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## Appeal Decision

Site visit made on 23 July 2019

**by M Russell BA (Hons) DipTP MRTPI**

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

**Decision date: 13 September 2019**

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### **Appeal Ref: APP/C2708/W/19/3220508**

### **Rockwood House, Park Wood Close, Skipton BD23 1QW**

- 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 Firth Developments Ltd against the decision of Craven District Council.
  - The application Ref 2018/19747/FUL, dated 19 September 2018, was refused by notice dated 21 December 2018.
  - The development proposed is to construct 6 No. 4 bed detached dwellings with associated vehicular access and landscaping.
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### **Decision**

1. The appeal is dismissed.

### **Application for costs**

2. An application for costs was made by Mr R Firth, Firth Developments Ltd against Craven District Council. This application is the subject of a separate Decision.

### **Procedural Matters**

3. The development plan for the area consists of the saved policies of the Craven District (Outside the Yorkshire Dales National Park) Local Plan (1999) (CDLP). The examination hearings for the Publication Draft Craven Local Plan (19 December 2017) (the emerging Local Plan) have taken place and main modifications have undergone public consultation. The Council is currently awaiting the Inspector's final recommendations. The Council's statement draws attention to Policy ENV3 of the emerging Local Plan as being of particular relevance to their reason for refusal. I am unaware of any outstanding objections or requirement for further modifications. However, given the relatively advanced stage in the process I attach moderate weight to the policies of the emerging Local Plan.
4. A late representation has been received from a third party drawing my attention to subsequent planning applications on the site, following the Council's refusal of the proposal before me. The representation advises that the latest application was refused on the grounds that it would be overdevelopment of the site and would have an overbearing impact on relation to neighbouring properties. The appellant has been given an opportunity to comment on this late representation and they have raised concerns that the comments were accepted. The late representation has been accepted as the third-party was not in a position to make reference to the decision on the most

recent application until it was determined by the Council which was after the deadline for representations on this appeal. On this basis, and due to the particular circumstances, they have been accepted as evidence and I have taken the comments raised into account.

### **Main Issue**

5. The main issue is the effect of the proposed plots 1 and 2 on the living conditions of the occupiers of neighbouring dwellings at Nos 9, 16 and 18 Park Wood Close with particular regard to outlook.

### **Reasons**

6. Plots 1 and 2 would be two-storey dwellings located towards the front of the appeal site on a similar alignment to the neighbouring dwellings at The Coach House and the bungalow at No 9 Park Wood Close. A substantial hedge currently provides a soft landscape boundary between the appeal site and No 9. This neighbouring dwelling is located at a lower level to the appeal site and its L-shaped form results in a gable sitting close to the boundary. The immediate outdoor rear amenity space serving No 9 is enclosed between the rear projecting elevation of this dwelling and the boundary with the appeal site.
7. I have taken into account the reduced height of the proposed dwelling on Plot 2 where it sits closest to the boundary with No 9, the alterations to ground levels that would take place on the site and the staggered set in of the rear elevation of this proposed dwelling. However, given the overall two-storey height of the dwelling, the higher ground level that it would be situated on and its close proximity to the boundary and immediate private rear outdoor space serving No 9, the development would have an imposing impact on users of this garden area. Furthermore, the replacement of the soft landscaped boundary with a close boarded fence and the provision of a first-floor bedroom window facing towards this rear outdoor space would further compound the oppressive impact of the proposal on this neighbouring dwelling. Whilst I acknowledge any overlooking impact could be mitigated through a condition to obscure glaze the window, this would not overcome the overbearing impact of the proposal.
8. I noted on my site visit that the dwellings to the east of the appeal site at Nos 16 and 18 Park Wood Close are located at a lower level to the road. In turn the part of the appeal site where Plots 1 and 2 would be located is also raised from road level. However, the front elevations of the dwellings would be set back from the front boundary of the site to accommodate front gardens and parking areas. Even accounting for the changes in levels, the intervening distance between the proposed dwellings and the front elevations of these neighbouring dwellings would be sufficient to ensure the outlook for occupiers of Nos 16 and 18 Park Wood Close would not be materially harmed. However, this does not override the harm I have identified to the living conditions of No 9.
9. The appellant contends that the Council has failed to produce any technical evidence to substantiate the reason for refusal. However, it is usual practice to make a planning judgement on matters relating to outlook based on the scale and layout of a proposal relative to neighbouring property and buildings taking into account site specific circumstances.

10. To conclude, the proposed development would have a detrimental impact on the living conditions of No 9 Park Wood Close with particular regard to outlook. The proposal would be contrary to Saved Policy H3 (Residential Development Within the Development Limits of Skipton, and the Named Local Service Centres) of the Craven District (Outside the Yorkshire Dales National Park) Local Plan (1999) which is supportive of new residential infill development provided amongst other things it will not damage the amenity of existing residential areas.
11. The proposal would be contrary to Policy ENV3 of the emerging Local Plan which amongst other things requires that development proposals should be able to demonstrate that they will secure a good standard of amenity for all existing and future occupants of land and buildings. I attach moderate weight to this conflict for the reasons set out in my Procedural note.
12. The development would also conflict with Paragraph 127 of the National Planning Policy Framework (the Framework) which requires that development provides a high standard of amenity for existing and future users.

### **Other Matters**

13. The issues raised by third parties include concerns in respect of the development of garden land, the density of the development and the impact on the character and appearance of the area as well as the impact on living conditions of neighbouring occupiers not covered under the main issue. Further concerns have also been raised including in respect of highway safety matters, the accuracy of the submitted drawings, the potential effects on ecology and trees, surface water flood risk and sewer capacity, pollution including during the construction period and from vehicle lights, security of neighbouring properties, adequacy of public transport provision and the potential strain on community facilities. I note the Council did not refuse the development before me on such grounds and, given I am dismissing the appeal on the substantive issue, I need not consider these matters in further detail.
14. I note the comments made by the appellant and third parties in respect of the planning application process including the suggestion that the reason for refusal does not reflect the discussions that took place when the Council's Planning Committee considered the planning application. Such matters are not for me to assess as part of an appeal made under section 78 of the Act.
15. My attention has also been drawn to an historic refused planning application on the site to erect a second storey over a double garage on the previously existing dwelling. However, this has not had a bearing on my conclusion which is based on an assessment of the current scheme and existing site circumstances.
16. The potential for the applicant to make a profit from the development and for the Council to benefit from additional council tax revenue are not material planning considerations in this instance and have not had a bearing on my assessment of this appeal. Any damage caused to neighbouring land or property as a result of development of the site would be a private legal matter.

### **Planning Balance and Conclusion**

17. The site is sustainably located within the existing settlement and with good access to the facilities and services that Skipton has to offer. The proposal

would provide a modest boost to the Council's housing requirements and would generate a minor economic benefit through the development of the site and through the expenditure of future occupants in the local area. There would also be a modest social benefit in terms of the additional residents and their input into the local community.

18. The appellant has referred to the site constituting previously developed land. However, the definition of previously developed land in the Framework excludes land in built up areas such as residential gardens and therefore I have not attached weight to this matter.
19. There is a dispute between the parties with regard to whether the Council has sufficient housing supply land (HLS). The appellant suggests that the Council cannot demonstrate a 5-year HLS and questions the methodology it has employed. Using a different methodology and assumptions, the appellant suggests there is a 3.9 year HLS; a significant shortfall. Even if this figure were taken to more closely reflect the current situation, case law has indicated that where policies for the supply of housing are out of date, development plan policies cannot be judged to carry no weight or be disregarded as a result. The weight to be given to those policies remains a matter of planning judgement.
20. In any case, the Council has referred to the Craven Local Plan Housing Trajectory 2012 -2032 (October 2018 update) which suggests there is in excess of 5 years housing land supply in the principal town of Skipton, as defined in the emerging Local Plan. As there is nothing before me to lead me to reach a different conclusion, I give the appellant's argument in relation to HLS little weight. As such, the provisions of Paragraph 11 of the Framework are not engaged. Even if they were, the development would not provide a high standard of amenity for existing users, materially harming the living conditions of No 9 Park Wood Close. This adverse impact would significantly and demonstrably outweigh the modest and minor benefits of the proposal when assessed against the policies of the Framework as a whole.
21. For the above reasons the appeal is dismissed.

*M Russell*

INSPECTOR