



Appeal Decision

Hearing held on 28 August 2024

Site visits made on 27 and 29 August 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Appeal Ref: APP/U4610/W/24/3341575

The Highway Club, Fletchamstead Highway, Coventry CV4 9BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Petra CV4 Limited against the decision of Coventry City Council.
 - The application Ref is PL/2023/0002350/FUL.
 - The development proposed is demolition of existing buildings and construction of 3 apartment blocks providing No.50 retirement flats and No. 25 apartments and No.88 dwellinghouses; with community use building, car parking, open space, landscaping and infrastructure works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application and the appeal was submitted under the name Petra CV4 Limited, however, since the appeal was submitted this company has been dissolved and the appeal site transferred to company called Venture 5 Limited. I have borne this in mind in making my decision.
3. Following the Hearing the appellant submitted a signed and dated planning obligation under Section 106 of the Town and Country Planning Act (1990). The planning obligation would secure affordable housing and financial contributions towards primary, secondary and Special Educational Needs education; healthcare; biodiversity and sustainable transport. I return to the planning obligation later on in my decision.

Planning Policy Context

4. Whilst the Coventry Local Plan (LP) is more than 5 years old, adopted in 2016, the National Planning Policy Framework (the Framework) states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of it. Due weight should be given to them, according to their degree of consistency with the Framework.
5. Of the LP Policies referred to by the Council Policies GE2 and CO2 relate to the protection of sports, recreation and community facilities. In my view they are consistent with the Framework which seeks high quality open spaces and opportunities for sport and physical activity being of importance for the health and well-being of communities.

6. Policies DE1, GE1, GE3, GE4 and H3 relate to design, layout, landscaping, green infrastructure and trees. These are consistent with the Framework which seeks the creation of high-quality buildings and places and the protection and enhancement of natural and local environments, features and protected species.
7. LP Policies AC2, AC3 and AC4 relate to assessing and managing traffic growth and encouraging sustainable modes of transport. Again, I find that they are consistent with the Framework which seeks to mitigate significant highway impacts and promote sustainable modes of transport.

Main Issues

8. The main issues are:

- The effect of the proposed development on the provision of playing pitches;
- Whether the proposal would be acceptable in terms of design and layout;
- The effect of the proposal upon the safe and efficient operation of the local highway network; and
- Whether it has been adequately demonstrated that the proposed development would not unduly affect ecological features and trees on and around the site.

Reasons

The provision of playing pitches

9. The appeal site comprises a former sports club known as 'The Highway Club' formed of a pavilion and cricket ground, football pitch, netball courts and bowling greens. The appellant advised that the club shut its doors in 2019 but that it had been in decline years prior as teams relocated to other established facilities. At the time of my site visit I observed that with the exception of the hard surfaced netball courts, none of the other pitches are discernible disguised by thick vegetation and the clubhouse and pavilion were vacant and boarded up.
10. Despite the condition of the site both main parties agree that the lawful use of the site for sports provision has not fallen away. LP Policy GE2 sets out that development involving the loss of green space, recreational, outdoor sports and/ or community use will not be permitted unless specified justification exists. This justification can take the form of either an assessment showing there is no longer demand or prospect of demand for the site, or a deficiency would not be created through its loss, or any loss would be replaced by better or equivalent provision.
11. LP Policy CO2 sets out that the reuse or redevelopment of community premises for a use outside of the scope of the policy will not be supported if there is outstanding local need; the site remains viable for existing uses or could be made viable through diversification, or it is not compatible with nearby uses.
12. Paragraph 103 of the Framework states that existing open space, sports and recreational buildings and land, including playing fields should not be built upon unless save for a number of specified exceptions. The exceptions include where an assessment has been undertaken which has clearly shown the open space,

- buildings or land to be surplus to requirements, or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
13. According to the appellant the proposal accords with the LP and Framework as an assessment, in the form of the Council's latest Playing Pitch and Outdoor Sport Strategy (PPOSS) published in August 2023, has been undertaken and shows that the site is surplus to requirements.
 14. The appeal site is located within the South West Analysis Area of the PPOSS, and I acknowledge that currently demand is either being met or there is spare capacity in respect of adult grass, mini 7v7 and mini 5v5 football pitches, cricket and bowls. However, that cannot be said for youth and 3G football pitches and netball courts where there is an identified shortfall.
 15. In terms of future supply and demand, up to 2040, the PPOSS indicates that whilst there will be spare capacity in terms of adult grass and mini 7v7 football pitches, there would be a shortfall in respect of youth and 3G pitches and cricket with a further deterioration of overall sports provision in South West Coventry. The PPOSS sets out a number of priority recommendations which includes protecting sports provision across the City and the improvement of existing sports facilities.
 16. In terms of the Highway Club the document, whilst recognising the site is disused, recommends that the cricket square is replaced elsewhere on account of identified future shortfalls and suggests mitigation in the form of improving other football and netball sites locally.
 17. I acknowledge that the site does not currently contribute towards sports provision. Nonetheless, it is evident from the PPOSS that there is a current and future requirement for cricket, football pitches and netball courts locally. Despite it being disused, the site still has a role to play in supporting sports in Coventry and, based on the evidence before me, I am not satisfied that the sports pitches at the Highway Club are no longer in demand nor surplus to requirements.
 18. The appellant is not proposing the replacement of the cricket ground, football pitch, netball courts and bowling greens elsewhere in the city nor a financial sum to compensate for the loss of the playing pitches. They are, however, proposing a café and shared community space on site that would be made available for residents, clubs, organisations and parties.
 19. I recognise the social benefits that such spaces provide and that it may well be open for longer periods compared to the previous cricket pavilion. However, there is no information before me in respect of how it would operate or made available for the community or indeed any mechanism by which to secure its function as a shared community space. As such, there is no certainty that it would be a suitable replacement facility. In any event this space would not be sufficient qualitatively and quantitatively to offset the loss of the various sports pitches and courts on the site.
 20. The Council, at the hearing, raised concerns regarding the mechanism by which to secure replacement sports provision, drawing my attention to the Henley College appeal¹. Securing adequate replacement provision is possible,

¹ APP/U4610/W/23/3317005

otherwise local and national planning policies would not set out such a requirement. It would be for the appellant and the Council in collaboration with other parties to agree the precise mitigation and mechanisms to secure it. However, as such matters are not before me as part of the appeal it is therefore not a determinative factor in coming to my decision.

21. In coming to my conclusion, I give weight to the views of Sport England, who object on the grounds the proposal would conflict with national planning policy and their own playing fields policy.
22. Taking all of the above into account, I conclude that it has not been demonstrated that the sports pitches at the Highway Club are not in demand or surplus to requirements. Furthermore, the pitches to be lost by the proposed development would not be replaced by equivalent or better provision in terms of quantity and quality. The proposal is therefore contrary to LP Policies GE2 and CO2 and the Framework, which seek to protect existing community, open space, sports and recreational buildings and land from development.

Design and layout

23. The appeal site is characterised by former sports pitches bordered by an established belt of mixed tree species on three sides. A number of commercial premises and car dealerships neighbour the site to the east occupying large floorplates. Two storey terraced dwellings, with variations in setbacks from the road and height, are located to the west and the south.
24. The site would be served by a single access point leading to a tree line spine road that would extend north to south through the development. The development would be characterised by three apartment blocks, ranging up to six storeys, set within a green landscaped area to the east of the internal road. The western and southern part of the site would be formed of long terraces of two and three storey dwellings.
25. The apartment blocks would not dominate or unduly loom over the neighbouring premises and the outdoor green community hub area and woodland wildlife garden provide a pleasant green setting for the apartments. That said, the absence of ground floor windows in the apartment blocks would result in large areas void of interest or activity failing to create a welcoming environment for occupiers of the apartments. This would be particularly apparent during periods of darkness and inclement weather and when the community hub is not open. Whilst the play area and community hub would create some activity this would not be sufficient to offset my concerns.
26. This would also be the case on the other side of the spine road as the layout and orientation of the terrace dwellings would fail to define or reinforce the hierarchy of it. The extensive areas of flank walls and blank boundary treatments would be physically and visually disruptive resulting in a corridor devoid of any meaningful activity. The elevational treatment suggested for the end plots would be tokenistic failing to successfully address the street or create visual interest.
27. The terraced dwellings would be long rows appearing as monolithic blocks with little to physically break up the continuous built form. Furthermore, the minimal space for soft landscaping along the frontage parking areas and the site boundaries give the impression of an unduly intensive scheme.

28. With the exception of the green spaces around the apartment blocks and the urban meadow the soft landscaping around the built form appears to be an afterthought and has little regard to existing landscape features, nor would it offer a meaningful green setting for the dwellings.
29. As a result, the absence of gaps in the built form would lead to rear gardens being served by long and narrow alleyways. I share the Council's concern in this regard that this arrangement and the distance that future occupiers would have to carry garden waste or bicycles, for example, would be impractical inconveniencing occupiers of the dwellings.
30. Whilst terrace dwellings are an established part of the local area, I am of the view that the proposed development would be fully enclosed and visually contained, due to the surrounding built form, and essentially inward looking. It would not be seen as an extension of neighbouring streets but as a high-density contemporary scheme when perceived by the viewer on the ground.
31. In coming to my decision, I have paid regard to the comments made by the Council's Urban Design Officer to the application, but this does not alter my findings in respect of this main issue.
32. The proposed development would represent poor quality design and would fail to successfully create a sense of place. Accordingly it would be contrary to LP Policies DE1 and H3 and Paragraph 135 of the Framework which, amongst other things, seek high quality design and attention to detail in the layout of developments; well planned, designed and integrated green infrastructure; high quality and usable residential environments and 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.

Safe and efficient operation of the highway network

33. In terms of highways, there are two areas of concern raised by the Highway Authority. Firstly, whether a suitable access can be achieved and secondly the number of resident and visitor parking spaces proposed.
34. Taking each matter in turn – a 5.5m wide vehicular access with 2m wide footways either side is proposed. It would be positioned to the north of an access that serves a trade centre and to the south of an access serving a car dealership.
35. Based on the available information and my observations during the site visits the site is served by a vehicular access, which also serves the trade centre, albeit the route leading into the site is no longer obvious, due to the length of time the site has been vacant.
36. The appellant's Transport Assessment (TA) estimates that 58 morning peak hour movements and 51 evening peak hour movements would occur. In addition, the trade centre and car dealership also generate vehicle movements throughout the week. The number and frequency of trips is likely to be greater compared to when the Highway Club was open.
37. At the time of my site visits, on a weekday morning and afternoon, I observed that the service road was lightly trafficked, with vehicles travelling at low speed along it. Whilst I appreciate that this is a snapshot in time, there were no

- obvious signs of significant movements along the road, fast moving traffic or parking stress.
38. The service road leading to the site is subject to a 30-mph speed limit and is straight with good visibility along it in both directions. Given the width of the access junction it would be a conspicuous feature. Thus, drivers would be able to identify it and would have a clear view of any oncoming traffic and vehicles that are either braking or turning well in advance and would have ample time to respond accordingly. Furthermore, visitors that do not have knowledge of the road layout or area are likely to drive more carefully and consciously reducing the potential for conflict with passing vehicles when entering or leaving the site.
39. Whilst I note the findings of the appellant's Road Safety Audit (RSA) it is not an inevitable conclusion that the access arrangements would result in driver confusion or highway harm. As such, it is a matter of planning judgement based on the merits of the scheme and for the reasons set out above it is unlikely that users of this part of the highway would be unduly inconvenienced or endangered by the development. Based on the available information the other matters identified within the RSA and other details including adequate visibility splays and kerb details could be addressed through the imposition of conditions or through S278 works, if I was minded to allow the appeal.
40. Turning now to parking provision, the Council's Parking Standard sets out a maximum provision of 2 spaces per 2-bedroom and 3-bedroom properties unless there is clear locational justification for a lower provision.
41. The proposal would provide an average of 1.45 spaces per dwelling across the entire development. The appellant advises that most of the 3-bed units and all of the 4-bed dwellings would benefit from 2 car parking spaces. Whilst the 1-bed apartments and retirement flats would have a lower parking provision.
42. I acknowledge that it is likely that most family households would have more than one vehicle. However, this would be offset by the smaller apartments and the retirement flats whereby occupiers would be less likely to own a vehicle.
43. The appellant is proposing a number of measures to encourage more sustainable forms of transport including cycle storage, mobility scooter parking and a car club. In addition, the submitted Travel Plan specifies initiatives to promote and maximise the use of sustainable travel to and from the site by a variety of non-car means, including public transport, walking and cycling.
44. Despite the site not being located within or directly adjacent to a designated centre future residents would be within walking distance of a number of day-to-day services directly accessible via dedicated footpaths. Whilst walking to Sainsbury supermarket and hot food premises opposite would involve crossing the busy A45 there are formal pedestrian crossings for the benefit of pedestrians. Furthermore, bus stops connecting the site to Coventry City Centre and Canley railway station providing links to other settlements are also located close to the site. Therefore, future occupiers would not be overly reliant on private vehicles as suitable options exist for residents to access services and facilities on foot and by public transport.
45. Drawing these matters together and taking into consideration the location of the site and the accessibility to services and facilities I find that the proposed

- parking provision would be adequate. Even if there was a displacement of a small number of resident's vehicles or visitors onto the spine road this is unlikely to lead to parking stress or unduly affect highway safety.
46. The 2011 Census data used by the appellant, in part to inform the TA, indicates that car ownership in the area is 1 per dwelling. The proposed development would provide parking ratios of between 1.3 and 1.6 spaces per dwelling. There is no substantive evidence before me to indicate that the ratios proposed are inaccurate or unsound, notwithstanding the publication of the 2021 Census.
47. Given my findings in relation to the layout of the development the concerns raised in respect of convenient cycle storage and the practicalities of some of the parking bays are not determinative in coming to my decision with regard to this main issue.
48. Paragraph 115 of the Framework advises that development proposals should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative effects on the road network would be severe.
49. Subsequently, I conclude that the highway impact of the proposed development would not be severe and thus would not adversely affect highway safety and would accord with LP Policies AC2, AC3 and AC4 which, amongst other things, requires development to mitigate and manage the predicted traffic growth to ensure that they do not cause unacceptable levels of traffic congestion and highway safety problems.

Ecology

50. The Highway Club when in operation comprised amenity grassland under heavy management and likely had limited ecological value. However, since it closed much of the site comprises semi-natural grassland consistent with its vacant and unmanaged nature.
51. I acknowledge that the appellant has produced a Preliminary Ecological Appraisal (PEA), but the walkover survey that underpins the document was undertaken almost 4 years ago. Since it was carried out the site has remained vacant with vegetation largely uninhibited by human intervention. As such, ecological features and the value of the site have likely evolved in respect of both flora and fauna.
52. Whilst such surveys provide a 'snapshot in time' given the time that has elapsed since the PEA was produced and the current overgrown nature of the site I am not satisfied that a proper assessment of the ecological constraints on site or a robust ecological baseline has been established.
53. The appellant is willing to undertake additional survey work as part of an appropriately worded planning condition post-decision. However, Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system, states it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this case I see no reason to depart from the guidance set out in the circular and the advice of the Council's Ecologists.

54. I note the appellant's intention to provide green infrastructure on the site and that they are committed to providing a contribution of £74,539 towards biodiversity offsetting, as set out in the planning obligation, however, in the absence of a robust PEA establishing the baseline ecological position there is no certainty that the proposed development would provide an appropriate net gain in biodiversity.
55. As such, the proposal would be contrary to LP Policies GE1 and GE3 and Paragraph 180(d) of the Framework which, amongst other things, seek to protect and conserve protected species and a net gain of biodiversity.

Impact on trees

56. The site is bordered by an established belt of mixed tree species on three sides which are to be removed to make way for the proposed development. Due to their height and spread the trees are conspicuous features within the surrounding area. Given the urban nature and grain of the area the trees positively contribute to the visual amenity of the locality providing green landscape features in an area dominated by built form.
57. The appellant's Tree Report indicates that whilst some trees are in poor or declining condition some are in a reasonable and sustainable condition. It goes on to state that whilst some trees could be retained, they would outgrow the available space and would create liveability issues for future occupiers of the site.
58. Whilst the appellant has undertaken an arboricultural assessment, it does not appear that it has been carried out in accordance with British Standard guidance. Given the number of trees and the mix of species on the site and their prominence, I concur with the Council that a detailed audit, schedule and assessment of individual trees and groups of trees should be provided rather than the broad-brush approach adopted by the appellant. Furthermore, no assessment has been provided in respect of the impact upon trees positioned in neighbouring gardens.
59. As such, I am not satisfied that the development as proposed adequately considers the impact upon trees in and around the site. Nor is it clear whether any trees of amenity value could be retained as part of the development layout. Accordingly, the proposal would be contrary to LP Policies GE3 and GE4 and paragraph 136 of the Framework which, amongst other things, seek to prevent the unacceptable loss of existing trees and require existing trees to be retained wherever possible and incorporated into the overall design of schemes.

Planning Balance

60. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
61. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 77 of the Framework. Consequently, Paragraph 11 d) of the Framework, which is a material consideration of significant weight, is engaged. It states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

62. The Council's housing land supply position is 2.2 years. Therefore, it is evident that there is a pressing need for housing when considering this significant shortfall.
63. The provision of family dwellings, flats and retirement apartments would make a significant contribution towards the areas supply providing housing that would meet the needs of groups with specific housing requirements and different groups in the community. The delivery of market units attracts substantial weight in favour of the proposal. This is also the case for the delivery of affordable dwellings including units of different sizes and tenures.
64. The construction of 163 dwellings would provide jobs, albeit this would be largely limited to the construction phase. I have found that the proposal would be in good proximity to services and facilities with alternative options to car travel. New residents would support local services and facilities through increased expenditure. The community hub and open space would also be benefits of the scheme. These social and economic benefits attract great weight in favour of the proposal.
65. The planning obligations, Council Tax payments and the New Homes Bonus, would contribute towards supporting or improving local facilities and infrastructure. However, these would essentially mitigate the impact of the proposed development in planning terms. As such, these are matters of neutral consequence in the overall balance.
66. On the other hand, I have found that the proposed development would lead to the unjustified loss of playing pitches; result in poor design failing to create a strong sense of place and would adversely affect trees and biodiversity resulting in conflict with policies in the LP. Even taking into account the objective to significantly boost the supply of housing and the Council's housing land supply position, the conflict between the proposal and the most relevant policies in the LP should be given very significant weight in this appeal.
67. In the context of the above, and taking into account the aforementioned other considerations, I find that the identified adverse impacts of the development would significantly and demonstrably outweigh the identified benefits of the proposal, when assessed against the policies in the Framework taken as a whole. Consequently, I conclude that the proposal would not deliver a sustainable form of development. Therefore, the appeal is dismissed.

Conclusion

68. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Christopher Whitehouse of Next Phase Development

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Edgington – Principal Town Planner

Grace Goodman – Town Planner

Dr Simon Newell – Ecology and Biodiversity Manager

Beth Ireland – Ecology Officer

Ben Malin – Senior Highways Engineer

Richborough