



Appeal Decision

Site visit made on 10 October 2017

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 9th November 2017

Appeal Ref: APP/P1425/W/17/3177019

Former School Site, Brooks Close, Newhaven BN9 9EB

- 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 Cayuga 001 Limited against the decision of Lewes District Council.
 - The application Ref LW/16/0542, dated 28 June 2016, was refused by notice dated 7 April 2017.
 - The development proposed is for redevelopment to provide 31 dwelling houses (25 open market houses and 6 affordable homes).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application as originally submitted sought permission for 32 houses, however, the application was amended to a 31 house scheme prior to its determination by the Council. I have therefore determined this appeal on the basis of the amended application and used an amended form of wording for the proposal in the banner heading above.
3. The second reason for refusal refers to the loss of a 'Huntingdon Elm' tree, protected by a tree preservation order (TPO)¹. However, that Elm has now been felled, further to it experiencing significant wind damage. I have therefore disregarded the reference to this Elm cited in the second reason for refusal.
4. The appellant, the Council and the Highway Authority have entered into a Section 106 agreement under the Act. That agreement would secure: the provision of six affordable housing units; an affordable housing contribution of £64,081.89; a Traffic Regulation Order contribution of £5,000.00 for alternating orders in the area; a recycling contribution of £589.00; and an agreement to enter into an agreement under Section 278 of the Highway Act 1980 for undertaking of off-site highway works related to the development. I shall return to the Section 106 agreement's obligations below.
5. Reference has been made to an emerging Neighbourhood Plan for Newhaven. However, with the Neighbourhood Plan only being at its initial consultation stage² I consider it has not progressed sufficiently for me to attach weight to

¹ Identified as tree T1 in the TPO and T3 in the appellant's arboricultural report

² Paragraph 5.4 of the appellant's appeal statement

it. I shall therefore make no further reference to the emerging Neighbourhood Plan.

Main Issue

6. The main issue is the effect of the development on the character and appearance of the area, including the trees that are subject to the TPO.

Reasons

7. The development would involve the demolition of a disused school building and caretaker's house and their replacement with thirty one detached and semi-detached houses. Twenty five of the houses being open market dwellings, while the other six would be affordable homes. Within the site there are a large number of trees of mixed species. Many of those trees are situated along the site's perimeter, most particularly its eastern, south eastern and south western boundaries. Of those trees thirteen individual specimens (allowing for the removal of the Elm referred to above) and three groups of trees (comprising twenty two trees) are subject to the TPO³. Given the site's tree cover it currently has a quite sylvan character and I found the trees within the site, like the trees in the front gardens of the houses on the western side of Western Road, to be contributing positively to the local streetscene.
8. The adjoining streets, most particularly Western Road and Brooks Close are residential in character. Given that the school has been declared surplus to the education authority's requirements and the prevailing residential character of the area, I consider this site's residential redevelopment would be appropriate in principle. The issue is therefore whether this site would be capable of accommodating the proposed development.
9. As part of the development 31 individual trees and other trees in groups would be removed⁴, albeit the appellant's arboriculturalist has identified the likely need for seven of these trees to be removed for arboricultural reasons in any event. The development would therefore involve some significant tree loss. While I recognise that many of the trees to be removed do not individually possess high amenity value and/or now have short life expectancies⁵, they nevertheless contribute to the area's character and the loss of these trees would therefore be of some significance.
10. The development would be based around a horse shoe layout, incorporating an internal estate road, with access points on Western Road and Brooks Close. Twelve of the houses (numbered 21 to 32) would be in a group in and around the junction between Western Road and Brooks Close. Houses 21 to 32 would have a compact layout, with a number of the houses in this group having limited space about them, with them having very small gardens. The compactness of the layout for this area of the development in part arising from the reliance on rear parking and servicing for some of the houses.

³ As listed in the Schedule 1 of the TPO

⁴ Based on the numbers referred to in sections 10 and 11 of the appellant's arboricultural impact assessment report

⁵ Based on the assessment undertaken for the appellant which relies on the classification scheme set out in British Standard BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations

11. Houses 21 to 32 would occupy a prominent position, given their proximity to the main estate road's access points and/or Western Road and I consider this part of the development would have a cramped appearance. That cramped appearance would be accentuated by the limited scope there would be for providing relieving soft landscaping, given the size of the plots for the houses in this part of the development. The trees that could be planted would be unlikely to have much presence in the streetscene, given the limited space available for planting and the proximity of the houses.
12. I consider that the cramped appearance of houses 21 to 32, would mean that this part of the development would be incompatible with its surroundings. That shortcoming being indicative of the site's inability to accommodate the proposed number of houses.
13. I share the concern expressed by the Council's landscape officer⁶ that in relation to the retained trees, most particularly those in the TPO's group G1, there could be pressure from the occupiers of the development to have those trees removed or regularly pruned. That is because those trees are quite substantial and numerous and they would be likely to affect the receipt of light to the interiors and gardens of the affected houses. I consider this to be a further indicator of this development being unduly intense for the site. The potential for trees to be removed or regularly pruned, following the occupation of the houses, would not assist with this development's integration into the area.
14. I therefore conclude that the development would unacceptably harm the character and appearance of the area. The development would therefore be contrary to saved Policy ST3 of the Lewes District Local Plan of 2003, Core Policy 11 of the Lewes District Local Plan Part 1 Joint Core Strategy of 2016 (the Core Strategy) and paragraphs 58 and 64 of the National Planning Policy Framework. That is because the development would neither be of a high standard of design nor add to the overall quality of the area, given the unacceptable nature of its density and layout and the tree loss that would be associated with it.

Other Matters

15. The development would make a sizeable contribution to the supply of housing in the area, including a modest contribution to the provision of affordable housing. Allowing for the application of the vacant building credit the level of affordable housing provision would meet the objectives of Core Policy 1 of the Core Strategy and the planning obligations that have been entered into would secure the delivery of that housing. I therefore consider that weigh should be attached to the affordable housing obligations that the appellant has entered into.
16. In locational terms the occupiers of this development would have reasonable access to everyday services and public transport facilities in Newhaven. This is a matter that weighs to a limited degree in favour of the development.
17. The recycling and highway obligations included within the Section 106 agreement would mitigate effects arising directly from the development and I therefore consider that those obligations attract limited weight. The

⁶ As recorded in the Council's committee report

development would also be liable to the making of a Community Infrastructure Levy (CIL) payment. However, as the making of the CIL payment would have the purpose of mitigating the development's effect on local infrastructure capacity, I consider that the making of this payment would have a neutral effect.

18. While there would be some social and economic benefits arising from the provision of additional housing that weigh in favour of this development, I find those benefits to be outweighed by the harm to the character and appearance of the area that I have identified.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR