

Appeal Decision

Hearing held on 16 May 2017

Site visit made on 16 May 2017

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 May 2017

Appeal Ref: APP/N1730/W/16/3164507

Providence House, Bartley Wood Business Park, Hook RG27 9XA

- 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 Bartley Way Ltd against the decision of Hart District Council.
 - The application No:16/01574/FUL, dated 14 June 2016, was refused by notice dated 14 October 2016.
 - The development proposed is "Erection of two buildings containing a total of 101 new residential dwellings (38 one bedroom and 63 two bedroom) and 227 m² of small office units. Associated infrastructure including bin stores, cycle stores, parking and landscaping."
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Application for costs

1. At the Hearing an application for costs was made by Hart District Council against Bartley Way Ltd. This application is the subject of a separate Decision.

Decision

2. The appeal is dismissed.

Preliminary matters

3. A minor revision to the red line boundary of the site was submitted prior to the Council's determination of the application. Drafting errors concerning fenestration were corrected in drawings submitted at the appeal stage. It is the scheme shown on the drawings listed in the Statement of Common Ground dated 15 May 2017 (SoCG) that I have used in my consideration of the appeal.¹
4. The appeal site comprises car parking and landscaping that is part of the Providence House site, which has been given prior approval for conversion from offices to 107 flats. This conversion was underway at the time of my site inspection. The site is located within the defined urban area of Hook, some 600 m from the centre of the village. The appeal scheme proposes two four-storey blocks of flats, along with 227 m² of B1 office space.
5. The Council refused the application for four reasons; (1) the number of dwellings facing north that would receive no direct sunlight, the poor quality external amenity areas, and poor servicing arrangements, (2) the under provision of on-site car parking when considered in conjunction with the existing development at Providence House, (3) inadequate provision for

¹ HD1.

affordable housing, and (4) that the proposed development, alone or in combination with other plans or projects, would be likely to have a significant adverse effect on the Thames Basin Heaths Special Protection Area (SPA).

6. The appellant advised the Council by email dated 3 May 2017 that "... due to the SANG situation unfortunately not being resolved in time, we have decided that there is little point in proceeding with the S106 agreement. Instead we will use the appeal to get an independent view on the other outstanding issues." The email acknowledged the need for 40% affordable housing, but stated that given that there was no point in proceeding with the S106, the affordable housing would not be secured either.

Main issues

7. The main issues in this appeal are:

- (a) The effects of the development on highway safety having regard to the proposed parking provision and servicing arrangements.
- (b) Whether the occupiers of the proposed development would receive sufficient sunlight and have adequate outdoor amenity space.
- (c) Whether the proposed development should include provision for affordable housing.
- (d) Whether mitigation would be required for the effects of the proposed development on the SPA.

Reasons

Thames Basin Heaths Special Protection Area

8. I deal with this issue first as the appellant acknowledged at the Hearing that the appeal should be dismissed on this ground. The SoCG notes that the development, either in isolation or in combination with other residential development could have an impact on the nearby Thames Basin Heaths SPA, and that to satisfy the Habitats Regulations this impact will require mitigation.² The statement from English Nature (EN) records that the appeal site lies approximately 4.5 km from the nearest part of the SPA, which is the Hazeley Heath Site of Special Scientific Interest. EN objects to the development in the absence of an agreed contribution to the strategic delivery of Strategic Alternative Natural Greenspace (SANG) land, along with access management and monitoring measures, in accordance with the local mini plan/Delivery Framework. As outlined above no mitigation is proposed by the appellant. Therefore, the proposed development would conflict with saved Policies CON1 and CON2 of the Hart District Local Plan (Replacement) 1996-2006 and First Alterations (LP) concerning nature conservation.

Affordable housing

9. Given that the appeal could not succeed the appellant did not complete any provision for affordable housing. The SoCG notes that affordable housing is required on the site in accordance with LP Policy ALTGEN13, and that this requires affordable housing at the rate of 40% of the development. The absence of any means to provide affordable housing in accordance with relevant policy weighs heavily against the proposal.

² HD1 paragraph 5.16.

Parking, service arrangements and highway safety

10. The appeal scheme would provide parking virtually in accordance with the Council's Interim Parking Standards.³ But the second reason for refusal relates to concerns about the overall parking provision for the appeal scheme along with the permitted conversion of Providence House. The appeal site is comprised largely of land used as car parking for the former office development. At the Hearing the Council and the appellant agreed a revised calculation, based upon local census information, of the required car parking for the whole Providence House site, including the conversion to 107 flats along with the 101 flat appeal scheme. This concluded that 234 spaces were required, which included 40 visitor spaces, 5 commercial spaces, and 29 disabled spaces.⁴
11. As the permitted and proposed development for the whole Providence House site would provide a total of 296 spaces, the Council withdrew its objection to the proposed development on car parking grounds. I note local concerns about the adequacy of parking provision and the implications of any additional on-street parking for highway safety. However, there is no convincing evidence in this regard that would indicate that the Council's revised position at the Hearing has misjudged the likely effects of the proposal concerning parking and highway safety.
12. However, the Council maintained its objection to the scheme because of the proposed servicing arrangements. The Council is concerned about manoeuvring large refuse vehicles within the proposed car park.⁵ It also has reservations about the design and location of bin stores, which it considers would be inaccessible and so would fall within the exception of its duty to collect household waste.⁶ The appellant argues that the tracked pathways show how a refuse vehicle could service both blocks without adversely affecting cars parked within spaces of standard dimensions, and that a private refuse contractor could be used if the Council declined to do so.
13. There was some discussion at the Hearing about possible improvements to access arrangements for refuse collection, including serving the southern block directly from Bartley Way. These would require a redesign of the scheme, and so are not matters for me to deal with in determining this appeal. With regard to the scheme as submitted, I share the Council's concerns about the practicalities of the service arrangements. The layout would provide little or no margin for error in manoeuvring refuse vehicles, and would not provide for the parking of any larger than normal vehicles in some areas. I consider that the proposed servicing arrangements would, to some extent, weigh against granting planning permission for the submitted scheme.

Living conditions

14. The orientation of the proposed blocks would mean that 19 units in the northern block and 6 units in the southern block would receive little or no direct sunlight. BRE's *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice* advises that a dwelling with no main window wall within 90 degrees of due south is likely to be perceived as insufficiently sunlit, and that the aim should be to minimise the number of dwellings whose living rooms face

³ SoCG paragraph 5.6 at HD1.

⁴ HD6.

⁵ HD5.1 and HD5.2.

⁶ HD7.

solely north. However, it is important that such urban sites make the most efficient use of the land. Given the configuration of the appeal site, I accept that a design that made the best use of the land might not be able to comply fully with the BRE guidance. However, measures could be incorporated such as maximising glazed areas, to limit any adverse effects of the orientation of some flats. Subject to such design considerations, which could be the subject of planning conditions, I am satisfied that the appeal scheme would reasonably minimise the number of flats that would have restricted available sunlight. Any resultant harm to the living conditions of future occupiers would not weigh much against granting planning permission in the overall planning balance.

15. Most of the proposed flats would have balconies and the appellant argues that these would provide adequate private amenity space. However, for a development that would include 63 two bedroom dwellings I share the Council's concerns about the amount and quality of the proposed external amenity space within the appeal site. Notwithstanding the availability of public open space in the wider locality, I do not consider that it would be appropriate here to rely solely on balconies for amenity space. Two "landscaped areas" are shown on the proposed site plan. These are a triangular area of about 240 m² in the south-western corner of the site to the rear of the southern block, and an area of about 400 m² to the north of the northern block. As proposed, neither would provide much value as useable amenity space. The triangular area would be isolated, shaded by roadside trees and lacking passive surveillance. The northern area would be shaded by the four storey building. There would also be some conflict between its use as shared amenity space and the privacy of the occupiers of the 5 ground floor flats. I do not consider that the proposal would, in this regard, comply with national guidance concerning design. This is a consideration that would weigh against granting the appeal scheme planning permission.

Conclusions

16. I find that the proposal would conflict with the development plan, and that there are no material considerations which would indicate that the appeal should be determined other than in accordance with the development plan. Given that the absence of mitigation for the effects on the SPA is fatal to the appeal, I am not in a position to undertake the balancing exercise that would otherwise be required by the *Framework* to assess whether the proposal would represent sustainable development. However, I have found that the servicing arrangements and the provision for external amenity space would weigh against the appeal scheme in such a balancing exercise, as would the absence of appropriate provision for affordable housing. If I was able to undertake such a planning balance, the harm I have identified would need to be weighed against the benefits that would result from an additional 101 new residential units in this area. Nevertheless, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Woolcock
Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Lee BA(Hons) MRTPI	Principal Planning Officer.
Elena Cristobal MEng	Highways Officer.
Philip Sheppard FIHE MCIHT	Infrastructure Manager.

FOR THE APPELLANT:

Nicholas Cobbold BSc DipTP MRTPI	Bell Cornwell.
Claire Cobbold	RGP.
Candido Guillen	Architect.

DOCUMENTS SUBMITTED AT THE HEARING

Document 1	Updated Statement of Common Ground dated 15 May 2017.
Document 2	Appellant's rebuttal to costs claim.
Document 3	Updated table of parking provision.
Document 4	Extract from <i>Manual for Streets</i> .
Document 5.1	Enlarged vehicle tracking plot Figure 1.
Document 5.2	Enlarged vehicle tracking plot Figure 2.
Document 6	Car ownership revised HDC calculations.
Document 7	Section 45 of the Environmental Protection Act 1990 concerning the collection of controlled waste.

SCHEDULE OF PLANS

357 B10P00-C Site location plan
357 P10P01-G Proposed site plan
357 A P20E01-E Proposed block A east and west elevations
357 A P20P01-D Proposed block A first floor plan
357 A P20P00-D Proposed block A ground floor plan
357 A P20E02-E Proposed block A north and south elevations
357 A P20P02-D Proposed block A second floor plan
357 A P20P03-D Proposed block A third floor plan
357 B P20E02-E Proposed block B east and west elevations
357 B P20P01-D Proposed block B first floor plan
357 B P20P00-D Proposed block B ground floor plan
357 B P20E01-E Proposed block B north and south elevations
357 B P20P02-D Proposed block B second floor plan
357 B P20P03-D Proposed block B third floor plan
357 P21E01-B Proposed elevation detail
357 P90P00-B Proposed landscape plan
Site Survey