



Appeal Decision

Site visit made on 25 February 2025

by H Whitfield BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2025

Appeal Ref: APP/B3410/W/24/3357299

Land at Bradmore Road, Burton upon Trent, Staffordshire DE13 0GH

- 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 Mr Ali-Shan Akram against the decision of East Staffordshire Borough Council.
 - The application Ref is P/2023/00660.
 - The development proposed is 3 x detached new build dwelling houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As only the easting and northing co-ordinates of the appeal site and the street name were given on the planning application form for the site address, I have included the full address used on Council's decision notice in the banner heading above as together with site location plan this accurately describes the site. I note that the appellant has entered the same address onto the appeal form.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and corrected on 7 February 2025. The main parties had an opportunity to comment on the implications for the appeal.

Main Issue

4. The main issue is the effect of the proposal on the provision of open space.

Reasons

5. The appeal site is a roughly rectangular parcel of land laid to grass on the western side of Bradmore Road. The land is partly enclosed by a low-level knee rail fence and is surrounded by a mix of residential and community uses. Three trees protected by a Tree Preservation Order are located in the northern corner of the site.
6. This area of open space is not identified as a local green space in Policy HE9 of the Horninglow and Eton Neighbourhood Plan (2015) (the Neighbourhood Plan). However, Policy SP32 of the East Staffordshire Local Plan (2015) (the Local Plan) states that open space, outdoor sports facilities and recreation land should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements, 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 or the development is for

alternative sports and recreational provision, the needs for which clearly outweigh the loss.

7. Policy SP32 goes on to support the designation of Local Green Space through Neighbourhood Plans. However, the protection afforded to open space and recreation land by this policy is not exclusive to only those that have been identified through that process. Therefore, whilst the site has not been identified in the Neighbourhood Plan as a space of significance to the local community, it is nevertheless an area of public open space to which Policy SP32 applies.
8. The proposed development would replace the open space in its entirety with three dwellings. The scheme does not seek to replace the area of open space in accordance with the terms set by Policy SP32 and is not for alternative sports and recreational provision. It therefore must be clearly demonstrated, through assessment, that the land is surplus to requirements. No such assessment was provided with the planning application.
9. The appellant's Statement of Case (ASoC) states that there is an abundance of accessible, well-maintained and high-quality open space in the surrounding area including the nearby allotment gardens, Carver Park recreation ground and play area, Belvedere Bowls club, and the open space and sports fields associated with Scientia Academy School, which mean the appeal site is surplus to requirements. I observed during my site visit that these are all accessible on foot from the appeal site and offer open space and other recreational facilities including pitches and children's play areas. However, in the case of the bowls club and facilities associated with the school I have not been supplied with any information about their public accessibility. Nevertheless, the fact that there are other facilities nearby is not determinative evidence that there is no demand for the continued use of this specific area of open space and the function it provides, such that it is surplus to requirements.
10. The ASoC is accompanied by sales particulars for the land (dated for offers to be received by July 2016) which they state demonstrates the Council's desire to dispose of the land and evidences the land is surplus to requirements. Public accessibility is an important factor when considering the impact of development on public open space. However, in this case there is conflicting information and dispute between the parties in relation to the ownership of the land, with the appellant serving Certificate D with their planning application. I cannot be confident, based on the evidence before me, that the land has moved into private ownership and is therefore inaccessible to the public. Consequently, this reduces the weight that can be given to this argument.
11. The appellant also contends that the land is of limited value given its relationship with surrounding land and buildings. However, against this, comments from an interested party attest to the recreational value of this open space as a safe place for children to play and for people to walk their dogs, in addition to its scenic qualities that the community enjoy. From my site visit, my observations are that the land provides an immediately accessible and overlooked area for outdoor recreation. Moreover, the open space appears as a deliberate part of the layout of the surrounding residential development, providing a verdant focal point for those travelling along Bradmore Road accessing surrounding local facilities, which has a visual amenity value. The evidence therefore indicates that the appeal site has both a functional and visual open space value.

12. Therefore, although there may be other accessible facilities in the surrounding area and notwithstanding the dispute in relation to the ownership or public accessibility of the land, no detailed assessment is before me that clearly demonstrates this open space is surplus to requirements. The proposal would see the development of the open space for residential use which would not safeguard its future use or make alternative provision. The proposal would therefore result in the unjustified loss of open space which would have a significant adverse impact on the local community and amenity of the area, contrary to the requirements of Policy SP32 of the Local Plan. However, I find no conflict with Policy HE9 of the Neighbourhood Plan given it relates to the protection of specific areas of local green space, of which this appeal site is not identified.

Other Matters

13. I note the appellant's comments about the land being marketed as 'development land' and their concerns about the Council's handling of previous pre-application enquiries on the site. However, I am mindful that pre-application discussions are without prejudice and not binding on any future decision the Local Planning Authority may make once a proposal has been subject to the formal planning process. This appeal follows the Council's formal decision, which took account of public consultation, and I have determined the appeal on its own merits against the policies of the development plan.
14. The appellant also refers to several planning matters where the Council has not identified harm, including the development resulting in no adverse impacts on living conditions, ecology or highway safety and being a suitable location in settlement terms. However, these matters are neutral factors and do not alter my findings on this appeal.

Planning Balance and Conclusion

15. The proposal would deliver the benefit of three dwellings within a defined settlement, broadening the supply of housing in an accessible location close to services and facilities. The development would therefore make a small but beneficial contribution to the choice of homes in the borough and its supply of housing land; as well as providing social and economic benefits during construction and after occupation. Additional landscaping would also provide minor biodiversity benefits. However, given the scale of the development, the benefits associated with the delivery of three dwellings would be modest and would not outweigh the harm I have identified.
16. Therefore, for the reasons given above, the proposal conflicts with the development plan as a whole and material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, I conclude the appeal should be dismissed.

H Whitfield

INSPECTOR