



Appeal Decision

Inquiry Held on 20-22 August 2019

Site visit made on 22 August 2019

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 23 October 2019

Appeal Ref: APP/Y5420/W/19/3227864

Car park and open land to the rear of Kerswell Close, London, N15 5HT

- 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 Pocket Living Kerswell Close Limited against the decision of London Borough of Haringey.
 - The application Ref HYG/2018/3553, dated 22 November 2018, was refused by notice dated 26 February 2019.
 - The development proposed is replacement of existing car park with a part 3, part 6 storey building comprising 44 one bedroom affordable residential units together with amenity space, secure cycle and refuse store, site landscaping and public realm works including new publicly accessible pedestrian routes and tree planting.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 2 October 2019.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Local Planning Authority (LPA) refused permission citing 4 separate reasons for refusal. Prior to the Inquiry the LPA confirmed that it was no longer contesting the third reason for refusal which related to living conditions of future occupants through overheating and carbon emissions. Matters were addressed through the submission of additional technical documentation which were submitted prior to the Inquiry. Additionally, a round table discussion was held at the Inquiry in respect of this matter with respective expert witnesses in order to allow me to understand the updated position. Based upon this, I am satisfied with the updated conclusions on this matter and I do not consider it further in my decision.
3. The 4th reason for refusal also related to the absence of a planning obligation to deal with local labour and training initiatives, car-free development, and carbon offsetting. A bilateral planning obligation and a separate unilateral planning obligation were submitted in draft form, discussed at the Inquiry and subsequently finalised. The bilateral planning obligation deals, in part, with the matters identified in the 4th reason for refusal, as well as making other provisions, including affordable housing. Accordingly, the LPA did not contest the 4th reason for refusal.

4. The unilateral obligation which relates to open space provision was, however, contested by the LPA. I have taken both of the planning obligations into account in my decision and I will consider these further, below.
5. The Draft London Plan was published in December 2017 and was examined between January and May 2019. A consolidated changes version was published in July 2019 which incorporates suggested changes following the close of the examination. This document will eventually replace the London Plan 2016. In light of the advanced status of the Draft London Plan, reference was made to the relevant draft Policies during the course of the Inquiry and discussions held as to the weight to be given to these. While the plan does not have the status or statutory force of a development plan, I have taken it into consideration in my decision, noting where necessary that there were still areas of objection as identified by parties at the Inquiry.

Main Issues

6. In light of the foregoing, the main issues are:
 - (a) The effect of the proposed development upon affordable housing supply in terms of tenure and mix; and,
 - (b) The effect of the proposed development upon the provision of open space in the area.

Reasons

Affordable Housing

Policy Context

7. The National Planning Policy Framework (the Framework) seeks to deliver a sufficient supply of homes, noting that the size, type and tenure of housing needed for different groups should be reflected in planning policy, including affordable housing. Paragraph 62 of the Framework requires that planning policies should specify the type of affordable housing required to meet affordable housing needs and expect it to be met on-site unless off-site provision can be justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Affordable housing comprises housing for sale or rent for those whose needs are not met by the market. Four types of affordable housing are defined in Annexe 2, including b) discounted market sales housing which is sold at a discount of at least 20% below market value, with eligibility having regard to local income and local house prices and it should remain at a discount for future eligible households.
8. Intermediate homes comprise of a specific type of affordable housing which are for sale or rent, at a cost above social rent but below private market level. These can include shared equity or other low-cost homes for sale and intermediate rent, but not affordable or socially rented housing. Intermediate homes for sale would classify as discounted market sales under the Framework.
9. These definitions are reflected within the London Plan 2016 (LP), the current draft London Plan (DLP) and the Haringey Strategic Local Plan 2017 (SLP). These place a strong development plan emphasis on maximising the provision of affordable homes across London. It is also noted that Policy H6, as currently

- proposed in the DLP, would allow for the fast tracking of applications which allow for 75%+ affordable housing where the tenure is satisfactory.
10. Taken together, LP Policy 3.11, SLP Policy SP2 and Policies DM11 and DM13 of the Development Management DPD 2017 (DMDPD) set overall affordable housing targets as a minimum of 40%. These also require a tenure of 60% social and affordable rented and 40% for intermediate rent or sale. Requirements for unit sizes and mix are also specified, avoiding an overconcentration of 1 & 2 bed units with priority given to affordable family housing as part of achieving mixed and balanced communities.
 11. Built into these policies are exemptions in respect of tenure and mix. These are assessed on a case by case basis, based upon viability assessments, up to date assessments of local housing need as set out in the Housing Strategy, and other factors such as public subsidy, and other planning benefits. In particular, Policy DM13 cites the provision of a greater ratio of intermediate housing as an example in terms of improving development viability.
 12. Policy DM11 of the DMDPD seeks to provide the target mix for affordable housing in accordance with SP2, the Housing Strategy, and Policy DM13. DM11 also recognises the priority to the delivery of affordable family housing and does not support proposals resulting in an overconcentration of 1 or 2 bed units unless site specific circumstances dictate that such provision would aid mixed unit sizes. The DLP also requires a similar tenure and mix in Policies H7 and H12.
 13. The appeal site is also located within the Tottenham Area Action Plan 2017 (TAAP). Policy AAP3 restates the policy expectations of SP2 and DM13 with the exception of the affordable tenure split; instead within the TAAP area the policy requires a 60% intermediate accommodation provision and 40% affordable rented, essentially an inversion of the requirements in the SLP and DMDPD. As explained by the supporting text to this policy, this change is in recognition that there are high levels of social rented accommodation in Tottenham and the policy seeks to introduce alternative affordable tenures into areas dominated by single tenure types in order to promote inclusive and mixed communities.
 14. Underpinning these policies are the Council's Housing Strategy 2017-2022 and the Strategic Housing Market Assessment 2014 (SHMA). In addition, following on from the publication of the Housing Strategy, the Council have published an 'Intermediate Housing Policy Statement' (2018) which provides details in respect of eligibility criteria, and priority, affordability, and tenure mix and products. While there was some debate over the status of the Housing Strategy as it was recently updated, I note that this was the subject of public consultation. These documents are not part of the development plan but they are all material considerations in my decision.

Affordability

15. The development would comprise 44 flatted units which would be 1-person, 1-bedroomed (1p-1b) units of around 38 sq m in size. As agreed at the Inquiry, it was common ground between parties that the proposed development would meet the definition of affordable housing as 'intermediate' discounted market sales housing. This is based on the 20% resale value cap and other measures relating to values and eligibility as secured through the bilateral undertaking.

The LPA did however, query the true affordability of the product, a matter to which I will come to later.

16. Considered against the detailed policy background as set out above, insofar as the scheme would thus comprise 100% affordable housing, against a 40% policy requirement, it is clear that the development maximises the provision of affordable units in accordance with the overarching principles which underpin the development plan policies. This is a significant benefit which weighs in its favour.
17. However, the development proposed would be of a single tenure for intermediate housing for sale and in terms of its mix it would solely provide for 1p-1b units. It is clear from the abovementioned policies that a mixed tenure and size of units is a specific requirement in each of the adopted plans. The proposed scheme would thus be in clear conflict with these detailed policy requirements.
18. In terms of tenure, the appellant pointed out that there is no obligation to 'slavishly' follow such a 60/40 split given the built in flexibility of the policies, but the scheme before me would offer no split whatsoever. The appellant considers that due to the high concentration of social rented family housing, the delivery of intermediate for sale units would contribute to the desire to create mixed and balanced communities in the Tottenham area in order to rebalance the tenure mix. It is clear to me, however, that at a policy level this flexibility and rebalancing is accommodated by the inversion of the 60/40 tenure mix in Policy AAP3 of the TAAP. This specifically reflects the local circumstances found in Tottenham. This policy conflict weighs against the proposals.
19. Turning to the mix of units, the SHMA identifies that 1-bedroom units and 3+ bedroom units should receive a particular focus, noting that 1 bed units provide an important mechanism to free up stock, reflecting the Borough's aging population and higher number of smaller households. Census data for the St Ann's ward also notes a higher than average concentration of persons aged between 20-40 and a higher than average proportion of those who are single and living alone.
20. The extent to which the proposed 1-bed units would free up existing housing stock is however difficult to predict. I agree with the point raised by the LPA that existing home owners such as those looking to downsize would not be eligible to buy a property at the appeal site under the terms of the planning obligation. Again, this lack of mix and resultant policy conflict weighs against the proposals.

Policy Exemptions

21. By way of justification for the single tenure and mix focus of the proposed scheme, I note that the appellant has provided data in terms of the demand for their units, including just under 1000 registrations in Haringey, plus a greater number of registrants for share to buy. Local support for the scheme was also heard at the Inquiry, including from a local Councillor and key worker who resides in the area and expressed that the proposed development would provide an affordable and effective way to enable him to remain in the local area.

22. The appellant forms part of a wider 'Pocket Living' company group which provide 'pocket' living intermediate developments in London, and is a model which has secured public support and funding from the Mayor of London and Homes England. They specialise in providing compact units allowing buyers to own 100% of the property, away from the more conventional shared ownership/shared equity model.
23. A 'policy compliant' scheme scenario has also been produced by the appellant as a comparator which would address both the tenure and mix under the terms of Policy TAAP AAP3. This includes 60% market housing, based upon the minimum 40% affordable housing requirement. It is clear that this would meet the policy requirements but would deliver less affordable housing units than the scheme before me.
24. However, while I have no doubt there would be local demand for the scheme and the pocket model has drawn wider support, the SHMA and the Housing Strategy provide a clear picture of current overall demands in the area. These documents emphasise the provision of a diverse range of housing in terms of tenure and size mix to meet a range of needs and provide flexibility which the appeal scheme would not achieve. The table presented by the LPA at the Inquiry (INQ 15/16) illustrating the tenure and mix of surrounding development close to the appeal site also clearly demonstrates that there is a majority of 1 bed dwellings in the area and while the majority of 1-3 bed units are tenanted, there is a mix between tenanted and leaseholder thus undermining claims in terms of the rebalancing as claimed by the appellant.
25. In addition, the policies require 40% affordable housing provision *as a minimum* (my emphasis) and Pocket Living is a business wholly dedicated to the provision of affordable homes in London. As a company which seeks to maximise the affordable housing offer, there was no evidence presented that other 100% affordable housing options which included a policy compliant tenure and mix could not be achieved.
26. The 'policy compliant' illustration should not, in my view, be used to justify the appeal scheme. The policies are clear that the delivery of affordable housing is critical, but any such affordable housing offer should also meet the defined needs of the local communities in terms of tenure and mix.
27. There was also considerable debate between the parties in respect of viability in relation to policy requirements. The appellant was clear at the Inquiry that they did not seek to rely upon the Planning Financial Appraisal as part of their case and in any case the version I was presented with is a redacted one which limits its weight (INQ 19). What is apparent is that there is limited viability evidence to support the scheme before me against other options by way of making a case for alternative tenure and mix.

Conclusion on affordable housing

28. Drawing everything together, the proposed scheme for 100% affordable housing is a significant benefit. However, as expressed in the development plan and the various supporting documents, there is a clear demand for all types of affordable housing across the Borough and in the Tottenham area. The respective policies seek to be balanced and inclusive of all those needs, whereas the scheme before me would be to the exclusion of affordable rented

- provision and other types of affordable housing as well as the size mix which weighs significantly against the proposals.
29. No comprehensive and compelling evidence has been put forward to justify a departure from those policy requirements due to site-specific circumstances. In failing to meet the tenure and mix requirements, I consider that the site would not *maximise* affordable housing provision (my emphasis) as claimed by the appellant as it is overly restrictive in its type and mix and would fail to meet the needs of all those who require such accommodation in the Borough.
30. My attention was drawn to a separate Pocket site in the Borough at the Former Keston Centre as a comparable scheme. However, based on the evidence before me, this was a scheme which delivered 78% affordable housing with the remainder as market housing, and there appears to be a greater mix in terms of unit sizes, although the tenure appeared to be the same as the current scheme. I do not have full details of the material which led to the Council taking their decision to approve this scheme, but to me it is demonstrable that Pocket are able to deliver schemes with a greater balance between affordable housing provision and mix. This adds to my findings in terms of a lack of evidence of whether another type of affordable housing scheme could be achieved here which better meets the overarching policy aims.
31. I note that other London Boroughs have taken a different view and have allowed other Pocket Living developments of a single tenure and size, but again I do not have the details of the material before those LPA's and my findings on this matter are based on their own merits.
32. At the Inquiry, the LPA made much of the profitability of the pocket model within a suggested 'spectrum' of affordable housing, a point which was heavily disputed by the appellant. However in light of my conclusions, I do not consider it necessary to examine this matter in further detail, noting that the LPA did consider that the proposed development would meet the Framework definition of affordable housing.
33. I accept that, on the face of it, finding against a 100% affordable housing scheme is perhaps somewhat unusual. However, based upon the policy context and my findings above, overall on this matter I conclude that the proposal would fail to adequately meet the affordable housing need in Tottenham and Haringey. This is with specific regard to tenure and mix, with no compelling evidence to justify a departure from adopted policy.
34. The proposal would conflict with LP Policy 3.11, SLP Policy SP2, DMDPD Policies DM11 and DM13 as well as TAAP Policy AAP3. While the DLP remains unadopted, I also consider that the proposal conflicts with the current draft Policies H6, H7 and H12 for the same reasons. Finally, the development would also conflict with the Framework (paragraphs 61 and 62) as it would fail to create mixed and balanced communities.

Open Space

35. The appeal site is around 0.23 ha in extent and comprises a car park and grassy mounds with planting and mature trees with footpaths running through them. The car park is separated from this area by tall metal fencing.
36. The site is positioned at the junction of Seven Sisters Road and St Ann's Road, which are busy main roads. A single storey retail unit also is located at this

junction, but outside of the appeal site boundary. To the rear are 2 and 3 storey terraced properties which back on to the site, separated by rear back garden areas. Opposite is a high level railway line which dissects the road junction.

37. The development would be part 3-storey and part 6-storey and would be of red brick construction with glazed brick areas and ceramic panelling with metal windows and flat roofs behind a parapet. It would be positioned towards the corner of the road junctions, adjacent to the existing retail unit. There would be a set back from Seven Sisters Road. The site also would incorporate areas of landscaping as private amenity areas and public spaces and footpaths.
38. The Framework recognises the importance of high-quality open spaces for the health and well-being of communities. Paragraph 97 requires that open space should not be built on unless it can be demonstrated that it is surplus to requirements, or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. The LP, SLP and DMDPD all give the same definition of open space which covers a broad range of types whether in private or public ownership and whether public access is unrestricted, limited or restricted.
39. SLP Policy SP13 seeks to protect and improve open spaces and sets out a number of criteria including securing improvements, enhancement and management in both quality and access to green spaces, and its provision in accordance with the Open Space and Standards Supplementary Planning Document 2008 (SPD). Policy DM20 of the DMDPD states that open space can be reconfigured a) where its part of a comprehensive scheme, b) where there would be no net loss, c) where it would achieve enhancements and it would secure a viable future for the open space and d) where it would not be detrimental to the function performed by it.
40. The appeal site is not a formal designated open space, such as a park and garden, or playing fields. Instead it is informal in its character and use, as a green verge area and buffer between the main roads and residential development at Kerswell Close. It provides a visual break in the streetscene and pedestrian users also cross through the site at various points, as an alternative to the pavements along Seven Sisters and St Ann's Roads. It is on this basis that the site meets the shared definition of open space in the development plan.
41. The site has a green and verdant character in an otherwise urban area. However, this is relatively localised and the main longer distance views of the site are experienced looking south west along Seven Sisters Road. Part of a mounded area with trees at the site is visible from St Ann's Road, when looking south. But this has an urbanised appearance due to its more limited width and length in this location arising from the proximity of dwellings and the presence of telecommunications equipment and a number of cabinets immediately before it. Longer distance views to the south boundary of the site along both roads are heavily screened by the railway viaduct. Here, the visual function that the open space provides is limited to views of some of the tree canopies above the viaduct.
42. In addition, based on my observations at my site visit, it is of poor quality having an unkempt and unmaintained appearance. Footpaths are poorly lit and there was much litter across the whole of the open space area. There is no

access to the car park from the open space as the fence between the two is locked due to antisocial behaviour occurring in the past. While only a snapshot in time, I saw that fly tipping had occurred adjacent to the flank wall of properties along Kerswell Close – footpath A-X in the submitted Open Space Assessment (July 2019).

43. As depicted on maps appended to the topic-based Statement of Common Ground (dated 2 August 2019) maps showing the existing areas and proposed areas of open space and their relative sizes have been produced. The precise extent to which the development would give rise to a quantitative loss of open space provision was a matter of contention between parties, although it was common ground that there would be a net loss in the area of open space arising from the development.
44. A number of different figures were cited by parties as being representative of the actual amount of loss. The appellant held that the loss is around 139sq m, whereas the LPA consider that proposed Area 2 at 369 sq m would also contribute to the loss as it would form private amenity space for the sole use of residents of the development with no public value.
45. Area 2 is currently a car park with hardstanding and fencing. While the proposals would incorporate this area as private garden with no public accessibility, it would have planting and would in visual terms be of greater aesthetic value than the current arrangement. It would also visually link to other accessible areas of open space to each side. In this regard, I consider it would have some public value as to meet the development plan definition of open space. On this basis, I agree with the appellant that the net loss of open space would be around 139 sq m.
46. In qualitative terms, the development would have a folded building form with the 6-storey part forming an anchor to the corner of the road junctions which would give rise to a strong urban presence. In this sense, some of the verdant character and visual features would be lost. A number of existing trees would also be lost and the LPA were concerned that the open space offer would be further diminished by pressure to remove trees or part of their crowns by new residents. The existing pedestrian routes through the open space would also be lost.
47. That said, the building line along Seven Sisters Road would be set back which allows for areas of green space along this highway, in continuation of the tree line and other open spaces along its length which would be further landscaped. This would adequately offset the loss of the corner of the junction to the development at its tallest point.
48. The area along St Ann's Road would be landscaped and planted with wildflowers which would be a significant improvement over the existing area and should help to prevent littering and antisocial behaviour. A pocket park to the north of the site would be overlooked by the upper floors of the development and I am satisfied that this would also be a safe and pleasant area. This would also benefit users as it would form part of a much needed new pedestrian route to Kerswell Close.
49. The proposed building would be visible from longer distance views to the south of the railway viaduct due to its height. However, there would be no adverse

effects on the open space experienced from these views due to the existing limited visual function of the existing open space in this location.

50. In terms of the loss of other pedestrian routes, as demonstrated by the open space assessment and as I witnessed on site, the paths are reasonably well used. However, as highlighted above, it is not a pleasant environment and my view is that the paths offer a convenient cut through between the main roads, rather than offering a valuable recreational use and urban relief. Indeed, again while only a snap-shot, I saw that users also did use the outer footpath adjacent to the road junction, opting not to use the open space area at all. The addition of a building here with open space would necessitate users to use the footpaths adjacent to the main roads, but it would not be an unpleasant environment due to the form of the new development.
51. I am also mindful that an 'Open Space and Public Access Plan' also forms part of the submitted bilateral planning obligation which would secure the future management of the open space. This would also include the trees within the site and the management of these would provide comfort in terms of the LPA's concern regarding future pressure to fell these. This plan could also include measures to alleviate outstanding concerns regarding anti-social behaviour and incorporate the relevant recommendations of the Police (INQ 12).
52. While there is a small net quantitative loss of open space and this would include the loss of some trees and pedestrian permeability, I am satisfied that in qualitative terms the reconfiguration of the open space within the site would bring about a number of significant benefits as outlined above. These would provide for not only the adequate protection of this space, but an overall enhancement of this area. I am therefore satisfied that the visual function of the open space would be maintained, albeit in a different form.
53. The appellant has provided a separate unilateral obligation which would secure off-site contributions to offset the quantitative loss. However, I share the Council's concerns regarding the lack of detail of suitable replacement provision. In any case, I note that the appellant did not consider this to be required, rather it was produced for my assessment should I have found that compensation for any net loss was necessary.
54. To conclude on this matter, there would be a net loss of open space in numerical terms which would be in direct conflict with DMDPD Policy DM20 and the Framework. However, I consider that this quantitative breach is outweighed when taking into account the significant qualitative improvements to the open space. Moreover, in this regard, the proposals would accord with the more general requirements of SLP Policy SP13 in securing enhancement and management in its quality and access.

Other Matters

55. The LPA's claimed ability to demonstrate a five-year supply of deliverable housing is disputed by the appellant. The consequence of any failure to maintain this level of supply is to render policies for the provision of housing out-of-date in accordance with the Framework. Subject to analysis in respect of their status and importance, this could thereby trigger the so-called 'tilted-balance' under paragraph 11 of the Framework. It is noteworthy, however, that the appellant considers that their case is not dependant on there being a shortfall or the policies being out of date.

56. Firstly, it is important to recognise that although I have sufficient material to come to a conclusion on the general extent of the supply, the proper forum for determining the precise position is as part of the development plan process. I cannot replicate a full range of all views of interested parties as part of a s78 appeal.
57. There are also 2 headline matters to note. The LPA disputes the Housing Delivery Target published by MHCLG in February 2019. This is a measure of whether planned requirements have been met over the last 3 years. Instead, it was held that the figures on the London Development Database supports the LPA's views on housing land supply, although these have not been adopted by the MHCLG at the current time. However, it was accepted by the LPA that a buffer of 20% is applicable to their housing land supply and this is reflected in their Annual Monitoring Report and other data presented at the Inquiry.
58. In addition, the LPA has objected to the proposed housing target set out in Policy H1 in the DLP. This would increase the annual housing target from 1502 units per annum to around 1958 units per annum. At the current time this target does, however, remain unchanged in the most recent iteration of the DLP.
59. During the course of the Inquiry, and particularly during the round table discussion on housing land supply, the parties positions changed on various matters. The parties agreed on the base date, the annual target, the 5 year requirement, shortfall and buffer, and the overall 5year target. The dispute thus focusses around the deliverability of sites, but they remained just above and just below the 5 year supply point as the LPA's final position was that they could demonstrate 5.24 years, whereas the appellant considered this to be 4.46 years.
60. In terms of deliverability the revised Framework sets out a clear definition. Sites which do not involve major development and have planning permission and all sites with detailed planning permission should be considered deliverable until permission expires unless there is clear evidence otherwise. Where a site has outline permission or is allocated in a development plan, has permission in principle or is identified on the brownfield register, it should only be considered deliverable if there is clear evidence that housing completions will begin onsite within 5-years.
61. On the 22 July 2019 the Planning Practice Guidance (PPG) was amended to provide further details relating to housing supply and delivery. The parties were aware of this and it formed the basis of the discussions in relation to deliverable sites. The PPG sets out detailed information regarding what constitutes a deliverable housing site and evidence requirements to demonstrate delivery are listed. This includes (but is not limited to) evidence relating to the current planning status and timescales for approval, evidence of firm progress being made towards the submission of an application such as written agreements, site assessment work, clear information about site viability, and ownership constraints. The 2019 Framework has raised the bar related to deliverability in comparison with other iterations and the updated PPG now provides much needed clarity on what constitutes clear evidence.
62. A total of 20 sites remain in contention between parties, plus the more general 'small sites' calculation and the assumptions made behind this. In general, the

position of the appellant is that the LPA has not met the evidence requirements of the PPG and thus many of the sites do not meet the definition of deliverable.

63. Delivery rates for small 'windfall' sites are disputed as the appellant considers that a 50% lapse rate would come forward, but the LPA has changed this to 30% as it considers a 50% rate to be overly pessimistic. Based upon the submitted table of lapse rates (INQ 21) I am satisfied that a 30% rate is realistic and that the Council's figure for small sites at 728 units is thus reasonable.
64. Of the larger sites presented, St Ann's Hospital (470 units) has been purchased by the Greater London Authority and pre-application advice has been given. An email was produced at the Inquiry (INQ 22) which confirms that the site would be launched to the London Development Panel in early September 2019 and that tender documents have been published. However, in light of the timing of the panel meeting, it would appear that the LPA's claim that a permission is expected early 2020 is somewhat premature and there is no evidence to support these claims. Moreover, I have no evidence in respect of anticipated start and build out dates. I do not therefore consider that the delivery of this site is demonstrated in accordance with the Framework and PPG.
65. Park Grove and Durnsford Road (160 units) is a site allocation in Council ownership and part of the Council's Estate Renewal Programme. But details on timescales of this programme were unclear and while it may come forward in the near future, I have no evidence other than verbal assurances made at the Inquiry. This is not enough to persuade me, at this time, for this site.
66. It is understood that the Ashley Road North site (147 units) has undertaken financial site assessment works. However, the development of this site relies upon the completion of a new depot elsewhere and limited other evidence has been presented in respect of progress made towards the submission of an application etc. Again, I do not consider this has met the requisite burden of proof on the Council.
67. Similarly, the Selby Centre (200 units) and Clarendon Road South West Indian Cultural Centre (100 units) are disputed insofar as they both are targeted to go on site by 2022. The appellant has assumed 50% deliverability rate in light of this late start date. Given the size of the schemes, I agree that incorporating the full number of units into the current supply period is challenging. Without any evidence to the contrary, I consider that the appellant's assumption of 50% to be more reasonable (100units/50 units respectively).
68. Green Ridings House (106 units) is allocated and I note that discussions are taking place with the landowner but again this factor alone does not meet the PPG requirements.
69. I have highlighted the larger schemes above, but it should also be noted that there are several other specified sites of 100 houses or less which make reference to existing site allocations and pre-applications by way of justification. Again, as above, more evidence is required to support the LPA's claims. Moreover, a number of other sites are included for the single reason that they are allocated, but no further evidence of their specific deliverability was presented and in light of the Framework definition, and the PPG, this is not sufficient.

70. The Council's housing land supply figure is marginal, and in light of my findings, I consider that a 5 year housing land supply cannot currently be demonstrated based upon my assessment of deliverability of sites, albeit this would only be just below the 5 year supply point.
71. The policies pertinent to my decision have been outlined in my reasoning above. In light of my conclusions relating to housing land supply, the affordable housing policies are considered to be out of date. Those cited policies relating to open space are, however, in accordance with the Framework and thus I consider these to not be out of date as a result of my findings on housing land supply.
72. Having regard to the Government's objective of significantly boosting the supply of homes, overall I consider that the policies when taken as a whole should be regarded as out of date for my decision. Paragraph 11 of the Framework is thus engaged. In my planning balance any adverse impacts of the development must significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I turn to this now.

Planning Balance and Conclusion

73. For the reasons set out above, the proposal conflicts with the policies relating to affordable housing in the development plan in respect of tenure and mix. In terms of open space, I have found compliance with SLP Policy SP13 and that the policy conflict with DMDPD Policy DM20 and the Framework in terms of quantitative loss is overcome by material considerations, namely qualitative improvements. The so called 'tilted balance' is also engaged.
74. Although I have found harm in terms of mixed and balanced communities, I do acknowledge that a 100% affordable housing scheme goes well beyond the minimum requirements of the development plan for affordable units and thus weighs in its favour.
75. Other factors that attract positive weight include the evidence to support the deliverability of the site and I note that as per the agreed conditions, a 2 year expiry on any grant of consent was proposed to demonstrate this and to expedite the development on the ground, in accordance with paragraph 76 of the Framework. The site is readily accessible and would support local employment and apprentices, as set out in the bilateral undertaking. There would be other environmental benefits in terms of car-free development.
76. The appeal site is owned by the Council, who granted a long lease to Pocket Living for the development of affordable housing units and I note the meeting minutes (dated 15 November 2016) identify the strong demand for intermediate housing and the specific Pocket Living offer. However, what is clear from this document is that the offer was subject to planning permission being obtained as part of the Council's function as an LPA. The report also clearly states that it was important to note that "*intermediate housing forms part of the housing solution mix and not 'instead' of affordable housing.*" While I therefore note the support from the Council (as opposed to the LPA) for the scheme, this has limited weight in my assessment of the planning merits.
77. Moreover, following on from the granting of the option of the site to Pocket Living, the Council secured £60million of funding and utilising this, it has set

the delivery of 1000 affordable homes as its number 1 priority in the next 4 years. While I recognise that the scheme before me would be deliverable, I consider that the Council have a compelling fallback position which would secure the dedicated delivery of affordable housing which would achieve mixed and balanced communities in terms of tenure and mix.

78. Overall, even with the 'tilted balance' engaged, I therefore consider that the adverse impact of the development in terms of its failure to meet the affordable housing need in Tottenham and Haringey with specific regard to tenure and mix significantly and demonstrably outweighs the benefits of the development.
79. For the reasons given above and having taken into account all other matters raised, I therefore conclude that the appeal should be dismissed.

C Searson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Tucker QC and Freddie Humphreys of Counsel instructed by William Summerlin of CMS Cameron McKenna Nabarro Olswang LLP

They called:

Sean Tickle MRTPI BA Hons Dip TP
Director of Planning, Rolf Judd Planning

Other Participants at Round Table Discussions:

Andy Love, XCO2
Hana Loftus, HAT Projects
Nick Williams, Pocket Living
William Summerlin, CMS

FOR THE LOCAL PLANNING AUTHORITY:

David Forsdick QC instructed by the Solicitor to the Council

He called:

Robbie McNaugher MA(Hons) MRTPI
Tottenham Strategic Applications Team Manager

Other Participants at Round Table Discussions:

Rob Krzyszowski MPlan (Dist) MRTPI, Head of Planning Policy, Transport and Infrastructure
Emma Williamson, Assistant Director of Planning
Dean Hermitage, Head of Development Management
Joe Baker, Head of Carbon Management

INTERESTED PERSONS:

Cllr Barbara Blake
Seven Sisters Ward

Mr Lee James Jay
Local Resident

DOCUMENTS SUBMITTED AT INQUIRY

- INQ 1 List of Appearances – Appellant
- INQ 2 Printed Table of Deliverable Sites: Housing Land Supply
- INQ 3 Opening Comments of behalf of Council
- INQ 4 Opening Statement on behalf of the Appellant
- INQ 5 Email of Support – V Salmon, Pocket Living Resident
- INQ 6 Letter of Support – L J Jay Local Resident
- INQ 7 Letter of Support – Councillor Barbara Blake, Seven Sisters Ward
- INQ 8 Table of Resale Values at other 'Pocket' sites in London
- INQ 9 Appeal Decision APP/W3520/W/18/3194926 Woolpit, Suffolk
- INQ 10 Appeal Decision APP/R3650/W/16/3165974 Haslemere
- INQ 11 Appeal Decision APP/Z1510/W/18/3207509 Bures Hamlet, Essex
- INQ 12 Copy of consultation response from the Metropolitan Police 7-2-19
- INQ 13 Summary Proof of Evidence Robbie McNaugher MA(Hons) MRTPI
- INQ 14 Copy of consultation response from the Council's Design Officer
25-2-19
- INQ 15 Table of Tenure and Mix of Surrounding Development
- INQ 16 Site Boundary Map for Table of Tenure and Mix
- INQ 17 Signed Statement of Common Ground: Housing Land Supply
20-8-19
- INQ 18 Printed table of Disputed Deliverable Sites: Housing Land Supply
- INQ 19 Planning Financial Appraisal –November 2018
- INQ 20 Extract from Pocket Living Website 'First Time Buyer Guide – The
Bank of Mum and Dad' 20-8-19
- INQ 21 Table of Lapse Rates 2011-2018
- INQ 22 Email dated 31 July 2019 re St Ann's Hospital site update
- INQ 23 Hand annotated map depicting agreed areas for site visit
- INQ 24 Draft Bilateral s106 Agreement
- INQ 25 Draft Unilateral s106 Agreement
- INQ 26 Final Signed Statement of Common Ground: Housing Land Supply
22-8-19
- INQ 27 Final printed table of Disputed Deliverable Sites: Housing Land
Supply
- INQ 28 List of agreed planning conditions
- INQ 29 Tracked changes version of agreed planning conditions (for
reference)
- INQ 30 Signed Statement of Common Ground: Resale Value Cap and
Agreement for Lease 22-8-19
- INQ 31 Closing submissions on behalf of the Council
- INQ 32 Closing submissions on behalf of the Appellant
- INQ 33 Certified Copy of Bilateral Undertaking Dated 22 August 2019
- INQ 34 Certified Copy of Unilateral Undertaking Dated 22 August 2019