



Appeal Decision

Site visit made on 24 August 2023

by A. Graham BA (hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 09.10.2023

Appeal Ref: APP/W3520/W/23/3314657

Land Adjacent 10 Crown Mill, Elmswell, Suffolk

- 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 Peter Dow of Elmswell Parish Council against the decision of Mid Suffolk District Council.
 - The application Ref: DC/22/03423 dated 05 September 2022, was refused by notice dated 11 November 2022.
 - The application is for proposed 1 & ½ storey dwelling on open land adjacent to 10 Crown Mill, Elmswell.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description above has been taken from the Appellant's original planning application form and differs somewhat from both that used on the Council's decision notice and on the Appeal form. Accordingly, I have used the description on the original application form as this more accurately describes the development proposed.
3. The application was made in outline with all matters other than access reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access.

Main Issues

4. The main issues are 1) the principle of use of this area of amenity land for development, 2) the effect of the proposal upon the character and appearance of the area and 3) the effect of the proposal upon the living conditions of future residents through overlooking from neighbouring properties.

Reasons

5. The appeal site is an area of grassed land embedded within a relatively recent modern housing estate. The proposal before me seeks permission for a 1 and a half storey dwelling in outline only to be constructed upon this land, with the existing amenity space being compensated for by new development around the Blackbourne Community Centre.

6. The plot appears rectangular in form and backs onto a railway line to the rear as well as allowing several properties alongside it to maintain a relatively open aspect within what is a fairly tight knit modern estate. I have evidence before me that the originally intended use of the plot was to provide a landing area for a proposed bridge over the railway line to the rear that has never manifested itself and will be unlikely to ever occur.
7. I also have evidence before me that that open space was intended to be retained, in perpetuity, as informal amenity space and is used by local residents for a variety of formal and informal activities. This would appear to be confirmed through the 'no ball games' sign that presents itself at the front of the site. The site also backs onto high hedges and foliage, and it would appear to offer something in the way of biodiversity value.
8. As mentioned above, there are four detached, two storey, houses which face directly onto the site and are separated only by a private driveway that uniquely serves the properties here. Beyond this, number 10 Crown Mill presents an unarticulated gable elevation to the space.

Principle of use of this area of amenity land for development.

9. In considering this appeal for use as development, I consider that the guidance provided in paragraph 99 of the National Planning Policy Framework (The Framework) are relevant in so much as they illustrate three tests prescribed to be undertaken in order to help justify the loss of such amenity space. Two of these tests are particularly relevant and include a) an assessment showing that the land in question is clearly surplus to requirements, b) that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location
10. Firstly, I have evidence before me that the land in question is used by local residents and the plethora of letters from local people are testament to the fact that this area of land is used for a variety of purposes especially, it appears, for small children. Therefore, I consider that the land cannot be considered surplus to requirements, but is rather a well utilised area of informal amenity space that is highly valued by those who use it.
11. Secondly, I have little reason to disbelieve the Appellant that the proposed plans for new open space at nearby Blackbourne would be at least comparable in their quality and use to that of this space. I also accept that a 10 minute walk to such a facility would be accepted by the council in their open space assessment guidelines¹. I do however have evidence² before me that illustrates the walking routes to and from this new space and as such this allows me to assess the suitability of this space due to the ease of access to it.
12. These routes would primarily consist of two routes between the existing site and the new proposed facility, none of which could be said to be particularly direct. I saw on my site visit for instance that one would extend along the nearby busy main road where narrow footways form part of the pedestrian space. The other route would be more of a country footpath in part which

¹ Babergh and Mid Suffolk Open Space Assessment May 2019.

² Letter supplied by J.Cole Appendix 3 showing a satellite image super imposed with routes to and from the Blackbourne proposed space.

would be somewhat contrived and not at all well overlooked, especially at night.

13. In considering these routes therefore I consider that the likely result of effectively moving this space to the Blackbourne facility would make it much less suitable location to custodian children, especially young children, such a distance. As such, although the physical provision of such a space may be accommodated at Blackbourne, this would result in the loss of this more intimate provision that serves a very local need that cannot be compensated for by a bigger facility that can only be reached by such contrived routes.
14. Even though I note the Council's Open Space Assessment³ that illustrates a surplus of open space and although I am aware of its recommendations that that management of open space, if not large enough for instance, can be problematic, I do not consider that the loss of this space would meet the tests as outlined above. In addition, I have not been provided with a full copy of the Council's Open Space Assessment and do not have the full details of the open space included and how they were assessed. I therefore can attach only moderate weight to this matter in making my decision.
15. Ultimately, I find that this space is not surplus to requirements and that the role that this site plays in terms of it offering a safe, more intimate, area of amenity space within an existing neighbourhood cannot be compensated for by the Blackbourne site. This is wholly reflected in the representations I have before me showing that the presence of such spaces is important, not only for the informal gatherings of people and its biodiversity value as illustrated by the letters of objection, but also due to the contribution of these spaces to the character and appearance of an area.
16. As such the proposal would not offer a suitable alternative to this provision and would fail to meet the tests as set out in Paragraph 99 of the Framework. It would also fail to comply to Policy requirements of the Mid Suffolk Local Plan (1998) Policies FC1, FC1.1, CS5, H3, H15, H16, SB2 and GP1.

Effect of the proposal upon the character and appearance of the area.

17. The character of the Crown Mill Estate is one of a fairly typical 1990's/2000's development of new volume housebuilding and the provision of this space has seemingly allowed the original builders to create the small cul de sac of four houses (2, 4, 6 and 8 Crown Mill) fronting onto it which I consider would have been unlikely were it not for this piece of land being retained.
18. Although the site would appear to be physically large enough to accommodate a single family home that could meet minimum space standards, through doing this, the proposal would not only result in the loss of an area of open space, but it would also have the effect of 'hemming in' those four houses that currently sit alongside it and rely upon it for much of their outlook and setting.
19. As such, although the space offers a noticeable departure from the estate as a whole, it does allow a much needed area of informal, public amenity space to be located on a key frontage within the core area of the development.

³ As footnote 1 above.

20. Moreover, I find that the presence of this space, whether formerly intended or not, is positive in terms of its effect upon the character of the area. It not only allows for the congregation of residents and the safe, human scale, play space needed for young children, but it also offers the potential for future planting and landscaping that could offer considerable other benefits to the wider community.
21. In light of this I find that the loss of this space would cause harm to the character and appearance of the area through the loss of an informal area of amenity space and the harmful impact upon the houses opposite. As such I consider that the proposal would be in conflict with policies GP1, H15 and H16 of the Mid Suffolk Local Plan.

The effect of the proposal upon the living conditions of future residents through overlooking from neighbouring properties.

22. As mentioned above the open space is located directly opposite a row of four houses that overlook this space. In so doing these houses (and the character of the streetscene) not only benefit from the space before them, but they also command the space and ensure that it is safe through active surveillance.
23. Through the nature of the plot, and notwithstanding the indicative nature of the proposed outline plans, I consider that there would be few cases where a new house could be constructed whereby its private amenity space would be completely private.
24. I also consider that the proposed indicative plan represents the most likely form of development upon this site and that any substantial alterations to this footprint would result in a scheme that would fail to function as well. Even so, even with higher boundary treatments there would be some overlooking from the neighbouring houses that sit only around 10 metres from the proposed boundary of any new house.
25. Although it could be possible for high hedges to offer some further privacy these would likely result in a more harmful impact upon the amenities of the existing four houses adjacent who would have their outlook compromised not only through the presence of a new house, but also through potentially high boundary treatments.
26. Ultimately, although the plans are indicative, I consider that there would be some harmful impact through the proximity of the existing houses upon the living conditions of new occupants of a new house here. As such the proposals would be contrary to Policies GP1 and H16 of the Mid Suffolk Local Plan.

Conclusion

27. For the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR