



Appeal Decision

Site visit made on 17 October 2023

by **A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/X2220/W/22/3305055

Land to the rear of Archer's Court Road, Whitfield, CT16 3HP

- 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 Kang of Wellmeadow Plus Ltd against the decision of Dover District Council.
 - The application Ref 21/00102, dated 19 January 2021, was refused by notice dated 25 February 2022.
 - The development proposed is described on the application form as 'outline planning application, with access, for up to 63 x residential dwellings (with all other matters reserved).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the erection of up to 63no. dwellings (with all matters reserved except access) (includes demolition of 14 Archers Court Road). The Council dealt with the proposal on this basis and so shall I.
3. The planning application was submitted in outline with all matters, apart from access, reserved. I have had regard to the submitted plans but have regarded all elements of these drawings as indicative, apart from the maximum number of units proposed (as set out in the development description).
4. There is no dispute between the Council and appellant in respect of the principle of development. From the evidence before me, I have no reason to disagree with those findings.
5. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (19 December 2023). This does not materially change the planning policy context in respect of the main issues.

Main Issues

6. The main issues are:
 - the effect of the proposed development on the character and appearance of the site and surrounding area, with particular regard to density; and
 - whether the proposed development would provide satisfactory living conditions for future occupiers.

Reasons

7. The appeal site comprises a roughly triangular shaped plot. It is undeveloped and covered in dense woodland. This contributes to a strong verdant character in this part of Whitfield, including from the adjacent A2, from Newlands and the private vantage points of neighbouring properties.
8. Residential properties of a typical suburban character exist to the immediate north and east of the site, including along both adjoining Archer's Court Road and Newlands. These are generally made up of detached and semi-detached properties set within reasonably large garden plots. The site is most closely connected with development in this part of Whitfield.
9. Paragraph 128 of the Framework supports development that makes efficient use of land. This includes, amongst other things, the need to take into account the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed, beautiful and healthy places. Paragraph 135 supports this by setting out that decisions should ensure that developments are visually attractive, are sympathetic to local character and establish or maintain a strong sense of place.
10. In a similar vein to the Framework, the National Design Guide (NDG) sets out that well-designed development should make efficient use of land with an amount and mix of development that optimises density. Notably, neither the Framework nor the NDG set out a specific density for sites. However, paragraph 129 of the Framework clarifies that in locations where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities. Policy CP4 of the Dover District Core Strategy (CS, 2010) broadly conforms to the general thrust of national policy by encouraging higher densities. I also note the emerging Local Plan's ambition in this respect.
11. The proposed development is in outline for 'up to' 63 residential dwellings. On this basis, less dwellings could technically be proposed in the future. However, in making my decision, I must be satisfied that 63 dwellings could be accommodated on the site, whilst being able to achieve a well-designed scheme, which would integrate effectively with its context. The proposed development would achieve a density of approximately 38 dwellings per hectare (dph). This is marginally below the figure encouraged by LP Policy CP4 (exceeding 40 dph, with less than 30 dph seldom justified). In my view, the proposed development clearly seeks to optimise the density of the site, which has limitations due to its atypical shape and the surrounding prevailing character. Nevertheless, the support for higher densities is not at any cost and it must be demonstrated that a development results from a site's context, accessibility, form and character.
12. The submitted illustrative layout for 63 dwellings comprises development in an L-shape configuration. This includes a mixture of individual houses and 4 storey blocks of flats. I am aware that this layout is only indicative, that the appellant is not tied to that scheme, and that it is not a technical requirement for submission. I also acknowledge that any number of alternative schemes may come forward in the future. Be that as it may, it is the only evidence before me of how 63 dwellings could realistically be achieved at this site. I also note that no minimum or maximum building heights have been provided, although an indication of 4 storeys has been mentioned within the submitted evidence.

- Irrespective of the indicative nature of the plans before me, it would, in all likelihood, be necessary for any future scheme of up to 63 dwellings to accommodate those within apartment blocks as well as more traditional dwellings.
13. Although there would likely be a sylvan character to any development based on the retention of some of the trees within the site, and I acknowledge that areas of open space are proposed, the surrounding built context is predominantly formed of 1-2 storey detached or semi-detached dwellings positioned within well-sized garden plots. On the basis of the information before me, I consider the proposal, of up to 63 dwellings, would provide a cramped and discordant development which would fail to integrate successfully with its context and would fail to provide a high quality, beautiful development.
 14. I appreciate that further detail would come forward at the reserved matters stage. However, the evidence before me has failed to demonstrate how any future development of up to 63 homes would satisfactorily respond to, or be appropriate in, its context or character at the reserved matters stage.
 15. My attention is drawn to the previous scheme approved at the site¹. This was for 28 dwellings. It is evident that those units were indicated as being accommodated within 2-2.5 storey dwellings. This is in marked contrast with the illustrative scheme before me, which includes a significant uplift of units and the likely need for at least some of these to be accommodated within apartment blocks. I also accept that the density of that previous scheme was significantly lower, at 17 dph. However, the proposal before me is not the only way of achieving a greater density on the site. In any case, as set out above, the proposed development has failed to demonstrate that the site could comfortably accommodate a higher density whilst achieving a suitably high-quality design.
 16. My attention is also drawn to other permitted schemes, including at Land opposite 423-459 Dover Road and a site within the Whitfield Urban Expansion area. Although I have limited information in relation to those schemes, it is evident that they proposed densities which the Council considered to be low. I do not consider the circumstances that applied at those sites to be directly comparable to those at the appeal site.
 17. The flatted development at Khartoum Square, referenced by the appellant, is historic and would have been subject to a different policy context. The circumstances at that site are not directly comparable with those of the appeal site. That the Whitfield Urban Expansion Supplementary Planning Document (the SPD, 2011) supports the principle of flats and apartment buildings does not mean that development should automatically be approved where harm has been identified.
 18. Overall, I conclude that the proposal would be harmful to the character and appearance of the site and surrounding area, with particular regard to density, contrary to the relevant provisions of Paragraphs 135 and 139 of the Framework and the NDG, which in summary seek high design quality in development which is sympathetic to local character.

¹ APP/X2220/W/17/3191402

Living conditions for future occupiers

19. The submitted indicative plans illustrate the provision of well-defined, enclosed garden areas associated with the individual dwellings. The plans also show larger areas of amenity space to the front and rear of the apartment blocks. As above, I acknowledge that any number of alternative schemes may come forward in the future. However, it is the only evidence before me of how 63 dwellings could realistically be achieved at this site.
20. Whilst I have only limited evidence before me as to the quality or quantity of the outside amenity space proposed, the site is such that adequate provision would likely be accommodated. Nevertheless, it is the quality of that space that I cannot be certain about. The combination of the retained mature trees across the site, together with the likely height of any necessary apartment blocks, is such that the quality of the proposed amenity space would likely be compromised by overshadowing. I have no substantive evidence before me, such as an indicative (or baseline) sunlight assessment, to demonstrate that sunlight to these amenity areas would be appropriate and therefore that they would function well, and ultimately be used by future occupiers.
21. Similarly, the position of mature trees to the east of the site would likely limit daylight and sunlight to any east facing dwellings, whether or not formed of apartment buildings, such that future residents would experience gloomy internal conditions.
22. Whilst no details of the size of the proposed units, their mix or layout have been provided at this stage, I am satisfied that those aspects could be dealt with at the reserved matters stage.
23. Overall, I conclude that the development proposal has failed to demonstrate that the living conditions of future occupiers would be satisfactory, contrary to the relevant provisions of the Framework and the NDG, insofar as the standard of accommodation and healthy living are concerned.

Other Matters and Planning Balance

24. Whilst the Council has confirmed that it can demonstrate a five-year supply of housing land, there is some dispute around housing delivery. In addition, some policies which are most important for determining the appeal are deemed out-of-date as they pre-date the publication of the Framework. Accordingly, paragraph 11(d) of the Framework is engaged. This states that in such a situation planning permission should be granted unless one of two criteria apply. One of these, and which is pertinent to the appeal scheme before me, is if any adverse impacts would '*significantly and demonstrably*' outweigh the benefits when assessed against the policies in the Framework taken as a whole. This is known as 'the tilted balance'.
25. Irrespective of the Council's specific housing land supply and delivery, the appeal scheme would represent a net addition of 63 market dwellings to the district's housing supply in a relatively accessible location. This would contribute towards the Government's objective of significantly boosting the supply of homes. This would represent a social benefit. There would also be some economic benefits during the construction of the dwellings (albeit limited and short term) and the bringing about of extra trade to services and facilities in the wider area once occupied.

26. I accept that the scheme would make efficient use of a small/medium sized site, as encouraged by the Framework. I also acknowledge comments setting out that the development would be positioned within the defined settlement boundary, and that Whitfield has been identified as a major focus for growth, mindful of the objectives of the SPD.
27. The appellant argues that woodland management proposals and the provision of amenity space are benefits. However, these matters are not wholly reliant on the scheme before me. That the appellant made representations in respect of allocating the site previously is not relevant to the consideration of the merits of the scheme before me.
28. I accept that the proposed scheme would achieve some other planning policy objectives including in respect of public open space, flood risk, noise, ecology and trees. I also acknowledge that evidence has been provided to demonstrate that the provision of affordable housing would make the scheme unviable. However, these are not matters in dispute between the Council and appellant and I have no reason to disagree with those findings.
29. Against those matters is the significant and long-lasting harm I have identified in respect of the character and appearance of the site and surrounding area. On balance, I find that the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

30. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A Price

INSPECTOR