
Appeal Decision

Site visit made on 14 May 2020

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th June 2020

Appeal Ref: APP/W3005/W/19/3243850

Emperors Way, Hucknall, Nottingham NG15 8GG

- 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 Ms Catherine Hewitt of Nottingham Community Housing Association against the decision of Ashfield District Council.
 - The application Ref V/2018/0744, dated 9 November 2018, was refused by notice dated 29 August 2019.
 - The development proposed is 14 two-storey dwellings with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The above description is different from that shown on the application form as the proposal was amended during the course of the application.
3. An application for costs was made by the appellant against Ashfield District Council (the Council). This application is the subject of a separate decision.

Main Issues

4. The main issues are:
 - whether the proposal would be in a suitable location having regard to the level of community facilities and promoting healthy and safe communities;
 - the effect on the character and appearance of the surrounding area;
 - whether the proposal results in a material diminishment in design quality between permission and completion; and
 - the effect of the proposal on highway safety, with regard to parking.

Reasons

5. The appeal site is an area of vacant land located between a green urban square to the east, a school to the southwest, and retail and commercial units to the west. The site and surrounds form part of a wider housing development that is nearing completion. The outline planning permission for this wider development included a masterplan which identifies the appeal site forming part of a local centre, with the urban square immediately adjacent. From my observations on site, the existing facilities together form a cohesive neighbourhood centre in visual and functional terms, with the school, shop, commercial units, urban

green and appeal site all strongly relating to each other. This is emphasised by the relationship of the surrounding housing to the neighbourhood centre, with dwellings facing directly towards and encircling the neighbourhood centre to provide an encompassing active street frontage.

Location

6. From the evidence provided, neither the masterplan nor the Development Brief for Papplewick Lane (2004)(DB) specify the use or floor area of local services to be provided. The DB also acknowledges that end user interest in the proposed local centre had not been tested at that time. Furthermore, the DB does not discount the possibility of housing being provided within the identified local centre, and encourages a mixed-use feature at the centre of the wider site, albeit that it envisages residential units being provided in a different form to that proposed. Overall, this indicates considerable flexibility about what the local centre should become. Despite the age of the DB, its principles of appropriate land use mix and good design are broadly consistent with the Framework, such that the DB attracts considerable weight in this appeal.
7. Given that a defined level of local services was never originally quantified, and given that three commercial units already exist at the adjacent site, the appeal proposal does not contravene the terms of the Development Brief or the masterplan, neither does it reduce any quantified level of community facilities.
8. The Council consider that the proposal is insular and inward facing, such that it fails to promote social interaction and support healthy lifestyles. During my site visit, I saw local residents walking to the shop, and gathering together to talk, thereby providing some evidence of the social space created by the neighbourhood centre. However, despite the Council's claim of poor layout and connectivity, the proposal would not so significantly increase walking distances that walking would be discouraged. Furthermore, the areas of inactive street frontage, created by proposed walls and fences along the site boundary, would not in themselves discourage social interaction, or indeed walking, given the high levels of natural surveillance from the existing dwellings.
9. Although the opportunity to provide housing at the site has been made more challenging by the separation of the shop and the urban square, as previously anticipated by the Inspector determining a previous appeal¹ at the adjacent site, I find that, overall, the appeal site is not an intrinsically inappropriate location for housing. I therefore conclude that the appeal site would be a suitable location having regard to the level of community facilities and promoting healthy and safe communities. The proposal would comply with paragraph 91 of the National Planning Policy Framework (the Framework) which requires development to achieve healthy and safe communities.

Character and appearance

10. The effect of the proposal would be to erect new dwellings with associated boundary treatments for the full length of the appeal site, which would divide the neighbourhood centre into separate areas in visual terms. Whilst the siting of plots in the southern portion of the appeal site would relate appropriately to the commercial units and the houses opposite on Kenbrook Road, the northern plots would result in the urban green becoming disconnected from the

¹ Appeal decision APP/W3005/W/15/3133293

commercial premises. These northerly dwellings, with 1.8 metre high walls and fences, act as a significant visual barrier between the commercial premises and the urban green, despite the proposed pedestrian link. I also find that the extent of these boundary treatments, covering a significant proportion of the northern part of the site boundary, would contrast with the active frontages of the existing development around the neighbourhood centre. Together, these aspects of the proposal would harm the open characteristic of the locality.

11. Similarly, the proximity of proposed dwellings along the north eastern boundary to the existing dwellings opposite, along with boundary treatment tight to the visibility splay limit, would create a narrow and unwelcoming gateway that would again poorly contrast with the existing inviting open character. Overall, the extent of the proposed development across the appeal site would prevent any effective visual connectivity between the shop and the urban green, and would significantly diminish the cohesion of the existing neighbourhood centre. Notwithstanding that the proposed density, said to be 46 dwellings per hectare, is not in itself unacceptable or dissimilar to that found nearby, the extent of development across the site is excessive.
12. Consequently, I conclude that the proposal would have a significant adverse effect on the character and appearance of the area, contrary to policies ST1 and HG5(g) of the Ashfield Local Plan Review (2002)(LP). Together, these require that development not adversely affect the character of the area.

Quality

13. Paragraph 130 of the Framework indicates that the design quality of approved development should not be materially diminished between permission and completion. Whilst the reason for refusal infers existence of a previous permission, the Council's evidence confirms there is no extant outline permission or permitted detailed scheme, notwithstanding the existence of a masterplan and development brief. It therefore follows that the proposal would not diminish the quality of a permitted scheme. I have also already found above that the proposal would not reduce any quantifiable level of community facilities. I conclude that the proposal would not result in a material diminishment of design quality from permission to completion, and there is no conflict with paragraph 130.

Highway safety

14. Parking is provided at a rate of 2 spaces per dwelling. Furthermore, the site is in an accessible location with sustainable transport options and close to local services, which would encourage reduced dependency on car use. There are no objections from the highways officer on this point, and I am not persuaded by the Council's argument that the proposed dwellings should somehow mitigate any parking problems that may be arising from the adjacent shop and school. Therefore, I conclude that the proposal would not have a significant adverse effect on highway safety, with regard to parking. As such the proposed development would comply with policy ST1 of the LP which requires, amongst other matters, that development should not adversely affect highway safety.

Other matters

15. The Council's Statement of Case indicates that a planning obligation is required to secure firstly the provision and tenure of affordable housing and secondly a

contribution towards education provision. However, the appellant is silent on this matter and no obligation has been provided. As I am dismissing the appeal on other grounds, it is not necessary for me to reach a finding on either the obligation or the disputed affordable housing condition.

Planning balance

16. In the absence of a five year supply of housing, paragraph 11(d) and footnote 7 of the Framework state that the policies that are most important for determining the application should be considered as out of date, and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
17. In the context of the development plan, I have found that the proposal would be contrary to policies ST1 and HG5(g) of the LP, insofar as those policies relate to character and appearance. For this appeal, I find that these policies are generally consistent with the relevant aims of the Framework and I attach substantial weight to them. In the context of these policies, I have found that the excessive extent of development across the site would harm the open and cohesive character and appearance of the neighbourhood centre. Although I have found that the location of the site is not unsuitable for housing, that there is no diminishment in design quality from permission to completion, and that there is no harm arising in terms of highway safety, the proposal would not accord with the development plan when considered as a whole.
18. The contribution to housing supply in the area from 14 affordable housing units is significant. The use of vacant urban land and the accessibility of the site also weigh moderately in favour of the development. However, the proposal would result in significant harm to the character and appearance of the neighbourhood centre. As such, it would be contrary to the aims of the Framework to achieve well-designed places that function well and add to the overall quality of the area.
19. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development. It would also therefore not accord with the requirements of policies ST1 and HG5(g) of the LP to not adversely affect the character of the environment.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Patrick Hanna

INSPECTOR