
Appeal Decision

Site visit made on 24 August 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2020

Appeal Ref: APP/L3815/W/20/3251134

Land north east of Tangmere Military Aviation Museum, Gamecock Terrace, Tangmere PO20 2ES

- 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 Robert Collett (Miller Homes Ltd) against the decision of Chichester District Council.
 - The application Ref TG/19/02365/FUL, dated 11 September 2019, was refused by notice dated 16 December 2019.
 - The development proposed is the erection of six residential dwellings with associated parking, bin and cycle store, landscaping and open space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's description of the proposed development in the application form includes wording that relates to the merits of the case. I have omitted this wording in the banner heading above in the interests of clarity and to limit the description to the proposed act of development.
3. Since it made its decision, the Council is no longer able to demonstrate a 5-year housing land supply. It also considers that the proposed development is in conflict with its recent Interim Position Statement for Housing Development (the IPS). I deal with these considerations in 'other matters' below.

Background and Main Issues

4. The proposed development would be the same as that already granted planning permission by the Council (the previous permission).¹ However, that development was not commenced within the requisite time period and there is as a consequence no extant permission.
5. Since then, the National Planning Policy Framework (the Framework) now includes at paragraph 130, under the heading 'achieving well-designed places', that local planning authorities should 'seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme'. Although it is complete, the effect of the appeal proposal would be to change

¹ Council's application reference TG/16/00444/FUL.

the development that has only recently been completed. Furthermore, while there has been no change to the development plan since the previous permission, the relevant policies must now be reasonably considered in the light of current circumstances.

6. I am therefore concerned that the appeal proposal could materially diminish the quality of the development that was permitted and that is now manifest and established. At my site visit I saw that most of the homes are occupied and I note that a significant number of residents have objected to the appeal proposal in response to formal statutory public consultation.
7. Against this background, the main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The provision of public open space; and
 - The living conditions of future occupiers, with particular regard to privacy and noise.

Reasons

Character and Appearance

8. The appeal site is a substantial area of public open space (the POS) provided as part of a new residential development of 160 homes in Tangmere (the permitted scheme). It is on level ground and mainly grassed. It is divided by a path into a large rectangular part (the large POS) and a small irregular shaped part (the small POS). On three sides it is bounded by an access road and homes which face onto it. The other side is to the rear of some older adjacent houses.
9. The relatively tight, mainly terraced block arrangement of the homes around the perimeter of the POS form a marked sense of enclosure, within which the extent of the POS provides a landscape setting to built form and an appreciable degree of spaciousness and visual separation between opposing homes that overlook it. This pattern and layout of development defines a tangible sense of place that is noticeable in public views and locally distinctive. The POS therefore has an important function beyond meeting residents' recreational, leisure or health and well-being needs — it is also an integral part of the planned layout and design quality of the permitted scheme and as is evident from what has been built and now exists.
10. The appeal proposal would develop part of the large POS with a two storey (and rooms in the roof) detached building for 6 apartments and a rear courtyard parking area. The scale, massing and appearance of the apartment building would be comparable to nearby properties and it would face onto part of the POS on one side.
11. However, the apartment building would occupy a somewhat detached and isolated position relative to the linear, regimented arrangement of the nearby buildings. It would also be significantly closer to one corner of the access road as it enters the permitted scheme than the existing buildings at the opposite end of the POS. It would also substantially reduce the extent of undeveloped land between some existing buildings around the POS and some would face the

side and rear elevations of the apartment building, rather than the POS and towards opposing facing buildings. It would also block any view of the POS from the long internal spine road on the approach towards it from within the more densely developed part of the permitted scheme.

12. The appeal proposal would therefore cause a serious reduction in spaciousness and fail to respect the existing integrity of the perimeter arrangement of buildings as these form a setting around the POS. It would appear as unexpected built form on this part of the appeal site and stand out as a discordant and undesirable element in this location — an unsatisfactory adjunct that would be unduly dominant and intrusive in public views. Accordingly, the appeal proposal would fundamentally alter the carefully planned and executed layout and design quality of the permitted scheme and be a clear departure from local distinctiveness, incompatible with the development that is now established at the appeal site.
13. Consequently, the appeal proposal would cause significant harm to the character and appearance of the area. It would not accord with Policy 33 and Policy 54 of the Chichester Local Plan, July 2015 (the LP). These policies include that development should meet the highest standards of design, provide a high quality living environment in keeping with the character of the surrounding area and respect, and where possible enhance, the character of the surrounding area, the appeal site and its setting in terms of siting and layout, including the quantity and quality of open space.
14. It would also conflict with Framework paragraphs 124, 127(a), (b), (c), (d) and (f) and 130 which include that development should ensure high quality, better places to live, add to the overall quality of the area, be visually attractive as a result of good layout, be sympathetic to local character including the surrounding built environment and maintain a strong sense of place using the arrangement of streets, spaces and building types to create attractive and distinctive places to live.

Public Open Space

15. The permitted scheme includes a second area of public open space with a formal equipped play area. I acknowledge that despite the loss of some of the POS that would result from the appeal proposal, the overall total net area of public open space left to serve the permitted scheme and the appeal proposal would still exceed the Council's minimum open space standards for both of these housing developments combined.
16. I also appreciate that although it was finally approved and laid out as public open space, a previous illustrative masterplan for the permitted scheme included a reasonably large community building sited in what is now the small POS, with the remainder of the appeal site (ie the large POS) shown as public open space. The undeveloped community building was no longer required and this 'commitment' to a built form was given up in lieu of a residential apartment building re-located into the large POS, including because there would be no net loss in the overall total area of public open space.
17. However, 'area' is not the only relevant consideration. The grassed spaces next to the equipped play area are reasonably small, and on a mound, which restricts their use for informal recreation. Furthermore, the appeal proposal would seriously reduce (by about half) the dimensions and shape of the large

POS, especially its length. This would therefore significantly limit its useability for informal recreational activity such as ball games (eg football) or use by larger groups of people. It would also unacceptably compromise the combined and complimentary nature of these two areas of public open space to meet the recreational, leisure and health or well-being needs of local residents of all ages, including future occupiers of the appeal proposal.

18. Such a substantial change to the large POS would not be satisfactorily off-set by using the small POS because its location, size and shape (thus useability) would not be comparable to that which would be lost and would not therefore provide facilities of overall at least equivalent quantity and quality. Nor is there any evidence before me to justify that the open space that would be lost does not have potential to meet any shortfall in provision in the local area.
19. Consequently, the appeal proposal would cause significant harm to the provision of open space. It would not accord with LP Policy 33 and Policy 54. These policies include that development should provide adequate infrastructure, provide a high quality living environment including public amenity and retain the quantity and quality of (existing) open space. It would also conflict with Framework paragraphs 96, 97, 124, 127(a), (d) and (f) which include that access to high quality open space is important, that existing open space should not be built upon and that development should ensure high quality, better places to live with a high standard of amenity for existing and future users.

Living Conditions

20. The appeal proposal includes a narrow access path with planting behind, tight along the front elevation of the proposed apartment block. This may provide some private 'defensible space' but there would nonetheless be little or no meaningful spatial separation between habitable rooms and the public open space, especially at ground floor. Furthermore, planting (or a structure, such as a fence) could not reasonably be very tall as it would likely unduly affect outlook, daylight and sunlight for future occupiers. There would therefore be a realistic prospect that users of the public open space would have unacceptable intrusive views through windows into ground floor living rooms and bedrooms.
21. In addition, I would expect normal use of the public open space to generate a degree of noise and associated activity. This could occur during the day, including at weekends and into summer evenings and so at times when occupiers of the proposed apartments would have a reasonable expectation to relief from such noise and activity, including with windows open. The siting of the apartment building, and habitable room windows, so close to the public open space would therefore generate unacceptable levels of noise and disturbance.
22. Consequently, the appeal proposal would cause significant harm to the living conditions of future occupiers having regard to outlook and privacy. It would not accord with LP Policy 33 and Policy 54. These policies include that development should provide a high quality living environment and respect the site and its setting having regard to neighbouring amenity. It would also conflict with Framework paragraphs 124, 127(a) and (f) which include that development should ensure high quality places to live that will function well and promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

23. The appeal proposal would make sufficient provision for cycle and bin storage. It would also have satisfactory drainage, not be at risk of flooding or contamination, provide adaptable housing to meet future occupiers needs and include appropriate security measures. However, the absence of harm in these matters is a neutral factor in my decision and does not lead me to conclude differently in terms of the harm that I have identified in the main issues above.
24. I appreciate that a number of residents consider that the appeal proposal would have adverse access, traffic and car parking impacts. However, the Council and the Highway Authority² did not object for this reason and on the evidence before me in this appeal, the increase in traffic would be comparatively small so unlikely to have an unacceptable impact on highway safety or severe impact on the road network. I also recognise that some residents value wildlife that has become established on some of the POS. The appeal proposal would reduce the area of land available for wildlife, but there is no evidence before me to substantiate that this would result in significant harm to wildlife.
25. Some residents are also concerned about obstruction of views from existing properties and light received into properties, and disturbance during construction. However, the proposed apartment block would not be close enough to cause harm to existing living conditions in these regards and construction works are an inevitable, though usually relatively short term, consequence of new development. I also note that some residents have concerns about a number of defects and deficiencies with details of the permitted scheme and with how the POS is managed, but these are not matters before me in this appeal. Furthermore, anti-social behaviour by some residents is a matter for the relevant public authority, or the Police, and loss of property value is not a planning consideration.
26. It is common ground between the main parties that the Council is unable to demonstrate a 5-year housing land supply, with only a 4.3-year supply. On the evidence before me I have no reason to reach a different view in this regard. As a consequence, by virtue of footnote 7, Framework paragraph 11(d) is engaged such that the policies which are most important for determining the application are out-of-date.
27. Accordingly, the presumption in favour of sustainable development as set out in Framework paragraph 11 requires planning permission to be granted unless either of two circumstances apply. The second of these is where any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, in which case in accordance with Framework paragraph 11(d)(ii) the presumption in favour of sustainable development would not apply.
28. Albeit that the Council intends the IPS meantime to facilitate an increased housing supply by permitting appropriate housing development, it is nonetheless a draft document. Though it has been subject to some public consultation it has yet to be considered by the Council's members and may therefore be subject to change. Consequently, the IPS has not yet reached an

² West Sussex County Council.

advanced stage of preparation and I therefore give it little weight in my decision.

Planning Balance and Conclusion

29. As explained in the main issues above, the appeal proposal would cause significant harm to the character and appearance of the area, to the provision of public open space and to the living conditions of future occupiers of the proposed apartment building. I attach substantial weight to this harm. The proposed development would not therefore accord with the development plan overall.
30. The appeal proposal would result in the provision of 6 new residential units. This would be a modest benefit, also mindful of the extent of the housing land supply shortfall.
31. Consequently, I find that the scale of development proposed and the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. There are no material considerations which indicate that my decision should not be taken otherwise in accordance with the development plan.
32. For the reasons given, the appeal does not succeed and planning permission is not granted.

Robin Buchanan

INSPECTOR