



Appeal Decision

Site visit made on 20 February 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/E2001/W/23/3326925

Land North of 185 Grovehill Road, Beverley HU17 0ET

- 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 Mrs Paula Ward against the decision of East Riding of Yorkshire Council.
 - The application Ref 22/03412/PLF, dated 27 March 2023, was refused by notice dated 22 May 2023.
 - The development proposed is erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, an updated version of the National Planning Policy Framework (the Framework) was published. As the changes do not affect the consideration of the main issues of this appeal, I have not sought comments on the revisions.

Main Issues

3. The main issues are whether the appeal site location is suitable with regards to a loss of public open space and the effects of the proposal on highway safety.

Reasons

Whether Suitable Location

4. The appeal site is located to the north of terraced houses which line Grovehill Road. The land is designated as Public Open Space (POS) within policy C3 of the East Riding Local Plan 2012 – 2029 Strategy Document (LP) (adopted April 2016).
5. There is much discussion between the main parties regarding the emerging East Riding Local Plan Update 2020 – 2039 (LPU). The Council has confirmed that the LPU is undergoing examination and that the Inspector is yet to issue their report into their findings. Public consultation on any proposed modifications would be required.
6. Evidently, the appeal site is proposed to be deleted from the allocation of POS in the LPU, to which there are no outstanding objections. Section D of emerging policy C3 is unchanged. As such, I disagree with the Council's opinion that policy C3 carries no weight. Although there is some uncertainty as to what

the final form of the LPU as a whole would take, emerging policy C3 is worthy of some weight as a material consideration, albeit this would be limited.

7. Paragraph 48 of the Framework reiterates that planning law¹ requires applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The appeal proposal would lead to the loss of POS, contrary to the development plan.
8. I am informed that the appeal site is not, nor has it ever been, used as public allotments despite being annotated as such on maps such as those used by the Council. From my own observations on the site visit it was clear that the site was overgrown and unkempt. There was a path running along the edge of the fenced off area of grass, although its use was unclear. Regardless, the site is allocated as POS, and it is not within my remit to change this through a section 78 appeal.
9. Bringing things together, the proposal would lead to the loss of existing POS and would therefore be contrary to policies C3 and S1 of the LP. These state, among other things, that proposals resulting in the loss of an existing open space, sports and recreational buildings and land, will only be supported where they meet the criteria outlined in section D. The proposal would also be contrary to paragraph 103 of the Framework which states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless one of criteria a) b) or c) are met.

Highway Safety

10. The appeal site is located in a backland location and is surrounded by dwellings on all sides. Vehicular access would be provided by an existing track running from Grovehill Road. The track's dimensions are given as approximately 2.5 metres (m) width and 50m length to the proposed access to the appeal site. An existing dwelling, No. 191a, also uses this track for access, although I understand that historically it has been primarily used for access to the POS.
11. The width of the track is restricted by the dwellings either side of the junction with Grovehill Road and their rear gardens. Were two vehicles to meet on the track there would not be enough width to pass one another. If a vehicle travelling north had to give way, this would involve a long reversing manoeuvre out onto Grovehill Road, whereby visibility would be restricted by both the direction of travel and parked cars to either side of the access. This presents an obvious collision risk with oncoming vehicles on the highway and a potential risk to pedestrians on the footpath.
12. The Council's highways team responded to consultation on the access arrangements for the application subject to this appeal and another application which was being considered at the same time² northwest of No.191a which would both use the same track. I understand that in isolation the highways team had no objection to either of the proposals. However, cumulatively there was an objection given the potential increase in the number of vehicles using the track in this manner. The application northwest of 191a was subsequently refused and the period for appeal has since expired.

¹ 38(6) Planning and Compulsory Purchase Act 2004

² 21/03962/PLF

13. However, the lack of objection from the highways team in isolation does not mean I must agree with that assessment. It is a reason for refusal and forms one of the main issues in this appeal. While the appellant may doubt why the highways team was overruled by the planning officer, it is incumbent on me to come to a judgement on the matters before me.
14. The average trip generation for the appeal site was given as a maximum of one or two trips per peak hour. This would equate to four per day maximum. However, given the existing property at 191a, which would have potentially a similar number of movements, this further increases the risk of conflict on the access track.
15. Overall, the proposal would harm highway safety and would not provide a safe and suitable access for all users. This would be contrary to policy ENV1 of the LP which seeks, among other things, to promote equality of safe access, movement and use in development. The proposal would also be contrary to the provisions of the Framework, which states in paragraphs 114 and 115 that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety and to ensure that a safe and suitable access can be achieved for all users.

Other Matters

16. The appellant contends that the proposed dwelling could conform to housing standard M4(2) and that it would meet an identified need for specialist accommodation as required by policy H1 of the LP. However, there is nothing before me to secure the property in this manner. It would be an open market dwelling. The addition of one dwelling to the Council's existing stock is worthy of some positive weight in favour of the scheme, although this would be limited and would not outweigh the harm I have identified.

Conclusion

17. The proposal would result in a loss of existing POS and would harm highway safety. As such it would conflict with the development plan taken as a whole as well as the provisions of the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR