



Appeal Decision

Site visit made on 27 March 2023

by Guy Davies BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st March 2023

Appeal Ref: APP/U1430/W/22/3300433

Land adjacent to 18 - 20 Collington Park Crescent, Bexhill on Sea, East Sussex TN39 3RF

- 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 Richard against the decision of Rother District Council.
 - The application Ref RR/2022/69/P, dated 11 January 2022, was refused by notice dated 18 March 2022.
 - The development proposed is the erection of 3 no detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the provision of open space, and on the character and appearance of the area.
3. It is also necessary to consider what effect the lack of housing land supply should have on the decision, and the benefits of the scheme. I do this as part of the planning balance.

Reasons

4. From the construction of Collington Park Crescent in the late 1970s until 2019 the appeal site was used as public open space. Although not owned by the Council, it was clearly intended to be used as open space and was maintained by the Council as such. In 2019 public access was withdrawn and maintenance of the land stopped. At the time of my visit, it consisted of rough grassland with some encroaching brambles and saplings. Trees previously in the centre of the site had been removed. There was no fence or other barrier preventing access to the site but a notice was displayed advising that the land was private property and no unauthorized persons were allowed.
5. Policy CO3 of the Rother Local Plan Core Strategy 2014 (the Core Strategy) safeguards existing open spaces and only permits their loss where it results in improved provision. This is somewhat more restrictive than the approach taken to open space in paragraph 99 of the National Planning Policy Framework (the Framework), which includes a criterion that existing open space should not be built on unless an assessment has been undertaken which has clearly shown the land to be surplus to requirements. Since the Framework post-dates the adoption of Policy CO3 I give the Framework more weight in relation to this criterion.

6. The Council has carried out an assessment of open space and set out standards for provision in the Open Space, Sport and Recreation Study 2007. This identifies the site as amenity greenspace and includes it as part of the open space provision in Bexhill. Although at the time the site would have been publicly accessible, the report does not distinguish between private and public ownership and recognises that some amenity greenspaces may not provide for public access. It is therefore reasonable for it to be identified as open space. The report identifies a shortfall of amenity greenspace in this part of Bexhill when measured against the standards in the study.
7. The appellant has submitted an alternative open space appraisal, itself referencing an open space study¹ submitted with an earlier application on the site. In quantitative terms, it criticises the Council's adopted standards as being too high. It also makes a qualitative assessment of the appeal site against other amenity greenspaces in Bexhill using a scoring matrix, with the appeal site scoring poorly.
8. I note that the quantitative standards adopted by the Council differ from those published by Fields in Trust. However, the latter are intended as guidelines with planning authorities entitled to modify their approach depending on local circumstances, which is what the Council has done in its open space study. The scoring system used in the qualitative analysis appears to be bespoke, without any reference to national or industry standard approaches. That does inevitably raise questions about its veracity in this case. While the Council's open space report may be aspirational in its adopted standards, I consider it to be a more comprehensive and objective piece of work, and accordingly place greater weight on it than the appellant's open space appraisal.
9. I acknowledge that the benefit accruing from the appeal site changed markedly in 2019. Withdrawal of public access means that the site is no longer able to be used for informal recreation by local people. However, it does still have value in providing a green open space visually relieving the otherwise built-up surroundings. It also has ecological value both in terms of providing habitat on the site and forming part of a network of green spaces. This includes the wide verge and mature trees in Salvington Crescent to the rear and the open plan front gardens of surrounding residential properties.
10. Having regard to the evidence before me, I am not persuaded that the open space on the appeal site is surplus to requirements. Development of the site as proposed would remove the remaining value the site has as open land. It would no longer provide a visual break in views along Collington Park Crescent and would obscure the views across the site towards the trees and grass verge in Salvington Crescent. The designs of the proposed houses are themselves unobjectionable but the loss of open space and greenery that would result from their development would have a harmful impact on the character and appearance of the area.
11. For those reasons I conclude that the proposal would conflict with Policy CO3 of the Core Strategy and paragraph 99 of the Framework in that it would give rise to the loss of existing open space which continues to serve a useful function in that regard. The loss of such open space would not be replaced by equivalent or better provision elsewhere, nor is the development for alternative forms of recreational provision. It would also conflict with Policies OSS4, BX1 and EN3 of

¹ Ethos Environmental Planning Open Space Review Collington Park Crescent 2019

the Core Strategy, which seek to protect the character and appearance of the locality and maintain a network of green spaces around the town.

Other Matters

12. A previous scheme for 3 houses on the site was refused planning permission and subsequently dismissed on appeal in 2019². It differs in some respects with the current appeal scheme in the size of the proposed houses and the inclusion of garages but otherwise has many similarities in terms of the issues considered. While noting that decision, I have determined the appeal scheme on its own merits having regard to present policy and facts, including the more recent version of the Framework and the current land supply position.
13. The appellant refers to 2 other appeal decisions³. These differ on the facts of each case, neither involving the loss of identified amenity greenspace, and the second including many issues that are not relevant to this appeal case. Given the differences between the proposals and the current case, I place little weight on them.
14. The appellant also draws attention to recent case law relating to interpretation of what is now paragraph 11 of the Framework⁴. My analysis of that part of the Framework is consistent with these judgements.

Planning Balance

15. The Council acknowledges that it cannot demonstrate a 5-year housing land supply as required by national planning policy. At the present time it can only show 2.79 years' supply, which is significantly below that expected, and its latest housing delivery test result at 57% is also low. The Council is still a long way from planning for higher levels of housing delivery, its new Local Plan being years away from adoption even assuming it follows the current timetable.
16. The lack of an adequate housing land supply and low housing delivery means that for applications involving the provision of housing, as is the case in this appeal, footnote 8 of the Framework deems the policies which are most important for determining the application to be out-of-date. In such circumstances criterion (ii) of paragraph 11 of the Framework says that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This presumption in favour of sustainable development forms part of the Government's approach to boosting housing supply, particularly in places where it is currently lacking.
17. In terms of benefits, the proposal would provide 3 additional houses, which would help to meet demand for housing in the area and provide good quality homes in an accessible location on a small site. Beneficial though that provision would be, it would be relatively modest in terms of the overall housing supply needed in the district. There would also be some modest economic benefit during the construction period for the building industry, and afterwards in

² APP/U1430/W/19/3227093

³ APP/U1430/W/18/3215297 and APP/U1430/W/19/3234340

⁴ Hallam Land Management Ltd v SSCLG [2018] EWCA Civ 1808 and Suffolk Coastal DC v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East BC [2017] UKSC 36

terms of future occupiers benefiting the local economy as purchasers of goods and services.

18. Weighed against those benefits is the harm I have identified above through the loss of an area of open space that continues to play a useful public role, and the harm its loss would cause the character and appearance of the area. Once lost, it is very unlikely that this open space would be replaced within the locality. I give this harm significant weight.
19. Notwithstanding the presumption in favour of sustainable development that applies in this case because of paragraph 11 of the Framework, it is my view that the significant adverse impacts that would result from the proposal would significantly and demonstrably outweigh the more modest benefits. I reach that view notwithstanding the extent of the shortfall in housing land supply and housing delivery identified above, and the progress of the emerging plan. The presumption is therefore insufficient in this case to 'tip' the balance in favour of the scheme.

Conclusion

20. I conclude that because of the conflict with the policies identified above, the proposal would conflict with the development plan when taken as a whole, and also with national policy relating to open space in the Framework. There are no other material considerations, including paragraph 11 of the Framework, that outweigh that conflict. Consequently, I conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR