



## Appeal Decision

Site visit made on 7 July 2020

**by Edwin Maund BA (Hons) MSc Dip UP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> August 2020**

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**Appeal Ref: APP/R4408/W/20/3251286**

**A and E White Bakers, Charles Street, Worsborough Bridge, Barnsley S70 5AF**

- 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 David White of A and E Bakers Ltd against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref 2019/0203, dated 4 February 2019, was refused by notice dated 19 November 2019.
  - The development proposed is Demolition of existing building and erection of 19no. dwellings and associated access.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr David White of A and E Bakers Ltd against Barnsley Metropolitan Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. Although the original planning application form refers to 20 dwellings, I have used the description of development from the appeal form in the header above as it more accurately summarises the proposal.

### Main Issues

4. The main issues are;
  - Whether the proposed development would provide amenity space sufficient to meet the day-to-day needs of its future occupants;
  - Whether the development would make an appropriate contribution to affordable housing and offsite infrastructure with particular regard to viability;
  - Whether the development would achieve an accessible and inclusive layout; and
  - The effect on highway safety due to the level and location of car parking.

## **Reasons**

### *Amenity Space*

5. The proposed gardens for plots 4, 5, 6, 14 and 15 do not meet the minimum requirement of 60 SqM set out in the Barnsley Designing New Housing Development Supplementary Planning Document (the Design SPD). While plot 19 falls below the minimum internal space requirements.
6. The gardens to plots 4, 5 and 6 do not meet the minimum separation distance to the gable of plot 9 a three-story property to the west. This would result in a poor outlook for plot 5 in particular, and the potential for significant shadowing of the gardens and rear rooms in the afternoons and evenings.
7. Plot 18 and to a lesser extent plot 17 would be overlooked by the existing property at 1B Charles Street which has a limited rear garden and first floor Juliet balcony, limiting the privacy to both of these proposed new family homes.
8. The Design SPD sets out a clear set of standards against which to judge application proposals. This assists in providing consistency of decision making, but also gives developers the opportunity to prepare schemes to meet these minimum requirements to have the confidence the proposal should then be supported. This is in line with best practice and follows the governments intentions of having a positive system in support of appropriate sustainable development.
9. As such in a development plan led system where there are up to date policies, supported by up to date Design SPDs, if schemes are promoted which do not meet the standards expected there needs to be very good reason, otherwise it defeats the purpose of such an approach and can all too easily reduce confidence in the planning system.
10. The Design SPD in being quite prescriptive in what standards are expected does allow a degree of flexibility in setting out what would 'usually' be expected to be achieved. There are however not clear reasons why in this instance the scheme could not be designed to meet these standards even taking in to account the constraints of the site.
11. I conclude that plots 4, 5, 6, 14 and 15 would not provide sufficient amenity space, plots 17 and 18 would not have adequate privacy and plot 19 being below the minimum internal dimensions would fail to meet the day-to-day needs of their future occupants. In addition, plots 4,5 and 6 would have a poor outlook due to the orientation and juxtaposition of plot 9. In this regard the proposed development would conflict with Policy GD1 of the Barnsley Local Plan (BLP) (2019) and the Design SPD insofar as they require new development to contribute towards creating attractive and successful places and provide adequate amenity space.

### *Affordable housing and other infrastructure*

12. In developing the BLP, the Council have been able to identify sufficient sites to meet their identified housing need without relying on the provision of windfall sites such as this. I do not consider it unreasonable when such development proposals come forward to expect the same requirements in terms of offsite provision towards infrastructure and affordable housing.

13. The Council do not dispute the viability argument presented by the appellant, and I have nothing before me that would lead me to a different conclusion, however, where an up to date local plan sets out clearly what is required to be delivered in conjunction with new housing schemes, there needs to be good reason to depart from those requirements.
14. The BLP makes clear that in developing new housing, development will need to bring forward as part of those schemes contributions to education, and provision of affordable housing to meet an identified need as expected by the advice in the National Planning Policy Framework (the Framework).
15. The arguments presented in this case I do not consider can be given significant weight. There is not an overriding need for housing to be delivered on this site, as the demand is met elsewhere in the plan area. The loss of an employment site supporting local employment also weighs against the proposal. While I understand the appellant's position in respect of the viability of the scheme, this does not override the need for schemes to be developed in the public interest, in line with up to date development plan policy.
16. The Framework also sets out a series of exceptions which can apply in supporting residential development without providing affordable housing, this scheme does not meet any of these exceptions. While the appellant may have good reason to seek to redevelop this site, and there are challenges to achieve this which are in part informed by the viability arguments, this does not in itself provide a good case for setting aside up to date development plan policy.
17. As such I find that the development would be in conflict with policies I1 and H7 of the BLP as the scheme does not bring forward infrastructure or affordable housing identified to be necessary, and would not comply with the guidance in the Financial Contributions to Schools SPD which seeks to ensure the appropriate provision of financial contributions to support education.

#### *Layout*

18. The appeal site is an irregular shaped parcel of land with changing land levels, currently used in association with a bakery. As such there is an industrial building centrally located, with areas of hardstanding and ancillary storage, car parking and servicing space. The western portion of the site sits at a higher level beyond a series of storage containers is overgrown with mixed vegetation.
19. The 19 dwellings proposed would provide a mix of two and three storey properties and one bungalow on the northern side of the site adjacent a retaining wall which runs along the northern boundary. Accessed off a new main street and secondary cul de sac, with either frontage parking or modest front garden areas. Space between parking rows would provide for modest amounts of planting, nevertheless, it would result in quite a dense urban form.
20. This site is part of the town within an area of contrasting styles and character and being part of this broader urban fabric a new development of this style with roads and parking being more dominant would not be particularly out of place. The layout provides for a mixed housing scheme of mainly three storey town houses set behind modest front gardens or parking spaces, supplementary parking is also provided opposite plots 11-16.
21. The layout limits the run of parking spaces to 4 as per the guidance in the SPD, and despite the constraints on the site there is space for planting to assist in

assimilating the development. As such the quality of the resulting environment would be satisfactory.

22. While not all the parking spaces are within curtilage, this is not a requirement of the Parking SPD. What it seeks is a layout that would be convenient for the future users and create an environment accessible for all. By having a number of the spaces separate from the dwellings interest is added to the street by interspersing these spaces with gardens and landscape opportunities. Having a parking space on the opposite side of the street would not result in such an inconvenient arrangement that the scheme should be rejected on this basis.
23. The layout proposed also allows the retaining wall along the northern boundary to be a significant feature which if not treated sensitively could harm the environment within the site. There is limited space beyond the parking bays to allow for a scheme to soften the appearance of this feature, but this may be capable of being resolved through appropriate planting, and were I minded to allow the appeal be the subject of a condition.
24. As such I do not consider that the proposed layout results in an unsatisfactory layout, or poor-quality environment and therefore consider the scheme would comply with the broad aims of Policy D1 of the BLP, in seeking to support proposals that create a high quality environment.

#### *Highway safety*

25. The Council standards for parking are set out in the Parking SPD. This requires the provision of 1 space for 1 and 2 bedroomed dwellings and 2 spaces for dwellings with 3 or more bedrooms. There is an additional requirement of 1 visitor space per 4 dwellings, subject to layout, with flexibility considered on a site by site basis.
26. This equates to a need to provide 32 parking spaces for the mix of house sizes proposed, with an additional element subject to consideration, for a further 4 visitor spaces. 32 spaces would be provided, the only short fall below the SPD requirement being in the application of the number for visitor's spaces, which can be applied flexibly. The latest 'Site Plan Rev E', included cycle storage within the curtilage of each unit and this element accords with the requirement of the SPD.
27. The highway consultation response does not oppose the scheme or raise concerns in respect of safety due to the layout of the parking spaces and I give this consultee response significant weight in my deliberations. The road is sufficiently wide to allow for vehicles to pass in the event some on street parking does occur, and this would reflect what happens in many modern streets where parking is at a premium.
28. The number of spaces for cars and cycles meets the minimum requirements and evidence has not been presented that explains how in not providing additional visitor spaces there would be harm to highway safety. Equally, there is not a requirement for the car parking spaces to all be within curtilage and while some may be divorced from the dwellings, they would be intended to serve this would be more a matter of convenience, it is not evidence of a safety concern.
29. No evidence has been presented which provides information with regard to how the scheme layout would actually be unsafe and as such I do not consider there

to be a conflict with policies T3 and T4 of the BLP as the layout provides for the parking and cycle provision expected by the Parking SPD.

### **Other Matters**

30. The appellant has suggested that they would be willing to amend the proposal to remove the bungalow from the scheme if this were to result in making the scheme satisfactory. As I have found broader concerns with the proposed development this would not resolve the issues raised, nor would it be clear what would happen with the parcel of land that the bungalow and garden are proposed to occupy. I have not given this offer any weight in my considerations as it would not resolve the broader harms, I have identified which would arise from the proposal.
31. The appellant is correct to point out that the Council did not rely on policy E4 to justify their refusal of the proposal. I do not consider that the Council have sought to provide robust evidence in these terms. It is clear however; in the event the appeal was to be allowed and the development undertaken this would result in the loss of an employment site. There is therefore an implicit risk to the jobs both on site and in the broader supply chain as a consequence of the development proposals and this equates to a harm that could come from the development to which I apply modest weight in considering the proposal.
32. Counter to that is the potential benefit of removing a commercial operation from a predominantly residential area, with the commensurate benefits of reduced noise and disturbance from up to 24hour operations, deliveries and staff traffic and I give this moderate weight in coming to my conclusions.

### **Conclusions**

33. The development proposed would provide housing in a sustainable location and remove an industrial use from a predominantly residential area with the commensurate benefits this would provide. It would not however deliver affordable housing, contributions to education, or deliver a scheme that provides satisfactory amenity space sufficient to meet the day-to-day needs of its future occupants, as such it does not meet the requirements of the BLP.
34. I do not consider the benefits that would arise are sufficient to outweigh the development plan policies and therefore the appeal is dismissed.

*Edwin Maund*

INSPECTOR