



Appeal Decision

Site visit made on 5 July 2022

by C Megginson BA(hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2022

Appeal Ref: APP/V2004/W/22/3295323

1119 Holderness Road, Kingston upon Hull HU8 9EE

- 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 Iwona Uflewski against the decision of Kingston-Upon-Hull City Council.
 - The application Ref 22/00115/COU, dated 1 February 2022, was refused by notice dated 21 March 2022.
 - The development proposed is described as 'change of usage from open space to garden space (to extend existing residential garden space) and 6ft timber fencing will be erected at the new boundary line'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. Whether the appeal site is an appropriate location for garden space having regard to the green network and open space strategy.

Reasons

3. The appeal site lies to the rear of 1119 Holderness Road and is bounded by gardens with high boundary fences to the south and east. The north and western boundaries are open to the public open space of which the appeal site forms a part. Whilst the site has been cleared to a degree, the site and its immediate surroundings contain a number of mature trees and very dense vegetation. The wider area features a grassed area with a footpath which has an open boundary to the Holderness Drain and forms a green corridor running north to south through the settlement.
4. Policy 42 of the Hull Local Plan (2017) (LP) sets out criteria for the protection of existing open space including, in summary, the requirement for an assessment which clearly shows the land to be surplus to requirements; the replacement by equivalent or better provision in a suitable location; or development for sports or recreation provision the needs for which clearly outweigh the loss. The appellant has not demonstrated how these criteria have been met. The policy wording states that 'open space should not be built on.' The definition of a building in section 336 of the Town and Country Planning Act 1990 includes "any structure or erection" and in view of its size, permanence and degree of physical attachment, the fence is a building for the purposes of this assessment.

5. The appeal site forms part of the green network and is identified as having a strategic function for the City. Policy 43 seeks to protect the continuity and value of the green network and ensure that proposals protect or enhance the functionality and connectivity of the corridor. The existing vegetation is largely inaccessible to the public and the appeal proposal would not be visible from the wider area. Nonetheless, the appeal site has a value for biodiversity and change of use to a garden space and the erection of a high fence would sever the connectivity with the wider corridor and harm its functionality for wildlife and habitats. Whilst the appeal site is unlikely to support populations of protected or notable species, it does contribute to the structure and functioning of the wider Local Wildlife Sites and the Council recognise the importance of the appeal site as an area of young semi-natural woodland.
6. Whilst the appeal site is small in scale and on the edge of the green network, the appeal proposal is an unusual and irregular shape which could encourage neighbouring gardens to extend under the same conditions and in the same manner. The cumulative effect of such development could cause significant harm to the green network strategy. I therefore conclude that the appeal site is not an appropriate location for garden space, having regard to the green network and open space strategy. The proposed development conflicts with Policies 42 and 43 of the LP and the National Planning Policy Framework (the Framework) which seek to maintain and enhance open space and networks of habitats and green infrastructure.

Conclusion

7. The appeal scheme would conflict with the development plan. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

C Megginson

INSPECTOR