
Appeal Decision

Site visit made on 14 March 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 3 April 2017

Appeal Ref: APP/Z4718/W/16/3166268

Cuckstool Road, Denby Dale, West Yorkshire HD8 8RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr & Mrs E Boocock against Kirklees Metropolitan Borough Council.
 - The application Ref 2016/91231, is dated 14 April 2016.
 - The development proposed is 3 residential dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The original application sought outline planning permission for 3 residential dwellings on the appeal site with all matters reserved. Accordingly, I have determined the appeal scheme on that basis.
3. The Council did not issue a decision within the prescribed period. The appellants have exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's appeal statement states that the proposed dwellings would have an adverse impact on the amount and quality of open space available in the area and would also prejudice the appeal site's value as open land.

Main Issue

4. Taking the above into account, the main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The appeal site is located adjacent to and north of Cuckstool Road. At the time of my visit, the site was overgrown with a number of small trees and bushes located around the edges of the site. A low level stone wall forms the southern boundary of the site and is in a reasonable state of repair. However, at my visit, I noted that a sizeable section of the wall had fallen down at the south east corner of the site. The topography of the site slopes downwards towards the north and towards the nearby Denby Dale Cricket Club. The northern boundary of the site is marked by an area of trees beyond which lies the cricket club field. To the west and south are residential properties on Cuckstool Road which runs along the southern and eastern boundary of the site. The area has
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a mixed character with a balance of residential properties and areas identified as open space land, including the appeal site. The site is allocated as 'Urban Greenspace' in the Kirklees Unitary Development Plan (UDP).

6. Policy D3 of the UDP states that planning permission will not be granted on sites designated as 'urban greenspace' unless the proposed development is necessary for the continuation or enhancement of established uses or involves a change of use to alternative open land uses or would result in a specific community benefit. In all cases, development is required to protect visual amenity, wildlife value and opportunities for sport and recreation. Alternatively, development would only be allowed where alternative open space provision of equivalent quantity and quality to that being lost were proposed which was reasonably accessible to existing users. In addition, Paragraph 74 of the National Planning Policy Framework (the Framework) advises that open space should not be built upon unless an assessment has been made which clearly shows the open space in question to be surplus to requirements.
7. Whilst I appreciate that Policy D3 is of some age, this alone is not a sufficient reason to give it any less weight to it in decision-making. Furthermore, having considered the above, I find Policy D3 to be in accordance with the Framework. As such, I give it significant weight in my determination of this appeal.
8. From what I have seen and read, there is no substantive evidence to indicate that any alternative open space land of equivalent size and quality forms part of the proposal. Furthermore, there is no assessment before me which indicates that the area of open space which would be lost as a result of the proposal is surplus to requirements for the area.
9. In addition, I find that the open space land which currently forms the appeal site makes a positive contribution to the character and appearance of the locality. It has the appearance of being a semi-natural area of land. In my view, this forms the core of its intrinsic value to the locality where an area with such a rural appearance is situated amongst and adjacent to residential properties which provides a positive edge of settlement environment of mixed character and appearance. Furthermore, the open space land which forms the appeal site is recognised as a valued element of the streetscape and supported through its allocation as 'Urban Greenspace' in the UDP.
10. I note that the Council cannot demonstrate a five year supply of housing land and that the proposal would provide three new dwellings in a sustainable and accessible location. I acknowledge that this would make a small contribution to the housing supply shortfall and would provide a small area of formal open space for the benefit of the community. Furthermore, I appreciate that the site has limited wildlife and ecological value. Notwithstanding this, having had due regard to all of the evidence before me, and from what I saw during my visit, I find that the material harm which would be caused to the character and appearance of the locality and the loss of a key area of semi-natural open space would significantly outweigh the benefits of the scheme.
11. The proposed development would result in the loss of a valued area of open space land which is allocated as such in the UDP. Furthermore, it would have an adverse visual impact on the character and appearance of the locality which would be contrary to local planning policy and the Framework.

12. Consequently, I conclude that the proposed development would have a material harmful effect on the character and appearance of the surrounding area. Therefore, it would be contrary to Policy D3 of the UDP and the Framework. Amongst other matters, this policy and guidance seeks to ensure that development has no significant adverse effect on the character or appearance of its surroundings.

Conclusion

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

Andrew McCormack

INSPECTOR