



Appeal Decision

Site visit made on 13 September 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/A4710/W/22/3295440

Land off Stratton Park, Brighouse HD6 3SN

- 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 J Rawson against the decision of Calderdale Council.
 - The application Ref 21/00258/FUL, dated 24 February 2021, was refused by notice dated 30 September 2021.
 - The development proposed is described as a residential development.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal upon open space provision.

Reasons

3. The appeal site comprises of a grassed area of open space which contains a number of trees. It is situated within a housing estate which contains a variety of dwellings, from part single and part two storey properties to three storey buildings that face the road. Across Stratton Park, there is a large change in levels and the level of the appeal site itself falls towards the north and west.
4. Saved Policy OS 1 of the Replacement Calderdale Unitary Development Plan (UDP) seeks to protect open spaces from development and sets out that development proposals located in such areas will only be permitted if one of the circumstances defined by the policy apply. The National Planning Policy Framework (Framework) states that existing open space should not be built on unless there is compliance with one of three criteria.
5. One of these criteria at Paragraph 99 b) of the Framework references the loss being replaced by equivalent or better provision in terms of quantity and quality in a suitable location. The saved UDP Policy OS 1 at iii) references the provision of an appropriate equivalent or improved facility in the locality. The appellant has referenced an alternative area of land of a similar size to the area that would be occupied by the proposed dwellings that could be used for open space. The existing fence and gate around the suggested alternative area of open space would be removed with a fence preventing access from Crossley Street.
6. Although the suggested alternative open space is at the end of the access road, rather than having access roads around it, it is also more remote, being to the edge of Stratton Park/Stratton Close, rather than the current open space which

is positioned more centrally within the housing estate. I appreciate part of the existing open space area would be retained, but this would be of a much-reduced size.

7. Reference has been made to a financial contribution towards play and gym equipment, but there is little further detail on this, including for the ongoing maintenance of this equipment. There is furthermore no mechanism before me to secure this contribution. The alternative, whilst providing a greater level area, would not therefore be an appropriate equivalent or better provision in terms of quality.
8. The appellant has stated that there is no evidence of the open space area being used and that if it had been valuable, it would have been purchased as a community asset when there was an opportunity to do so. From the evidence before me, although the site may not be large enough to play some sports and has limited wildlife on it, it is clearly a space that has been used for a variety of activities and also provides visual amenity benefits in contributing to the character and appearance of the area.
9. I therefore conclude that the proposal would have an unacceptable impact on open space provision. As such, it would be contrary to Saved Policy OS 1 of the UDP, which seeks, amongst other matters, to ensure the provision of open space facilities. It would also be contrary to the Framework which seeks to protect existing areas of open space.

Other Matters

10. The development would not give rise to any overlooking and would be compliant with the space standards. It would also result in only one tree being removed. These are however neutral matters and not considerations which weigh in favour of the proposal.
11. Reference has been made to the existing open space being on a blind corner but from my observations, there is a good level of visibility along the highway due to the open nature of the site that allows for views across it. This matter nor the proximity of a local park would alter my conclusion on the main issue.

Conclusion

12. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, the appeal should be dismissed.

F Rafiq

INSPECTOR