



Appeal Decision

Site visit made on 18 September 2012

by Michael J Hetherington BSc(Hons) MA MRTPI MIEEM

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

Decision date: 25 October 2012

Appeal Ref: APP/C3810/A/12/2177634

3 New Road, Littlehampton, West Sussex, BN17 5AX

- 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 Maurice Hartnett - MJH Property Developments Ltd against the decision of Arun District Council.
 - The application ref. LU/42/12/, dated 16 February 2012, was refused by notice dated 30 April 2012.
 - The development proposed is: change of use from class B1 (business) to class C3 (residential).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from class B1 (business) to class C3 (residential) at 3 New Road, Littlehampton, West Sussex in accordance with the terms of the application, ref. LU/42/12/, dated 16 February 2012, and the plans submitted with it, subject to the condition that the development hereby permitted shall begin not later than three years from the date of this decision.

Main Issue

2. The Council raises no objection to the principle of the change of use. Bearing in mind that the appeal involves a terraced property that was constructed and originally occupied as a dwelling, I have no reason to take a different view. The main issue in this appeal is therefore whether the Council's request for a contribution to be made towards affordable housing provision is adequately justified. This request is disputed by the appellant. The planning obligation that is sought by the Council in this regard has not been submitted.

Reasons

3. The Council's request for an affordable housing contribution is based on an interim affordable housing policy (IAHP) adopted in 2010. Policy DEV17 of the Arun District Local Plan 2003 (LP) requires the provision of affordable housing within housing developments of 25 or more dwellings (or residential sites of 0.8 hectare or more). The lower threshold required by the IAHP, which includes single dwelling schemes such as the present proposal, represents the Council's response to an acute need for affordable housing within Arun District. The scale of this need, which is set out in (for example) its Housing Strategy 2010-2015 *Raise the Roof*, is not substantively disputed by the appellant. It is a material factor in the present appeal.

4. Several previous Inspectors have commented on the status of the IAHP. The Council cites some eight appeal decisions where the Inspector has supported its request for a contribution to be made in line with the IAHP, including at least one case where the need for such a contribution was contested¹. In contrast, the appellant refers to an appeal decision where the Council's arguments were not accepted². Different Inspectors have reached somewhat differing views about this matter. I am not aware of the full circumstances of any of the cases concerned. Nevertheless, I note that all of these decisions precede the date of the National Planning Policy Framework's publication.
5. The Council suggests that the Framework supports its case. However, the Framework's approach to affordable housing is clear. Paragraph 174 states that local planning authorities should set out their policy on local standards *in the Local Plan* (my italics), including requirements for affordable housing. At paragraph 47, the Framework sets out specific elements of such a policy approach, including the provision of a trajectory for market and affordable housing. It is a core principle of the Framework (paragraph 17, 1st bullet point) that planning should be genuinely plan-led.
6. Although adopted by the Council, the IAHP represents supplementary guidance. It is not part of the Local Plan. It has not been subject to the independent examination that is required by the Local Plan process. Paragraph 153 of the Framework states that any additional development plan documents should only be used where clearly justified. Supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development.
7. As a result of its lower thresholds, the IAHP applies to a much wider range of housing schemes than LP policy DEV17. Paragraph 1(ii) of the IAHP states that its provisions are 'adopted by way of guide figures for the purposes of negotiation'. However, as evidenced by the wording of the Council's statement of case and its letter of 23 April 2012 to the appellant, the Council is treating the stated contribution as a 'requirement'. Effectively, the Council is seeking to broaden the application of LP policy DEV17 through the IAHP. For the reasons set out above, this is at odds with the plan-led approach outlined in the National Planning Policy Framework. This significantly reduces the weight that can be attached to the IAHP.
8. The IAHP seeks an affordable housing provision of 15% from developments of 1-14 units 'subject to further research to ensure this is financially viable'. The Adams Integra study published at that time suggested that a lower (10%) figure should be sought for schemes involving 1-4 units. However, the appeal documents do not clarify whether such further research has been carried out.
9. In addition, it is unclear exactly how the Council's requested contribution of £1,876 has been arrived at. The Council's calculation schedule, upon which this figure appears to be based, has been submitted by the appellant. The schedule contains a range of contributions depending upon ward, dwelling type and size. However, it does not set out full details of the methodology and assumptions underpinning these figures. In the absence of a clear 'audit trail' along such lines, and irrespective of my comments about the status of the

¹ Appeal ref. APP/C3810/A/11/2162715.

² Appeal ref. APP/C3810/A/11/2150503.

IAHP, it has not been demonstrated that the requested contribution is fairly and reasonably related in scale and kind to the development

10. Taking these factors together, I conclude that the Council's request for a contribution to be made towards affordable housing provision is not adequately justified. The appeal scheme accords with LP policy DEV17. Notwithstanding the District's acute need for affordable housing, the factors set out above are not sufficient to support a departure from the provisions of this policy.
11. Paragraph 51 of the Framework states that local planning authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate. This provides additional support for the proposal.
12. The Council suggests no conditions in respect of this appeal and, with exception of the standard time limit, none are required. While the local highway authority suggests a condition in respect of cycle parking, adequate space for cycle storage is available in the property – which, as already noted, was previously in residential use. I have considered all the other matters raised but none change my overall conclusion that the appeal should be allowed.

M J Hetherington

INSPECTOR