
Appeal Decision

Site visit made on 16 July 2019

by Jonathon Parsons MSc BSc DipTP (Cert Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/J0540/W/18/3217657

**Land north of Thistle Drive, Street Record, Stanground South 3 Section 1
Bridle, Stanground, Peterborough, PE2 8HS.**

- 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 Mr Gary Clarke (Medesham Homes LLP) against the decision of Peterborough City Council.
 - The application Ref 18/01101/R3OUT, dated 15 June 2018, was refused by notice dated 14 November 2018.
 - The development proposed is "Outline application for residential development (all matters reserved).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Peterborough Local Plan (LP) 2016 to 2036 was adopted on 24 July 2019. The new LP replaces the Peterborough Core Strategy DPD (2011), the Peterborough Site Allocations DPD (2012) and the Peterborough Planning Policies DPD (2012). Parties' comments have been considered in this appeal.
3. During the determination of the planning application, plans were amended to reflect the correct extent of the then housing allocation under a previous plan. The appeal has been determined on this basis, with parameters and layout details treated as illustrative. The elevational house plans within the Design and Access Statement (DAS) are similarly considered on the same basis.
4. A Unilateral Undertaking (UU) dated 13 March 2019 contains obligations setting out the on-site provision of six affordable housing units and contributions for the maintenance of nearby allotments, the enhancement of a nearby children's play area and neighbourhood park, and the management of a natural greenspace. These obligations will be commented upon in my decision.

Main Issue

5. The main issue is whether the site is suitable for housing having regard to its use as public open space.

Reasons

6. The appeal site is an open grassed strip of land which fronts onto North Street, north of Thistle Drive. Bach River, a tributary of the River Nene, along with

further grassland, lies to the north and a public right of way runs along North Street. There is housing development to the south and west of the site.

7. Under a previous DPD, the appeal site was allocated for residential development but with the new LP, it is no longer. It remains within the "white land" of the urban area and has no policy designation as public open space (POS). Nevertheless, it is part of a wider parcel of land, the Tenter Hill POS, that is utilised for formal/informal play, recreational and other leisure pursuits.
8. LP policy LP23 states that existing non-designated open spaces will, in principle, be protected from development. Furthermore, it indicates that new development that will result in the loss of existing open space will not be supported, unless the criteria in the National Planning Policy Framework (NPPF) are met. In this respect, NPPF paragraph 97 states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless, one of three criteria is met: (a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; (b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. The final criterion (c) that the development is for alternative sports and recreational provision is not relevant.
9. The Council's Open Space Strategy (OSS) Update October 2016, a background document to the then emerging LP, defines the site as a neighbourhood park POS. It indicates a deficiency of 5.61 ha for this type of POS, for the ward which the appeal site is located within. Although the OSS is about 3 years old, the extent of the deficiency is substantial. For this reason and in the absence of any evidence to the contrary, significant weight is therefore given to its findings. Accordingly, it has not been demonstrated that the POS on the appeal site is surplus to requirements.
10. The UU provides contributions towards works for allotments (circa £1,100), children's play space (c £2,750) and neighbourhood park (c £21,750) and natural greenspace (c £7530). However, these works do not replace the lost POS in quantitative terms given these contributions are for management, enhancement and maintenance works. There is also no clear indication whether these works would relate to the future recreational needs of the new residents or are to be replacement for the lost POS on the site, or both. Some of the works would relate to development mitigation measures for the Nene Washes Special Protection Area (SPA) and Special Area of Conservation (SAC). For all these reasons, the proposal would not satisfy the paragraph 97 criteria (a) or (b) of the NPPF and the proposal would conflict with LP policy LP23.
11. The proposal would provide housing including six affordable housing units (4 affordable rented homes and 2 intermediate tenure homes). Two of the affordable homes would be constructed to Lifetimes Homes Standards. The DAS further indicates that the housing would be likely to be a mix of 2 and 3 bedroom dwellings.
12. The Council can demonstrate a 5 year housing land supply, the figure of 7.61 has not been disputed by the Appellant. However, the result of the Housing Delivery Test shows that the Council's delivery has fallen to 95% of its housing requirement over the previous three years. On this basis, the proposed housing, as likely to be provided based on the illustrative plans, would make a

modest but worthwhile contribution to meeting housing needs. Residents of the housing on the site would have good accessibility to services and facilities, which would reduce their need to travel by private vehicles. The illustrative plans show an efficient and effective use of the site for housing.

13. These positives of the proposal weight significantly in favour. In particular, the proposal would comply with LP policy LP8 in meeting housing need. The location of the housing would accord with the settlement and the spatial strategy of the LP policies LP2 and LP3. However, the evidence indicates that the deficiency in the Neighbourhood Park POS is substantial and the further loss of the appeal site, some 0.75 ha, would add to this. In this respect, access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.
14. The proposal would be located within fluvial Flood Zone 1 which indicates flood risk would be low to people and property, confirmed by the Appellant's Flood Risk Assessment. There has been no objection from any flooding consultee. The Appellant's Transport Statement and planning comments contained within various documents confirm my opinion that satisfactory car parking and access could be provided, albeit these matters are reserved for further consideration.
15. No detailed evidence indicates that there would be an unacceptable impact on highway safety, or that residential cumulative impacts on the road network would be severe. The Council's statutory highway consultee has raised no objection. There are on-site ecological objections to the proposal based on an ecological assessment. However, these are considerations that are expected to be satisfied in any development and as such, they are neutral factors in the development plan balance.
16. In summary, the loss of the public open space is an overriding consideration for the reasons indicated. As a result, there would be a conflict with the development plan as a whole. Similarly, there are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise than in accordance with the development plan. Therefore, planning permission should be refused.
17. The site would be close to Nene Washes SPA and SAC, the interest features of which are certain wintering wildfowl and wading birds, and a fish species. The UU sets out mitigation measures in connection with this development. As there are substantive reasons to dismiss this appeal, I have no reason to consider the suitability of the mitigation as part of a Habitats Regulations Assessment, including consultation with Natural England. Similarly, I have not needed to assess the financial obligations with UU in relation to the statutory tests of the Community Infrastructure Regulations 2010 (as amended) or the suggested negatively worded condition requiring the mitigation within the UU obligations to be secured prior to the commencement of development.

Conclusion

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

Jonathon Parsons

INSPECTOR