



Appeal Decision

Site visit made on 30 June 2021

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2021

APP/D1590/W/20/3257162

Land to the rear of 6 Crosby Road, Westcliff-on-Sea, SS0 8LG

- 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 Steven Kearney against the decision of Southend-on-Sea Borough Council.
 - The application Ref 20/00709/OUT, dated 30 April 2020, was refused by notice dated 9 July 2020.
 - The development proposed is erect 6 four bed houses.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application is in outline, with all matters reserved for later consideration. However, the application included an indicative layout, showing 3 pairs of semi-detached houses, an access alongside No.6 Crosby Road and possible elevational treatment and floor plans.
3. The application form referred to the proposed development as 'creation of 6 new 4 bed family homes'. The council revised this when validating the application to 'erect 6 semi-detached houses'. This wording does not appear to have been agreed with the appellant, and seems to describe the form of development shown on the indicative plans. Since all matters are reserved for later consideration, the form of development shown on the indicative plans is not necessarily the form of development that would be submitted subsequently. To amend the description as the council had done potentially reduces the scope of the development. I have amended the description in the heading above to reflect the intention of the application.
4. There is another appeal (Ref. APP/D1590/W/20/3260593) that is currently being decided, also for housing development, that includes No.6 Crosby Road and the point of access to this proposal. That appeal relates primarily to frontage development on Crowstone Road and Crosby Road. It is the subject of separate decision.

Main Issue

5. Whilst the appeal application is in outline, the indicative layout shows that the site is physically capable of being developed for the number of houses

proposed, taking account of the character of the surrounding area, any effect on the living conditions of residents in existing nearby housing and the satisfactory provision for future occupiers of the proposed dwellings in terms of residential amenity, access and parking provision, etc. There remains a single issue in this case: whether the loss of open space is outweighed by other considerations.

Reasons

6. The majority of the application site (all but part of the curtilage of No. 6 Crosby Road which is taken for access) constitutes a playing field designated as protected green space. This follows consultation in 2004 and subsequent designation as such in the council's Development Management Development Plan Document (DM) adopted in 2015.
7. The DM Proposals Map shows the site's designation with the notation for Protected Green Space, with policies KP2, CP4 and CP7 being indicated as those under which the designation is made. These are policies of the Core Strategy Development Plan Document that was adopted in 2007. I consider that the most relevant of these are KP2 and CP7. The essential elements of these policies, in respect of the main issue in this case, can be briefly set out in the following way.
8. Policy KP2: Development Principles requires that all new development ... should contribute to economic, social, physical and environmental regeneration, which must be achieved in ways which, at item 4, *"respect, conserve and enhance and where necessary adequately mitigate effects on the natural and historic environment, including the Borough's biodiversity and green space resources; ... and contribute positively towards the 'Green Grid' in Southend"*.
9. Policy CP7 – Sport, Recreation and Green Space includes the following statement *"All existing and proposed sport, recreation and green space facilities (including Southend foreshore and small areas of important local amenity, community resource or biodiversity value) will be safeguarded from loss or displacement to other uses, except where it can clearly be demonstrated that alternative facilities of a higher standard are being provided in at least an equally convenient and accessible location to serve the same local community, and there would be no loss of amenity or environmental quality to the community. Any alternative facilities provided in accordance with the above considerations will be required to be provided and available for use before existing facilities are lost. The displacement of existing and proposed facilities from within the built-up area into the adjacent countryside, so as to provide further land for urban development, will not be permitted."*
10. In addition, Development Management Document (DM) of 2015, policy DM3, in section 2, includes the statement that development on land that constitutes backland will be resisted where (item (iv)) it would *"result in the loss of local ecological assets including wildlife habitats ..."*.
11. The National Planning Policy Framework (the Framework) also has relevant policies. Framework paragraph 96 states *"access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities"*. And paragraph 97, as relevant here, states *"Existing open space, sports and recreational buildings and land,*

including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements;".

12. National Planning Practice Guide (NPPG) provides further guidance on open space: *"Open space should be taken into account in...considering proposals that may affect existing open space...open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure...as well as being an important part of the landscape and setting of building development, and an important component in the achievement of sustainable development* (Paragraph: 001 Reference ID: 37-001-20140306).
13. Taken as a whole, these policies clearly set out to protect open spaces, including all spaces of public value. Development plan policy CP7 is a clear expression of this. Whilst this policy in the Core Strategy of 2007 pre-dates the initial version of the Framework, it is partly in accord with Framework 2019 paragraph 97, although it does not allow for the 97 a) option.
14. In response to framework paragraph 97 a), the appellant has provided an 'Open Space Assessment' prepared by an environmental planning consultancy. The aim of this report was to review the reason for refusal in relation to open space and to assess if the existing open space is surplus to requirements. The parties will be familiar with the content of the report, so that I will simply set out, in brief, its conclusions.
15. It notes that the proposed development site is an area of privately owned open space which is not accessible to the public. The assessment shows that there is an oversupply of 1.69 hectares of public open space against the standard of 1.0 ha/1000 suggested in the parks and green space strategy. The Councils playing pitch study identifies that there are currently sufficient pitches for all age types in the local area, although there is a need for more pitches in the future. However, the assessment has shown that, due to the size of the site, it is not feasible to accommodate even the smallest of 5v5 mini football pitches. Its overall conclusion is that, in line with Framework paragraph 97, it has been clearly shown that the open space is surplus to requirements and can therefore be built on.
16. There is a brief council response to this report which includes drawing attention to a shortfall in pitches, as noted in the report, to meet longer term demand, and that this space, regardless of size, would be suitable for informal kickabouts for those living locally and therefore could provide a valuable public space resource. The relatively good provision in Chalkwell Ward is principally due to Chalkwell Park, but there a few smaller spaces giving local access, and ward boundaries are not an appropriate basis for assessing this need.
17. The main points I take from this report are that the site has no public access and its small size means that it is barely suitable for any sort of organised sport. It also calculates that, based on the recognised standard of 1.0ha of public open space per 1,000, this ward has a surplus of supply of 1.69ha (3.78ha if the beach is included). This is based on a 2018 population estimate, and does not take account of any population growth, although in a relatively

dense built-up area, it is perhaps unlikely that the ward will see any significant rise in its population.

18. I set against this, the fact that the ward is not necessarily the appropriate area to take for this assessment. The major public open space in the ward is Chalkwell Park, and this is at the northern boundary of the ward and obviously serves a population additional to that of the ward itself. I am told that Milton Ward, which has a deficiency of public open space, has many homes within easy walking distance of the site. The doubt I have about the way public open space has been calculated can be illustrated by the fact that of the total 12.19ha of Public OS typology, 'Parks and Recreation Grounds' account for 9.84ha, the great majority of this (if not all) comes from Chalkwell Park¹. Chalkwell Park, and the Beach, which when included brings the total Public OS to 14.28ha, must serve more than just Chalkwell Ward, and therefore the 'Open Space Assessment' has shortcomings that I cannot quantify, but throw serious doubt on its conclusions.

Overall conclusion

19. The development plan policies and those of the Framework provide a clear basis for refusing permission for development that involves the loss of open space, which includes all open space of public value. No suggestion has been made of any means by which the site could be made accessible to the public, nor does it provide any really obvious and substantial public benefit. I make this remark although I have noted that there is substantial local opposition to the loss of this open area.
20. There are few small open spaces in this ward, reliance being mainly placed on the substantial area of Chalkwell Park for public enjoyment. Although there is no evident route to use by the public of this site, its development would be a permanent loss. The appellant's Open Space Report has shortcomings in demonstrating that there is an oversupply of open space because it focusses on playing pitches and on the ward within which the site is placed, rather than a wider area that is likely to be more representative of the situation: the presence of Chalkwell Park on the northern boundary of the ward cannot be taken as solely providing benefit to the ward's population. I find that it has not been shown that the site, as open space, is surplus to requirements. In addition, the Framework is clear about open spaces having an ecological value and contribute to green infrastructure. My site visit and experience of ecological assessments of this sort of grassland suggests that it is unlikely in its present condition to have a high value in this regard, but if left it could well become of ecological value.
21. For these reasons I will dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR

¹ See Table 2 in the document.