



Appeal Decision

Site visit made on 11 July 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2019

Appeal Ref: APP/U1430/W/19/3227093

**Land between 18 and 20 Collington Park Crescent, Bexhill, East Sussex
TN39 3RF**

- 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 Messrs Precise Property Developments, Precise Property Developments against the decision of Rother Borough Council.
 - The application Ref RR/2018/3044/P, dated 5 December 2018, was refused by notice dated 20 February 2019.
 - The development proposed is described as erection of two 3 bedroom and one 4 bedroom houses with garages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the supply of amenity green spaces and the character and appearance of the locality.

Reasons

3. Planning permission reference RR/77/2015 was granted in 1978 for housing development within Collington Park Crescent and the appeal site was shown on the approved layout plan as an open grassed area. When the scheme was approved it included a landscaping condition relating to the land, but did not stipulate its precise use. Following the approval of the scheme, various correspondence and reports refer to the land as public amenity open space and that the Council would take on the land and its maintenance subject to certain conditions. Whilst the Council subsequently took on the maintenance of the land, the ownership of the land was not transferred.
4. The Council maintained the land as public open space and amenity green space and it has been used and enjoyed by local residents for these purposes for many years, presumably with the knowledge of the owner. In 2007 the land was assessed and included in the Council's Open Spaces, Sport and Recreation Study (OSSRS), which includes privately and publicly owned land, as an amenity greenspace. The OSSRS describes amenity greenspaces as informal recreational spaces and green spaces in and around housing, its primary purposes being to provide opportunities for informal activities close to home or work and/or to enhance the appearance of residential and other areas. As a

minimum, smaller sites should provide an important visual amenity function. The report does not distinguish between privately owned and publicly owned land and recognises that some amenity greenspaces may not provide for public access.

5. Whilst the OSSRS sets out minimum standards for the coverage of amenity greenspaces, it also acknowledges that additional open spaces are not required in all areas. In particular, the OSSRS states that within the Bexhill analysis area there was a good coverage of amenity greenspaces, although any further development to the west could place too much demand on them. As a consequence, the Council should look to improve the open space resources at Collington and Gillham Wood rather than focus on new provision.
6. The appellant states that the land should not have been included in the study. However, the land was approved as and had been used and maintained as an open grassed area with public access for many years. Any possible past misunderstanding about its ownership was immaterial and the previous land owner clearly did not seek to stop or prevent the use of the land as an open grassed area with public access. In addition, the site is a longstanding area characterised by open grass and in such circumstances, I consider it to be entirely reasonable for the Council to include the land in their open space study.
7. The National Planning Policy Framework 2019 (Framework) advises that the purpose of the planning system is to contribute to the achievement of sustainable development. It advocates a plan led approach where planning policies and decisions should play an active role in guiding development towards sustainable solutions. In doing so they should take account of local circumstances, to reflect the character, needs and opportunities of each area. Concerning housing the Framework states that to support the Government's objective to significantly boost the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.
8. The Framework seeks to ensure that new development is sympathetic to the local environment, including the built environment and its landscape setting. The Framework also promotes access to open spaces and the delivery of local strategies to improve social and cultural well-being. It states that planning decisions should contribute to and enhance the local and natural environment and encourages a strategic approach to maintaining and enhancing networks of habitats and green infrastructure. The Framework defines green infrastructure as including a network of multi-functional green space which is capable of delivering a wide range of environmental and quality of life benefits for local communities.

Paragraph 96 of the Framework states the need for open space, sport and recreation facilities should be based on robust and up-to-date assessments, which should then inform development plan policies, designed to accommodate identified needs. The OSSRS was undertaken having regard to Planning Policy Guidance Note 17 – Planning for Open Space Sport and Recreation, which was replaced by the National Planning Policy Framework in 2012. In addition, it is understood that the Council is looking to undertake fresh research to establish current and future needs.

11. Paragraph 97 of the Framework states that existing open space should not be built on unless an assessment has been undertaken which has clearly shown

that the open space is surplus to requirements, or that it will be replaced on site or elsewhere. Open space is defined in annex 2 of the Framework as including all open space of public value, which offers important opportunities for sport and recreation and can act as a visual amenity. The National Planning Practice Guidance (PPG) further advises that open space can be an important part of the setting of built development and an important component in the achievement of sustainable development. As such, I find that in relation to open space, as defined in the Framework, visual amenity may be relevant to an assessment under paragraph 97 of the Framework, but only to the extent to which visual amenity is relevant to the site's role in its capacity as an open space.

13. Policy CO3 of the CS seeks to safeguard existing open spaces, sports and recreational facilities from development unless the proposal improves facilities either on-site or elsewhere. The supporting text to this policy explains that open spaces include, amongst other things, amenity green space, green corridors, cemeteries and churchyards and natural and semi-natural open space. It can perform a number of functions, including helping to make places more attractive to live. Such uses can readily fall within the definition for green infrastructure as set out in the Framework.
14. The above definition for open space differs to that of the Framework and unlike the Framework, Policy CO3 of the CS does not allow for the development of open spaces where they are found to be surplus to requirements. At the same time, the OSSRS is some 12 years old and the findings of the appellants open space review highlights that in some respects the OSSRS is out of date. As a consequence, in relation to the appeal proposal the identified degree of conflict between paragraph 97 of the Framework and policy CO3 of the CS in relation to the supply of open space, as defined in the Framework, is significantly more than limited. Paragraph 213 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. As such, in this one respect, the policies in the Framework as a whole carry more weight than Policy CO3 of the CS, in relation to open space as defined in the Framework.
15. Notwithstanding this, the importance of maintaining, improving and identifying opportunities for new green infrastructure and open space is apparent both in the CS and the Framework.
16. Until recent months local residents could access the appeal site and from the evidence submitted it was actively used by local residents for informal recreation. The appeal site provides a soft landscaped environment for this purpose and at the same time provides an area of green infrastructure that contributes to the spacious and verdant character and appearance of the locality. Although a temporary fence has recently been erected across the frontage to the site and notwithstanding its modest size, the appeal site continues to contribute to the spacious and verdant character and appearance of the locality and the well-being of the local community.
17. The appellant has indicated that they are looking to erect a permanent fence around the site to prevent any public access to it in the future. This is a matter to which I give little weight. This is because it is a matter of choice and should the owners of the appeal site decide to use the land for purposes other than open space and/or green infrastructure they would likely first need to seek

planning permission. In addition, to give material weight to this stated intention could set a harmful precedent that could be followed by the owners of other areas of open space and green infrastructure that were similarly designed and used to meet the functional and/or visual expectations and needs of the local community.

18. The appellant has identified several areas of open space and green infrastructure ranging from 375 metres to in excess of 600 metres from the appeal site. They offer public access to a variety of experiences ranging from woodland and grassland walks to formal sports pitches and children's play areas and have a broader catchment area than the appeal site. These areas all offer good quality open spaces, which similarly contribute to the visual amenity of the area.
19. Whilst I acknowledge the shortcomings in the OSSRS, the evidence submitted by the appellant fails to demonstrate whether or not the appeal site is surplus to requirements. In particular, whilst several areas of open space in the area are identified on an aerial photograph, few details are provided regarding their function, facilities, the experience they offer, the pressure they are under from established and more recent developments and whether they result in the appeal site being surplus. The proposal does not include any alternative open space provision, either through additional or enhanced provision on the appeal site or elsewhere.
20. The open space review submitted by the appellant does not address visual amenity in relation to the appeal site's role as open space, although the contribution the site makes as an amenity green space to the street scene is addressed in the appellants statement. The Appeal site fronts onto and is located mid-way along Collington Park Crescent and backs onto Salvington Crescent, where it adjoins a pavement and wide verge, that is planted with trees. Collington Park Crescent is characterised by uniformly designed and sited groups of bungalows and two storey dwellings set behind open plan front gardens that are typically dominated by lawns and soft planting. Salvington Crescent is characterised by chalet style dwellings set behind soft landscaped open plan front gardens.
21. Although the appeal site is visually contained, within both street scenes and together with the soft planted open plan front gardens and the abundance of trees within the area, the appeal site makes a valuable contribution to the spacious and verdant character and appearance of the locality. It also visually contributes to the network of green infrastructure in the locality.
22. The proposed dwellings would respect the uniformity, design, appearance and front building lines of the dwellings within Collington Park Crescent. However, there would be little room for soft planting within their front gardens as the majority of the front gardens would be hard surfaced for access, parking and turning. To the rear the proposed gardens would be of sufficient size to include rear boundary planting. This would soften the appearance of the development when viewed from Salvington Crescent. Overall, although the proposed housing scheme would not look out of place within the street scene, it would diminish the existing open and verdant character and appearance of Collington Park Crescent and to a lesser extent Salvington Crescent. As a consequence, the proposal would have a harmful impact on the character and appearance of the locality.

23. For these reasons the proposal would harm the character and appearance of the locality and the appellant has failed to demonstrate that the proposal would not have a negative impact on the supply of amenity green spaces. The proposal would therefore conflict with Sections 8 and 12 of the Framework and Policies CO3, OSS4, BX1 and EN3 of the CS, which collectively and amongst other things seek to conserve and enhance the distinct and independent character of the area, including its landscape setting and to develop and protect a network of open space/green spaces around the town.

Planning Balance and Conclusion

24. I have found that the proposal would conflict with the local policies which seek to protect and maintain open and green spaces for both functional and visual reasons and the character and appearance of the area. For the reasons set out above I give the conflict with Policies OSS4, BX1 and EN3 of the CS and the objectives of policy CO3 of the CS considerable weight.
25. The proposed scheme would provide three new family homes in an accessible residential area. As such it would make a small contribution to the supply of homes in the District and in this respect would comply with policies DS3 of the LP and policies OSS1, OSS3 (i) and TR3 of the CS. This is a benefit which provides positive weight to the planning balance.
26. The construction of the development would provide employment and the occupiers of the proposed dwellings would support local services and facilities. In these ways the proposal would support the economic and social objectives of sustainable development. Similarly, this is a benefit which gives positive weight to the planning balance.
27. On the other hand, the proposal would result in the loss of an identified local amenity greenspace and would conflict with paragraph 97 of the Framework and the environmental objective of sustainable development. The loss of this green space would also have a negative impact on the character and appearance of the locality. These factors weigh heavily against the appeal.
28. It is acknowledged that the Council has raised no concerns relating to the design and appearance of the proposal, highway safety, parking and flood risk. As such these are factors to which I can give neutral weight.
29. Both the Council and the appellant agree that currently the Council does not have a deliverable supply of sites to provide a minimum five years supply and that the shortfall is in excess of one year. Also, having regard to the performance shortfall in the Housing Delivery Test 2018 results, the supply of specific deliverable sites should include a 20% buffer in accordance with paragraph 73 of the Framework.
30. However, the lack of a five-year supply of housing does not automatically lead to a grant of planning permission. In this case, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of providing three dwellings on the appeal site when assessed against the policies in the Framework taken as a whole. Overall the presumption in favour should not be applied.
31. The proposal would conflict with the development plan and this conflict is not outweighed by other material considerations, including the provisions of the Framework and paragraph 11 in particular. Therefore, for the reasons given

above and taking into account all other matters raised, I conclude that the Appeal should be dismissed.

Elizabeth Lawrence

INSPECTOR