

Appeal Decision

Site visit made on 16 May 2017

by **J Ayres BA Hons, Solicitor**

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

Decision date: 8th June 2017

Appeal Ref: **APP/Q1445/W/17/3169174** **Land at Greenbank Avenue, Saltdean**

- 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 St Mowden Developments Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2016/01142, dated 1 April 2016, was refused by notice dated 10 August 2016.
 - The development proposed is an outline application for two residential bungalows.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. The plans submitted with the application were as follows; Block and location plan, Existing site plan, Proposed Floorplans (indicative), Proposed Elevations (indicative), and Site Habitat Plan. I have treated these as illustrative plans.

Main Issue

3. The main issue is the impact of the proposal on open space.

Reasons

4. The appeal site slopes steeply away from Greenbank Avenue, and is surrounded on three sides by residential dwellings on Arlington Gardens, Berwick Road and Hempstead Road. The surrounding residential dwellings are predominantly bungalows or two storey detached dwellings. The site is one of three sites owned by the appellant and is identified as Plot 3; all three plots form backland open space areas to the rear of residential dwellings.
5. The appeal site forms part of an area identified as open space in the Brighton and Hove City Plan Part One 2016 (B&HCPPO). Policy CP16 of the B&HCPPO seeks to retain open space unless at least one of four exception criteria is met. For the purposes of assessing this appeal criteria Policy CP16(d) of the B&HCPPO is the relevant section and reads;

"the site is:

- *physically incapable of meeting the city's wider open space needs;*
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- *is not part of the beach or a playing field (current or historical); and,*
 - *in accordance with the Open Space Study Update 2011 (or subsequent approved revisions), is of a poor quality without potential for improvement (current and potential) and there is an identified surplus (current and future) in all types of open space within the locality (ward and sub area). In order to test the importance of the site to the local community the site must be actively marketed at a price that reflects its use, condition and local market prices for at least a year with no success before alternative proposals can be considered."*
6. The appeal site is described as being largely overgrown and underutilised. On the day of my site visit the grass had been cut and it was possible to walk around the space. A number of the adjacent properties have gates giving direct access to the open space, and residential paraphernalia, such as children's play equipment and benches have been put on it. It is clear from the considered maintenance of the areas of open space adjacent to the rear of the properties that this activity has been carried out for some time. Therefore, despite the lack of general maintenance which would encourage wider usage, the space does appear to be used by the surrounding residents. In my view the open space helps to satisfy the need for open space in the area.
 7. It is clear through the physical location of the site and its history that the open space is not part of the beach or a playing field.
 8. The Council's Open Space Study Update 2011 (the 2011 Study) graded the open space as very poor quality. However, the 2011 Study also graded the space as having a very high potential to be improved. Whilst I acknowledge that the topography of the area restricts the use of the appeal site, I consider, based on the evidence, that the open space has the potential for improvement.
 9. The 2011 Study concludes at table 3.2.2 that there is a surplus of Natural and Semi Natural Urban Greenspace, Outdoor Sports Facilities and Parks and Gardens in the area of Rottingdean Coastal Sub Area (within which the appeal site falls). However, there is not a surplus in Allotments and Urban Farms, nor in spaces for Children and Young People in the Rottingdean Coastal Sub Area. As such, the Rottingdean Coastal Sub Area is indicated to have an open space deficit by 2030. Therefore, there is not a surplus in open space overall, and existing open space within this area should be retained unless a partial loss can be justified.
 10. The proposal does not accord with the specific criteria set out in Policy CP16 of the B&HCPPO. Furthermore, I have no evidence before me to suggest that the appeal site has been marketed at a price that reflects its use, condition and local market prices for at least a year.
 11. The additional built form along the front of the site would restrict access to the remainder of the open space. I note the appellant's commitment to continuing to allow access to the remaining open space, as is the current situation on Plot 1 and Plot 2. At the time of my site visit the accesses to Plot 1 and Plot 2 did not appear to have been maintained and were overgrown, making access to the open space difficult. In my view, the proposal would have the effect of limiting the use of the open space, as demonstrated on Plot 1 and Plot 2. Accordingly I do not agree with the appellant's assertion that the proposal would have a limited impact on the open space.

12. I accept that there are alternative open space offerings. However in my view this does not in itself justify the loss of this area of open space, which, although not widely used presently, does appear to be used by local residents and is not surplus to requirements.
13. The proposal would provide two additional homes and would make a modest contribution to the housing supply in the area which would be a benefit. The three roles of sustainable development are mutually dependent. Paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built, natural and historic environment as well as in people's quality of life'. For the reasons given, I conclude that the harm identified by the loss of the open space would significantly outweigh the benefits of the proposal. As such, the proposal would not represent sustainable development.
14. Accordingly I conclude that the appellant has failed to demonstrate that the open space is physically incapable of meeting the city's wider open space needs or is of a poor quality without potential for improvement. The appellant has not provided evidence to demonstrate that there is an identified surplus in all types of open space within this locality. The appellant has not provided evidence that the site has been actively marketed at a price that reflects its use, condition and local market prices for at least a year with no success. As such, the proposal does not comply with the exception criteria set out in Policy CP16 of the B&HCPPO.

Conclusion

15. For the reasons above and taking account of other matters raised I conclude that the appeal should be dismissed.

Johanna Ayres

INSPECTOR

