The Planning Inspectorate

Appeal Decision

Site visit made on 16 October 2018

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2018

Appeal Ref: APP/N4720/W/18/3197483
Land at Silverdale Avenue, Guiseley,

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Martin Acott of Stonebridge Homes against the decision of Leeds City Council.
- The application Ref 17/01262/FU, dated 27 February 2017, was refused by notice dated 19 January 2018.
- The development proposed is the erection of 46 dwelling houses, formation of access road and associated landscaping.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposed development on the provision of allotments and greenspace in the local area.

Reasons

3. The appeal site is an area of land of former private allotments within a residential area of Guiseley. It has been unused for some time and much of the site is overgrown and fenced off. The southern part of the site, towards Coach Road, has some outbuildings on it, and adjacent to that area there is an area of grassland close to Silverdale Mount. There is an area of existing private allotments outside of the appeal site, adjacent to Silverdale Avenue.

4. The proposed development would be to erect 46 houses with the access to be taken from the existing stub end on Silverdale Mount.

5. Policy N1A of the *Leeds Unitary Development Plan (2006 Review)* (the UDP) seeks to protect land currently used as allotments and prevents their use for other purposes other than outdoor recreation unless the need in the locality for greenspace is already met and a suitable alternative site for allotment gardens can be identified. The appeal site is allocated as greenspace in the UDP with a preference for allotment use.

6. Policy G6 of the *Leeds Core Strategy 2014* (the Core Strategy) sets out the Council's approach to the protection and redevelopment of existing green space. In accordance with that policy, existing greenspace will be protected from development unless one of three criteria is met. Policy H2 of the Core

Strategy sets out the approach to considering new housing development on non-allocated sites and amongst other things supports the development of a piece of designated greenspace found to be surplus to requirements by the Council's Open Space, Sport and Recreation Assessment. Policy G4 of the Core Strategy seeks to secure the provision of new on-site greenspace on development sites of 10 or more dwellings outside of the city centre and sets out options for off-site provision in areas of adequate supply.

7. The *Leeds Site Allocations Plan* (the SAP) is at draft stage and is currently in examination. The Council has proposed in the submission draft that the site, and the adjacent allotment site, should be allocated for housing but with half of the site laid out for allotments and/or an alternative greenspace dependent upon local needs. The appellant has advised that the proposed allocation has been the subject of discussion within the hearing sessions at the SAP examination but no modifications have yet been proposed as the examination is still proceeding. Having regard to paragraph 48 of the National Planning Policy Framework (the Framework), I have attached limited weight to the emerging SAP.

8. The parties do not agree on whether there is or is not a deficiency of green space or allotment provision in the local area. The Council has submitted evidence which indicates that there is a deficiency of around 0.12 hectares of allotments per 1000 population in the Guiseley and Rawdon ward based upon the Council's standard. This deficiency would equate to around 3 hectares of allotment provision in the ward. The Council assessment is based upon a population of around 25,000. The appellant contends that the calculation is misleading since the population figures include children under 16 who would not be able to lease an allotment. Furthermore the appellant contends that since the allotments are in private ownership anyway, they should be excluded.

9. The appellant contends that there are sites in the area which could be used to address a deficit of natural greenspace in the area. It also states that it is willing to make a commuted sum to improve off-site space rather than making provision on-site and has submitted a signed Section 106 agreement making provision for an off- site contribution of £171,898 to be used to improve greenspace.

10. The allotments are private, not subject to a formal tenancy or licence agreement, and not currently in use as allotments. Nevertheless, I consider that the appeal site falls within the scope of greenspace which Policy G6 of the Core Strategy seeks to protect from development, unless one of three criteria are met. The appellant has stated that this policy is the relevant policy in the determination of the application.

11. The first criterion of Policy G6 of the Core Strategy relates to whether there is an adequate supply of accessible green space/open space within the analysis area. On the basis of the evidence before me, I am not persuaded that there is an adequate supply. It is for the SAP examination to assess the wider greenspace position and to test the standards and evidence across a range of sites, but I have no reason to doubt the robustness and credibility of the Council's assessment evidence. I consider that the approach to relate the supply to the general population is not unreasonable given that greenspace, including allotments, is a resource for the community.

12. In relation the second strand of the first criterion of Policy G6, I consider that the appeal site would offer potential for use as an alternative deficient open space type, as demonstrated by the Council putting forward part of it for greenspace in the SAP submission.

13. The proposed development would not meet the second criterion of Policy G6 since an alternative site is not being proposed.

14. The proposed development would contribute towards off site greenspace improvements in the area as evidenced by the financial sum towards them set out in signed Section 106 agreement. This would be used to improve, or towards improving, access at Nunroyd Park and Kirk Lane Park. However, I have no detailed information of the nature of such improvements proposed and whether they, together with the use of the entire existing appeal site for housing would deliver the wider planning benefits and improvements of existing green space quality in the same locality. Furthermore, I am not satisfied that the Section 106 agreement would meet the three statutory tests set out in the Community Infrastructure Levy Regulations and in Planning Practice Guidance on Planning Obligations in this regard. Therefore, I consider that the third criterion of Policy G6 of the Core Strategy would not be met.

15. I also consider that the proposal would not accord with Policy G4 of the Core Strategy which seeks on site provision of green space of 80 sqm per household on development sites or 10 or more dwellings. Since I have already concluded that there is not an adequate supply of allotment or greenspace provision locally based upon the evidence before me, I consider that the off-site contribution option set out in the policy would not be met. I have placed very limited weight on the emerging revised policy G4 given that it has to go through examination as part of the Core Strategy selective review.

16. Paragraph 97 of the Framework indicates that existing open space, sports, and recreational buildings and land, including playing fields, should not be built on unless one of three criteria are met. I consider that Policy G6 of the Core Strategy is broadly consistent with the paragraph. The appellant considers that with the commuted sum identified in the Section 106 agreement, the proposed development would be consistent with criterion (b) of paragraph 97 of the Framework which provides for the loss resulting from the proposed development to be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Whilst I accept that other proposals in the local planning authority area have made such commuted sums for off-site improvements, for the reasons set out above, I am not persuaded that the commuted sum in this case would mean criterion (b) of paragraph 97 of the Framework would be met.

Planning Balance and Conclusion

17. The proposal would bring benefits in terms of providing housing which would help, albeit it in a limited way given the numbers of houses proposed, to boost housing supply in the area. I attach considerable weight to this benefit.

18. For the reasons set out above, there is a lack of clarity about the nature and scale of the greenspace benefits to the community, which would be proposed to be delivered through the Section 106 agreement.

19. The proposal would lead to the loss of an area of greenspace which is designated as such in the development plan. The allotments have not been used for a number of years and therefore fall outside of the scope of the wording of Policy N1A of the UDP. However, I have placed some weight on the designation of the site as greenspace on the policies map and for the contribution that the appeal site could make to greenspace value in the local area. Although disputed, there is evidence before me to indicate that there is not a surplus of allotments or greenspace in the area, and I am persuaded that I should place considerable reliance upon that evidence.

20. The Council does not have a five year supply of housing land and this is not disputed, although the scale of the deficit is. The Council consider that it has a supply of 4.38 years. In a recent appeal decision[1], drawn to my attention, the Inspector concluded that the shortfall in the local authority area, would be likely to be between 3 and 4.4 years of the current annual requirement and he indicated that it would be probably tend to be at the lower end of that range.

21. The Framework indicates that policies in a development plan which are the most important for determining the application are out of date where an authority cannot demonstrate that there is a five year supply of deliverable housing sites. Paragraph 11(d) indicates in this situation planning permission should be granted unless one of two provisions apply. The second provision, as set out in paragraph 11 d) ii, is that any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole

22. I therefore conclude that the adverse effects of the granting of planning permission, would not be outweighed by the benefits when assessed against the policies in the Framework taken as a whole. For the reasons set out above, I conclude that the proposed development would have a harmful effect on the provision of allotments and greenspace in the local area, and would be contrary to Policies G4 and G6 of the Core Strategy and to the designation as greenspace within Policy N1A of the UDP. It would also be contrary to Policy H2 of the Core Strategy which sets out the approach to new housing development on non-allocated sites. I also consider that the proposed development would be contrary to Paragraph 97 of the Framework.

23. For the reasons given above I conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR

[1] APP/N4720/W/17/3187334