



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: 16th August 2022

Appeal Ref: APP/V2004/W/22/3294447

4 Tattershall Close, Kingston upon Hull HU2 0BB

- 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 Ralph Couldwell against the decision of Hull City Council.
 - The application Ref 21/01500/FULL, dated 18 October 2021, was refused by notice dated 22 December 2021.
 - The development proposed is described as 'change of use of the land from an open space to a garden area. If approved, the space would be surrounded by a new garden fence to your agreed specifications – the land would be used only for the extension of my existing private garden and for no other purpose whatsoever. This application is following agreement from the Right to Buy Monitoring Group (held on 9th September 2021) to sell the piece of land attached to my garden – subject to planning permission'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the appeal site is an appropriate location for garden space having regard to the open space strategy and the effect of the proposed development on the character and appearance of the area.

Reasons

Open space strategy

3. 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 the above criteria have been met. In addition, the population of the ward has access to 25% of the recommended quantities of open space, which is the poorest quantity of any ward in the city. The appeal site is therefore not an appropriate location for garden space having regard to the open space strategy. The proposal conflicts with Policy 42 of the LP, Supplementary Planning Document 11 (the SPD) and the National Planning Policy Framework (the Framework) which seek to protect, maintain and enhance open space provision.

Character and appearance

4. The appeal site is an area of amenity grassland in a prominent position on the corner of Tattershall Close and Bridlington Avenue. Whilst the gardens to either

side of the appeal site are enclosed by high fencing, the wider surrounding character has an open feel, with grass verges and prominent grass corners repeated along Bridlington Avenue. Some grassed areas are enclosed by low level, open metal fencing which retains the open character.

5. The appellant has indicated that the proposed fence would line up with the fences to either side, however, no details of the exact height or positioning of the fence have been provided. There is therefore insufficient evidence for me to reach a conclusion on the effect of the boundary treatment itself on the character and appearance of the area. Nonetheless, the use of the appeal site as a garden area would fundamentally change its appearance, introducing domestic paraphernalia into the space and enclosing a prominent open corner site. This would have an adverse effect on the character of the area and conflict with Policy 14 of the LP and the Framework, which seek to ensure that developments will add to the overall quality of the area and are sympathetic to local character.

Other Matters

6. The appellant has outlined that the appeal proposal is necessary for additional outside space to support the management of family members' health conditions. Whilst I have given the appellant's personal circumstances careful consideration, I am mindful of the advice contained in Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. For this reason, I therefore find that this factor is not sufficient to outweigh the harm that would be caused contrary to the development plan, the SPD and the Framework.
7. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes disability. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act.
8. Whilst I appreciate the appellants aim to provide additional outdoor space for exercise, it is not sufficiently clear to me that this is the only way of fulfilling this need. Having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view, the adverse impacts of dismissing the scheme on those with protected characteristics would be proportionate.

Conclusion

9. 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

¹ Paragraph 008 Reference ID 21b-008-20140306 – 'What is a material planning consideration?'