

Proposed Development of Eight Apartments at Locke
Avenue, Barnsley S70 1QH

Grounds of Appeal

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1.0 Introduction and Scope of Grounds

1.1 The application which is subject of this appeal (2019/0800) was submitted in June of this year. It was validated on 18th July. It sought outline planning permission to erect a single building containing eight apartments on the site. The application sought approval of the layout, scale, appearance and appearance of the proposal i.e. only landscaping was omitted from the details submitted.

1.2 It was refused by the Local Planning Authority (LPA) on 10th September 2019 for five reasons. In brief these are: -

- A perceived over development of the site;
- A perceived excessive mass and harm to living conditions of neighbouring residents;
- Perceived harm to highway safety;
- Perceived harmful impact on 263 Park Road and
- A *potential* intensification of a substandard access.

2.0 The Site and Surroundings

2.1 The site lies within the main urban area of Barnsley and in a predominantly residential area. It is also within less than a 600m relatively level walk from the town centre, (as identified in the recently adopted new Local Plan) with its attendant retail, leisure and employment opportunities and public transport hubs. The town centre is the *dominant town centre in the Borough*. Urban Barnsley is described in the Local Plan (para. 5.12) as *the main retail (including a sub-regionally important Market) employment, educational and cultural centre of the borough. It is the most accessible place in the borough in terms of public transport and benefits the Barnsley Interchange as a hub for bus, rail and taxi services.*

2.2 More immediate to the site the Nos. 43 and 44 bus routes provide a regular loop service along Park Road |(A6133) just to the north of the site, giving easy access to the Barnsley Interchange.

2.3 Just to the south of the site is Locke Park, a very significant area of public open space. Residents would have very easy and almost immediate access to this land for informal recreation purposes. The Officer's report makes no mention of this or the proximity to the town centre.

2.4 The appeal site itself is severely under utilised and consists mainly of unused and unkempt lawn and poor-quality trees and shrubs.



Fig1. Entrance to Locke Park

- 2.4 The immediate environs are characterised by a wide range of residential properties of various ages, types, sizes and styles. It is largely Victorian, but includes more modern developments, including an apartment scheme (planning permission 2013/0147) on the east side of Locke Avenue.



Fig2. Apartments on Locke Avenue

- 2.5 The property immediately to the south of the appeal site (263 Park Road) is used as a six roomed House in Multiple Occupation (HMO). The Licence for this was applied for around November 2018. The Officer's report refers to 263 Park Road being an HMO and still classed as a domestic residential property (C3) and concludes, therefore, that an appropriately sized garden should be retained. This is factually *incorrect*; the property is used within Use Class C4 and the above conclusion cannot be simply accepted as a matter of fact.
- 2.6 The wider residential environs are characterised by built form fronting the streets round about. This is evidenced by the Google Earth view below and will be evident to the Inspector when he or she visits the area.

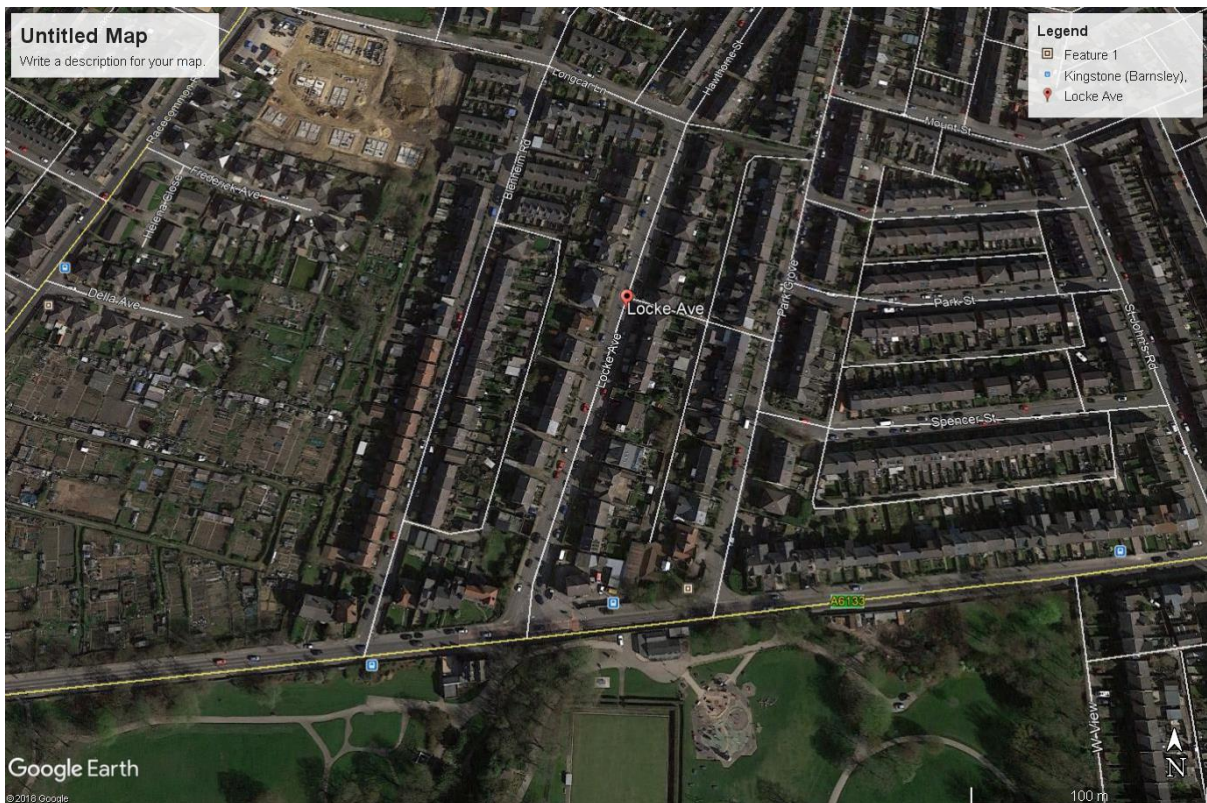


Fig3 Google Earth Image of the Area

3.0 Relevant Planning Policy

National Planning Policy

3.1 The National Planning Policy Framework ('NPPF') was republished in February of 2019. Without wishing to offend the Inspector, it is felt necessary to highlight the following key points: -

- The purpose of the planning system is to contribute to the achievement of sustainable development. This has three objectives, these being economic, social and environmental;
- These are to be delivered through the plan system and are *not* criteria against every decision can or should be judged;
- There is a presumption in favour of sustainable development;
- The Government is clear that its commitment is to be a significant boost in the supply of new housing;
- Small sites can make an important contribution to meeting housing requirements and are often built out relatively quickly;
- Significant support is offered to the re-use and redevelopment of previously developed land and the use of under-utilised land and buildings;

- Planning should promote an effective use of land in meeting the need for homes and other uses;
- LPAs should refuse applications which fail to make efficient use of land. When considering applications for housing authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site;
- Access to high quality open spaces is important for the health and well-being of local communities;
- Applications should give priority to pedestrian and cycle movements and
- Good design is an integral part of sustainable development.

Local Planning Policy

3.2 The Barnsley Local Plan was adopted in January 2019. Key elements are: -

- Promoting sustainable development and reducing the borough's impact on climate change are overarching principles of the Local Plan (para. 3.33);
- Urban Barnsley is the focus for new development and sits at the top of the settlement hierarchy. Para. 514 notes that the LPA wants to *encourage growth in what are the most accessible and sustainable locations in the borough. Urban Barnsley will be the focus for development and will support the important role of Barnsley Town Centre*. This is supported by Policy LG2;
- Policy SD1 contains a presumption in favour of sustainable development;
- Policy GD1 is supportive of new development;
- Policy H2 notes that Urban Barnsley is set to provide 43% of the new housing requirement. A total of 9070 new homes;
- Policy H4 is supportive of new residential development on small non-allocated sites;
- Policy H6 supports a broad mix of housing size, types and tenure and efficient use of land;
- In terms of transport issues, the Local Plan notes that the challenges include reducing green house gas emissions and supporting sustainable development and locations for growth set out in the plan;
- Policy T3 requires new development to be located to reduce the need to travel and
- Policy D1 requires high quality design

4.0 Consideration of the Appeal Proposal

Principle of the Development

4.1 This must logically be the starting in terms of considering the balance of issues involved in considering the merits or otherwise of this proposal.

4.2 It seems clear that the development is acceptable in principle, for the following reasons: -

- It is accepted that the appeal site no longer falls within the definition of previously developed land, but policy does not preclude the use of green field sites in any case. The overriding issue is location and the sustainability of the site;
- This site lies within a very varied residential area within the main urban centre of the borough. Furthermore, it is within easy walking or cycling distance of the identified town centre and has very good access to a wide range of opportunities, retail. Leisure, cultural and other services and facilities and public transport services;
- The suitability of the site to accommodate new residential development is demonstrated by the approval of an outline application for a single dwelling (2016/0948). This was approved in November 2017, is extant and reserved matters can be applied for in the next year. Nonetheless, it is our view that a single dwelling would make inefficient use of this sustainable site. Furthermore, we suggest that another standard single dwelling on this site would further add to the deleterious effect that No. 45, Locke Avenue has on the overall character and appearance of the street scene. It is an anomaly;
- Given this extant permission, it is interesting that the Officer's report rather begrudgingly notes that the principle of a residential development of the site *could* be regarded as acceptable. It explicitly is and the use of such words further demonstrate a negative standpoint from the LPA. The starting point throughout the report is to find a reason to say 'no'. This is further demonstrated by words such as the amenity levels for the future occupants would be *severely* compromised;
- Apartments are a legitimate form of new housing provision and there is no planning policy prevented the creation of new dwellings through apartments as opposed to houses;
- The Officer's report refers to several objections being received about the proliferation of HMOs in the area. This is not a proposal for an HMO, but for an apartment scheme. Third party references to this being an HMO proposal are factually incorrect;
- The LPA can demonstrate a five years' supply of new housing land. Nonetheless, these requirements are minima and not maxima and Government policy seeks a significant boost in the supply of new housing;
- There is significant policy support for the proposal in both recent national and local policy (see section 3.0 above).

- 4.3 In the light of the above and especially the sustainable requirements of planning policy and the locational demands of the Local Plan, we suggest that the principle is not merely acceptable, but that it is appropriate.
- 4.4 It is our view that the above factors have been given no weight at all in the Officer's consideration of the issues involved. In fact, the sustainable location of the site within the Urban Fabric of the borough is barely mentioned; this is not a credible position to take. The words 'sustainable location' do not even appear in the Officer's report. This is remiss at best. Policy T3 is raised in the extensive list of policies quoted verbatim, but it is not even considered in the consideration of the application.

Character and Appearance of the Area

- 4.5 The Inspector will clearly come to his or her own view about what constitutes the local character. It is our opinion that this is a very mixed area. It is primarily residential in terms of land use, but there is a wide mix of property types, sizes and plot ratios. Older Victorian do predominate, but there are many examples of more modern development, including the apartment scheme to the east side of Locke Avenue. There is no consistency nor vernacular to speak of. The environs consist of traditional two story Victorian terraced housing, larger and taller detached houses. more modern semi-detached housing and the apartment scheme referred to above and shown in Fig2.
- 4.6 The reasons for refusal refer to 'excessive four storey massing'. This is considered pejorative and without foundation. A review of the submitted scheme will demonstrate that the scheme incorporates strong gable features which are typical of many of the older non-terraced properties in the area. The authority has approved much development which does not reflect this character. More importantly, by excavating the ground on the site better use can be made of this sustainable site, whilst maintain roof levels which sit comfortably with the neighbouring properties. The street scene drawing on the 'Plans and Elevations' illustrates this well. It will not appear as an incongruous mass due use of levels and the set back of the building within the site.
- 5.5 The appeal site, in our view, offers nothing positive in terms of the streetscene; in fact, it is something of an anomaly. The rest of Locke Avenue has development fronting the road on both sides. This is the character of the wider area beyond Locke Avenue. The 'value' of the open space is reflected in the 2016 planning permission for a house on this site.
- 5.6 The reasons for refusal note that *in the opinion of the Local Authority (the development) ...would be significantly harmful to the character and visual amenity of the streetscene*. There is nothing to justify this statement, it is made without

foundation and is a very subjective judgement. There would appear to have been no detailed assessment of what this character is or any justification as to what this character is. It is evident from the permission granted in 2016 that the LPA has no issue with the site being developed.

- 5.7 The LPA's references to policies GD1, D1 and the 'Designing New Housing Development' Supplementary Planning Document are noted. Again, there is no justification to support the reason that 'therefore' the scheme is contrary to these. It is mere opinion. We believe that the scheme is well designed, that it takes account of its context and neighbours. We further believe that this is something of a unique site in a sustainable location and that the SPD cannot be 'top dog' here in the light of Government policy.

Residential Amenity

- 5.7 It is interesting that the Officer's report on this matter immediately states that the scheme would have a detrimental impact, before considering the issues involved. This is symptomatic of the approach taken. In terms of the amenity of existing neighbours, it is simply not understood how the LPA can credibly claim that there will be a loss of privacy. There will only be bathroom windows to the side elevations facing 263 Park Road and 45 Locke Avenue. These will not create overlooking. The distances to the properties to the east and west are significant. This part of the reasons for refusal has, to our mind, been thrown in without thought.
- 5.8 It is accepted that the scheme will bring about change and will alter people's outlooks. This is not a demonstration of harm, despite third party subjective opinions about their views. This is especially so when the NPPF requires flexibility in the application of standards and guidance in order to bring about the efficient use of land in sustainable locations.
- 5.9 It is suggested that any detailed viewing of the site and the proposed scheme will demonstrate that there will be no overlooking, no dominance or over shadowing.
- 5.10 Again, reference to the SPD minimum separation distances and garden sizes have been applied without much thought. 263 Park Road is an HMO. The garden area is unused and can be utilised to bring about necessary development of small new housing units. The Officer's report notes that by not showing the location of the boundary, the applicant is attempting to meet the requirements of the existing dwelling and the applicant is attempting to meet both the requirements for the existing dwelling (it is *not* a C3 dwelling, but a C4 HMO), the retention of a garden 10m in length, and the amenity space for the proposed apartment block. This is very disparaging and at no point in the application process did the LPA revert to the applicant to ask about this matter. This hardly smacks of the LPA working with the applicant to find solutions; it is yet another example of this authority simply applying

standards and seemingly finding reasons to be negative. If this is an issue for the authority, we think it reasonable to suggest that it should have raised the issue previously. We refer to paragraph 38 of the NPPF. The LPA simply does not approach decisions in a creative and positive way; it seeks to prevent development. It would be easy for the Inspector to impose a condition requiring the submission of boundary details if this necessary.

- 5.11 In any case, the proximity of the proposed apartments to Locke Park means that full and effective use of the site can be made, whilst affording residents easy access to a very substantial area of public open space. The scheme will provide a small element of outdoor amenity space to the rear of the building. More pertinently, Locke Park is a 'stone's throw' away from the site. There will be ample opportunities for outdoor recreation for would be residents and this is not something that occupiers of an apartment would normally expect or have access to.
- 5.12 The LPA refers to standards set out in the South Yorkshire Residential Design Guidance. This document was published in 2010. It is fair, we think, to say that this has been superseded by changes in national policy since and the need to significantly boost the supply of new housing. It is also a fact that the scheme is not 'perfect'. The realities, however, are that this is not a perfect site. It is a constrained one (but one in a very sustainable location) and that any future occupier will be very aware of some of the constraints, but very glad of the easy access to the town centre and its amenities. Developments such as this will allow younger people to find a home and get a foot on the 'property ladder'. Equally, it might well be attractive proposition for those that are older and seeking to down size. For the authority to effectively state that they can't is simply wrong in our view. The fact is that the 'shortfall' in terms of floor space against the figures within this *guidance* document are small in any case.
- 5.13 The notion that a necessary scheme for new sustainable housing should be prevented because it doesn't meet minimum SPD 'standards' (not rules) strikes us as absurd in the light of all the benefits to be derived from this scheme. It seems apparent that the SPD is largely targeted at new housing sites and not at infill sites such as this, so close to the town centre. Any amount of existing housing around the town centre does not meet the SPD standards. People seem to live happily in this environment.
- 5.14 The Officer's report refers to 'noise and disturbance issues harming the living conditions of residents of adjacent properties as a result of the number of flats proposed'. It is respectfully pointed that this is an urban area, close to the town centre. The use of language in the Officer's report such as a *significant* increase in activity at the site due to the comings and goings of a *significant* number of peopleand any *potential* vehicles also demonstrates this point. These statements are made without rational thought. Some movement of people is surely expected in this sort of location. It is not harmful and is entirely normal. The reference is to the intensification of the existing access by any *potential* vehicles is absurd (as there will

be nowhere for these vehicles to park) as is the claim that this (non-existent) potential use would have a *significantly* detrimental impact on the occupants of 146 Blenheim Road. This is palpably untrue. It also represents the 'logic' behind the decision made i.e. to find any means of finding a reason to prevent development and failing to engage with the applicant to find solutions and make development happen. There is no demonstrable harm.

Highways / Transport Issues

- 5.15 The fifth reason for refusal is illuminating. It refers to the '*potential*' to lead to the intensification of an inadequate access and then assumes that this '*would*' create conditions prejudicial to highway safety. One cannot logically follow the other. It also infers that the movement of cars (in a suburban area, close to the town centre) would somehow be prejudicial to amenity. This is nonsense, as are references by third parties to the access road; this will only provide access to a bicycle parking area.
- 5.16 The above represents a 'leap of faith' at best and one made without consideration. The reality is that this is a site in a sustainable location, with easy access on foot and bicycle to the town centre and Locke Park. Some enlightened people may choose to live in such a location without a private car. Furthermore, it is explicit LPA policy to reduce the reliance on private cars by focussing development in sustainable locations and to reduce greenhouse emissions. Quite why the scheme needs to provide its own off-street car parking in this location is not understood. It is easily accessible by foot, by bicycle and by buses. It is exactly the sort of development that the LPA should be encouraging.
- 5.17 Local road conditions mean that vehicle speeds are low in the vicinity of the site. The existing garage is proposed to be used as a cycle shed, so how this can lead to the '*potential*' intensification of a substandard access is beyond us as is the claim that this will be harmful to highway safety. This is just not demonstrable. It is mere supposition and conjecture. The scheme does not propose any car parking to the rear, so how can this lead to even potential intensification of the '*inadequate*' access is simply not understood.
- 5.18 It is hardly credible that the Highway Authority notes that space is necessary of bicycle parking and waste storage. These are clearly shown on the submitted plans. At best, the review has been cursory and without imagination about what this development could deliver i.e. a development of smaller housing units very near services and facilities, without reliance on the private car.
- 5.19 It is also to point out that there are car parking spaces available to the front of the site. Several objectors point out the parking problems in the area. This is an area

wide issue and we wish to reiterate that this is not a car borne scheme, but one for a car free small apartment development which accords with both local and national policy.

6.0 Conclusions

- 6.1 This site is within an existing residential area and the identified main urban area.
- 6.2 It is within very easy walking and cycling distance of the town centre and its numerous services and facilities.
- 6.3 This area contains a very wide mix of house styles, sizes and plot sizes.
- 6.4 The LPA has not even considered any number of relevant policies. It has simply ignored the sustainable credentials of the site. They don't get a mention in the Officer's report; this is unacceptable. It is full of tautology, assumptions and undemonstrated claims about people causing noise and disturbance – in an urban area it is, frankly, poor. It focuses on any number of prescriptive standards; there is no sense that the scheme has been considered 'in the round', rather we are treated to a series of standards about separation distances and minimum garden and room sizes. This is not a reasoned and proper planning analysis. At this juncture it is worth noting the point within the NPPF that *local planning authorities should approach decisions on a positive and creative way...they should work proactively with applicants.....decision-makers at every level should seek to approve applications for sustainable development where possible*. In this instance there has been no engagement with the LPA and there is absolutely no recognition that this is a sustainable location and sustainable development. If the LPA is serious about its agenda of reducing greenhouse emissions and facilitating development not reliant on the private car, it cannot continue to insist on the provision of off-street car parking in locations like the appeal site nor rely on overly prescriptive standards.
- 6.5 It is accepted that most planning decisions are made based on a balance of issues. In this case, we suggest that no flexibility has been applied. It is the role of the planning system to help to deliver sustainable development. One of the challenges of the Local Plan is to deliver this; again, there is not a single mention of this in the Officer's report. There is absolutely no balance within it and no wider thinking whatsoever. It is the blind application of policy without thought, reason and reflection.
- 6.5 The scheme creates no demonstrable harm to outweigh the benefits to be had through this proposal. The issues raised by the LPA are pejorative and do not stand up to scrutiny.

- 6.6 The third party comments miss the point and are predicated on a resistance to change, other issues (such as vehicle speeds and changes of use hereabouts) or non-planning matters. This is a scheme for sustainable development. There is a presumption in its favour in both national and adopted local policy and planning permission should be granted.



Fig4 The Application Site from the South