



Appeal Decision

Site visit made on 4 November 2025

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2025

Appeal Ref: APP/Z4718/W/25/3370566

Land South of Oddfellows Street, Cleckheaton, BD19 6NX

- 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 John Lund against the decision of Kirklees Council.
 - The application Ref is 2022/62/91139/E.
 - The development proposed is the erection of 33 dwellings along with all associated infrastructure, parking, open space and landscaping.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on highway safety.

Reasons

3. The appeal site includes a broadly rectangular area of grass land which is bounded by Oddfellows Street, part of which is unadopted, does not benefit from street lighting, has a partial footway and lacks a sealed surface. It is common ground between the main parties that the poor condition of Oddfellows Street is not adequate to serve the proposed development.
4. A plan showing a scheme of highway improvements along Oddfellows Street has been provided, which the appellant is proposing to secure through a legal agreement. The submitted Unilateral Undertaking¹ provides for the payment by the Appellant to the Council of road improvement works, the details of which would be agreed.
5. However, this is reliant on the Council, as the Highway Authority, using non-planning powers at Section 205(1) of the Highway Act 1980 to execute street works. The Council has not ruled out the prospect of using powers available to them under the Highway Act 1980. It is however far from certain that the Council as Highway Authority would resolve to use them, as it would require Member approval. Given the objections from other landowners, notwithstanding the applicant having the largest single frontage, and the Council's S38 Department expressing an objection to unilaterally using the power, I cannot be sure on the prospect of the delivery of the highway improvement works.

¹ 26 September 2025

6. The Planning Practice Guidance states in respect of conditions relating to land not in control of the applicant² that they should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. The Appellant considers the same test should apply to the planning obligations mechanism proposed on this appeal.
7. I acknowledge that the appeal site is allocated for housing, and the Appellant will pay all the costs of the highway works. An appropriate mechanism also exists to secure the contribution, but given the objections raised by some landowners, and that the use of Section 205(1) of the Highway Act 1980 would impose works upon unwilling landowners, I consider there is no prospect within the typical three-year time-limit imposed by the permission of securing the required highway works.
8. As such, I conclude that the proposed development would have an unacceptable harmful impact on highway safety. As such, it would be contrary to Policies LP20 and LP21 of the Kirklees Local Plan Strategy and Policies (Local Plan), Principle 12 of the Housebuilders Design Guide Supplementary Planning Document and Paragraph 116 of the National Planning Policy Framework (Framework) which seek, amongst other matters, safe and suitable access to be achieved for all people and the residual cumulative impacts of the development to not be severe. The decision notice includes reference to Policy LP22 of the Local Plan, but this relates to parking provision, and I do not find the proposed development to be harmful in this regard.

Other Matters

9. Reference has been made to the current deficiency of part of Oddfellows Street which serves a number of dwellings and that historic proposed highway improvements were not undertaken. Whilst improvements to the highway would be of benefit to existing occupants, as I have found no prospect of this work being undertaken within the typical permission time-limit, I attribute limited weight to this matter.

Planning Balance

10. The Council is unable to demonstrate a 5-year deliverable supply of housing. The relevant policies of the development plan are therefore deemed to be out of date and, in light of Paragraph 11 d) ii) of the Framework, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
11. The proposal would have a harmful impact on highway safety which would be long lasting and contrary to the objectives of the Framework. I ascribe this very significant weight.
12. The proposed development would provide 33 dwellings suitable for family occupation, including affordable dwellings on an allocated housing site. This would contribute to meeting the demand for housing in a district where the need for housing land is acute. This attracts significant weight in favour of the proposal.

² Paragraph: 009 Reference ID: 21a-009-20140306 Revision date: 06 03 2014

13. With this in mind, I consider the adverse impact of the appeal scheme would be substantial. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Conclusion

14. I conclude that the proposal would not accord with the development plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR