

TOWN AND COUNTRY PLANNING ACT 1990 –
SECTION 78 APPEAL

RULE 6 STATEMENT BY THE LOCAL PLANNING
AUTHORITY

APPEAL AGAINST NON DETERMINATION BY
THORNHILL ESTATES FOR OUTLINE PLANNING
PERMISSION FOR RESIDENTIAL DEVELOPMENT

AT LAND OFF BAGLEY LANE/CALVERLEY LANE,
KNOWN AS KIRKLEES KNOWL, RODLEY

LOCAL PLANNING AUTHORITY REFERENCE:
12/04046/OT

APPEAL REFERENCE: APP/N4720/A/13/2200640

1.0 Introduction

1.1 The Local Planning Authority (LPA) will describe the appeal site, surrounding area and the local highway network. The appeal proposals will be described.

1.2 The appeal is against the non determination of Outline planning permission 25th June 2013. The suggested reasons for refusal that the Council would have determined the application upon are set out in the Plans Panel report and are listed below. These suggested reasons form the primary basis of the Council's case at the Inquiry.

1. *The Local Planning Authority considers that the release of the Kirklees Knowl PAS site for housing development would be premature being contrary to Policy N34 of the adopted Leeds Unitary Development Plan Review (2006) and contrary to Paragraph 85 bullet point 4 of the National Planning Policy Framework because its suitability needs to be comprehensively reviewed as part of the preparation of the Site Allocations Plan. The size of the site, the possible need for a school and the availability of other housing development opportunities in the locality means that the site does not fulfil the exceptional criteria set out in the interim housing delivery policy approved by Leeds City Council's Executive Board 13/3/13 to justify early release ahead of the comprehensive assessment of safeguarded land being undertaken in the Site Allocations Plan.*
2. *There are outstanding highway objections in relation to the lack of a direct safe pedestrian and cycle route along the Ring Road to access schools and New Pudsey Train station. As such the development is detrimental to highway safety which is contrary to policies N12, T1, T2, T5, T7 and GP5 of the adopted Leeds Unitary Development Plan (Review) 2006 and the guidance contained within the adopted Street Design Guide SPD.*

1.3 The grounds of appeal will be assessed and reasons for refusal justified.

2.0 PLANNING HISTORY

2.1 Reference will be made to the pre application and application discussions in relation to the appeal proposal. The Local Planning Authority has attempted to work with the Appellant in a positive and proactive manner and have sought solutions to problems arising in relation to the appeal scheme. However, these efforts have not resulted in a scheme that is acceptable in the light of the development plan and all other material considerations including the NPPF.

3.0 PLANNING POLICIES

1. National Policy

National Planning Policy Framework

3.1 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system.

3.2 It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.

3.3 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004). The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.

2. Local Policies

Unitary Development Plan (2006)

3.4 The site comprises land within the main urban area in the adopted Leeds UDP Review (2006). The site is allocated as Protected Area of Search within the UDP under policy N34. Within the UDP the following policies are relevant:

GP5: General planning considerations.

GP7: Use of planning obligations.

GP11: Sustainable development.

N2/N4: Greenspace provision/contributions.

N10: Protection of existing public rights of way.

N12/N13: Urban design principles.

N23/N25: Landscape design and boundary treatment.

N24: Development proposals abutting the Green Belt.

N29: Archaeology.

N34: Protected Areas of Search

N38 (a and b): Prevention of flooding and Flood Risk Assessments.

N39a: Sustainable drainage.

BD5: Design considerations for new build.

T2 (b, c, d): Accessibility issues.

T5: Consideration of pedestrian and cyclists needs.

T7/T7A: Cycle routes and parking.

T24: Parking guidelines.

H1: Provision for completion of the annual average housing requirement.

H2: Monitoring of annual completions for dwellings.

H3: Delivery of housing on allocated sites.

H11/H12/H13: Affordable housing.

LD1: Landscape schemes. The Council's evidence will assess the extent to which these UDP policies are consistent with the policies in the NPPF."]

Core Strategy

3.5 The National Planning Policy Framework provides (at ¶216) that weight may be given to relevant policies in emerging plans according to: the stage of preparation of the emerging plan; the extent to which there are unresolved

objections to relevant policies; and the degree of consistency with the Framework.

3.6 The Core Strategy sets out strategic level policies and vision to guide the delivery of development investment decisions and the overall future of the district. The Council's Core Strategy, in preparation since 2006 is at an advanced stage and is currently at Examination. A hearing session on the Duty to Co-operate was held on 8th July 2013 and the Inspector confirmed in a letter of 10th July 2013 that the Council has satisfied the legal tests of the Duty to Cooperate.

3.7 Within the draft Core Strategy the following policies are relevant.

Spatial policy 1 – Location of development (page 22)

Spatial policy 6 – Housing requirement and allocation of housing land (page 34)

Spatial policy 7 – Distribution of housing land and allocations (page 37)

Policy H1 – Managed release of sites (page 59)

Policy H2 – New housing development on non allocated sites (page 60)

Policy H3 – Density of residential development (page 60)

Policy H5 – Affordable housing (page 63)

Policy P10 – Design (page 88)

Policy P11 – Conservation (page 90)

Policy P12 – Landscape (page 91)

Policy T2 – Accessibility requirements and new development (page 93)

Policy G3 – Standards for openspace, sport and recreation (page 97)

Policy G4 – New greenspace provision (page 98)

Policy EN1 – Climate change – carbon dioxide reduction (page 103)

Policy EN2 – Sustainable design and construction (page 104)

Policy ID2 – Planning obligations and developer contributions (page 117)

Street Design Guide

3.8 This document was approved as Supplementary Planning Guidance in August 2009. It details the requirements to the Highway network for developments within the Leeds area.

4.0 CONSULTATION RESPONSES

4.1 Reference will be made to comments that have been made by consultees, in particular highways and policy officers. Copies of their consultation responses where included with appeal questionnaire.

5.1 REPRESENTATIONS

5.2 Reference will be made to comments made by Councillors, local amenity groups and residents, copies of which have been provided with the questionnaire.

6.0 THE CASE FOR THE LOCAL PLANNING AUTHORITY.

6.1 The Council's evidence will consider the Appeal Scheme in the context of section 38(6) Planning and Compulsory Purchase Act 2004: namely, whether the proposals comply with the development plan and if not, whether there are any material considerations that outweigh any such conflict. The Council's evidence will assess the weight to be given to development plan policies and to the emerging Core Strategy in the light of policies contained in the NPPF. As part of this exercise, the Council will consider and give the appropriate weight to the benefits that will be derived from a residential development of the Appeal Site.

6.2 In terms of each suggested reason for refusal the Council will present the following case

Reason 1 – Prematurity of release of PAS site

- 6.3 Evidence will be produced to demonstrate that the proposal would be detrimental to the strategic aims of the adopted Unitary Development Plan (Review) 2006 and would also be premature in relation to the advancing comprehensive assessment of safeguarded land being undertaken in the Site Allocations Plan DPD, taking account of national policy set out in the NPPF.
- 6.4 Initial public consultation on the Site Allocations Plan DPD ended on 29th July 2013. The DPD will allocate land sufficient to provide for the Submission Core Strategy housing requirements between 2012 and 2028.
- 6.5 The merits or otherwise of releasing land previously designated as Protected Areas of Search will be considered in the Site Allocations DPD due to be adopted in 2014/15. The pragmatic approach of the Council to providing a diverse housing land supply in the interim includes an approach for the release of some PAS sites where specific criteria are met. The appeal scheme will be shown to have failed to meet the requirements of the interim policy approach to the release of PAS sites.
- 6.6 In the view of the Council there are no other material considerations which would justify the release of land for development at this stage. In particular it is not apparent that the proposed development meets the requirements of sustainable development as set out in the NPPF.

Reason 2 – safe and convenient pedestrian and cycle route to schools, New Pudsey Station, local shops and offices

- 6.9 Evidence will be provided to evaluate the existing walking and cycling routes to local facilities including High School, Primary School, Railway Station shops and Employment opportunities and it will be demonstrated that a new shared cycle route alongside the Ring Road would significantly improve access to these facilities.

7.0 REQUIREMENTS FOR SECTION 106 OBLIGATIONS

7.1 The proposed development is of a nature and scale that means that certain matters would need to be addressed by planning obligations should planning permission be granted.

7.2 A draft s106 agreement heads of terms was submitted with the application. This included the following obligations.

- 15% affordable housing provision
- On and off site public open space and financial contributions for management and maintenance
- Education contributions in accordance with SPG11
- Contribution towards the Public Transport Infrastructure SPD
- Travel Planning measures and monitoring fee

Since lodging the application, the following highway improvements are understood to have been offered by the applicant which are considered acceptable by the Council to address highway concerns with the development other than the cycle / footway link, should the applicant no longer offer these improvements, the Council reserves the right to add to the highways reason for refusal as far as the missing improvements impact on highway safety or the sustainability of the site:

- Improvements to the roundabout at the junction of the A6120 Ring Road and Rodley Lane (Rodley Roundabout) as drawing 11040-GA-04 Rev A
- Traffic calming measures on Bagley Lane between Town Street and Coal Hill Road
- Alterations to the Calverley Lane / A6120 Ring Road junction as drawing 11040-GA-05 Rev B
- Provision of Metrocards
- Bus Stop enhancements.

7.3 Since lodging the appeal the Appellant has not approached the Local Planning authority to discuss outstanding elements

7.4 The appellants will need to submit a bilateral or unilateral s106 obligation for consideration by the Inspector by the opening of the Inquiry, and a completed obligation will be required before the close of the Inquiry. Comment on the draft can only be made by the local planning authority once it has been received. In that event that these outstanding matters cannot be agreed the Local Planning Authority reserve the right to call further evidence/witnesses to address the areas in dispute.

8.0 Housing land supply

8.1 There is sufficient alternative supply within the vicinity of the site to meet current housing needs. The Council will provide evidence in relation to sites with planning permission, starts and completions and allocations in both the UDP Review and forthcoming Site Allocations Plan DPD.

8.2 In line with the National Planning Policy Framework, the Council has identified a supply of housing sites for the District as a whole, sufficient to deliver Core Strategy targets (plus 5%) for the next five years (2013/14 to 2017/18). This position is set out in the Authority Monitoring Report 2012 and in two reports to the Council's Executive Board in March 2013 ((a) Authority Monitoring Report 2012 and (b) Housing Delivery).

8.2 The Council will produce up to date evidence on the level of housing requirements and the nature of the identified housing land supply alongside commentary on the state of the housing market and its impacts upon the delivery of housing.

9.0 CONCLUSION

9.1 The appeal proposals include issues in terms of the premature release of a large PAS site and a lack of a direct pedestrian and cycle route for accessing

schools, local shops, New Pudsey Station and offices. It is acknowledged that the scheme could provide benefits to the area such as delivery of housing, economic benefits, and social benefits but these material considerations are not sufficient to outweigh the harm associated with the development and the conflict with development plan policies and the National Planning Policy Framework. As such the proposals are not acceptable in planning terms and the Inspector will be respectfully requested to dismiss this appeal.

10. LIST OF DOCUMENTS

- Authority Monitoring Report 2012
- Housing Land Monitor September 2012 and March 2013
- Strategic Housing Land Availability Assessment Update 2012
- Strategic Housing Market Assessment (2011)

- Adopted Leeds UDP Review (2006) and Previous Inspectors reports
- National Planning Policy Framework (2012)
- Draft Submission Version core strategy (2013)
- Core Strategy Matters for Hearing Sessions on Housing (2013)
- Leeds adopted SPD's inc Street Design Guide. SSP4 – Greenspace related to new housing developments, Neighbourhoods for Living,
- Executive Board Reports
- Planning History (12/04046/OT) and application file
- Application documents (inc. officers reports and minutes)
- Letters of objection/support
- Consultation Responses
- Pre-application correspondence
- Relevant appeal cases
- DfT Guidance on Transport Assessment (March 2007)
- DfT Local Transport note 2/08 Cycle Infrastructure Design
- DfT Local Transport Note 1/12 Shared Use Routes for Pedestrians and Cyclists.
- DfT Local Transport Note 1/07 (March 2007) – Traffic Calming
- DfT Traffic Advisory Leaflet 12/97 (December 1997) – Chicane Schemes
- DfT Traffic Advisory Leaflet 9/94 (December 1994) – Horizontal Deflections

- Design Manual For Roads and Bridges – Volume 6 Road Geometry, Section 3
- Highway Features Part 5 TA 87/04
- Manual for Street 1 and 2
- TSRGD – Traffic Signs Regulations and General Directions 2002 (and amendments 2011)
- Institute of Highways and Transportation - Guidelines for Providing for Journeys on Foot.
- Any other documents deemed relevant.

10.1 The Council reserves the right to refer to such other documents as it considers necessary.