
Appeal Decision

Site visit made on 12 December 2013

by Megan Thomas BA Hons in Law, Barrister

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 January 2014

Appeal Ref: APP/D1780/A/13/2199299

Land at 114 Portsmouth Road, Southampton, Hampshire SO19 9AP

- 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 Portsmouth Road LLP against the decision of Southampton City Council.
 - The application Ref 12/01129/OUT/1811, dated 16 August 2012, was refused by notice dated 25 January 2013.
 - The development proposed is the construction of 4 dwellings with access to Portsmouth Road.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application is an outline application. Landscaping, layout, scale and external appearance are matters reserved for later approval. Means of access is to be determined at this stage.

Main Issues

3. There are two main issues, the effect of the proposal on open space & recreational facilities and the effect of the proposal on highway and pedestrian safety.

Reasons

Open space & recreational facilities

4. The appeal site is situated to the rear of bungalows on the south side of Portsmouth Road (A3025) near the junction with St Anne's Road. The site is vacant and was last used as four hard-surfaced tennis courts in connection with Woolston Secondary School.
 5. Access to the main part of the site is from Portsmouth Road via an accessway (about 36m in length) which runs to the side of no.114 Portsmouth Road. The access has a gradient sloping upwards away from Portsmouth Road. This leads to an embankment on the western side of the site on higher ground than no.114. There are overgrown steps descending onto the tennis courts from the
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western embankment. There are trees protected by Tree Preservation Order 'TPO' to the west of the entrance to the site and a group on the site protected by TPO. To the east of the site there are two storey houses in Temple Gardens, to the south there is a bowling club and clubhouse. To the west on higher ground there is a large residential care home of 3 and 4 storeys. There is a retaining wall along much of the western boundary. The appeal site is privately owned with security gates and there is no public access to it.

6. Paragraph 74 of the National Planning Policy Framework 'the Framework' indicates that existing open space, sports and recreational land should not be built on unless the space is demonstrably surplus to requirements; or the lost open space would be replaced elsewhere; or the development is for alternative sports and recreational provision. Open space is defined as all open space of public value. In this case, whilst views of the site tend to be enjoyed from the bowling club and from private property, the openness of the site gives the land a collective public value. In my view, it functions as passive open space and, whilst the site has become somewhat overgrown, some of the vegetation on it contributes to visual amenity, particularly the group of TPO'd trees. Policy CS21 of the LDF Southampton Core Strategy (2008) 'CS' entitled Protecting and enhancing open space states, amongst other things, that the Council will retain the quantity of the city's diverse and multi-functional open spaces. The justification for the policy refers to Southampton's Green Space Strategy (2008) which defines green space as any area that provides "green" features such as grass or trees or shrubs. The CS also refers to the Open Space Audit 2005 which identified an existing shortfall in provision of all types of open space (except allotments) as compared with key national, Structure Plan and Local Plan Review standards. The Council acknowledge that the tennis courts have not been in use for several years but they point to the Audit as showing the southern sector of Southampton as having a comparatively low provision of outdoor sports facilities and point out that the Green Space Strategy indicates that the amount of outdoor sports facilities is under the minimum standard. Given these factors I am persuaded that, even though the land is private and not available for public use and is not classified as "key" open space in the CS or elsewhere, policy CS21 should nevertheless be given substantial weight.
7. Whilst I acknowledge that the site was sold by the Education Authority around 2011, I am not persuaded that the site has been shown by assessment to be surplus to requirements in terms of the Framework. The proposed scheme does not involve replacement of the facility/open space elsewhere or provision of alternative sports or recreational facilities. The appellant has indicated that the embankment and trees could be given over later in time as public open space and could add to the publically accessible stock and thereby help meet the aims of the Green Space Strategy. However, that would not adequately overcome the harm from the loss of the open space or loss of a potential sporting facility. I conclude that the development would conflict with the aim of paragraph 74 of the Framework to resist existing open space being built upon.
8. I have borne in mind that the City of Southampton Local Plan Review (2006) indicates that residential development will be permitted on windfall sites and that saved policy H2 generally requires maximum use to be made of vacant

and previously-developed land 'PDL'. The appellants consider the appeal site to be previously developed land in terms of the Framework. However, land in built-up areas such as recreation grounds is excluded from that definition. The land is in a built-up area and its former use was sporting and recreational and therefore I consider that it should not be treated as PDL. Even if it was PDL in terms of the Framework and even if saved policy H2 was given substantial weight, its location and vegetation allow it to function as a green lung of important local value to the environment. The site benefits from being in the urban area and has good sustainability credentials in terms of public transport connections and easy walking and cycling distances to day-to-day facilities. However, for it to be sustainable development in terms of the Framework it would have to meet all three dimensions and the environmental role of protecting the natural and built environment would not be met nor the social role derived from sporting facilities supporting health and social well-being.

9. Turning to housing land supply, the Council have published a review of its Strategic Housing Land Availability Assessment (March 2013). Against the CS housing requirement, (2006-2026) the Council estimate that they would be above the target by about 647 dwellings including the 5% buffer for the 5 year supply target (2012-2017). Some small windfall sites are projected as making up part of the supply but from 2015 onwards. On the basis of this evidence, I consider that the Council can show a 5 year supply of deliverable housing sites but I have borne in mind the contribution that the scheme would make to the housing stock and to the need for family dwellings.
10. On the first issue, I conclude that the proposal would result in undue harm from the loss of open space and potential sporting facilities and would be contrary to paragraph 74 of the Framework and policy CS21 of the CS.

Highway and pedestrian safety

11. Access to the site would be taken from Portsmouth Road. The levels of the accessway would be engineered across the site such that the access would not exceed a 1:15 gradient. There would be a need to ensure sufficient width for two vehicles to enter and egress the site simultaneously to avoid reversing manoeuvres into Portsmouth Road. Drawing 2012/1509/001 RevA dated August 2012 entitled *Proposed Access and Visibility* indicates that the access road would be widened to 5m at the entrance. At the site visit a measurement was taken of the width of the access from the inner flank of each of the two walls/gatepost lining the access at the entrance. This measurement was about 4.37m. The 5m width at the entrance would be facilitated by amendments to the retaining wall to the west of the access and the access width would be between 5m and 4.7m for a length of 6m into the site.
12. Whilst the A road is busy and the nearby junction is traffic controlled, on the evidence before me other than the loss of trees, there is nothing to suggest that any harm would result from a widened access. Satisfactory sightlines onto Portsmouth Road vehicles would be obtained and two vehicles could access and egress simultaneously at the entrance.
13. The Arboricultural Development Statement indicates that the widening of the access road would result in part of "group 1" trees and all of "group 2" being lost. Those groups of trees appear to fall within the Southampton (Portsmouth

Road) TPO 1975 and the Southampton (Land to rear of 114/116 Portsmouth road) Tree Preservation Order 2012. (The latter TPO being referred to expressly in the Officer Report.) In my view, the loss of those trees would be regrettable and would harm the character and appearance of the area but on the evidence available to me their loss would not on its own warrant refusal of the planning permission.

14. Turning to vehicle and pedestrian intervisibility, the wall to the south east of the access would be reduced in height to about 1m for a depth of about 3m back into the site to improve sightlines. No.114 has a brick pillar which is about 920mm in height so any reduction of the appeal site wall below 920mm would be negated by the existence of this gatepost. The Council are particularly concerned that small children would not be seen by emerging motorists and seek a further reduction in height. However, there is a telephone booth to the west of the access and it would have the effect of pushing pedestrians into a more central position on the footway. This would be the case for pedestrians walking in both directions on the footpath. Moreover, I consider that the absence of a wide visibility splay onto the footpath would automatically encourage drivers to emerge more cautiously. *Manual for Streets* acknowledges this. There are a number of vehicle crossovers on this stretch of Portsmouth Road and pedestrians would be likely to be aware of this. Moreover, given that the road is a busy A road and has a number of crossovers, very small ambulant children are unlikely to be unrestrained on this stretch of footpath. Additional bollards on the footpath are not necessary in my view.
15. For those reasons I conclude that the proposal would not result in undue harm to highway or pedestrian safety and would not conflict with saved policy T1 2 of the City of Southampton Local Plan Review (2006) or with parts 5 and 9 of Council's Residential Design Guide Supplementary Planning Document (2006).

Conclusion

16. Having taken into account all representations made and in balancing the benefits of the proposed scheme against the disbenefits I conclude that the disbenefits outweigh the benefits. Therefore, the appeal should be dismissed.

Megan Thomas

INSPECTOR