
Appeal Decision

Site visit made on 22 April 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Appeal Ref: APP/X4725/W/25/3360331

The Gables, 1J Ruskin Avenue, Wakefield WF1 2BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Margaret Wood against the decision of Wakefield Metropolitan District Council.
 - The application Ref is 24/01122/OUT.
 - The development proposed is described as 2 detached properties.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal scheme relates to an outline proposal, with all matters reserved for future consideration. I have dealt with the appeal on that basis.
3. A plan has been submitted as part of the appeal which indicates how residential development could be accommodated on the site. Whilst it is not labelled as such, bearing in mind layout is reserved, I have taken this to be illustrative and proceed on that basis.

Main Issues

4. The main issues in determining this appeal are the effects of the development on 1) biodiversity and 2) land stability.

Reasons

Biodiversity

5. Policy LP51 of the Wakefield District Local Plan (2024) (Local Plan) relates to ecological and geological conservation. Amongst other things, it sets out that where the Council considers any species of principal importance for conservation may be affected by a development proposal, an appropriate ecological assessment will be required to be submitted with the planning application. It also requires developers to minimise disturbance, protect and enhance the site's ecological value, requires appropriate mitigation measures where necessary and expects a minimum 10% net gain of the current ecological value.
6. The appeal site comprises vacant land located amongst a residential, built-up area on Ruskin Avenue. The site is covered in unmanaged grassland and vegetation with trees around the periphery. Earth mounds are also present on site which have

assimilated into the natural environment. The site is open with the highway and defined by fencing and walls to the residential boundaries.

7. Table 1 of government guidance¹ provides advice on where to expect protected species. Habitat including grassland has the potential to accommodate species such as bats, badgers, wild birds, great crested newts, invertebrates, reptiles and protected plants, fungi and lichens. Therefore, it is possible that notable species could be present on the appeal site.
8. The appeal scheme is not accompanied by any ecological assessment as required by Policy LP51 of the Local Plan. It is therefore not possible to ascertain whether the effects of the development can be minimised or adequately mitigated, or indeed whether there would be an enhancement as required by the policy. The effects of the development on biodiversity are unknown. Consequently, the proposal does not demonstrate that the biodiversity or ecological value of the site would be protected, minimised or enhanced, in conflict with Policy LP51 of the Local Plan.

Land Stability

9. The Council do not refer to conflict with the development plan in their reason for refusal concerning land stability, relying instead on the National Planning Policy Framework (the Framework).
10. Paragraph 196 of the Framework makes clear that decisions should ensure that sites are suitable for the proposed use, taking account of ground conditions and any risks arising from land instability. This includes risks arising from former activities such as mining, and any proposals for mitigation including land remediation. It goes on to state that adequate site investigation information, prepared by a competent person, should be available to inform these assessments. Responsibility for securing a safe development rests with the developer.
11. The appeal site falls within a 'Development High Risk Area' in respect of land stability, due to probable unrecorded underground coal mining workings at shallow depth. Shallow workings could pose a potential risk to surface stability and public safety.
12. No site investigation report has been submitted with the proposal to demonstrate that developing the site would be safe and land could remain stable. Justification for not submitting a Coal Mining Risk Assessment is set out in Government guidance². For the erection of buildings, such an exception would be where there would be minimal ground disturbance. No evidence is before me to suggest that would be the case here. In the absence of an appropriate assessment, I cannot be certain that the effect of the development on land stability would be safe, in the public interest. This is in direct conflict with the Framework.

Other Matters

13. I am mindful that outline planning permission has previously been granted at the appeal site for two dwellings. However, very limited details are before me. I note the appellant has stated the previous consent expired in June 2024 for two

¹ Protected species and development: advice for local planning authorities

² Guidance: Planning applications and Coal Mining Risk Assessments, updated 27 February 2025

houses. They further assert that the application was not accompanied by an assessment in respect of land stability or ecology. It is not clear why these were not requested previously. I appreciate that the Council could have asked for the information earlier in the process, to allow the appellant the opportunity to provide them. However irrespective of the Council's conduct, it does not change the fact that the assessments are required now. For these reasons, I give this previous permission limited weight in my considerations.

14. I have considered whether imposing conditions could overcome the risks to harm I have identified. However, with both main issues, the information is required before permission is granted, in order to be certain that the impacts can be overcome without prejudicing the ability to implement the development. Conditions are therefore inappropriate in this instance.

Conclusion

15. For the reasons given above the appeal fails.

C Walker

INSPECTOR