



Appeal Decision

Site visit made on 30 January 2025

by **A Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/M2270/W/24/3346786

Land between Hawthorn Walk and Green Way, Tunbridge Wells, Kent TN2 3UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Rodic Developments Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 23/03396/FULL.
 - The development proposed is described on the application form as the 'construction of a pair of three bedroom semi-detached houses and one four bedroom detached house'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Rodic Developments Ltd against Tunbridge Wells Borough Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development on open space provision.

Reasons

4. The appeal site comprises an irregular shaped parcel of open land located between Green Way and Hawthorn Walk. The site contains several mature trees (some subject to tree preservation orders), maintained grass and a footpath connecting the two streets. The Council sets out that the space was originally intended to be provided as a play area. However, this was never implemented and the site is not designated.
5. Irrespective of the ownership of the appeal site today, or any historic proposal to provide formal play equipment, the site was evidently designed into the original housing development. Its position and layout provide an important open space in the otherwise quite urban surroundings. During my site visit I observed the use of the site by several pedestrians and dog walkers. Although this was only a snapshot in time, I have no doubt that the site is used regularly for this purpose, and is cherished by local residents, as illustrated by the strength of objection.
6. I am of the view that the appeal site meets the definition of open space set out within the National Planning Policy Framework (the Framework), which in summary describes this as: 'all open space of public value...which offer important opportunities for sport and recreation and can act as a visual amenity'. I do not

consider that an open space needs to crudely provide opportunities for both sport *and* recreation, as suggested by the appellant. Rather, they are separate functions that might vary from one site to the next. In this case, I accept that the site is unsuitable for sport but, as set out above, is used for recreation. The proposed development would introduce built form onto the currently open and landscaped site, resulting in the harmful loss of quality open space. There is no substantive evidence before me to justify this loss.

7. I note the appellant's references to the site being privately owned. Nevertheless, this does not weaken the importance of the unfenced open space as it exists today. I also note the appellant's reference to the *Open Space, Sport and Recreation Study (2018)*. In particular, I note the reference within that study setting out that open spaces of less than 0.15 hectares were not included as these have limited recreational function. Be that as it may, this does not mean that a space of under 0.15 hectares should not be considered open space in the terms of the Framework. Moreover, a 'limited recreational function' is not equal to nothing.
8. I acknowledge the appellant's reference to *Fields in Trust: Guidance for Outdoor Sport and Play – beyond the Six Acre Standard*. However, this relates to recommended benchmark guidelines for outdoor space and did not form part of the original policy formulation for Policy R1 of the Tunbridge Wells Local Plan. In any case, the guidance is not intended to assist in an argument for the reduction of open space but rather its safeguarding and future provision. I also note reference to nearby, alternative open space. However, I do not find that this satisfactorily justifies the proposed development.
9. Taking the above matters into consideration, I conclude that the proposed development would result in a harmful loss of open space, contrary to the relevant provisions of Policies EN1 and R1 of the Tunbridge Wells Borough Local Plan (2006) and Policy 8 of the Tunbridge Wells Borough Core Strategy (CS, 2010). These policies, in summary, seek to achieve high quality design in development, the protection of existing open space and the protection of the amenities of residents. This is in a similar vein to the provisions of emerging Policies EN1 and OSSR1 of the Submission Local Plan.
10. I also find conflict with the Framework which, at paragraph 98, seeks to provide social, recreational and cultural facilities and services the community needs by planning positively for the provision and use of shared spaces, such as open space, to enhance the sustainability of communities and residential environments.
11. CS Policy 4 has been referenced in the decision notice. However, I do not consider this to be directly relevant to existing open space provision and so I have not taken it into account in making my decision.

Other Matters

12. I accept that pre-application discussions took place and that a decision was made contrary to that advice. Nevertheless, pre-application advice is not binding on any future decisions, and I have considered this appeal on the proposals before me. This matter would be best dealt with via a cost application.
13. The appellant makes several references, as noted above, to the ability to close off the land without requiring planning consent. I am assessing the appeal based on

the proposal before me and the Council's reasons for refusal, not a hypothetical eventuality.

14. There is no dispute in respect of the design of the proposed dwellings, which would take cues from established development in the surrounding area. I have no reason to come to an alternative conclusion on this matter. Nevertheless, this does not overcome the harm identified above. The matter of tree preservation orders has also been raised. The protection of trees occurred after the decision notice was issued. Whilst I am mindful of this issue, the Council's reason for refusal is centred on the loss of open space, and this is what my decision has fundamentally been based on.

Conclusion

15. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR