



Appeal Decision

Site visit made on 16 December 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 January 2020

Appeal Ref: APP/B2355/W/19/3236571

Kashmir House, Co Operation Street, Cloughfold, Rossendale BB4 7QL

- 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 Riast Khan against the decision of Rossendale Borough Council.
 - The application Ref 2019/0171, dated 16 April 2019, was refused by notice dated 25 July 2019.
 - The development proposed is for the change of use to garden from Greenlands.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Policy E.1 has been referred to by the Council as being from its Core Strategy. However, the Council has since confirmed that Policy E.1 resides in the Rossendale District Local Plan 1995 (LP) as a saved policy. I have taken this into account in my decision. I do not consider any party would be prejudiced by my doing so.

Main Issue

3. The main issue is the effect of the proposed change of use on the character and appearance of the area designated as 'Greenlands'.

Reasons

4. The site, the subject of this appeal, forms part of a larger area of public open space. The site is behind Kashmir House and includes trees and other woodland plants. The immediate area of open space is a hilly woodland that climbs gradually away from Co operation Street. Allotments and equipment sheds are also arranged amongst the trees. The site is especially visible from the main pathway that runs through the allotments. This path is higher and parallel to the southern boundary. Consequently, the site is highly visible from many views from within the woodland. The site consequently makes a positive contribution to the character and appearance of the area.
5. Greenlands is an area of public open space, which separates two residential areas. Policy E.1 of the LP, seeks to protect and enhance it and only allow development that is appropriate to the function of the designation. The objectives of this policy are generally consistent with the National Planning Policy Framework (the Framework). Greenlands serves several important

functions including providing amenity, recreation and nature conservation value. Furthermore, Policy 17 of the Rossendale Borough Council Core Strategy Development Plan Document 2011-2026 (CS) (2011) seeks to protect Green Infrastructure (GI). Criterion 4 and 5 require the appropriate enhancement of GI and to resist its fragmentation.

6. The proposed change of use, to a private residential garden, would include enclosing the site with a post and wire fence and a hawthorn hedge. The effect of enclosing the space would prevent public access and result in an encroachment that would have an incremental impact contrary to the purpose of the designation. The enclosure of which would result in scrub clearance, land reforming, and the addition of domestic planting, equipment and garden furniture. This inevitable domestication of the site would over-time harm the character of this part of the woodland. This would degrade the contribution the site makes to the wider open space.
7. Accordingly, the proposal would be contrary to policies 17, 23 and 24 of the CS, which seek to protect the GI Network and have accessible open space. The proposal would also not accord with policy E.1 of the LP, the objectives of which are set out above. Furthermore, these policies are consistent with the Framework seeking development to be sympathetic to the local character.

Other matters

8. The security concerns raised by the appellant are not supported by police recorded incidents. Furthermore, the rear boundary of the property is relatively exposed and could be improved with additional security if required. This would have a limited further impact on the outlook of existing occupiers as rear windows are already compromised by the effect of the embankment. Also, the proposal would only provide limited additional security. Therefore, it is unconvincing that the proposal would be necessary as a security measure.
9. The appellant's intention is to primarily secure the area rather than to install garden sheds or equipment. However, conditions that would seek to remove permitted development rights, and limit the domesticating effect of the use, would not pass the required tests of the Framework. Such conditions would only be reasonable in exceptional circumstances, which do not exist here. Nevertheless, physical changes would be likely to be incrementally made to the area that would over time, result in an area visually divorced and altered in character from the remaining area of Greenland.
10. The Council identify that the Greenland designation includes privately owned land that is nevertheless open to the public. Designation afforded to the land through Policy E.1 of the LP does not rely on public ownership to be engaged. Such land is required to be publicly accessible to achieve the objectives of policy 17 of the CS. Furthermore, there is no evidence before me that indicates there are inaccessible areas of land within this designation.

Conclusion

11. For the above reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR