The Planning Inspectorate

Appeal Decision

Hearing held on 13 February 2013
Site visit made on 13 February 2013

by J C Chase MCD Dip Arch RIBA MRTPI

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

Decision date: 18 February 2013

Appeal Ref: APP/C3810/A/12/2184847
Land at The Poplars, Littlehampton, West Sussex, BN17 6GZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Hargreaves Residential Developments Ltd against the decision of Arun District Council.
- The application Ref LU/182/12, dated 18 July 2012, was refused by notice dated 11 September 2012.
- The development proposed is 7 residential units with associated garages, parking and access.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made in outline, but with only landscaping reserved for later consideration.

3. The appellants have submitted a Unilateral Undertaking in accordance with Section 106 of the Town and Country Planning Act, 1990, making provision for affordable housing, a play facilities contribution, and the allocation of open space for the use of residents.

Main Issues

4. The main issues are the effect of the development on 1) the supply of recreational open space in the locality, and 2) the living conditions of adjoining residents with respect to overbearing.

Reasons

Open Space

5. The appeal site is an area of open land on the western side of The Poplars, a residential development carried out in phases over the last decade. The Council contend that the site forms part of the recreational open space allocated to serve this earlier housing, which was taken into account in granting the relevant planning permission (LU/439/03), in order to meet the objective of 2.4ha of open space per 1000 residents set out in Policy GEN20 of the Arun District Local Plan (LP), adopted 2003. Whilst the obligation to provide open space was also referred to in a Section 106 agreement made in respect of an

earlier outline permission (LU/182/99), the parties acknowledged at the Hearing that any restrictions imposed by that agreement would not prevent planning permission being granted for the appeal application.

6. To compensate the loss of open space, the current Unilateral Undertaking makes provision for the allocation of alternative recreational space on adjoining land to the west, which falls outside the area designated under the previous planning permission. Whilst the additional area of open land would exceed the amount lost to development, it is the Council's contention that its nature and location make it unsuitable for the purpose, being a relatively narrow strip partially abutting a busy road, without natural surveillance.

7. It is acknowledged that the land in question has a linear form alongside the western edge of the housing. Nonetheless, it is not so narrow as to be unusable, and details to be submitted under the landscaping reserved matters would have the potential to greatly increase its amenity value, both as recreational space in its own right, and as a landscaped separation from the adjoining commercial and highway uses. In these respects it would be able to meet the qualitative objectives set out in the Council's Open Space and Recreation Standards SPG, 2000. On the other hand, whilst the land which would be lost to housing has greater depth, it contains few features of interest, and has limited spatial or visual quality.

8. As for the concern about surveillance, the substitution land is visible from the upper floors of adjoining housing, and there would be the potential to increase the visibility from public land by an alternative boundary treatment. In any event, the area is already open and accessible, and there is no clear indication that it gives rise to significant problems through a lack of surveillance. Turning to the availability of alternative open space, the estate contains a relatively sizeable grassed area a short distance from the appeal site, which would be suitable for play and recreational purposes, and there is a more extensive public park on the eastern side of the residential development. Overall, the area is well served by usable open space.

9. Taking these matters together, there are sufficient grounds to consider that the development would satisfy the objective of LP Policy GEN20 by providing an adequate supply of recreational open space, both to serve the new development, and to meet the existing needs of housing in the locality.

Living Conditions

10. The Council's reasons for refusal concern the relationship of the flank wall of the house at unit 6 with the back of the existing properties at plots 42 and 43. The new house would be approximately 10.5m from the rear wall of the dwellings, and have an elevation ranging in height from about 5.2m at the eaves to about 9m at the ridge. The reasons do not refer to the relationship of unit 5 to the rear of plots 173 to 175, but the Council acknowledged this to be an omission, because the separating distance would be less, at about 9m.

11. The Council do not refer to any adopted standards, or common practice in support of their view, and the appellants draw attention to instances elsewhere on the estate where separation distances as low as 7.4m have arisen. These points are noted, and it is desirable that planning evaluation should be consistent. Nonetheless, each decision is taken on the basis of its own characteristics and the evidence provided. From the observations made during

the site visit, including from the garden and rear conservatory of plot 43 (house No 16), and taking account of the limited garden dimensions of these properties, there are adequate grounds to consider that the new flank walls would have an unduly dominating effect, seriously interfering with the aspect from both the gardens and rear windows. This conclusion applies to the relationship of unit 6 with the existing houses on plots 42 and 43, and between unit 5 and the houses on plots 173 to 175.

12. This aspect of the proposal is contrary to the relevant provisions of LP Policy GEN7, which concern the need to maintain residential amenity, and the development would have an unacceptable effect on the living conditions of adjoining residents with respect to overbearing.

Other Matters

13. Whilst the Council's research indicates a need for affordable housing, there is disagreement between the parties as to whether the Interim Affordable Housing Policy, 2010, which does not form part of the development plan, provides adequate authority for the obligation, there being recent appeal decisions in both directions on this point. The potential benefit of the contribution, if found to be justified, is considered below in reaching an overall conclusion on the appeal. The provision for play equipment does not address the main issues, and, as I am minded to dismiss the appeal on the basis of the assessment of those issues, there is no necessity to determine whether this obligation meets the tests in Regulation 122 of the CIL Regulations, 2010.

14. Local residents have raised a number of other matters. With respect to overlooking, it would be possible to apply a condition to require obscured glazing in the flank windows of unit 5, and, whilst the upper floor windows of this house would potentially overlook the rear gardens of the houses on plots 199 to 204, this would be at an angle, and the fencing of those properties would provide some low level screening. There is no compelling evidence that daylight levels would be unduly restricted by the new houses. Whilst there is criticism of the existing sewage pumping arrangements, there are indications that the capacity of the system is adequate for additional houses. The potential to obstruct the street with parked cars is recognised. Nonetheless, the scheme would provide a total of 18 off-road spaces for the 7 dwellings, and the Highway Authority have raised no specific concerns about parking or safety issues. These, and the other matters raised, do not provide additional grounds to dismiss the appeal.

Conclusions

15. Whilst the scheme is acceptable in terms of the provision of open space, and the potential benefit of a contribution to the supply of affordable housing is recognised, the harm to residential amenity is of sufficient weight to justify dismissal of the appeal. In reaching this conclusion, regard is had to the Council's acknowledgement that there is a shortfall in the five year housing target and that, in these circumstances, the National Planning Policy Framework deems housing supply policies to be out of date, and the presumption in favour of sustainable development reinforced. However, the point at issue relates to residential amenity, and the relevant development plan policy accords with the other provisions of the Framework, the core principles of which require a high quality design which ensures a good standard of residential amenity. There is no reason to conclude that the benefits of the

scheme could not be substantially secured with an alternative arrangement to avoid harm to the living conditions of adjoining residents. For the reasons given, and taking account of all representations, the appeal is dismissed.

John Chase

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr R Huntley BSc, DipTP,MRTPI	Rob Huntley Planning Consultancy
Mr R Andrew MRICS, AIMGT	Appellants
Mr N Andrew FRICS	Appellants
Mr J Belbin BA, MSc	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Baeza BA, DipTP	Development Control Team Leader
Mr J Russell-Wells BSc, MSc, CMLI	Landscape Manager

DOCUMENTS

1 Planning agreement between Arun DC and the Min. of Agric., Food and Fisheries dated 25 June 2001
2 Decision Notice Ref LU/439/03 dated11 February 2004
3 Appeals ref: APP/C3810/A/12/2182107, 2171484 and 2180855
4 Council's proposed planning conditions
5 Appellants' proposed planning conditions
6 Plan No. 1347/H3.1B showing Phase 4 of The Poplars