

Agenda Item 8 – Pauls Moss Community Room, Pauls Moss, Whitchurch – 20/01284/FUL
Additional Representation

In the judicial proceedings relating to the previous grant of planning permission, the Claimant advanced the argument that the prospective residents have a protected characteristic which engages the public sector equality duty (either age or, in the alternative, disability). As members will be aware from the officer report, this is disputed. However, as an abundance of caution, members have been asked to consider whether the public sector equality duty would be satisfied in any event.

To summarise the officer advice, whilst the quantum of open space provided is less than required by Policy MD2, the quality is greater than what would otherwise be provided. Thus, the provision of open space is a benefit of the proposal. Also, there is a legitimate aim of providing better quality open space, which justifies reducing the quantum of open space here.

The Claimant argues that any such view on this can only be reached through considering a number of factors. This is disputed, however, to satisfy the Claimant's concerns, each of the Claimant's points are addressed below.

The extent of any shortfall in the provision of open space

Policy MD2 requires 30sqm of open space per person (i.e. per bed space). Officers are of the view that, in their judgement, the proposal would offer 27sqm of open space per person.

The Claimant disagrees with this figure and calculates that the proposal would have a 67% deficit of open space on a best-case scenario. Officers are of the view that, as a matter of planning judgement, open space has been excluded from this calculation. However, even accepting this provision, the conclusions in the officer report remain valid. Indeed, even if the deficit was greater than this by comfortable margin (say up to 80%), the conclusions would remain the same.

The benefits of open space to elderly residents or residents with “extra care needs”

The open space that is being provided is far better in terms of quality than the quantum required by Policy MD2 for the reasons set out in the officer report.

The reasons why the prospective residents would not be able to use, or need to use, as much open space as any other person

This is not relevant. The open space being offered, having regard to the specific design proposed, offers superior open space than simply meeting the quantum of open space in the policy.

Whether these reasons would apply to all of the residents or just some, and if so how many (the Council itself admits that people in Extra Care accommodation will have a wide range of needs

The open space will be better for all residents, irrespective of their specific needs.

The harm that would be caused by providing less open space than required by Policy MD2

It is not thought that this will give rise to any harm. However, even if it was thought that there was some harm generated by a technical breach of the policy (which is denied), this is overcome by providing a superior design and quality of open space.

Whether the Council's objectives could be accomplished by any other means

The objective of providing superior open space cannot be achieved by other means, as alternative proposals would be inferior in design terms and would not provide open space of the same quality.

Whether and to what extent the benefits of its approach outweighed the harm

Officers are of the view that the superior quality open space provided by the proposal justifies any harm.