
Appeal Decision

Site visit made on 9 July 2025

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 October 2025

Appeal Ref: APP/N4720/W/25/3359261

Land to the north of Wood Lane and east of Cragg Hill Farm, Horsforth, Leeds LS18 4PF

- 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 Mr W Machell against the decision of Leeds City Council.
 - The application Ref is 24/02440/OT.
 - The development proposed is erection of up to 9 dwellings and construction of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline. The application form indicates that approval was sought for access with the matters of appearance, landscaping, layout and scale reserved for future approval. Several indicative and preliminary plans have been provided, including site layout, landscaping and the planning statement with accompanying documents gives an indication of the scale and appearance. I shall deal with the appeal on this basis.
3. The Council raised several concerns that the appellant has introduced evidence which was not before them at the time of the determination, and for which wasn't part of the proposal. An appeal should not be used to evolve a scheme. The Planning Practice Guidance (PPG) sets out that before making an appeal the party seeking permission should first consider re-engaging with the local authority to discuss whether any changes to the proposal would make it more acceptable. For the avoidance of doubt, I have determined the appeal based on the evidence, including the relevant plans which were before the Council at the time of determination.
4. Since the determination of the planning application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The policies that are material to this decision have not fundamentally changed, therefore in reaching my decision I have had regard to the revised Framework.
5. I have also had regard, and in accordance with Paragraph 30 of the Framework in this appeal decision to the Horsforth Neighbourhood Plan 2019-2028 (HNP), approved 21 May 2020, which the Council provided as part of their appeal submission.
6. The appellant following the site visit, submitted additional late evidence conflicting with Rule 16(1) of the Written Representations Procedure Regulations 2009 (as amended). This related to extracts on housing allocations taken from the 'Leeds

Outer North West Sites Consultation'. This identified the need for additional homes within the area and potential for development sites. The appellant asserted that this should be a material consideration.

7. In the interests of natural justice, and in accordance with the Regulations the Council were given an opportunity to make representation to confirm the status of the information. The Council have clarified that this related to an emerging local plan at a very early stage in preparation and was a consultation at the Issues and Options stage, and that any sites require much further assessments. Although, I have had regard to the comments made by the main parties, given the status of the information, and that the emerging plan is at a very early stage I afford this evidence and the emerging plan no weight and have disregarded in the appeal.
8. During the appeal, the appellant submitted a certified unilateral undertaking (UU). Although this completed UU was received outside of the appeal timetable, I have had due regard to it insofar it is material to the considerations and main issues within the appeal.

Policy, Background and Main Issues

9. Policy H2 of the Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019), 2019 (CS) sets out that new housing development will be acceptable in principle on non-allocated land subject to certain criteria. For greenfield land it restricts development, and at (a) it states that it '*should not be developed if it has an intrinsic value as amenity space or for recreation or nature conservation, or makes a valuable contribution to the visual, historic and/or spatial character of the area*'.
10. The appeal site is some 0.87ha, a former quarry site and the scheme would be for up to 9 dwellings incorporating the construction of a private road. It consists of unallocated land for the purposes of development plan policies and is therefore greenfield land. It is free from built development and has several footpaths, informal, definitive and claimed routes including a bridleway enabling access to/from Wood Lane and the recreation ground. Therefore, the Council contend the principle of development is not acceptable as the proposal would not meet the criteria as set out in Policy H2 (a), which interlink with their other reasons for refusal.
11. Therefore the main issues are i) whether the appeal proposal would affect the character and appearance of the area and whether it would preserve or enhance the Horsforth Cragg Hill and Woodside Conservation Area, including the impact on trees and ii) the effect on biodiversity, and protected species; and iii) highway safety; and iv) linked to that whether it would constitute an acceptable form of development.

Reasons

Character and appearance, heritage assets

12. The appeal site falls within the Horsforth Cragg Hill and Woodside Conservation Area (CA) designated in 2011. The CA encompasses the recreational ground, open space, woods and existing built form with architectural and historic interests due to piecemeal development. The Horsforth Cragg Hill and Woodside Conservation Area Appraisal and Management Plan, 2011 (CAA), identifies the appeal site as a 'Key Green Area – public and private' and lies within the 'Character Area 2 – Historic Green Space, the vehicle access would fall further within 'Character Area 3'.

13. The CAA character analysis specifically identifies the area has having a very natural feel due to heavy woodland and accessibility. It identifies that there is a fall of levels providing key views of Wood Lane and the green undulating land that forms the former historic quarry site and provides reference to former activities of the area, with its lack of development adding variation to the natural environment. The unadopted Wood Lane and its informal surface treatment in parts increases the rural feel and sets the area apart from much of the suburbia that it is surrounded by, giving it a secluded, tranquil and having its own pleasant natural and idyllic feel.
14. In addition, the CAA sets out that historic green space in the CA makes a positive contribution to the character and appearance of the area. The varying spaces of historic strip fields, former quarry and mature woodland all impact greatly, and the retention of green spaces, including the heavily wooded areas, such as Cragg Wood are important to the character and appearance of the CA. Reference has been made to the Cragg Hill Farm, to the west of the site a former redeveloped farmstead which is a positive contributor to the CA and the recreation ground contributes to open space. Therefore, the significance of the appeal site and its openness play an important role in the historic origins and spatial functions of the area and it positively contributes to its character and appearance including the CA taken as a whole.
15. The appeal site location is further recognised within the HNP and falls within Policy BE1 which amplifies strategic policy and pulls together updates of the various strands of the CAA for new development within an area's character and conservation area. Area 4 covers the Cragg Hill and Woodside and the CA, where it seeks to ensure that future proposals respect the importance of green space in and around the area.
16. The appeal scheme, although indicative for many of the final design features and layout, including the landscape masterplan would clearly erode and result in loss of the sites primary characteristics and its green and verdant spatial appearance. This includes a significant impact on the vast amounts of vegetation and trees due to the site's location to protected trees, woodland and development constraints. Furthermore, the heritage statement acknowledges that trees are an important consideration, and the access is further along the land to minimise harm to protected trees.
17. The addition of residential built form would no doubt urbanise the immediate context of the site itself, and thus would not be in harmony or enhance one which has an important contribution to the historic origins of the area and CA. It would not be seen as an extension of the existing residential area, even if the dwellings would be located within the flattened area. Moreover, it is inevitable that change has been experienced from the site use for quarrying, and just because it does not appear as a quarry or has been filled and/or regraded does not mean it has no historical value or significance. Neither does the lack of formal landscape or ecological designation mean that the land does not contribute to the character of an area or heritage values.
18. Despite there being nearby dwellings, other character areas or that the site is privately owned the spatial character of this piece of land would be lost. Furthermore, the dwellings would generate a level of residential activity and paraphernalia which would remove the historic traits of the significance of its idyllic and rural tranquil setting. Given the location of the site it is clearly discernible from localised public views from the immediate Wood Lane and footpaths, whilst there is nothing to suggests that such immediate views would be restricted.

19. The Framework and PPG clearly sets out that the historic environment is one that covers all aspects of the environment resulting from the interactions between people and places through time and where the setting of a heritage asset and its surroundings may be experienced of which significance derives not from a physical presence, but also from its setting. In this case, the potential impacts and acceptability of the development would lead to a cumulative harmful change to the detriment of the character and appearance of the area.

The impact on Trees

20. There is existing vegetation and tree coverage within the site and extending around the perimeter of the land both towards the recreation ground and Wood Lane. Trees are protected by virtue of their location within the CA and in addition some of the trees are additionally protected by a Tree Preservation Order (TPO (No.10)). The TPO covers a mixture of individual and groups of trees consisting of Oak, Sycamore and Birch. It is clearly apparent that the mature trees contribute to the appearance of the immediate and wider area and the surrounding woodland character.
21. The Council contend that there would be severe impacts on trees from the development. The appellant maintains in their evidence that there would be no trees removed to facilitate the development. The appellant's application was supported by a tree survey¹ dated 2023 which indicates that an arboriculture impact assessment was undertaken in 2022, and a survey in March 2021. This report recommends that full assessment of existing trees is undertaken every 1-2 years. However, the appellant now contends in their final comments that it is representative of 2025, and that it was not previously envisaged that crown lifting is now required along the access.
22. The report goes on to state that the highway layout would avoid the root protection area of the majority of existing trees. However, it does not fully rule out that earth works would not result in the loss of trees or that further tree works would not need to be undertaken. Given the date of the assessment 'on the ground' it is considerably out of date and provides uncertainty on the current and proposed status of trees. Furthermore, the appellant's appeal submission report 'LVI' acknowledges that some crown and facilitative pruning is likely to be required along Wood Lane to accommodate access in line with transport requirements, and the latest final comments place further ambiguity on the impact of trees.
23. Despite, the layout of dwellings being reserved for subsequent approval the access and works required for the access road are not. Therefore, it would be likely that cut and fill roadway, and specialist works to facilitate the road would lead to further tree works being necessary, and that there is a likelihood of further root protection areas being encroached upon for protected trees. Such matters are important and form a principal consideration of whether the appeal proposal is acceptable. Therefore, the reliance upon being controlled at reserved matters or in blue land to protect trees for the construction of the access road is somewhat not justified in this case. Neither would it be in line with the PPG, that conditions cannot be used to reserve such details for subsequent approval.
24. The appellant in their statement of case refers to the development comprising of up to 9 dwellings within the site, red edge. They have identified the blue land within the accompanying documents and plans, and it is highlighted to be integral to the

¹ Tree Survey, Lanpro, ref 2810, dated May 2023

biodiversity/ecological offer. This appears to form areas of additional planting, biodiversity enhancements and the formation of a permissive right of way for pedestrians.

25. The PPG is clear that an application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development including land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings. A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site. I am not satisfied that the red line fully depicts what is required to facilitate the proposal and the matters of access, including the necessary works that may be required to trees.
26. In addition, I cannot rule out there would be further pressure of future occupiers of the development for additional pruning works or it would not lead to overshadowing, given the ambiguity of the tree report, of which is a possibility this could lead to further tree harm. As such, there is a significant prospect that tree works required to implement and facilitate the appeal scheme would have a harmful effect on the retention, longevity and health of protected trees on the site. In addition, the risk to trees from potential harmful works would lead to harm to the character and appearance of the area.
27. For these reasons, I conclude that the proposal would have an adverse impact on trees, being contrary to Policies G2, P10 and P11 of the CS, and the Supplementary Guidance which is contained within the Guideline Distances from Development to Trees, 2020 (Trees SPG) which aims to achieve a satisfactory balance between the needs of trees and the needs of the buildings and their uses.

Heritage Balance

28. Taking the above points together, and mindful of the duties arising from section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal would fail to preserve nor enhance the character or appearance of the CA and would not meet this duty, which sets out the desirability of preserving or enhancing the character or appearance of the conservation area.
29. Whilst the harm to the heritage asset would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.
30. Paragraph 215 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
31. The proposal would secure new residential units and boost the supply of new homes in line with paragraph 61 of the Framework. It would be within a sustainable location, which I consider has good accessibility to local services, facilities, and nearby public transport, and these are benefits of the proposal. There would be some social benefits in providing the dwellings and some economic benefits accruing from the construction period and occupation of the new residential dwellings.
32. There would be little environmental benefits if enhancements for biodiversity cannot be secured and the impact to trees. Heritage benefits would be provided, which is

suggested to include repairs to cobbled pathways and walls, however the specifics are unclear. The public footpath to the recreation ground is confirmed as having only potential, and the use of the informal parking, limiting any weight to be given as community benefits. The personal history of the appellant, developments, resources and ownership are not a public benefit. Moreover, the appellant could not stop up or change public rights of way without obtaining the necessary consents.

33. Nevertheless, even if I were to consider these as such benefits, they would carry moderate weight due to the quantum of development proposed. Moreover, given that appearance, layout, scale and landscaping are reserved, I afford little weight to the indicative proposals as these are not final designs that would outweigh any harm derived to the immediate and wider area including the CA. This has been highlighted by the appellant, including the accompanying supplementary heritage statement that the design of dwellings does not form part of the application. Therefore, it is unclear why the appellant contends in parts that great weight should be given to an illustrative masterplan for landscaping and that it should be given a detailed assessment when this is shown as indicative.
34. The appellant heavily relies on the position of a fallback ('the fallback') against the extant planning permission² for a sports building. I do not consider there is a comparable amount of development in terms of likely floor space which would be provided, or in the context of the nature of the different uses proposed. Although indicative, there would be up to 9 substantial sized dwellings, which would not lead to a loss of a small area despite the appellant's contentions.
35. Moreover, the extant permission was granted at a time when the conservation area had not been designated, and over time places evolve and change which is now a material consideration in the determination of this appeal. In addition, relevant policies for the fallback related to a local plan from the early 1980's, adopted in 1989, and at that time there was a shortfall in recreational facilities being available.
36. The use of vehicles was anticipated to be limited because it would be a private members club and opening hours would likely be restricted, and whilst the permission is extant it does appear that further works may be required before any use is commenced. The building would not necessarily be within the same site area proposed for this development, which is acknowledged that the 2 developments occur on different parts of the combined sites which are different in character, visibility and their relationships with surrounding built development.
37. Nevertheless, a considerable amount of time has passed since the fallback development was granted, and there is no substantive evidence or greater than theoretical possibility that the fallback development would take place. Even, if there was a genuine position that the appellant would build the sports hall the fallback development would have a similar effect to the proposal on character and appearance and the CA, and therefore I accord limited weight.
38. The appellant draws my attention to a judgement³, although regard is given, this related to Grade I and Grade II listed buildings and enhancements and heritage benefits to them. In this case, I have not found that there is a mixture of elements that would harm or improve, preserve or enhance the heritage asset. Nor that the extent

² T/APP/N4720/A/91/183522/P5

³ *Kay, R (on the application of) v Secretary of State for Housing Communities and Local Government & Anor [2020] EWHC 2292 (Admin) (21 August 2020)*

of harm and level of harm has not been clearly identified. Therefore, there is no partial decision to be considered in this case or derived heritage benefits of significant weight. Notwithstanding the loss of significance caused, the harm has not been minimised, and any extant permission would still remain.

39. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification. I have found that the public benefits would cumulatively attract moderate weight and would not therefore outweigh the harm found to the significance and the great weight to be given to the conservation of the heritage asset.
40. Accordingly, I conclude the proposal would harm the character and appearance of the area, and it would neither preserve nor enhance the character or appearance of the CA taken as a whole. It would be contrary to Policies H2, P10, P11 of the CS, Policy N19 of the Leeds Unitary Development Plan, 2006 (UDP) and Policy BE1 of the HNP, which together they aim and seek new development is of high quality, respects character and to conserve, preserve and/or enhance heritage assets and their settings. It would further be at odds with the aims of the CAA, the neighbourhoods for living SPG, 2003 (NLSPG) which sets out the principles for residential design, character and essence and an analysis-based process, and the Framework in conserving and enhancing the historic environment.

Biodiversity and protected species

41. The appeal scheme is not exempt from Biodiversity Net Gain (BNG)⁴. The application was accompanied by a biodiversity net gain feasibility assessment. This refers to a landscape masterplan, however landscaping is reserved for subsequent approval. Nonetheless, the report states that the scheme is exempt from the mandatory 10% of BNG, therefore this is not accurate.
42. However, the report goes on to say that a 42.8% net loss for habitats is realised on-site, and that the proposal achieving net gain-on site is not considered feasible. It identifies that land off-site to be enhanced to achieve an overall net gain. This is in the context of off-site habitat enhancements including baseline neutral grasslands, woodland and further planting of mixed native scrub and trees on land to the immediate south of the site.
43. The appellant relies upon the net-gain to be achieved within their blue land rather than on-site. However, there is nothing before me to suggest that this land as alternative units has been secured by registration with Natural England (NE) and they have applied for the land to be part of the public register. Furthermore, it is likely that the alterations to Wood Lane to comply with highway standards would require land adjacent to the current carriageway, this is not included in any baseline, nor has it been calculated on the basis for potential additional pedestrian links which could affect any calculation or the likelihood for additional works to trees to facilitate the development, of which I have already identified the harm to trees above.
44. In addition, planning conditions to ensure the compliance and enforcement of BNG are only appropriate and would meet the tests where there are significant on-site enhancements. In this case, it is not proposed for on-site requirements within the red line of the site. Moreover, the suggested conditions by the appellant are not consistent with the aims of the legislation and the PPG in that BNG should be

⁴ [Schedule 7A of the Town and Country Planning Act 1990 \(as inserted by Schedule 14 of the Environment Act 2021\)](#).

established prior to any consent, with any uplift identified at the principal stage. Every grant of planning permission is deemed to have been granted subject to the biodiversity gain condition and should be accompanied by the minimum information requirements.

45. As I am dismissing for other reasons, it is not necessary for me to make a finding on the UU. Notwithstanding this, the Council have raised concerns regarding the private access road, and matters pertaining to landscaping which are reserved and so such plans cannot be agreed. In relation to BNG, the UU is ambiguous on how BNG is to be delivered, enhancements and management are somewhat contrary to the evidence in the appeal. Although the appellant indicates that they have researched BNG credits, and the requirements to reserve off-site land there is nothing to suggest engagement with NE, which is set out in the BNG hierarchy, and I have not been presented with any conservation covenant.
46. Even, if I considered the UU is a benefit to make the development acceptable and constituted a reason for granting permission. The UU would likely be flawed, and the planning obligation would not be effective and/or enforceable carrying no weight. It therefore has no material bearing on my decision nor outweighs the harm I have already identified. Furthermore, I cannot alter the terms of a planning obligation regarding conditions as the UU is a standalone document, and I am not satisfied on the evidence which has been presented relating to the provision and securing of BNG.
47. Turning to protected species, the appellant indicates that the proposal would provide additional and enhanced habitat for foraging bats and breeding birds resulting in significant benefits for biodiversity. The application was accompanied by an ecological appraisal, which found a moderate level of nature conservation at the site. It concludes that it has a moderate roost potential for bats with common pipistrelle found to use the site and the surrounding habitats. The survey concluded that there were no badgers found within the site or a within 30m of the site, therefore badgers would not likely be impacted. It proposes that a landscape and ecological management plan (LEMP) would be implemented, with the off-set land achieving the net gain.
48. However, the ecological report clearly sets out that the data was collected in 2021 and a walk over in 2023. The Phase 1 habitat survey was carried out in March 2021. Bat assessments appear to only have been undertaken in 2021 and have since not been updated. Therefore, there is no updated position on recent surveys being undertaken, including where there is a moderate potential and the more recent envisaged additional crown works to trees.
49. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) impose a duty to consider the relevant Directives and whether there is a reasonable likelihood of European Protected Species being present and whether they are affected. This includes bats and consideration of any proposal that might lead to the deterioration or destruction of the breeding sites and resting places of species. Including the places that bats roost, irrespective of whether or not they are present at the time the development is carried out.
50. The Framework at paragraph 193 sets out the principles that if significant harm to biodiversity resulting from development cannot be avoided or adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

51. From the evidence before me, it suggests a strong likelihood of bats being present including the utilisation of surrounding vegetation and trees, any further presence of bats include those commuting and foraging since 2021 and 2023 cannot be ruled out and the ecological report is not sufficient. An updated competent survey would have been required and should have been undertaken by a competent and appropriately accredited individual. Surveys are required to be carried out at an appropriate time of the year and be proportionate.
52. Therefore, I cannot be certain that any harmful effects arising from the proposal could be adequately avoided or mitigated against, and consequently that protected species, bats would not be adversely affected. Moreover, Circular 06/2005⁵ advises that *'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed'*.
53. For the reasons given above, I find in the absence of detailed information that negative impacts would not be avoided to protected species, with specific regard to bats and that insufficient information has been provided to assess and secure BNG including biodiversity enhancements including trees. The proposed development would be contrary Policies LD1, GP5, and N24 of the UDP, Policies G2, G8 and G9 of the CS, Policy BE1 of the HNP and Policy Land 2 of the Natural Resources and Waste Local Plan DPD, 2013, which amongst other matters together do not permit development which would seriously harm, either directly or indirectly protected species and habits, any requires adverse impacts to be reduced and minimise; seek to protect compatibility with uses and landscapes; and require biodiversity improvements including conserving trees and introducing new high quality environments enhancing the public realm.
54. Furthermore, it would be at odds with the tree SPG, NLSPG, the Act, Regulations, and guidance contained within the Framework, relating to habitats and biodiversity.

Highway Safety

55. The Framework at paragraph 115, requires that in assessing sites that may be allocated for development in plans, or specific applications for development it should be ensured that amongst other things b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision led approach.
56. Access is not a matter that has been reserved, therefore it should show the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the position and treatment of access and circulation routes and how these fit into the access network. Moreover, such routes should be shown edged within the red line of the proposal in accordance with the PPG and land for facilitation of the access.

⁵ ODPM Circular 06/2005: Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

57. The Leeds City Council Transport SPD, 2023 (TSPD) sets out a hierarchy of street types to accommodate various types of movement in a convenient and safe manner and details the highway design requirements for new development. The TSPD states that where any development serves more than 5 dwellings it should be designed to adoptable standards and offered for adoption. This is adopted guidance, rather than a simplistic and narrow approach or that highway safety should be limited to just being flexible.
58. Wood Lane is a private road and does not currently meet adoptable standards by reason of drainage, limited street lighting and geometry. Parts of the road in sections are some 3m, including where there are stone walls as I saw. Thus, considerably narrow in certain areas and boulders prevent a full throughfare of the road. It currently serves some 8 houses, and the appeal scheme would increase the use of the road by up to 9 further houses and lead to a road of some 324m long over the maximum length of 200m which is set out in the TSPD.
59. Therefore, despite passing places, and the acceptability that movements generated would be acceptable the proposal would still increase traffic movements along the route which has restricted width and forward visibility. Furthermore, despite being shown in the transport assessment it would likely result in the road being unsuitable for large delivery vehicles, refuse vehicles and larger emergency vehicles to conveniently or safely serve the residential development. Although, the current situation for refuse vehicles is far from ideal, this does not justify the further unsuitability of the access road.
60. Moreover, the site layout is reserved for subsequent approval and that the turning head is only envisaged as shown on an illustrative layout with plans referenced as being preliminary. Without such certainty on siting or that hinderance from larger vehicles from vegetation or stone walls could not happen, I cannot reasonably conclude that the proposal would be acceptable on this issue and not conflict further with safe access for all users of Wood Lane. Furthermore, it is not currently the case that overgrown vegetation has been cleared to reveal that the carriageway is likely to be wider than the topographical survey and photographs provided are only a snapshot of that time on tree canopies.
61. The appellant contends that due to the fallback the scheme should be acceptable on highway grounds particularly that in that decision it confirmed the site could accommodate 200 vehicle movements. Whilst that may be the case, the decision is not without caveat that further improvements would still be required prior to use, and these have the potential to impact on the blue land in this scheme. Nonetheless, the works already taken place do not meet adoptable standards and there is clearly some ambiguity over which works have taken place already on Wood Lane and by whom. As already, set out above the fallback position has limited weight.
62. Therefore, I do not consider the proposal would meet the standards as set out in the TSPD, on street Types and required standards. It would require significant works to trees and land acquisition to deliver improvements, which raises other conflicts with development plan policies. In addition, it could increase the number of dwellings, almost doubling the number of dwellings served off a private road which conflicts with the guidance. The securing of the highway maintenance or private roads would need to be secured by a s106 agreement, of which the necessary parties including the highway authority and/or Council would need to be party to.

63. The site is located within the Main Urban Area, and the Council contend that the accessibility results in being unsuitable in terms of location. However, this was not a reason for refusal. Despite the location of bus stops and frequency the site is relatively accessible from foot to reach day-to-day services and facilities with connecting footpaths and a cycleway. It could not be considered as being isolated, given the nearby residential dwellings and recreational ground. Any journeys, by private vehicle would be relatively short to access Morrisons or Tesco Express, or nearby local stores and services. Therefore, I do not consider it is justified or should interlink with the highway safety issues that the site is not within an adequate location.
64. Matters pertaining on the retaining wall would be private, and whether this requires reinforcement or a structural survey to be provided could be dealt with by condition. The bell-mouth of Regent Avenue, Crag Hill and Wood Lane Junction could also be dealt with by suitably worded conditions to modify markings and kerb alignments. However, these matters do not outweigh the other harm which has been identified.
65. I have had regard to the appeal decision⁶ at Crag Hill, however I am provided with limited evidence as to whether it is comparable. Nonetheless this related to a change of use of one building for residential purposes and not a new residential development of up to 9 dwellings, in any case the decision was dismissed with a conclusion that it would cause significant risk of vehicle conflict and material harm to highway safety and the decision pre-dates the adopted TSPD. In any case, I have dealt with the appeal on the basis of the evidence, site observations and development plan policies.
66. For the reasons given above, I conclude that the proposal would be unacceptable in terms of highway safety for all road users along Wood Lane. It would be contrary to Policy T2 of the CS and Saved Policy GP5 of the UDP relating to highway safety for all users. It would also be at odds with the guidance in the TSPD, and the aims of the Framework regarding providing safe, suitable access can be achieved for all users.

Acceptable form

67. Considering all the above, and the cumulative impact the development would have, including the harm to the character and appearance of the area, CA, trees, biodiversity and protected species. The proposal before me, would not make a valuable contribution to the visual, historic and or spatial character of the area. I conclude that the appeal scheme would be unacceptable and would be contrary to Policy H2 of the CS.

Other Matters

68. Although the proposed development would not cause any harm to living conditions, drainage and flood risk, contamination and be of sustainable construction materials and have electric charging points. These considerations are neutral weighing neither for nor against the proposal.
69. My attention has been drawn to further various appeal decisions⁷ in submissions. However, I have not been provided with any substantive or comparable evidence that the proposals are similar or relate, that I could consider to be material.

⁶ APP/N4720/A/10/2123949

⁷ APP/N4720/A/13/2192208

70. The appellant refers to the lack of co-operation and engagement from the Council, including a FOI request. However, it appears these are essentially procedural matters beyond my remit insofar as it relates to consideration of the planning merits of the appeal, and it appears that the proposals were dealt with having due regard to the requirements of the legislation, the relevant development plan policies and other material considerations.

Planning Balance and Conclusion

71. I have identified the benefits of the appeal scheme and have undertaken the necessary balancing exercise in relation to public benefits. It is understood that the appellant has gone some way to address concerns and observations throughout the process. However, having considered the appeal scheme it would be unacceptable on biodiversity, highway safety and would cause harm to protected species, trees and designated heritage assets which overall attract significant weight against the grant of planning permission.
72. I recognise that the appeal scheme would have benefits with regard to the supply of housing in the Borough, the contribution both construction opportunities and any future occupiers would make to the local economy. However, these benefits would be limited due to the quantum of development proposed and do not outweigh the policy conflicts and harm. Even if, there was a shortfall in 5-year housing land, as indicated by the appellant that the Council's figures, in any case are minimum, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
73. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

K.A Taylor

INSPECTOR