and first floor flats. Additional parking spaces will be created within an enlarged car parking area which will continue to serve as a car park for existing properties.
7. There are notable mature trees situated to the north, south, and west of the site. These trees are visible in a number of views, including from the main highway, the existing residential car park and residential gardens and from the public park to the west. They are a positive feature which in turn makes a significant contribution to the local character. The vegetation along the western boundary serves as a valuable green buffer between the residential estate on The Spinney and the adjacent public park, contributing to the park's verdant character.
8. An Arboricultural Impact Assessment (AIA) has been complete for the site confirming that the scheme does not require the removal of the trees. At my site visit, I noted that a number of trees have already been removed although it is difficult to ascertain which trees these relate to. Nonetheless, the information contained within the AIA does not reflect the site layout provided as the proposed new extension to the southern parking area isn't included on the arboricultural information. This area is marked out for an exclusion zone during the construction phase to protect trees, but the layout drawing shows the car park extension encroaching into these areas. The expansion of the car parking area to the west is also shown to be further to the west in the site layout drawing than in the arboricultural information. It is clear from the evidence that there would be encroachment of development into the Root Protection Areas (RPA's) of trees which would be much greater than as shown in the tree information. There is limited information/justification on why this should be accepted contrary to professional guidance.
9. In the absence of accurate information and sufficient justification, it is difficult to accurately assess the impact on trees. The Council refer to the significant encroachment into the RPA of T4 located to the south of the site although it would appear from my site visit that the removal of trees in this location has already taken place. As set out, I cannot confirm with certainty which trees this relates to, but it could be the case that T4 is no longer in situ. Even so, there would still be significant encroachment into the RPA of the grouping of trees along the western boundary of the site which appears larger on the site layout drawing than the arboricultural information. I have had due regard to the mitigation techniques put forward, but based on the evidence before me, I am not sufficiently satisfied that there would be no harm due to the very close relationship that would exist and extent of the development in proximity to trees. On this basis, I do not find a condition for a method statement to be appropriate in the particular circumstances of this case.
10. Overall, the likely impacts would diminish the health of the trees and ground level vegetation. This would be detrimental to this line of vegetation and its wider benefits related to; visual amenity and local character, amenity, biodiversity, and tackling climate change and air pollution. It would diminish the screening and transitional function of the vegetation line to the open land to the west with no opportunity for this buffer to be strengthened or added to taking into account the

nature of the works and proximity to its boundaries. The building would also not meet the recommended distances outlined in the Leeds City Council Tree Guideline Distances from Development to Trees document to the north and west. The trees overall proximity and size pose a significant risk of shading most of the garden space, rendering it dark and unusable. Consequently, there is a heightened likelihood of pressure to lop, top, or fell the trees. Such actions would increase the risk of significant alterations to the trees diminishing their multiple positive functions particularly the contribution to the area's character. There are no suitable means of mitigation/replacement planting provided which would bring me to a different conclusion.

11. For the above reasons, I conclude that the proposed development would unacceptably harm important trees and vegetation located within and adjacent to the site including their wider benefits as set out. It would therefore be contrary to Policies H2, P10, P12 and G9 of the Core Strategy (as amended by the Core Strategy Selective Review 2019) (CS); Policies GP5, N24, N25 and LD1 of the Leeds Unitary Development Plan (Review 2006) (UDP) and Policy LAND 2 of the Natural Resources and Waste Development Plan Document, 2010 which together, amongst other matters, explain that development should conserve trees wherever possible and also introduce new tree planting as part of creating high quality living and working environments and enhancing public realm.
12. For the same reasons, the proposed development would also be contrary to the guidance contained within the Neighbourhoods for Living Supplementary Planning Guidance, 2003 (SPG); the Council's Guideline Distances from Development to Trees document and the Framework, alongside the relevant professional guidance in British Standard BS5837:2012 Trees in Relation to Design, Demolition and Construction.

Character and appearance

13. The appeal site is not readily visible from the main highway or the public park to the west although the design of the layout proposed would mean that it would be more visible from the public park particularly when taking into account my above findings on trees. The building and its surrounds would also be visible from the residential car park to the front of the building and from the flats to the east. The majority of buildings in this area face onto the highway and built environment with front gardens and defensible spaces. Unlike the majority of buildings in the area, the proposed development is located to the rear of these frontages and is hard up to the car parking to the front with little relief or defensible space for the future occupants of the building itself. This creates a stark and harsh environment for the building which is a departure from the typical development pattern in the area.
14. The building would be in close proximity of the trees to the rear and west of the site offering little visual separation or relief, between the building and these trees. This, coupled with the above would lead to a rather cramped and incongruous appearance within this setting.
15. For the above reasons, the proposed development would unacceptably harm the character and appearance of the site and surrounding area. It would therefore be contrary to Policies P10 and P12 of the CS and Policies GP5, BD5, N24 and LD1 of the UDP which together, amongst other matters, explain that new development for buildings and spaces, and alterations to existing, should be based, on a

thorough contextual analysis and provide good design that is appropriate to its location, scale, and function.

16. For the same reasons, the proposed development would also be contrary to the guidance within the SPG, the Council's Guideline Distances from Development to Trees document and the Framework.

Living conditions

17. Policy H9 of the CS outlines the minimum space requirements for new dwellings, stipulating a floor area of at least 61 square metres for a flat of this type. The Council explain that the proposed dwellings offer a floor area of approximately 57.4 square metres and thus fails to meet this requirement. One of the two bedrooms is approximately 6.2 square metres which is smaller than the minimum requirement of 7.5 square metres set by Policy H9. The proposed development would therefore lead to a poor level of amenity for future occupiers. I am aware that this is contested by the appellant who claims that the required standards would be met although this is not entirely clear from the evidence before me. I have therefore taken a precautionary approach to this matter particularly in light of my findings of harm elsewhere.
18. The garden space proposed to the north and east of the proposed building relates poorly to the accommodation provided being a poor design response to the site. This is because the areas are small and awkwardly shaped and would not be overlooked by any windows from the habitable rooms and thus would not benefit from any natural surveillance. This would in turn make the space feel undesirable for use whilst feeling unsafe and could attract crime. The gardens would also fall largely in shade, whether from the new building or surrounding trees and I am not sufficiently persuaded otherwise based on the evidence before me. This means that they would offer limited functionality affecting their overall useability whilst placing pressure on the trees for pruning and felling.
19. The appellant refers to the nearby park providing for additional greenspace and amenity space although this would not justify the poor design of the development as occupiers would still need an adequate level of private amenity space. To this end, private spaces serve a very different function to that of public spaces in terms of convenient sitting out, hanging washing etc. Such matters would not therefore alter my findings.
20. For the above reasons, the proposed development would not provide adequate living conditions for future occupiers of the site with particular regard to accommodation size, layout and private amenity space. It would therefore be contrary to Policy P10 of the CS and Policies GP5, BD5 and LD1 of the UDP which together, amongst other matters, explain that all new buildings should be designed with consideration given to both their own amenity and that of their surroundings. For the same reasons, the proposed development would also be contrary to the guidance within the SPG and the Framework.

Other Matters

21. I am aware of changes made to the scheme from pre-application discussions and the appellants' frustrations regarding communication with the Council during the application process. Such matters would not however alter my findings on the above main issues. I have considered the location of the site in relation to local

services and transport and note that the proposed development would contribute to housing provision/mix in the area. The extent to which such matters would be beneficial is however limited due to the small-scale nature of the proposals. Such matters would not therefore be sufficient to weigh in favour of the appeal or alter my findings.

Conclusion

22. The proposed development would conflict with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that would outweigh the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR