



Appeal Decision

Site visit made on 29 September 2015

by Roger Catchpole Dip Hort BSc (Hons) PhD MCIEEM

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

Decision date: 15 October 2015

Appeal Ref: APP/P4415/W/15/3129846

The Crescent, Thurcroft, Rotherham, South Yorkshire S66 9LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alistair Dyson (Michael Dyson Associates) against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2014/1511, dated 6 November 2014, was refused by notice dated 23 February 2015.
 - The development proposed is the redevelopment of former Coal Authority site to introduce 22 no. new build houses including associated external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken into account changes in case law relating to planning obligations and affordable housing contributions, which came into force on 31 July 2015, in reaching my decision [West Berks DC and Reading BC v SSCLG [2015] EWHC 2222 (Admin)]. The relevant content of this judgement has been considered but, given the facts of this case, it does not alter my conclusions.
3. The scheme was amended following submission to the Council but prior to its determination. This change reduced the number of dwellings from 22 to 21. As this reduced the overall scope of the scheme I am satisfied that no interested party would be prejudiced. Consequently, the appeal has been determined on this basis.

Main Issue

4. The main issue is the effect of the proposal on local urban green space provision.

Reasons

5. The appeal site is a teardrop-shaped area of land in the centre of a large cul-de-sac. It comprises a substantial area of amenity grassland with a number of mature trees around its periphery; two seating areas; and a loose aggregate footpath that provides all-weather access. The main elevations of the surrounding semi-detached properties face this central area. The layout is such that the appeal site provides an area of publicly accessible, informal recreational space to nearby houses.

6. The site is formally identified as urban green space in the Rotherham Unitary Development Plan Written Statement 1999 (UDP). Policy ENV5.1 of the UDP states that the loss of such areas will only be permitted under certain circumstances. Among other things, loss can only occur if alternative provision of equivalent community benefit and accessibility is made or if a proposal enhances existing local urban green space. This requirement is also echoed in policy CS22 of the Rotherham Local Plan Core Strategy 2013–2028 2014 (CS) that requires all new development proposals to either provide new accessible green space or upgrade existing provision where it is necessary to do so as a direct result of the development.
7. This requirement is further stressed in paragraph 74 of the National Planning Policy Framework 2012 (the Framework) which also advises that existing open space should not be built upon unless an assessment has been undertaken which shows that it is surplus to requirements. Consequently, this appeal turns on whether or not the proposal would either provide new accessible green space or upgrade existing provision and whether the site is surplus to requirements.
8. Both parties agree that the proposal would reduce the area of green space by approximately 65% through the construction of 21 no. residential dwellings on the south-eastern part of the site. I note from the plans that the remaining area would be landscaped through the planting of trees and spring-flowering bulbs as well as through the construction of a new footpath and seating areas. The appellant is of the opinion that the landscaping would create an area of enhanced biodiversity and recreational value that would balance the loss of the majority of the appeal site. No new green space has been proposed elsewhere that would be equivalent in terms of community benefit and accessibility.
9. I observed from my site visit and the evidence before me that the existing area benefits from a high degree of natural surveillance from the surrounding properties and that it is highly valued by the local community as an informal recreation space. Unlike the nearest green space to the north and east, it is well suited for use by younger people because it provides a secure, supervised recreational environment with a single access point that can be easily observed.
10. Its value has been emphasised by the strength of opposition to the proposal as well as by the fact that the area was successfully designated as an Asset of Community Value under part 5 chapter 3 of the Localism Act 2011 shortly after the appeal was submitted. Local residents have suggested that the unobstructed, amenity grassland provides a 'blank canvas' for a wide range of activities including team sports, such as football and cricket, as well as a range of community-based social events and other informal recreation activities. This clearly contradicts the appellant's green space appraisal that concludes that the appeal site is of low quality with limited use.
11. I acknowledge the systematic approach that was taken in the appraisal methodology. However, I am not satisfied that the approach allows sufficient weight to be placed on individual criteria, such as community benefit. For example, the absence of recreation facilities is a peripheral matter in this instance given the established recreational use of the site. Consequently, I do not find that the criteria are equivalent and can be equally applied to all sites.

Therefore the enhancement of some criteria to compensate for the loss of others is not a matter of simple substitution.

12. Whilst the proposed landscaping might be considered an aesthetic enhancement, I am not satisfied that it would help to create a higher value recreational area given the well established, existing use. The significant reduction in size and the physical obstructions caused by the landscaping would reduce its functional suitability for informal team sports and lead to conflict between users and cars when balls go beyond the site boundary. Moreover, I find that the proposal would significantly reduce the current levels of safeguarding by limiting the number of overlooking properties. As a consequence, I do not find the remaining green space would be equivalent in terms of community benefit.
13. The appellant has drawn my attention to the Gordon Bennett Recreation Ground (GBRC) as an alternative, higher quality green space which is situated a short distance to the west of the appeal site. Whilst I accept some similarities and the presence of dedicated recreation equipment, I am not satisfied that this represents a viable alternative that would make the appeal site surplus to requirements. This is because of the limited degree of natural surveillance that is present and the significant number of properties in the eastern reaches of Thurcroft that are outside the maximum 280m buffer of the GBRC, as recommended by the Rotherham Green Spaces Strategy 2010. This fact would not be significantly altered by the 300m buffer used in the appellant's own appraisal. Moreover, even though I observed that these properties in the eastern part of Thurcroft are in close proximity to the Old Mineral Line Trail, this green space provides a different range of unsupervised recreation opportunities that are not equivalent to the appeal site, as is also the case for the areas to the north.
14. Given the above, I conclude that the proposal would cause significant harm to local urban green space provision thus conflicting with policy CS22 of the CS and saved policy ENV5.1 of the UDP and thereby contrary to the development plan. I also conclude that it would be contrary to paragraphs 17 and 74 of the Framework that seek, among other things, to ensure that decision-taking secures a good standard of amenity for all existing and future occupants of land and buildings and that existing open space is protected.

Other Matters

15. The Council acknowledges that it is unable to demonstrate a 5 year supply of deliverable housing sites. Paragraph 49 of the Framework indicates that, in circumstances such as this, relevant policies for the supply of housing should not be considered up to date. This means that where relevant policies are out of date, there is a presumption in favour of sustainable development unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. Whilst the proposal would make a limited contribution towards the supply of housing, paragraph 8 of the Framework indicates that sustainable development can only be achieved where economic, social and environmental aims are sought jointly and simultaneously. Furthermore, paragraph 9 goes on to indicate that sustainable development involves seeking positive improvements,

not only to the quality of the built, natural and historic environments, but also the quality of people's lives.

17. In this last respect I have found that the proposal would cause significant harm to local green space provision to the detriment of the living conditions of nearby residents. In my judgement, having had regard to the policies of the Framework as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Consequently, it would not amount to a sustainable form of development and would thus be contrary to paragraph 14 of the Framework.
18. Despite the fact that a contribution toward affordable housing has been agreed, I do not have a completed planning obligation before me. Although the lack of an obligation is not one of the reasons for refusal I acknowledge the potential public benefit that could arise were one to be forthcoming. However, bearing in mind the significant loss of urban green space that would result and the value placed upon it by the local community, I do not find that this benefit would outweigh the harm that would be caused.
19. The appellant has suggested that a precedent has been set for the proposal given the approval of 14 dwellings at Wheatley Road (Ref RB2014/1227). However, this application was not similar in all respects as the land was allocated for residential development. In any event, each case must be judged on its individual merits. Consequently, I give this matter little weight in the planning balance.
20. The appellant is of the opinion that the planting scheme would be beneficial to biodiversity but has not identified how it relates to existing semi-natural vegetation in the surrounding area or whether any species of conservation concern would benefit from the proposal. Moreover, I am not satisfied that the use of ornamental, non-native species such as *Liquidambar styraciflua* is a justifiable biodiversity benefit. Consequently, I give this limited weight in the planning balance.

Conclusion

21. For the above reasons and having regard to all other matters raised, I conclude that, on balance, the appeal should be dismissed.

Roger Catchpole

INSPECTOR