
Appeal Decision

Site visit made on 25 October 2021

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th November 2021

Appeal Ref: APP/P1560/W/20/3253301

Land adjacent to Community Centre, Long Meadows, Dovercourt, Essex

- 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 D Newman and Mrs L M Williamson against the decision of Tendring District Council.
 - The application Ref 19/01464/OUT, dated 29 September 2019, was refused by notice dated 18 March 2020.
 - The development proposed is 2 maisonettes with parking, amenity space and access.
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Decision

1. The appeal is allowed and outline planning permission is granted for 2 maisonettes with parking, amenity space and access at Land adjacent to Community Centre, Long Meadows, Dovercourt, Essex in accordance with the terms of the application, Ref 19/01464/OUT, dated 29 September 2019, and the plans submitted with it, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The Impact Avoidance Precautionary Measures and Habitat Compensation, and Enhancements shall be carried out in accordance with Section 5 of the Preliminary Ecological Appraisal Including a Protected Species Assessment, within a time-frame which shall be agreed in writing with the Local Planning Authority.
 - 5) There shall be no discharge of surface water onto the Highway.

Preliminary Matters

2. The appeal relates to an outline proposal with all matters reserved for future consideration.
3. The appellant has submitted a Unilateral Undertaking in relation to the matters covered by the Council's reasons 2 and 3 regarding mitigation for protected sites and a contribution for open space. The Council has withdrawn these reasons for refusal.

Main Issue

4. The main issue in this appeal is whether the appeal site should be retained as open green space.

Reasons

5. The Council's adopted Tendring District Local Plan 2007 (LP) contains Policy COM7 which states that development proposals will not be permitted that would prejudice the use or involve the loss of recreational open space; this includes children's play areas, informal open space and parks and public gardens as defined on the Proposals Maps. The appeal site is not identified as such a site on the LP proposals maps and so I find that this policy does not apply to the appeal site.
6. The Council's emerging Local Plan Section 2 (eLP) identifies the site as a Safeguarded Local Greenspace and Policy HP4 seeks to protect such sites. However, the eLP has not been adopted and I attach only limited weight to its contents on this basis.
7. The appellant has submitted assessments in relation to the vegetation and biodiversity value of the site and these conclude that there would be no unreasonable tree loss and that, with suitable conditions there could be a net-gain in the value of the site in this respect.
8. The Framework defines 'open space', as all open space of value, which offer important opportunities for sport, recreation and can act as a visual amenity. The site, in my assessment, is an overgrown pocket of land within an otherwise built-up area and whilst its untended state has meant that plants have grown unimpeded, it cannot be described as offering 'important opportunities' for the purposes set out in the Framework.
9. In conclusion on this matter, I consider that the proposal would not result in the loss of a space which is either protected or offering important opportunities for recreation. I see no conflict with policies that have been referred to and no conflict with the Framework.

Conditions

10. I have had regard to the advice in the Framework and the Planning Practice Guidance in the use of conditions for planning permissions. The Council has submitted a list of conditions that it would prefer to be included in the event that the appeal is allowed.
11. Apart from the standard condition relating to the submission of reserved matters and commencement, I agree that a condition relating to the measures contained in the Preliminary Ecological Appraisal for Impact Avoidance

Precautionary Measures and Habitat Compensation are necessary so that biodiversity is suitably catered for. In addition, a condition which prevents the discharge of surface water onto the highway is necessary to ensure that the site is suitably drained.

Conclusion

12. For the reasons set out above, the appeal is allowed.

T Wood

INSPECTOR