



Appeal Decision

Site visit made on 12 March 2020

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2020

Appeal Ref: APP/X3540/W/19/3235021

The Bartlet, Undercliff Road East, Felixstowe, IP11 7LS

- 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 Mr Peter Blemings against the decision of East Suffolk Council.
 - The application Ref DC/19/0984/FUL dated 1 March 2019, was refused by notice dated 19 June 2019.
 - The development proposed is described on the application form as "Proposed apartment and garaging".
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Decision

1. The appeal is dismissed.

Background and procedural matter

2. The evidence shows that planning permission was granted in 2012¹ to convert the Bartlet Hospital into 19 apartments, to convert and extend the adjacent hospital annexe into 9 residential units, and to erect a further 3 dwellings to the east of the main hospital building. There followed a number of variations to this planning permission which has resulted in a total of 36 dwellings on the site, to include 21 apartments in the hospital, 12 in the annexe building and a terrace of 3 houses on land to the east ('the earlier comprehensive site development').
3. A further development of 3 apartments with cycle storage and garaging to serve the hospital apartments was granted planning permission at appeal in 2017² ('the 2017 appeal decision'; 'the 2017 scheme'; and 'the fallback position'); - this was on the same site as the current appeal. This scheme was accompanied by a unilateral undertaking from the appellant making a financial contribution towards the provision of off-site affordable housing. The current proposal seeks to erect a building of the same scale and footprint as the 2017 scheme, but with 1 residential unit instead of 3, the loss of the cycle storage facility, a reconfigured garage arrangement at ground floor level, and slightly different external elevations (albeit of the same architectural style). A further difference is the absence of a unilateral undertaking by the appellant making a financial contribution towards off-site affordable housing.
4. I have no substantive evidence to indicate that there is a significant probability that the fallback position of 3 apartments would be constructed should this

¹ Council Decision Notice Ref: C11/1502/FUL, dated 23 March 2012.

² Council Decision Notice Ref: DC/15/4581/FUL dated 25 February 2016 and Planning Inspectorate Decision Letter Ref: APP/J3530/W/16/3155285 dated 24 May 2017.

appeal be dismissed. There is also no evidence before me to demonstrate that the pre-commencement conditions attached to this permission have been approved, which would enable a lawful commencement of development, even if that were the appellant's intention. This limits the weight that I can attach to it as a fallback position. In any event the previous scheme is not comparable to the one before me as it consists of a greater number of residential units and includes a financial contribution towards off-site affordable housing.

5. The appellant states that the 2017 appeal decision for 3 apartments could be subsequently adapted following construction to form a single unit of accommodation by undertaking alterations which would not constitute development. Be that as it may, the appellant would still have been required via the unilateral undertaking for this permission to make a financial contribution to off-site affordable housing. Such a contribution does not apply to the scheme before me and hence I have given this consideration limited weight.
6. However, notwithstanding my view on the weight to be attached to the fallback position, I recognise that the current proposal does have a similar external appearance to the previous scheme and is in the same location. I have as a consequence given significant weight to the corresponding appeal decision as a material consideration in my assessment.

Main issues

7. The main issues are:

- whether the proposal makes adequate provision for affordable housing;
- whether there are sufficient public benefits that outweigh the scheme's less than substantial harm to the setting of the former Bartlet Hospital listed building.

Reasons

Appeal site context

8. The appeal site forms part of the grounds to the former Bartlet Hospital ('the listed hospital'), a Grade II* listed building situated in the Felixstowe Conservation Area. The hospital occupies an exposed, elevated position on the north side of Undercliff Road East facing out towards the sea. To the north of the hospital lies the grounds and courts of the Felixstowe Lawn Tennis Club.

Whether the proposal makes adequate provision for affordable housing

9. Policy DM2 of the Core Strategy³ states that in major centres and towns, developments of more than 6 additional dwellings, whether in total or in phases, will require 1 in 3 of the residential units to be affordable housing. As a consequence of this Policy's reference to phased development, the Council asserts that the current proposal should be considered in the wider context of the earlier comprehensive site development.
10. However, a line needs to be drawn at some point as to when a new development can no longer be considered to form a later phase of an earlier

³ Suffolk Coastal District Local Plan, Core Strategy & Development Management Policies, Development Plan Document, July 2013, Suffolk Coastal District Local Plan.

scheme, or the same policy requirement for affordable housing could continue to be applied to any development site in perpetuity. In the current case, a considerable period of time has now elapsed since both the earlier comprehensive development took place and the 2017 appeal decision, and neither is there any element of the earlier comprehensive site development that requires or is dependent upon the provision of the current scheme. There was also no evidence at my site inspection of building materials and equipment that had been retained from the earlier comprehensive development to be used in the construction of the current scheme, which may have otherwise indicated a phased approach to construction on the site. In my view, the current proposal therefore now constitutes a new standalone scheme in its own right and does not form part of the earlier comprehensive development.

11. In view of the above, I conclude that the scheme does not constitute a later phase of the earlier comprehensive site development and as a consequence, does not conflict with Policy DM2 of the Core Strategy as it does not exceed the threshold where affordable housing is required.

Whether there are sufficient public benefits that outweigh the scheme's less than substantial harm to the setting of the former Bartlet Hospital listed building

12. The Inspector in the 2017 appeal decision concluded that the scheme would cause less than substantial harm to the setting of the listed hospital. Although the Council does not agree with this conclusion, it has accepted it and based its current decision on the findings reached. As a consequence of the scheme being the same scale and footprint as the fallback position scheme, and of a similar design, I see no reason to disagree with the Council's assessment that the proposal would cause less than substantial harm. The appellant also does not dispute this conclusion on the level of harm the scheme would inflict.
13. As a consequence, I have weighed this harm against the public benefits of the proposal, including securing optimum viable use, in accordance with Paragraph 196 of the Framework⁴. In carrying out this assessment, I have also given great weight to the protection of the listed building and its setting in accordance with Paragraph 193 of the Framework.
14. Furthermore, in accordance with Section 66 (1) of the 1990 Planning (Listed Buildings and Conservation Areas) Act 1990, I have also given considerable importance and weight to the desirability of preserving the setting of the listed building when carrying out my balancing exercise.
15. I recognise that the scheme would result in a range of public benefits, namely;
 - (a) it would break-up the negative visual impression of the existing expanse of vehicle parking; (b) the incongruous backdrop of the modern, visually jarring floodlight columns that surround the tennis courts to the north of the site would be partly screened by the scheme; (c) the provision of an additional self-build dwelling to increase the choice of local housing stock; (d) future occupiers contributing to the vitality and viability of local shops, services, facilities, businesses and community organisations; and (e) local employment during construction. However, it is my view that when considered collectively, these would be of limited value and outweighed by the harm to the setting of the listed building.

⁴ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

16. I recognise that the Inspector in the 2017 appeal decision concluded that there were sufficient public benefits for that scheme to outweigh the little net harm to the setting of the listed building, but this included the provision of 3 additional dwellings against the backdrop of the Council not having a 5-year housing land supply, and the provision of an off-site affordable housing contribution set against the significant need for this type of accommodation that existed at the time. There is nothing in the 2017 appeal decision that would lead me to conclude that the Inspector considered these public benefits to be of secondary importance and they are not replicated in the current scheme. I have as a consequence concluded that the positive attributes of the current scheme identified above are not sufficient in themselves to outweigh the harm identified.

Other matters

17. I recognise that there may be a greater local need for small residential units, but there is no evidence before me of any development plan policy or national policy that requires the provision of these to be maximised at the expense of larger units on the appeal site. Given that the proposal would result in a development of the same size and scale as the 2017 appeal decision, I am satisfied that the scheme would result in an efficient and effective use of land as required by the Framework.
18. I recognise the letters of support for the scheme provided by third parties, but these do not in themselves demonstrate a lack of harm or that there is sufficient public benefit to overcome the harm identified.

Conclusion

19. Although I have concluded that there is no conflict with the development plan on the provision of affordable housing, I am nonetheless satisfied that the harm identified in respect of the main issue relating to the setting of the listed building and the lack of public benefits to outweigh this is sufficient to still justify dismissal of the appeal.
20. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR