



Appeal Decision

Hearing held on 21 September 2021

Site visit made on 22 September 2021

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2021

Appeal Ref: APP/D3830/W/20/3263492

Former Tavistock and Summerhill School, Summerhill Lane, Haywards Heath RH16 1RP.

- 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 CCH Build Solution (Summerhill Lane) Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/19/0260, dated 21 January 2019, was refused by notice dated 17 August 2020.
 - The development proposed is erection of 38 residential dwellings comprising 4 houses and 34 flats with associated internal access, surface-level car parking, landscaping and other infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the hearing, the main parties agreed that the description of development and the date of application to be used in the banner heading above should be taken from the first of three application forms. Additionally, it was also agreed at the hearing that the postcode provided on the first application form was incorrect. I have used the correct postcode in the banner heading above.
3. The National Planning Policy Framework (the Framework) was revised on 20 July 2021. I have taken the main parties' comments on the revised Framework into account in reaching my decision.
4. Prior to the hearing, I had asked for clarification from the main parties regarding the status of a number of plans. Additional plans were supplied to me immediately prior to the hearing. It was clarified at the hearing that some 12 plans had been subject to amendment prior to the Council's determination of the application and following discussion between the scheme's architect and the Council's urban designer. However, these amendments were not represented on the plans determined by the Council and had not been subject to public consultation. The amendments across the 12 plans all relate to a proposed reduction in the length of the rear gardens of proposed Block D.
5. While the appellant confirmed at the hearing that they would prefer the appeal to proceed using the amended plans, the Council highlighted the risk of any potential prejudicial effect on neighbouring occupiers. Given that the amendments would move boundary treatments and domestic gardens further

away from existing trees and residential properties on Summerhill Grange, and having had regard to the relevant case law ¹, I am satisfied that no one would be prejudiced if the appeal were to be determined on the basis of the amended plans.

6. Prior to the hearing, the Council confirmed that, subject to the completion of a legal agreement to ensure provision of affordable housing on site and by means of financial contribution, and provision of contributions towards open space, transport, community and educational infrastructure, the second reason for refusal would fall away. A signed and executed planning obligation under Section 106 of the Town and Country Planning Act 1990 dated 29 September 2021 was submitted on 30 September 2021. I shall not consider that reason as a main issue, but will have regard to specific obligations, where necessary.

Main Issue

7. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

8. Located on Summerhill Lane's eastern side, the site lies at the top of a slope which angles upwards from the junction with West Common and then angles downwards towards the roundabout at the end of Summerhill Lane. The site's frontage to Summerhill Lane is over 80 metres in length. In addition, the site slopes from west to east away from Summerhill Lane towards Oak Bank and Summerhill Grange and north – south towards the rear of 1 - 4 Summerhill Grange. Summerhill Lane is predominantly occupied by large houses on both sides, with the exception of the Summerlands residential care home on the lane's western side and the site itself. The southern and western edges of the site adjoin the road and late 20th century houses and gardens along Summerhill Grange, while the northern boundary adjoins the gardens of detached houses at Clare Cottage on Oak Bank and Summerhill Cottage on Summerhill Lane.
9. Though not within a conservation area, the site lies within the Summerhill Lane/West Common Area of Townscape Character (ATC) in Lindfield, adjacent to the boundary between Haywards Heath and Lindfield. Summerhill Lane, West Common and Oak Bank lie within the ATC, while only the houses at the end of Summerhill Grange are also within the ATC.
10. Houses along Summerhill Lane are generally large, detached two-storey dwellings dating from the early 20th century or inter-war period, with some later 20th century buildings. West Common and Oak Bank are similar, though West Common is wider and less intimate with a slightly stronger building line, while Oak Bank is a narrower cul-de-sac, which is more private in nature.
11. The substantial houses on Summerhill Lane, West Common and Oak Bank are set in large, wide plots behind front gardens. The verdant front gardens generally contain hedges and shrubs alongside mature trees. Though the individual designs and ages of housing vary, the houses are predominantly light brown brick with tall and prominent, steeply pitched and tiled roofs. Roofscapes often have different ridge heights and are varied in style. In terms of detailing, some of the houses have tile-hanging and/or weatherboarding, while there is

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL 1982]; Holborn Studios Ltd v London Borough of Hackney [EWHC 2823 (Admin)]

limited use of render. There is a strong Arts and Crafts influence present within the ATC, with an emphasis on the architectural work of Harold G. Turner, a local architect who specialised in Sussex farmhouse vernacular inspired by the Arts and Crafts movement. In addition, the Garden Cities inspired buildings within the ATC have more varied massing, gables, dormers, chimneys and projecting bays. While there is also an example of Art Deco architecture on Summerhill Lane, this is only glimpsed from the road due to its position.

12. The late 20th century houses along the cul-de-sac of Summerhill Grange are detached two-storey properties which mimic some of the vernacular detailing and materials present on housing on neighbouring streets, but in a cruder manner. Although the houses are relatively large, their proportions, greater mix of materials, detailing, and the quality of their roofscapes also reduce their overall design quality when viewed in the wider context of the ATC.
13. The site of approximately 1.15ha is presently vacant. The site was previously occupied by the Tavistock and Summerhill Preparatory School, which closed in 2015. The school was housed in Summerhill House, a two-storey Victorian villa, and a range of other buildings, structures, playspaces and hardstanding, which were all removed in 2017. The site now contains self-seeded vegetation and numerous mature, predominantly deciduous trees, some of which are protected by a Tree Preservation Order (TPO). Many of the trees and shrubs are located close to the boundaries of the site, providing some screening of the site from roads and neighbouring residential properties. The site has three vehicular accesses, two from Summerhill Grange and one from Summerhill Lane.
14. The proposed development would comprise four three-storey residential blocks, with Block A located closest to the site's frontage on Summerhill Grange and Summerhill Lane, Block B adjacent to the northern boundary with Summerhill Cottage on Summerhill Lane, Block C in the site's rear corner proximate to Summerhill Grange and Oak Bank, and a three-storey staggered block of four terraced townhouses. The townhouses form Block D which would be situated in the site's easternmost part adjacent to Summerhill Grange. The layout of the proposed development would be one of angled and irregularly shaped blocks set in a star shape around a garden core centred on the category A Tulip Tree, with parking, access routes, and landscaped grounds. The layout of the four blocks is informed by the site's numerous trees, many of which would be retained, and by other key drivers such as optimisation of the potential of the site, topography, living conditions, permeability and views.
15. Policy DP26 of the Mid Sussex District Plan 2014 – 2031 (2018) (MSDP) deals with character and design. It requires all development to be well designed and reflect the distinctive character of towns and villages. It also sets out 11 criteria, which include high quality design and layout; appropriate landscaping and greenspace; creation of a sense of place while addressing the character and scale of the surrounding buildings and landscape; protection of open spaces, trees and gardens that contribute to the area's character; protection of valued townscapes and the separate identity and character of towns and villages; well-integrated parking that does not dominate the street; and optimising the site's potential to accommodate development. Reference has also been made by the appellant to other MSDP policies on housing need; settlement hierarchy; transport; space standards, accessibility; housing mix; affordable housing; trees, woodland and hedgerows; biodiversity; sustainable design and construction; and flood risk.

16. Policy 7 of the Lindfield and Lindfield Rural Neighbourhood Plan 2014 – 2031 (2016) (LLRNP) designates a number of ATC, including Summerhill Lane/West Common. These ATC are shown on the Council's Local Plan Proposals Map for Lindfield. Policy 7 also confirms that development proposals in ATC will be supported, provided applicants can demonstrate they have had regard to their impact on the area's character and appearance and have sought to retain features important to the area's character, as defined in the Lindfield Village Design Statement 2011 (LVDS).
17. LLRNP Policy 7 highlights that proposals should retain trees, frontage hedgerows and walls which contribute to the character and appearance of the area; retain areas of open space (including private gardens) which are open to public view and contribute to the area's character and appearance; and avoid the demolition of existing buildings which contribute to the area's character and appearance. In my view, these criteria are met by the proposed development, but the question remains as to whether it is demonstrated that the appellant has had regard to the impact of the development on the area's character and appearance. The appellant has also referred to LLRNP Policies 1 and 2 which respectively encourage development in the built-up area on previously developed sites, and support windfall sites coming forward for housing subject to certain criteria.
18. Although the LLRNP acknowledges that ATC do not have the same status as conservation areas, it confirms that the Council will pay particular attention to any proposals for development or redevelopment, having regard to the special character of the townscape in such areas. Though the rationale for the alignment of its designation remains somewhat unclear, the designated ATC covers the majority of the site which formerly contained the Victorian villa, with part of the access off Summerhill Grange and land to the rear of houses and gardens on the southernmost area of the site excluded. Part of Summerhill Grange is also excluded from the ATC.
19. The Mid Sussex Design Guide Supplementary Planning Document 2020 (SPD) sets out a series of design principles for development. Its aim is to deliver high quality new development that responds appropriately to its context and is inclusive and sustainable.
20. The LVDS, amongst other things, seeks to protect the character of important views and prospects, including Summerhill House, and looks to protect approach roads into Lindfield from inappropriate development which would detract from the setting of the village. Furthermore, it asserts that any new developments should respect the character, pattern and tradition of existing places, materials and built forms, and fit appropriately into the landscape. This includes reflecting the existing mix of house size, pattern, rhythm, height and varying roof levels and materials. It also states that new housing sites should work with, rather than against, key features, including the existing contours of the site and established boundaries. While the LVDS confirms that modern interpretations of old forms may be acceptable and does not intend to be a barrier to modern design, it highlights the importance of establishing a sympathetic relationship with existing buildings, thereby enhancing their setting and giving the new buildings a sense of belonging in context.
21. The Framework is a material consideration in decision-making. Paragraph 69 of the Framework identifies that small and medium sized sites can make an

important contribution to housing supply. Chapter 12 of the Framework deals with achieving well-designed places and makes specific reference to the preparation of design guides. Amongst other things, paragraph 130 of the Framework states that planning policies and decisions should ensure that developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development.

22. Although the site is undoubtedly large and contains many mature trees, including trees located close to the site's boundaries, it is not divorced from the streetscape adjoining the long site frontage on Summerhill Lane, or from the street on neighbouring Summerhill Grange. Despite the site's vegetated nature, when standing within the site, there is clear intervisibility between the site, the existing houses and care home on Summerhill Lane, housing on Oak Bank, and housing and the street along Summerhill Grange. As many of the trees on site are deciduous, this intervisibility would increase during the Winter and early Spring. While some of this intervisibility would not have been possible when the school buildings were in situ, those buildings are no longer present on site.
23. If the proposed development were to be constructed, the intervisibility between buildings on the site and the surrounding streets would be heightened by the differences in topography across the site and the height of the proposed flatted blocks. This prominence would be reduced by additional tree planting to bolster the appellant's desired parkland setting, but the site would remain intervisible from the aforementioned neighbouring streets. Even though Summerhill Lane and Summerhill Grange are both sloping, which reduces some longer views, the site and its long street frontage still forms an integral part of the locality. As such, I find that the site plays an important role in the streetscene on this part of Summerhill Lane and along part of Summerhill Grange.
24. While the trees do and would continue to provide some separation from Summerhill Lane, the proposed development would comprise parking close to the site's frontage with buildings set deeper within the site. While the previous use of the site had a different grain and layout from the surrounding residential streets with parking on the frontage, the main school building did address the streetscene and was particularly visible in views from outside the site in the Winter months when the trees were not in leaf. To my mind, rather than providing a unique sense of place, the proposed layout would be inward-looking and would not optimise the opportunity to address Summerhill Lane and the wider ATC. Given the intervisibility identified above, the layout of the proposed development would not respond positively to its context and the prevailing character of the ATC.
25. The appellant has sought to reflect the massing of the large, detached houses in the surrounding area by creating blocks connected by stair cores and corridors in different materials to articulate the bulk and massing. Though houses within the ATC are generally substantial with wide frontages and varied footprints, the massing of the proposed development is considerably larger

than nearby dwellings, with the possible exception of the residential care home. Notwithstanding the lighter materials proposed for corridors and stair cores, I find the proposed development would fail to respect the general context of the ATC in respect of massing.

26. This lack of respect for the general context of the ATC would be compounded by the proposed three-storey, flat-roofed design and proportions of the proposed blocks. Unlike houses in the ATC which are predominantly two-storey with tall roofs characteristic of Arts and Crafts development, the proposed development would have flat roofs with the top storey of each block set back from the lower storeys, with different materials to give the impression of a pitched roof. Notwithstanding the scope to include green roofs and the similar overall height to nearby houses, I am unconvinced that the flat roofs would represent a modern re-interpretation of hipped roofs. Instead, the flat roofs and top storeys of the proposed development would create a much shorter 'roof' which would highlight the difference in proportions between the proposal and its surrounding houses with tall roofs. When the 'roof' is viewed in the context of the three-storey building, the composition of the roofing and proportions of the proposed development would neither reflect nor respect the design and proportions of the early 19th century and inter-war houses which are prevalent throughout the ATC.
27. The appellant's choice of external materials includes silver grey-brown or red mottled brickwork and timber boarding of different colours. I acknowledge that materials could be dealt with by means of condition if the proposed development were to be allowed. Given the concerns outlined above regarding the intervisibility, layout, massing, design and proportions of the proposed development, there is little purpose in discussing the materials in detail.
28. Following pre-application discussions, a previously withdrawn planning application (Ref: DM/18/0733) and further pre-application discussions resulting in different design iterations over the course of three years, the proposed development was recommended by the Council's case officer for approval and the Council's urban design officer supported the proposed development. Notwithstanding this, the Council chose to overturn that recommendation. I note the appellant's view that the application was refused due to the weight of local opinion, but it will be seen from the paragraphs above that I agree with the Council's concerns in this instance.
29. While the appellant has sought to create a sense of place within the proposed development, this does not overcome the unsympathetic and obtrusive effect that the proposed development would have on its surroundings. Although contemporary and innovative design is not precluded on this site by local or national policy or guidance and the appellant has provided a bespoke approach to the site's constraints, this does not render this particular scheme suitable for this location. Reference has been made to a potential development on Sunte Avenue, but no such scheme is before me as a planning permission. Given its hypothetical nature, I have not considered it further.
30. In conclusion, I find that the proposed development would have a negative effect on the character and appearance of the area. Accordingly, the proposed development would conflict with MSDP Policy DP26, LLRNP Policy 7, the SPD, the LVDS and paragraph 130 of the Framework as set out above. Although

paragraph 172 of the Framework was referred to in the Council's reason for refusal, the main parties are in agreement that this is a drafting error.

Other Matters

31. The planning application was refused on the basis of a lack of provision of affordable housing and infrastructure required to serve the proposed development. MSDP Policy DP31 requires a minimum of 30% on-site affordable housing for all residential development providing 11 dwellings or more. The completed legal agreement secures affordable housing provision on site in the form of the ten flatted units within Block C and as a financial contribution of £110,000 for the provision of 2 x 1 bed affordable housing units off-site. This has been subject to viability appraisal. The agreed Statement of Common Ground (SOCG) confirms that both parties consider that it would be compliant with MSDP Policy DP31. This provision of affordable housing on and off-site would constitute a benefit and will be considered further in the planning balance below.
32. Additionally, the completed legal agreement secures contributions towards open space, transport, community and educational infrastructure. It is agreed in the SOCG that these obligations would ensure that MSDP Policy DP20 on infrastructure would be met. These obligations would not be benefits as they would mitigate the effect of the proposed development. As I am dismissing the appeal for other reasons, I have not considered these matters in further detail.
33. Interested parties have raised concerns about other matters including living conditions, parking and traffic, protected trees, local infrastructure, biodiversity, sewerage, drainage and flooding. However, given my findings on the main issue, it has not been necessary to consider these matters in any detail. Given my overall decision, I have also not addressed the matter of any likely significant effects, alone or in combination, on the Ashdown Forest Special Protection Area and Special Area of Conservation.

Planning Balance and Conclusion

34. The brownfield site is located close to the town centre and public transport services at Haywards Heath. In addition to being set within high-quality landscaped open space with a number of protected trees retained, it would also be within walking and cycling distance of sports facilities and formal and informal open spaces. Transport movements would be expected to be lower in number at peak hours and daily than the site's previous educational use. The dual aspect housing units would be accessible with generous internal spaces. They would also meet modern environmental and sustainability standards. The proposed development would provide 28 market residential units and 10 affordable housing units, with 2 further units being provided for by off-site contributions. It would assist in meeting housing need for affordable housing and would potentially provide for people downsizing from large family homes locally. It would also optimise the use of the previously developed site for flatted development in an area where large brownfield sites are limited.
35. There is no disagreement that the Council can demonstrate a five-year housing land supply or that the principle of residential development on the site is acceptable. Despite progress having been made on dealing with the second reason for refusal on affordable housing and infrastructure and having recognised the imperative to deliver more homes on small and medium-sized

sites and optimising development on a brownfield site in a sustainable location, weighed against any benefits of the proposed development is the effect of the proposed development on the character and appearance of the area. The proposed development is contrary to a number of development plan policies and the adverse impacts of the proposed development outweigh any benefits associated with it. There are no material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan.

36. Consequently, for the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Joanna Gilbert

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

James Waterhouse	Iceni Projects
Silke Gruner	CSA Environmental

FOR THE LOCAL PLANNING AUTHORITY:

Gareth Giles FRTPI	Whaleback
Richard Dollamore	Whaleback

DOCUMENTS SUBMITTED DURING THE HEARING

- Email from Gareth Giles dated 21 September 2021 providing West Sussex County Council (CIL Regulations) Justification for the S106 contributions
- Email from Gareth Giles dated 21 September 2021 regarding conditions put forward by the Friends of Summerhill Lane

DOCUMENTS SUBMITTED AFTER THE HEARING

- Email from Gareth Giles dated 21 September 2021 regarding requests to view from the properties of interested parties
- Email from James Waterhouse dated 21 September 2021 regarding plans
- Signed and executed legal agreement dated 29 September 2021 received 30 September 2021