



Appeal Decision

Site visit made on 1 October 2008

by **A D Robinson BA (Hons) DipTP MRTPI**

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

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Decision date:
16 January 2009

Appeal Ref: APP/R4408/A/08/2080310

Site of the former Kings Road Infant School, off Kings Road/Collindridge Road, Wombwell, Barnsley S73 0JF

- 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 Sheldale Developments Ltd against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2008/0079, dated 4 January 2008, was refused by notice dated 7 April 2008.
- The development proposed is residential development of 16 houses and 8 apartments and formation of greenspace.

Procedural Matters

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 and supersedes that issued on 2 December 2008.

1. The application is in outline with details of layout, scale, external appearance and design of buildings and the means of access being dealt with at the outline stage. This means that landscaping is the only matter to be determined at the reserved matters stage.
2. The application and the appeal form refer to 'Collinridge Road', but the Council's appeal statement refers to 'Collindridge Road'. A perusal of the submitted site plan and a street map confirms the Council have used the correct street name. Accordingly, I have used the same spelling in my decision.

Decision

3. I allow the appeal, and grant planning permission for residential development of 16 houses and 8 apartments on the site of the former Kings Road Infants School, off Kings Road/Collindridge Road, Wombwell, Barnsley in accordance with the terms of the application, Ref 2008/0079, dated 4 January 2008, and the plans submitted with it, subject to the schedule of conditions set out in the attached annex.

Main Issues

4. The main issues in the appeal are:
 - (i) Whether the proposal makes a satisfactory provision of greenspace in terms of its nature and location; and

- (ii) Whether the proposal is required to make provision for affordable housing.

Reasons

(i) Greenspace contribution

5. The appeal site comprises the site of a primary school lying within a predominantly residential area close to the centre of Wombwell. The substantial large school building which occupied the Kings Road frontage of the site has been demolished and much of the site has been cleared with the exception of a pair of empty and vandalised semi-detached houses at the corner of Kings Road and Collindridge Road. Along its south-eastern boundary, the site is adjoined by the back gardens of houses along Mellor Road, on its south-western side by the rear gardens of properties on Jardine Street and a small length of its north-western side by the back gardens of houses on Collindridge Road.
6. Within the adopted Unitary Development Plan (UDP), the site is shown as a community facility. UDP Policy CF2 indicates that where a community use ceases and no alternative community use can be found, alternative uses will be considered having regard to certain criteria. In offering the site for sale for residential development, but with a sizeable area being retained for development as greenspace, the Council has acknowledged the acceptability of residential development taking place on the site.
7. In its appeal statement, the Council acknowledges that much of the site functions as greenspace. The appellant accepts that this is how much of the site has functioned. It seems to me that UDP Policy GS35 is of particular relevance in this case. It indicates that where land within the urban area which serves or has functioned as greenspace serving one of the functions identified in Policy GS34, the desirability of its retention will be taken into account in determining any proposals to develop the land. In terms of the functions of greenspace identified in Policy GS34, much of the former school grounds are likely to have been used as a recreational facility for the community and also to have been of some amenity value in the immediate locality.
8. The proposed scheme concentrates the residential units in the north-eastern part of the site with a row of houses and flats along the Kings Road frontage and a parallel row of houses behind which are accessed off a cul-de-sac taken off Collindridge Road. The remainder of the site is to be retained as greenspace with access gained from the new cul-de-sac. The Council make much of the greenspace being poorly located. Rather than being located towards the rear of the site, the Council wish to see the greenspace located around the Kings Road/Collindridge Road junction.
9. However, it is more desirable, in my view, to have the built element of the development along the Kings Road frontage. This would create a strong visual and physical presence along the frontage which would be in keeping with the prevailing pattern of built development in the locality, which is of development closely following the alignment of streets. The retention of the greenspace towards the rear of the site reflects the position of the former open areas at the

rear of the school buildings. I also note that in its sale of the site, the Council did not take the opportunity to specify where the greenspace had to be located within the site.

10. I do not accept that the greenspace would be in a location that could give rise to anti-social behaviour. The greenspace would be overlooked by a row of eight houses which are to be accessed from the same cul-de-sac which would serve the greenspace. In addition, much depends on how the greenspace is laid out and designed, a matter for later consideration. Attractively designed and well maintained greenspace is more likely to be respected by the local community than greenspace which is just a neglected leftover from development.
11. The Council also says that the greenspace would be too close to the rear of existing properties on the surrounding streets, but this is the same relationship as the area to the rear of the school had to these properties. Again, careful thought given to the layout and design of the greenspace should ensure that the amenity of those occupying adjoining properties would not be adversely affected by the provision of the greenspace.
12. The Council makes much of the need of the development to make on site provision for public open space, but the UDP does not designate the site for public open space. Whilst the submitted layout plan refers to public open space, this is at odds with the description provided in the application documents which refers to the formation of greenspace. I recognise that the development of the site is likely to give rise to increased demands on public open space elsewhere but the impact of such demands can be offset by contributions to the enhancement of public open space elsewhere in line with the requirement of UDP Policy H6. This mechanism is accepted by both the appellant and the Council.
13. I conclude that the proposal makes a satisfactory provision of greenspace in terms of nature and location. As such, the proposal complies with UDP Policy GS35.

(ii) Affordable housing provision

14. The Council refers in its reason of refusal and its committee report to UDP Policy H7, which requires residential developments of more than 25 dwellings, or on a site of 0.6 hectares or more, to make provision for affordable housing. However, it is clear that the policy referred to is a proposed policy in the emerging Local Development Framework (LDF). As this document is at a very early stage in the plan making process that will eventually lead to its adoption, I give this policy little weight.
15. To provide a policy context for dealing with affordable housing in the period up until the adoption of the LDF, the Council has prepared Planning Advisory Note (PAN) 34. This seeks to ensure that affordable housing comes forward on suitable sites in order to meet the requirements for affordable housing identified in the Council's 2005 Housing Market Assessment. It has the same thresholds as mentioned above. There is nothing within the document or the Council's appeal statement to indicate whether this has been the subject of public consultation or what consultation with developers and others has been carried out. As such, I am not able to accord it much weight. Nevertheless, it

provides some assistance as to how to interpret the thresholds for requiring affordable housing.

16. Whilst the site has an overall area of about 0.79 hectares, the sale of the site by the Council makes it clear that 0.35 hectares is to be retained and developed as greenspace leaving an area of about 0.44 hectares to be developed for residential purposes. There is nothing in PAN 34 to indicate whether the 0.6 hectares threshold is to be applied to a gross or net area. However, it seems to me that a proper approach is that the threshold should only apply to the net area. It would be unreasonable, in my view, to take into account parts of a site that are to be excluded from the area to be developed for one reason or another. In this case, the net or developable area is appreciably lower than the overall site area because of the requirement to retain and develop over 40% of the site as greenspace. Given this requirement and the effect that it has on the area of the site that is to be developed, I do not consider that there is a requirement to provide affordable housing on this site.
17. As for the 25 dwellings threshold, there is nothing before me to suggest that the number of dwellings to be built is being kept artificially low to avoid breaching the threshold. In the first place, the surrounding development is not one of high residential densities, but of semi-detached properties enjoying reasonably generous private garden areas. Second, the layout being proposed is not out of keeping with the nature and density of surrounding development.
18. I conclude that there is no requirement for the proposal to make provision for affordable housing.

Conditions

19. The Council has suggested a number of conditions in the event that the appeal is allowed. Although these have been seen by the appellant, no comments have been made on the Council's suggestions. With one exception, I consider that the suggested conditions are necessary, relevant to the development being proposed and are reasonable in all other respects. Accordingly, I intend to impose them though I have amended the wording as suggested by the Council in the interests of clarity and enforceability. The exception is the suggestion that a scheme of affordable housing should be submitted. However, as I have already made clear in the paragraphs above, there is no requirement to provide affordable housing.
20. To ensure that the development respects the appearance of the area, I am requiring the submission of details of the external materials of the proposed buildings. To provide future occupiers of the site with a degree of privacy and also to ensure that the development blends in with the surrounding area, I am requiring details of boundary treatment to be submitted. As there are no details of foul and surface water drainage, I am requiring these details to be submitted but I am not convinced of the need to go into the detail suggested by the Council.
21. To protect the amenity of surrounding residents, I am restricting the hours in which the operation of machinery during building works can take place, requiring measures to control dust emanating from building works to be submitted and also requiring measures to reduce the noise from any

generators. For the same reason, I am requiring the submission of details of where materials should be stored and vehicles are parked during building works. To keep mud and debris off local roads, I am requiring wheeling cleaning facilities to be submitted.

22. To ensure a safe environment is provided for future occupants of the site and to ensure that the development can be safely accommodated on local roads, I am requiring details of internal and external highway infrastructure to be submitted for approval. As the site requires remediation to address land contamination issues, I am requiring remediation to be carried out in accordance with the remediation strategy that has been submitted. I have already dealt with the need to deal with the impact of demands made by future occupants of the site on public open space in the locality. I am requiring the submission of a scheme for the provision or improvement of such open space. Although landscaping is a matter for subsequent approval, I am imposing a condition making it clear that any reserved matters that are submitted should include details of the design of and proposals for the implementation and maintenance of the greenspace.

Alan D Robinson

Inspector

Annex

Schedule of Conditions

- 1) Details of the landscaping of the site (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) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings hereby permitted are occupied. Development shall be carried out in accordance with the approved details and thereafter shall be retained.
- 6) Development shall not begin until details of surface water and foul drainage have been submitted to and approved in writing by the local planning authority. None of the buildings hereby permitted shall be occupied until the approved drainage works have been carried out. Thereafter, the approved drainage works shall be retained.
- 7) Demolition and construction work involving the use of plant or machinery and the delivery of materials shall take place only between 0800 and 1800 hours on Mondays to Fridays, 0900 and 1400 hours on Saturdays and not all on Sundays, Bank Holidays or Public Holidays.
- 8) Development shall not begin until the location and screening of any generator to be used during demolition and construction work has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Development shall not begin until a scheme for minimising dust from demolition and construction work has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
- 10) Development shall not begin until the location and type of wheel cleaning facility to be used to prevent mud and debris from being deposited on the public highway during demolition and construction work has been submitted to and approved in writing by the local planning authority. The

approved wheel cleaning facility shall be used for all demolition and construction work.

- 11) Development shall not begin until details of the location of the storage areas for building materials, parking areas for vehicles, plant and machinery and the location of contractor's huts during demolition and construction work have been submitted to and approved by the local planning authority. Demolition and construction work shall be carried in accordance with the approved details.
- 12) Development shall not begin until details of the surfacing and drainage of all parking areas, driveways to dwellings and internal roads and paths have been submitted to and approved in writing by the local planning authority. The submitted details shall include pedestrian inter-visibility splays of 2.0 metres x 2.0 metres at the accesses to dwellings and no gradients on driveways and internal roads to be steeper than 1 in 12. The parking areas, driveways and internal roads and paths shall be brought into use in accordance with a programme of implementation that has previously been agreed with the local planning authority. Thereafter, the parking areas shall not be used for any purpose other than for the parking of vehicles. Nothing within the visibility splays shall be built and no plants shall be allowed to grow with a height of more than 0.6 metres above the level of the nearest carriageway.
- 13) Development shall not begin until there has been submitted to and approved in writing by the local planning authority details of the arrangements that have been entered into to secure highway works to mitigate the impact of the development on surrounding roads. The works shall include:
 - Provision of visibility splay of 2.4 metres x 90 metres at the junction of Kings Road and Collindridge Road;
 - Provision of 6.0 metres radius at the junction of Kings Road and Collindridge Road;
 - Provision of 2.0 metres wide footways along site frontages;
 - Removal and stopping up of all redundant vehicular accesses.

Development shall be carried out in accordance with the approved details before any of the buildings hereby permitted have been occupied. Nothing within the visibility splay shall be built and no plants shall be allowed to grow with a height of more than 0.6 metres above the level of the adjoining carriageway.

- 14) No buildings hereby permitted shall be erected until the site has been remediated in accordance with the submitted remediation strategy (ref. 9391/2). On completion of the remediation operations and before the start of the erection of any of the buildings hereby permitted, a Validation Report to confirm that the remediation has been carried out shall be submitted to and approved in writing by the local planning authority. The Validation Report shall include:
 - Details of who carried out the remediation work;

- Details and justification of any changes made from the submitted remediation strategy;
 - Records of the chemical characteristics of any imported capping materials/soils;
 - Confirmation that capping levels have been achieved;
 - Records of the quantity and nature of materials disposed of off site and details of where the materials were disposed of;
 - Plans showing treatment areas; and
 - Confirmation that remediation objectives have been achieved.
- 15) Development shall not begin until a scheme has been submitted to and approved in writing by the local planning authority for the provision of or enhancement to off site public open space in accordance with adopted Unitary Development Plan Policy H6. The provision or enhancement of off site open space shall be provided before the completion of the development in accordance with the approved scheme.
- 16) The details to be submitted under condition 1 shall include:
- The layout, design and landscaping of the greenspace to be retained;
 - The implementation of the greenspace proposals;
 - The arrangements to be made for the maintenance of the greenspace.