
Appeal Decision

Site visit made on 4 February 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2020

Appeal Ref: APP/P1805/W/19/3240746

**Land adjacent to 50 Finstall Road, Aston Fields, Bromsgrove,
Worcestershire B60 2EH**

- 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 Peter Raybould against the decision of Bromsgrove District Council.
 - The application Ref 19/00891/FUL, dated 24 June 2019, was refused by notice dated 13 September 2019.
 - The development proposed is erection of 2 semi-detached dwellings.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is grassed open space located in a residential area on the junction of Finstall Road and St.Godwald's Crescent. The open space is well maintained and dwellings on St. Godwald's Crescent are arranged around it. The site is read as part of the green landscaping that extends along Finstall Road and contributes to the openness of the area.
4. Policy BDP25.3 of the Bromsgrove District Plan (2017) (BDP) seeks to protect existing designated and undesignated indoor and outdoor open spaces and sport and recreation facilities in the District. It sets out a number of exceptions that would justify the development of open space. The appellant questions whether the site falls within the definition of open space as they contend that it is not designated, privately owned and is not publicly accessible.
5. The Glossary of the National Planning Policy Framework (the Framework) defines open space as all open space of public value, including land and areas of water which offer important opportunities for sport and recreation and can act as a visual amenity. On that basis, whether the land is designated or matters of ownership and access are not defining features of open space. There is also no requirement for a solely sport or recreational use. Similarly, Policy BDP.25 does not differentiate between open space that is or is not publicly accessible.

6. The site can reasonably be regarded as meeting the definition of open space and it has important public value through its contribution to the spatial characteristics and distinctiveness of the local area. Consequently, the introduction of built form would result in the loss of an attractive open space contrary to Policy BDP.25 and would be harmful to the character and appearance of the area.
7. The appellant contends that one of the exceptions that justifies development of open space has been met because the benefits of the proposal to the community outweigh the loss. I acknowledge that new dwellings would be a benefit to the community, however, this would be at the expense of an attractive open space that positively contributes to the area and does not outweigh my concerns in relation to this matter, regardless of whether the site is or is not publicly accessible.
8. I acknowledge that the design of the dwellings would be sympathetic to nearby buildings and that the proposal would make best use of vacant land. I also note that the proposed arrangement of the dwellings would provide an open frontage. However, none of these things are sufficient to justify the loss of an important area of open space.
9. With regard to the potential for a fallback position I have no credible evidence before me that a fence or wall would be constructed which casts doubt on whether it would be implemented. Furthermore, the installation of a fence or wall around the site whilst enclosing it, would have far less of an impact upon openness and the character of the area compared to the proposal.
10. Consequently, the proposal would be contrary to Policies BDP.1, BDP.7 and BDP.19 which, although recognising that new development should make the most efficient use of land, are clear that it should also maintain or enhance local character and distinctiveness.

Planning Balance

11. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 73 of the Framework. Consequently, Paragraph 11d of the Framework, which is a material consideration of significant weight, is engaged. It states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
12. The construction of 2 dwellings in an accessible location would make a contribution towards the District's housing supply and would provide jobs during construction. The dwellings would be within a reasonable distance of a range of day-to-day services. Future occupants would be able to reach these on foot, providing them with transport choice and not an over reliance on a car. These are all factors weighing in the scheme's favour. However, the benefits associated with the provision of only two dwellings would be modest and thus attract no more than moderate weight.
13. The proposal would provide satisfactory living conditions for future occupiers. It would also protect the living conditions of existing occupiers and would not adversely affect the safe and effective operation of the adjoining highway. The proposal would attract Council Tax payments and the New Homes Bonus. However, these are neutral factors in the balance.

14. On the other hand, I have found that the proposal would result in the loss of an attractive open space which would be harmful to the character and appearance of the area. I give very significant weight to the proposal's conflict with the most important policies in the development plan. Therefore, the adverse effects of the proposal would significantly and demonstrably outweigh its benefits. Consequently, the presumption in favour of development does not apply and I have no reason to take a decision other than in accordance with the development plan.

Conclusion

15. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR