



Department for
Communities and
Local Government

Mr Jonathan Dunbavin
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Atlas House
31 King Street
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Our Ref: APP/N4720/A/13/2200640

10 March 2015

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY THORNHILL ESTATES:
BAGLEY LANE/CALVERLEY LANE, FARSLEY, LEEDS, WEST YORKSHIRE
APPLICATION REF: 12/04046/OT**

1. I am directed by the Secretary of State to say that consideration has been given to the reports of the Inspector, Mark Dakeyne BA (Hons) MRTPI, who held a public local inquiry on 19 and 22 November and 28-29 November 2013 into your client's appeal against the failure of Leeds City Council (the Council) to give notice within the prescribed period of a decision on an application for outline permission for a residential development (about 400 dwellings and associated works) at Bagley Lane/Calverley Lane, Farsley, Leeds, in accordance with planning application ref: 12/04046/OT, dated 21 September 2012. This inquiry was then reopened on 11 November 2014 for four consecutive days.
2. The appeal was recovered for the Secretary of State's determination on 4 July 2013 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves proposals for residential development over 150 units or on sites of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector, whose reports are enclosed with this letter, initially recommended that the appeal be allowed and outline permission granted but, in the light of his findings at the reopened inquiry, he subsequently recommended that it be dismissed and outline permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's final recommendation, dismisses the appeal and refuses planning permission. All paragraph numbers, unless

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otherwise stated, refer to the Inspector's reports (IR(i) for the earlier report and IR(ii) for the more recent report).

Procedural matters

4. The Secretary of State notes (IR(i)11-12) that an Environmental Statement was submitted voluntarily by the appellants and that the Inspector was satisfied at the time that it met the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The Secretary of State has also taken account of the update on environmental information referred to at IR(ii)7-9. Overall, the Secretary of State considers that sufficient information has been provided for him to assess the environmental impact of this appeal.
5. Following the initial close of the inquiry on 29 November 2013, the Secretary of State wrote to the parties on 14 March 2014 seeking comments on the publication of the Planning Practice Guidance and again on 14 April 2014 affording an opportunity to comment on habitats issues which had been brought to his attention after the inquiry had closed. In the light of these comments, the Secretary of State then decided that the most appropriate way forward would be to reopen the inquiry, as described at IR(ii)2-6. A list of the representations received is set out in an Annex to this letter, and copies can be made available on written request to the address at the foot of the first page of this letter.

Policy Considerations

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. At the time when the inquiry first opened, the development plan for Leeds comprised the Leeds Unitary Development Plan Review 2006 (LUDPR) and the Secretary of State agrees with the Inspector that the development plan policies relevant to the appeal were those identified at IR(i)17-18. Since then, Leeds have adopted their Core Strategy (CS) on 12 November 2014 (IR(ii)10). However, the Inspector points out (IR(ii)215) that the proposal remains contrary to LUDPR Policy 34 as that remains a saved policy following the adoption of the CS. Although the Council have subsequently resolved to withdraw this policy (as indicated in their letter of 11 February 2015 listed in the Annex to this letter), and the appellants have suggested in their letter of 5 February 2015 that that is an important material consideration in this case, the Secretary of State gives it little weight at this early stage in the Council's work towards preparing their Site Allocations Plan (SAP).
7. Other material considerations that the Secretary of State has taken into account include: *the National Planning Policy Framework* (the Framework) (March 2012) and the associated Guidance (March 2014); and the *Community Infrastructure Levy (CIL) Regulations 2010* as amended.
8. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issues

9. Having regard to the issues identified by the Inspector at IR(i)132 and IR(ii)182, the Secretary of State considers that the main considerations in this case are:
- a. whether there is a five year supply of housing land;
 - b. the release of the appeal site in the context of the spatial strategy for Leeds;
 - c. whether the development would be likely to result in harm to bats as a protected species; and
 - d. the sustainability of the appeal scheme and its impact on local character and identity.

Whether there is now a five year supply of housing land

10. As the appeal Inspector confirms (IR(ii)183), the CS has now been found to be sound, with a base requirement for the period from 1 April 2014 to 31 March 2019 of 20,380 dwellings – lower than his assessment at the time of the original session of the inquiry. However, as it forms the basis for an up-to-date development plan, the Secretary of State accepts it as an indisputable basis for the determination of appeals.
11. Like the Inspector, the Secretary of State has then gone on to consider the implications of the shortfall in provision against the base requirement. He agrees with the Inspector's reasoning at IR(ii)184-188, and with his conclusion at IR(ii)189, that the five year housing requirement comprises about 24,440 dwellings including the undersupply since April 2012 to be made up in this period and the application of a 5% buffer.
12. The Secretary of State has also carefully considered the Inspector's discussion on "Supply" at IR(ii)190-201 and agrees with his conclusion at IR(ii)202 that an overall supply figure of about 26,500 homes would be reasonable. The Secretary of State therefore also agrees with the Inspector's conclusion at IR(ii)203 that a supply of some 26,500 homes exceeds the requirement by just over 2,000 units, thereby indicating that a five year housing land supply can be demonstrated with scope for some flexibility. He also agrees (IR(ii)204) that the difference from the appeal Inspector's original conclusion is accounted for by the different approach accepted in the adopted CS along with evidence on completions, city centre/inner area viability, regeneration, empties and other sources of supply.

The release of the appeal site in the context of the spatial strategy for Leeds

13. The Secretary of State agrees with the Inspector with regard to the Council's spatial strategy at the time when the inquiry first opened in November 2013 (IR(i)133-135) and, like the Inspector (IR(ii)216), he recognises that the fact that a five year supply of housing has now been established in an up-to-date development plan represent a significant change in circumstances. He agrees with the Inspector that this means that paragraph 49 of the Framework does not take effect, and also agrees (IR(ii)219) that the test within paragraph 14 of the Framework does not come into play.

14. As indicated in paragraph 6 above, the Secretary of State gives little weight to the fact that the Council have indicated that they now intend to withdraw LUDPR Policy 34. The Secretary of State takes the view that, although that protects land not envisaged to be needed for development during the period covered by the housing policies of the LUDPR (IR(i)133), an intention to withdraw it does not necessarily imply that all such sites should be released immediately as there will be a number of other factors to be taken into account by the Council in preparing their SAP.

Whether the development would be likely to result in harm to bats

15. The representations received following the original close of the inquiry (as referred to at paragraph 5 above) included material from the Farsley Residents Action Group (FRAG) indicating that bats were potentially more prevalent on the appeal site than first thought, and including evidence that the site is used for roosting and by some rarer bat species (IR(ii)205). The Secretary of State therefore asked the Inspector to consider this matter as part of the reopened inquiry and, having carefully considered the Inspector's findings on this matter (IR(ii)206-208), he agrees with his conclusion at IR(ii)209 that, subject to the imposition of suitable conditions, the proposed development would be unlikely to result in harm to bats as a protected species.

Sustainability, local character and identity

16. Having carefully considered the Inspector's arguments at IR(i)144-149, the Secretary of State agrees with his conclusion at IR(i)150 that, despite some deficiencies in public transport provision and walking distances to services, the proposal would constitute a sustainable development. He also agrees that neither concerns raised relating to educational provision (IR(i)151) nor those relating to lack of health care provision (IR(i)152) would provide reasons to resist the development. Furthermore, for the reasons given at IR(i)153-160, the Secretary of State also agrees with the Inspector's conclusion at IR(i)161 that highways and drainage infrastructure would be acceptable subject to the measures proposed as part of the development.

17. However, taking account of the Inspector's comments at IR(i)163-166, the Secretary of State agrees with his conclusion at IR(i)167 that the proposal would result in an adverse impact on local character and identity and the loss of a site of intrinsic value. In coming to this conclusion, the Secretary of State has had particular regard to the desirability of preserving or enhancing the character or appearance of the Farsley Conservation Area, and gives appropriate weight to the significant change in character which the Inspector identifies.

Conditions and obligations

18. The Secretary of State has considered the Inspector's reasoning and conclusions on the proposed planning conditions at IR(i)194-197 and IR(ii)214. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, the Secretary of State does not consider that the conditions would overcome his reasons for dismissing the appeal.

19. The Secretary of State has also considered the Inspector's comments at IR(i)187-192 and IR(ii)212-213 on the proposed Obligations and is satisfied that these would meet the tests in CIL regulation 122. However, the Secretary of State does not consider that the terms of the Undertaking would overcome his reasons for dismissing the appeal. He also agrees with the Inspector at IR(i)193 that the suggestion that there should be a commitment to build the dwellings within the current five year supply period would be overly prescriptive and unreasonable.

Overall Conclusions

20. The Secretary of State is satisfied that the Council have now identified a five year supply of housing land in an up-to-date CS without the appeal site, so that the presumption in the Framework in favour of sustainable development does not apply. Furthermore, he considers that the adverse impacts on local character and identity count against the proposed scheme and considers it appropriate for the Council to proceed to identify the most sustainable sites through the preparation and adoption of their SAP.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's later recommendation at IR(ii)221. He hereby dismisses your client's appeal and refuses planning permission for the erection of 400 dwellings and associated works at Bagley Lane/Calverley Lane, Farsley, Leeds, in accordance with planning application ref: 12/04046/OT, dated 21 September 2012.

Right to Challenge the Decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

23. A copy of this letter has been sent to Leeds City Council. A notification letter/email has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Jean Nowak
Authorised by the Secretary of State to sign in that behalf