



Appeal Decision

Inquiry held on 14 and 15 August 2013

Site visit made on 10 September 2013

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 21 October 2013

Appeal Ref: APP/G2625/A/13/2195084

Carshalton Road, Lakenham, Norwich, Norfolk NR1 3BD

- 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 Serruys Property Company against the decision of Norwich City Council.
 - The application Ref 12/01885/O, dated 11 June 2012, was refused by notice dated 1 March 2013.
 - The development proposed is to redevelop the site to provide 75 Dwellings (50 open market and 25 affordable homes) along with new public allotments, children's play areas and a 5-a-side football pitch.
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Decision

1. The appeal is allowed and outline planning permission is granted to redevelop the site to provide 75 Dwellings (50 open market and 25 affordable homes) along with new public allotments, children's play areas and a 5-a-side football pitch at Carshalton Road, Lakenham, Norwich, Norfolk NR1 3BD in accordance with the terms of the application, Ref 12/01885/O, dated 11 June 2012, subject to the conditions set out in Schedule 1 of this decision.

Preliminary Matters

2. The application was submitted in outline form with all matters reserved for future consideration, apart from access.
3. At the Inquiry a completed Planning Agreement was submitted. Amongst other things, the Agreement makes provisions for contributions towards traffic regulations and sports provision, as well as the delivery of affordable homes and ensuring that the open space within the appeal site is accessible to the general public. The Council stated that they are content that the Agreement overcomes the objection to the proposal as expressed in the third reason for refusal.

Main Issues

4. The main issues in this appeal are as follows;
 - The effects of the proposal on open space,
 - The effects of the loss of the pavilion on the historic environment,
 - Consideration of the housing land supply context.

Reasons

The effects of the proposal on Open Space

5. The appeal site is that of the former Lakenham Sports and Leisure Centre which was a privately owned facility. The sports facility closed in 2007 and prior to that contained playing fields, tennis courts, squash courts, a gym and the pavilion. Around the time of the closure of the facility, Norfolk County Council compulsorily purchased an area of land (outside the current appeal site) including part of the former cricket pitch; that area of land now forms part of the adjacent school site. The site is identified as urban greenspace in the City of Norwich Replacement Local Plan (LP).
6. Policy SR3 of the LP broadly seeks to restrict the loss of open space and sports facilities by limiting the circumstances when it can happen. The first part of SR3 states that development leading to the loss of existing sports pitches, sporting or recreation facilities or play spaces will not be permitted unless, (i) an equivalent alternative is provided, and (ii) there is no overriding amenity or biodiversity interest that would be unacceptably affected. There was much debate at the Inquiry as to whether the site can be considered as an existing sports facility, given its closure, its current physical state and the effect of the compulsory acquisition of part of the former site.
7. It is notable that Sport England considers that the site is not an existing facility which is capable of being brought back into use. I attach weight to this view; at present the site makes no contribution to sports and recreation provision, and has not for some time. The physical condition of the land, buildings and courts is poor and likely to deteriorate. The appellant's evidence is that the compulsory acquisition of part of the larger site has compromised the ability to provide for outdoor sports uses, including cricket. Furthermore, they consider that this and other factors mean that a viable sports business is not possible here (notwithstanding evidence presented during the Compulsory Purchase Order proceedings). In the light of these matters I consider that it would be unrealistic to describe the site as an existing sports facility and therefore, does not fall to be considered under the first part of Policy SR3.
8. The second part of Policy SR3 relates to development within other areas of publicly accessible recreational open space or urban greenspace. It states that development will not be permitted if there is an overriding amenity or biodiversity interest in retaining the site in its existing open form. It is agreed that there is no significant biodiversity interest in the site. Although there is no public access to the site, there is some amenity value in the open nature of the site and the relief from the surrounding built up area that it gives. However, this should be balanced by the lack of views into the site and thus its limited contribution to the overall character of the area. In addition, the proposal includes provision for open areas which would also make some contribution to a sense of relief from the built up areas (acknowledging that the final form of the development is not before me). As a result of consideration of these factors, I do not consider that the amenity value that the site makes to the surrounding area amounts to an overriding one which would prevent development of the site in the manner proposed.
9. The third part of Policy SR3 states that, in circumstances where there is no overriding amenity or biodiversity value, proposals will be judged in relation to their contribution to, amongst other things, the amenity of the local

community, to a qualitative improvement to any remaining open spaces and their contribution to the open space standards. There is a clear balance to be struck against the existing larger area of land, which is not in use at present, and the smaller area proposed which would have public access and would be of a better quality than the existing run-down facilities on site; it is also important to bare in mind my findings in relation to the likelihood of the present use being resurrected.

10. The existing site is said to be of 3.18ha and the proposed open space element of the appeal scheme is quoted as being for 1.15ha of open space consisting of play provision, allotments, preserved woodland/wildflower garden, and an informal 5-a-side pitch (although the final form of the scheme is not to be determined at this stage). I find the prospect of the availability of the elements of sports and open space to the general public to be a significant benefit when compared to the otherwise uncertain future of the site, which may not include public access. The provision of the various elements would go some way to address the deficiencies in allotments, play areas and outdoor sports facilities in the area. Areas of woodland and wildflower garden would be an additional benefit. In qualitative terms I see these as a considerable improvement over the existing run-down site. Therefore, in relation to the last part of Policy SR3, the proposal is judged favourably. As a consequence of these matters, I find that the proposal would provide for a suitably sized area of sports and open space which would represent a qualitative improvement, and so is consistent with the aims of Policy SR3.

The effects of the loss of the pavilion on the historic environment

11. The existing pavilion is said to date from 1936 and replaced an earlier structure, located elsewhere within the site. The use as a cricket ground dates back to 1827 on land owned by the locally significant Colman family. The ground was used by Norfolk County Cricket Club until 2000 when they moved to Horsford Cricket Club. The building appears as a 2 storey structure (although internally there is no first floor) with single storey elements. The walls are of red brick, some painted, and the roof is of thatch. The pavilion was constructed with money from the Colman family, said to be as a memorial to Captain Colman.
12. The Council judge that the building is a 'heritage asset' as defined in the National Planning Policy Framework (the Framework). The Framework defines heritage significance as being archaeological, architectural, artistic or historic and also notes that the setting of the heritage asset may contribute to significance (it is common ground between the main parties that there is no archaeological significance). In 2001 English Heritage assessed the buildings on the site in order to determine if they were worthy of inclusion on the Statutory List; it was concluded that they were not. The building does not appear on the Council's local list, although it is on the Norwich Society's local list which is appended to the Council's Development Management Policies DPD, which is not yet adopted, and from the notes within that document, it appears as though some refinement of the contents of the list may be undertaken.
13. Due to its form and its thatched roof, the pavilion is an unusual design within its surroundings, not following the character of the surrounding residential area. Views of the building from outside the site are limited to the rather unprepossessing view from Carshalton Road and a limited longer view from the footpath to the south east of the site. Some private views are available from

the school and from surrounding houses. Although some opinions expressed state that the building is pleasing and of some merit, I consider that it does not display any particular aesthetic qualities but agree that it stands out in the local area as it is different to other buildings. There is no evidence of any technical innovation in the building's construction and there is no evidence of any artistic merit in its construction.

14. In terms of historic interest, the links with sport and the Colman family need to be considered. In relation to cricket, the association with Norfolk County cricket ended in 2000 when they moved to a different ground. In addition, a significant area of the ground has been lost to the neighbouring school, such that the setting of the pavilion is now much changed. There is no suggestion that the pavilion played any significant part in the history of county cricket and whilst I can understand that a fan of cricket may feel some attachment to a familiar ground and pavilion, this does not bestow historic significance on the building.
15. There is no doubt that the Colman family have played a significant role in the local area and some individuals in particular. However, apart from sharing the family name and a part in the family business, there is no evidence of any particular significance of Captain Colman. Therefore, I find that his association with the building (his bequest funding it) is not of any particular historic significance.
16. Taking these matters together, I find that there is very little significance in the pavilion or its setting. Although the proposals would result in its complete removal, I do not see this as a reason to resist the proposal. As a consequence, there is no conflict with the aims of Policy 2 of the Joint Core Strategy (JCS), nor the Framework.

Consideration of the Housing Land Availability context

17. In recognition of the fact that the influence and needs (particularly in terms of housing) of Norwich stretch beyond the limits of the City of Norwich and into the neighbouring South Norfolk District and Broadland District, the 3 local authorities, along with Norfolk County Council work together through the Greater Norwich Development Partnership (GNDP). The Norwich Policy Area (NPA) includes all of the City of Norwich and adjacent areas of parts of South Norfolk District and Broadland District. Analysis over the NPA was used to inform the assessment of housing needs which underlies the Joint Core Strategy (JCS). The JCS is not explicit about how housing supply will be assessed and the City Council has published data using both the City Council area and that of the NPA. However, I note that in the Annual Monitoring Report (AMR) which sets out these figures, the NPA provides the focus and although the Norwich AMR deals with trajectories, footnote 65 states; "The Norwich housing trajectory and 5 year land supply have been superseded by the Joint Core Strategy, which look at the Norwich Policy Area as a whole. This section therefore is for information only...". Not only is there a strong logic to measure the 5 year housing land supply in the NPA, there is acknowledgement within the AMR.
18. The Council states that an agreement exists between the 3 relevant Councils wherein when there is an overall surplus in the NPA then any underperforming Council can use the over-supply to off-set their under-supply but where there is an overall deficit any Council with a surplus keeps that surplus and takes no

responsibility for under-supply in the other Council's areas. This is not an acceptable situation to my mind and simply ignores the reason why the NPA was defined in the first place. Therefore, I consider that the NPA is the relevant area over which the supply of housing should be judged. The latest figures supplied by the Council state that in the NPA there is 4.4 years of housing land supply (with a 5% buffer).

19. In relation to past under-delivery, the figures submitted to the Inquiry indicate that for the NPA there has been an under-delivery in 9 of the last 13 years. However, it is important to look closely at these figures and to consider other factors such as the economic cycle. Within the set of figures discussed at the Inquiry, running from the years 2000/01 to 2012/13, the figures show an excess of delivery in 2000/01 and 2001/02, there are then 4 years of under-delivery but it is notable that 2 and perhaps 3 of these years can be considered as only marginal shortfalls (and off-set by the excess in the previous 2 years). This is then followed by an excess of supply in the years 2006/07 and 2007/08, the latter one of 781 dwellings. Then the figures from 2008/09 onwards show a steadily worsening deficit. However, these latter 4 years are the times of the economic recession.
20. Taking an overall view, I consider that the time up until and including 2007/08 can be seen as one where demand is generally met (and in fact if the excess supply is weighed against the deficit figures, this is confirmed). Then looking at the final 5 years, this reflects recessionary economic conditions. There has recently been consideration of both the timescale of under-delivery and its relationship with the economic cycle, and I note the contents of the LGA/PAS publication '*Ten key principles for owning your housing number – finding your objectively assessed needs*', which was submitted to the Inquiry. In the light of the above, I consider that there has not been persistent under-delivery and a 20% buffer is not justified. I am aware that this runs contrary to some recent appeal decisions but I consider that it is a position which is justified having taken account of the above matters in this case.

The Planning Agreement

21. The Agreement ensures the suitable provision of affordable housing as required by Policy 4 of the JCS and of an appropriate number. The traffic Regulation Order Contribution is necessary in order to extend the existing Controlled Parking Zone into the proposed development. The Agreement also ensures that the proposed open space would be accessible to the general public and that a sports contribution would be used towards improving tennis facilities in a local recreation ground. I consider that these provisions are necessary as a direct result of the proposal are relate in scale and kind to the proposal and so comply with regulation 122 of the CIL Regulations.

Conditions

22. I have considered the conditions suggested by the parties having regard to the advice in Circular 11/95 '*The Use of Conditions in Planning Permissions*'. Although the submitted conditions have been agreed by both main parties, I have modified them where necessary so that they comply with the guidance in Circular 11/95.
23. Standard conditions relating to the timely submission of the reserved matters and their approval prior to the commencement of the development are

necessary and reasonable. The Council and the appellant have agreed that the general disposition of buildings, routes and open spaces within the site and the height of the buildings as shown on the illustrative layout are acceptable. In this context, I agree that it is reasonable to include a condition which requires broad adherence to the illustrative plan, in order to preserve the character of the area.

24. In order to ensure a timely provision of the open space and play space, a condition relating to this is necessary. The proposed new access would involve the partial demolition and some reinstatement of the attractive boundary wall. In order to preserve the character of the area, it is necessary to require that this should be done to an agreed extent and design.
25. In the interests of preserving the biodiversity interest of the site it is reasonable to require that the development is undertaken in accordance with Protected Species Survey Report. Due to the presence of trees of some amenity value on the site a condition requiring an arboricultural implications assessment and method statement is necessary. So that the proposed development can meet the sustainability aims of the Council, conditions relating to renewable energy and water efficiency are necessary and reasonable.
26. I shall include a condition which requires that any imported material should be free from contamination in order to reduce any risks in relation to this matter. Notwithstanding my findings in relation to the pavilion, I shall include a condition which requires a suitable record of it to be made, as the building is of some interest to some local people. In order to ensure public safety and to comply with Policy 20 of the JCS, I shall include a condition which requires the provision of fire hydrants. A condition requiring the implementation of an agreed sustainable urban drainage system is necessary so that the proposed development does not contribute to surface water flooding. A condition which requires that any, as yet, unknown contamination is dealt with adequately is also necessary.
27. The Council and the appellant agreed that a condition requiring the provision of a car club parking space is necessary. I consider that this relates to the layout of the development which is a matter reserved for later approval, so I will not include it now. The proposed condition requiring a landscape management plan relates to a reserved matter and would be more appropriate to any approval of the details of the landscaping and I shall not include it here.

Conclusions

28. In relation to the matter of open space and leisure, the proposal would have no unacceptable effects and would bring some positive aspects to the local area. For the reasons set out, I have concluded that there would be no harm to the historic environment as a result of the loss of the pavilion or the remainder of the development. These matters by themselves would be sufficient to allow the appeal. The additional issue of the supply of housing land indicates that for the NPA it cannot be demonstrated that there is a suitable 5 years supply. This adds weight to my positive findings for the proposal.
29. I have taken account of all other matters raised at the Inquiry and submitted in writing, including the many views expressed by local residents. However, I find

nothing of sufficient weight to alter my conclusions on the planning merits of the proposal. Therefore the appeal is allowed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

A Ranatunga of Counsel

He called
P Kendrick
A Scales
G Nelson

FOR THE APPELLANT:

T Ivory

He called
P Atkinson
J Burgess

DOCUMENTS

- 1 Bundle of 'Further Reference Documents' submitted by the Council
- 2 Folder of 'Land Supply Documents' submitted by the appellants
- 3 Norwich Local Plan Appendix 7
- 4 Copy of web page of Norwich Evening News 24
- 5 Completed Planning Agreement
- 6 G Nelson Errata and Update to proof
- 7 Tables relating to housing delivery

Schedule 1, Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The reserved matters shall comply with drawing number 7586/01 Rev F, in respect of the approximate layout of the buildings, routes and open spaces within the site and the height of the buildings.
- 5) No development shall take place until a timetable for the provision of the open space and play space has been submitted to the local planning authority and approved by them in writing. The development shall be carried out in accordance with the approved timetable and the open space and play space shall be made available to residents of the development and the general public.
- 6) No development shall take place until details of the full works proposed to the Victorian boundary wall to facilitate the new accesses has been submitted to and approved in writing by the local planning authority. Such details shall include; the extent of demolition and retention; reinforcement; new brick types, mortar mix and pointing method and; a timetable for its implementation. The development shall be carried out in accordance with the approved details and thereafter retained.
- 7) The development shall be carried out in full accordance with the Protected Species Survey Report ref ECO2176.PrSpReport2012.dv1 dated March 2012 and the mitigation and enhancement measures detailed at section 5. None of the dwellings hereby approved shall be occupied until the bat and bird boxes have been provided in accordance with details to be first agreed in writing by the local planning authority and such boxes shall thereafter be retained as approved. No works on site, including clearance or demolition shall take place within the bird nesting season March – August inclusive, unless otherwise agreed in writing with the local planning authority before any works are undertaken.
- 8) Details of the reserved matters for the landscaping required by condition 1 shall include an arboricultural implications assessment in accordance with BS5837:2012 and arboricultural method statements detailing protection of trees during construction, any works within the root protection areas of retained trees (including works relating to roads, paths, cycle-ways and associated hard and soft landscaping). The development shall be undertaken in accordance with the approved details.
- 9) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local

Planning Authority. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

- 10) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres per person per day, equivalent to Level 4 of the Code for Sustainable Homes for water usage.
- 11) All imported topsoil and subsoil for use on the site shall be certified to confirm its source and that it is appropriate for its intended use and no occupation of the development shall take place until a copy of the certification has been submitted to the local planning authority.
- 12) No development shall take place on the site until a full photographic and written survey of the pavilion building has been submitted to and approved in writing by the local planning authority. On approval 2 copies of the survey shall be submitted to the Norfolk Historic Environment Service for inclusion on the Heritage Environment Record.
- 13) No development shall take place until details for the provision of 2 fire hydrants have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details and thereafter retained, and no dwelling shall be occupied until such provision has been made.
- 14) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

- 15) If, during the course of development, contamination not previously identified is found to be present, then no further development shall be carried out until a scheme has been submitted to and approved in writing by the local planning authority detailing how the contamination shall be dealt with. The contamination shall be dealt with in accordance with the approved scheme and development shall not continue until evidence is

provided to confirm that the contamination no longer presents and unacceptable risk.