

Application Ref: 20/00843/HHFUL

Proposal: Ground Floor Side Extension with Hipped Roof, and change of use of public into residential open space garden land.

Site: 85 Outfield, Bretton, Peterborough, PE3 8JP

Applicant: Mr Damji

Agent: Mr Sajjad Panjwani

Referred by: Head of Planning Services

Reason: In the Public Interest

Site visit: 11th August 2020

Case officer: Mr Nick Harding

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Recommendation: **REFUSE**

1 Description of the site and surroundings and Summary of the proposal

Site and Surroundings

The application site comprises an end terraced 2 storey dwelling in the residential area of Bretton and has an area of public open space to its side. To the west of the site is public highway, to the north is the attached dwelling at 84 Outfield, to the east is a public footpath and beyond this are the properties on Brynmore with 1 Brynmore being the closest. To the south of the site is the rest of the area of public open space and the dwelling at 8 Brynmore is beyond this. The property has an existing single storey rear extension that was granted under a Certificate of Lawfulness in 1993.

Proposal

Planning permission is sought for the erection of a single storey side to the dwelling. The land required to build this extension is currently part of the adjacent public open space to the side of the dwelling, therefore this proposal also involves the change of use of the land into residential curtilage. The applicant is currently in the process of trying to buy a rectangular piece of land measuring approximately 5.5m in width by 16.5m in length from the Council, to accommodate this proposal, although ownership of the land isn't material to determination of this application.

The extension would be 4.5 metres in width, but 5.5 metres of the public open space would be required to enable a 1m pathway to be provided to the side of the proposed extension. The extension would be set back 0.225m from the property frontage and extend along the full side of both the two storey and single storey elements of property. Giving it a total length of approximately 12 metres. Approximately 4.5m depth of new rear yard/garden space would be provided behind the new extension, gained from the inclusion of the adjacent open space. The height of the proposed extension would be 2.5 metres in height to the eaves and 3.3 metres to the ridge. The extension would provide a ground floor en-suite bedroom, utility room and playroom. The extension would have a hipped roof and would use matching materials.

2 Planning History

Reference	Proposal	Decision	Date
93/CL009	Certificate of proposed lawful development - Erection of single storey extension at rear in accordance with revised ordnance survey plan illustrating position of extension and the detailed drawing submitted with this application dated April 1993	Permitted	12/07/1993

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

National Planning Policy Framework (February 2019)

Paragraph 97 - Open Space

Existing open space, sports and recreational buildings and land including playing field 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 or the loss resulting from the proposed development would be replaced by equivalent or better provision in a suitable location or the development is for alternative sports and recreation provision, the benefits of which clearly outweigh the loss of the current or former use.

Paragraph 130 - Poor Design

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an areas and the way it functions. Conversely where the design accords with clear expectations in plan policies, design should not be used by the decision maker as a valid reason to object to development. Local Authorities should seek to ensure that the quality of the development approved is not materially diminished between permission and completion.

Peterborough Local Plan 2016 to 2036

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP13d) City Centre- All proposal must demonstrate that careful consideration has been given to prioritising pedestrian access, to improving access for those with mobility issues, to encouraging cyclists and to reducing the need for vehicles to access the area.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP23 - Local Green Space, Protected Green Space and Existing Open Space

Local Green Space will be protected in line with the NPPF. Development will only be permitted if in addition to the requirements of the NPPF there would be no significant detrimental impact on the character and appearance of the surrounding areas, ecology and heritage assets.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered. Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

4 Consultations/Representations

PCC Open Space Officer

Objection - From the location plan included in the Application it would appear that there is an intention to develop an area of Public Open Space (POS) owned by Peterborough City Council (PCC).

As the site is dedicated Public Open Space maintained by Peterborough City Council (PCC) adhering to policy LP23 within the Peterborough Local Plan it should be protected, furthermore it indicates that new development that will result in the loss of POS will not be supported unless the criteria in the National Planning Policy Framework (NPPF) are met.

NPPF paragraph 97 states: Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) 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 c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

Outside of the Planning process I can confirm PCC's Open Space Team (Client for the land) will not be declaring this POS surplus to requirements.

PCC Tree Officer

Objection - The above site is not within a conservation area and there are no tree preservation orders adjacent to the site however, the proposed development appears to be on PCC open space land and it would appear that there is a PCC owned tree namely a Norway Maple No.8852 within falling distance of the proposed development.

The submitted application states within Section 6 'Are there any trees or hedges on your own property or on adjoining properties which are within falling distance of your proposed development?' Yes or No. The Applicant/Agent has stated 'No', this would not appear to be the case? Therefore, please request that a Tree Survey is submitted accordingly subject to our Local

Plan Policy LP29 Trees and Woodland, together with an AIA & AMS if considered necessary in the circumstances.

Updated comments received following receipt of the Arboricultural Impact Assessment and Method Statement:

The change of use of public open space is to accommodate the extension rather than providing garden land for the property. The proposed development will clearly impact upon a PCC owned tree, namely T.1 Norway Maple (No.8852) growing on PCC public open space, identified within the submitted Arboricultural Implications Assessment (AIA) & Arboricultural Method Statement (AMS) from Caroline Hall Arboriculture dated October 2020.

On principle, I object to this proposal because of the loss of POS, as it is contrary to the Council's Local Plan Policy LP23 and because of the unnecessary direct and indirect impact on the tree, including direct damage to the trees roots through excavation and compaction and indirectly through pressures being placed on the tree in the future, as highlighted in Section 4.8 of the AIA.

These will almost certainly include regular requests to the Council to prune the tree or to remove it, due to the close proximity of the tree to the dwelling, the impact with regards to shading of the dwelling with the tree being on the southern aspect of the property, leaf litter and other debris falling and being blown into and onto the dwelling/property, and of course the financial implications on PCC, in terms of the additional resources required to maintain the tree and the increased liability with regards to the tree being closer to a dwelling/building.

Police Architectural Liaison Officer

Over the last 4 years there have been no calls to the police re: fly tipping or anti-social behaviour in this area.

Bretton Parish Council

No comments received

Local Residents/Interested Parties

Initial consultations: 8

Total number of responses: 0

Total number of objections: 0

Total number in support: 0

No comments received.

5 Assessment of the planning issues

- The main considerations are:
- Background
- Principle of Development/loss of open space;
- Design and impact on the character and appearance of the site and the surrounding area;
- Neighbour amenity;
- Impact on Trees; and
- Highway safety and Parking provision.

a) Background

The applicant contacted the Council's Property Service department regarding the desire to buy some of the open space adjacent to the dwelling. Property services consulted James Collingridge, PCC's Head of Environmental Partnerships and Michael Britton, PCC's Senior Landscape Technical Officer and the responses have been given as follows in the property team report:

J Collingridge (budget holder) has commented that he would support the sale but like to see suitable remuneration included for replanting of shrubs in another area. M Britton has commented that he does not support the sale due to the break-up of the continued and uninterrupted open space landscape feature which runs along the entire property. He has also noted that the customer should be informed that the removal of the hedges may mean he has issues regarding ball games being played on the remaining open space land.

Property Services came to recommend the sale of the land saying:

The customer has been advised of the issues identified above and accepts that the changes may result in some issues with ball games etc. Regarding the break-up of land mentioned by M Britton, it is my feeling that the sale will not create any dog tooth boundaries to remaining PCC land and only represents a small loss to public open space (an area which has not been in public use due to the presence of hedges which have attracted asb and fly-tipping). There is also a benefit to Peterborough City Council due to the loss of maintenance responsibility in respect of the hedges.

and therefore instructed with regard the preparation of the legal documentation to advance the sale. It has always been made clear that the sale is subject to the grant of planning permission for the change of use of the land from open space to residential. Planning Services were not consulted on the sale of the land and only became aware of it, after the planning application was submitted.

It is important to note that the Property team when undertaking 'due diligence' look at the land title and if there is no clause that states that the land can only be used as public open space, it is considered to be 'surplus to requirements'. The city has many landscaped areas that make a very important contribution to the quality of the urban environment and it is considered by Planning Officers that this is not being considered by Property Services.

The conclusion reached by the Property team takes at face value the prospective buyer's suggestion that the area has been the subject to antisocial behaviour (asb). The Police were contacted as part of the consultation on this planning application and confirmed in the last 4 years, there had been no reported incidents of asb.

It has also come to light that at the time of the applicant's enquiry to buy the land and the sale being considered and consulted on, it was not made clear to the Council that the applicant wished to build an extension on the land. As can be seen later in this report to planning committee, the extension would impact on a retained tree on the open space and give rise for the need for ongoing works in order to keep it clear of the extension (though this would have to be balanced against there being a reduction in the area of shrubs that PCC as landowner have to manage.

b) Principle of Development/loss of open space

The proposed extension would be sited on part of an existing area of public open space, therefore the proposal would result in the loss of existing public open space. Policy LP23 of the Peterborough Local Plan (2019) and Paragraph 97 of the National Planning Policy Framework 2019 seek to protect and retain existing areas of open space as they are acknowledged as being important to the quality of the environment serving the residents.

Paragraph 97 of the NPPF states "Existing open space shall not be built upon unless: an assessment has been undertaken which has clearly shown the open space to be surplus to requirements; or the loss resulting from the proposed development would be replaced by an 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".

Policy LP23 states:" Existing non designated open spaces will, in principle, be protected from development. New development that will result in the loss of existing open space will not be

supported, unless the criteria in the NPPF are met. In addition, if the requirements of the NPPF can be satisfied, the proposal must also demonstrate that:

- a. The open space does not make an important contribution to the green infrastructure network or connectivity of habitats, and the development would not result in landscape or habitat fragmentation or incremental loss; and
- b. The proposed development can be accommodated on the open space without causing significant detrimental impact on the character and appearance of the area, ecology or any heritage assets.”

The application site is located in the Bretton Ward. Bretton is one of the Development Corporation Townships, where fairly high density housing was built, together with small pockets of informal amenity space, with the main provision of green open space being provided in the Bretton Park. In this regard Peterborough Open Space Strategy (2016) states for this Ward has in quantity terms, there is a surplus of neighbourhood parks, which is the category this piece of informal open space would fall within. However Officers consider in addition to looking at the Ward as a whole, a more localised context in terms of what each area of open space provides and whether the loss of any open space would be harmful within its context.

The application site is located within an area of high density terraced housing, with hard landscaped parking areas and a tight urban form. Within this local context, there are small areas of open space, such as the application site which help to soften and break up the hard landscaped form. Their importance is emphasized as they provide visual greenery and amenity to the built form, providing areas where informal play and recreation can take place. These areas provide accessible, informal open spaces to the surrounding hard landscapes and become valued by local residents.

Therefore despite the surplus figure in Bretton Ward area, Officers do not consider that surplus figure a true reflection of the for the locality of this application site. Officers consider that the loss of this space would be unacceptably harmful given the visual and amenity value it provides in this context and particularly given its close proximity to the surrounding dense urban form. Alongside the loss of public benefits from loss of this space, its re-use to provide an extension and garden for the residents of No.85 Outfield, and that no alternative provision is being proposed, Officers consider that the proposal is unacceptable.

The applicant has stated that they believe the open space to be surplus to requirements for the following reasons:

- The extension would only be built on part of the open space and this is largely covered by bushes,
- The open space is regularly a location for anti-social behaviour, with needles and beer cans etc. regularly left and regular smells of drug use;
- Broken leaves and twigs from the bushes regularly result in drainage issues;
- The Council have agreed to sell the land to the applicant;
- There is plenty of other open space in the area including behind the property 1 Brynmore;

Whilst a lot of the land to be lost may be covered in landscaped bushes, they do add to the character and amenity of the remaining open space, and their loss would reduce the quality and amenity of the remaining open space. In terms of the applicant's concerns about anti-social behaviour on the land. The Police were consulted and confirmed that there had not been any reported incidents of anti-social behaviour on this land in the last 4 years. There are other pockets of small informal open space in the vicinity but they like the application site form an important visual and amenity benefit in the area and their loss like this site would likely also be resisted. As covered in the background section above, whilst the Property team may have in principle agreed to sell the land, this was always subject to the applicant gaining planning permission. These are completely separate processes with different considerations and not interdependent. So agreement to one does not automatically mean that agreement will be given to the other.

In light of the above, the principle of the change of use of the land is not considered to be

acceptable and would be contrary to paragraph 97 of the NPPF and Policy LP23 of the Local Plan 2019.

c) Design and impact to the character and appearance of the site and the surrounding area

The proposed extension would use matching materials to the house and whilst quite a long extension does follow the building lines and portions of the existing houses and so would be visually acceptable. The extension is considered to be acceptably designed to be in keeping with the existing house and no visual harm would result to the character and appearance of the surrounding streetscene.

The enclosure of the rectangular piece of open space into the residential curtilage of No.85 with 2m high close boarded fencing would result in an awkward piece of open space land being left over to both the front and rear of this fencing. The new proposed boundary fence does not fall a logical relationship with the remaining open space and would appear visually detrimental of the appearance of the remaining piece of open space. Enclosure and loss of the land would also result in the loss of a lot of landscape planting, and reduce the size and therefore amenity and usability of the remaining piece of open space to an unacceptable level. The existing piece of open space is not large in size and so it is considered any loss of it would be unacceptably harmful to the visual and amenity value it provides.

Therefore the loss of open space and new boundary fence would be visually harmful character and appearance of the area and remaining open space contrary to Policy LP16 of the Peterborough Local Plan 2019.

d) Neighbour amenity

The proposed extension would be entirely screened from the neighbouring property at 84 Outfield by the existing dwelling and there are no other properties in close enough proximity to the extension that they would be harmfully impacted upon by loss of light or overbearing impacts. The impact of the proposed extension on surrounding residential amenity is therefore considered to be acceptable and in accordance with Policy LP17 of the Peterborough Local Plan 2019.

e) Impact on Trees

The site does not lie within a Conservation area and there are no tree preservation orders covering the site. There is however, a category B Norway Maple tree owned by Peterborough City Council within falling distance of the proposed extension, and 2 of their category C Ash trees just outside the influencing distance of the extension. Therefore at the request of the Council's Tree Officer, the applicant has submitted an Arboricultural Impact and Method Statement.

The reports details that there will be direct and indirect impacts on the Maple tree, which is estimated to have a 20-40 year remaining lifespan. Direct impact through damage to its roots, as the extension will encroach into its root protection area. The report suggests that all construction works within the root protection area should be carried out by hand tools only, and surrounding construction treated with caution to prevent disruption to the roots and soil of the tree. It is also recommended that the crown height of the tree is lifted to 2.5m above ground level and 3m during construction. Maintaining this height clearance of the stem and branches will become a future maintenance requirement, in order to keep the branches clear of the roofline.

Aspect and proximity of the tree may also lead to future pruning demands, for example in relation to shading from the southerly side, or in relation to leaf litter and debris falling towards the extension from the direction of the prevailing wind. As the tree will remain in Peterborough City Council this maintenance of the crown height and branches to prevent nuisance to the proposed extension will be a maintenance liability for the Council as owner of the tree going forward.

In terms of the impact on the 2 x category C trees, these are located within the highway verge and

can be moderately pruned to create vehicle clearance, and can be retained to be of amenity value in the streetscene.

The proposal would involve the loss of some existing shrub planting adjacent to the existing property and would result in ongoing pressure to prune the category B tree to prevent nuisance to the new extension. This loss of landscaping without any mitigation planting and ongoing maintenance pressure placed on a category B tree is considered contrary to Policy LP29 of the Peterborough Local Plan 2019.

f) Highway safety and parking provision

There would be no impact on highway visibility as a result of the proposed development. Furthermore the development would not result in any loss of parking provision at the property or any increase in demand for parking provision. The impact of the proposed development on highway safety and parking provision is therefore considered to be acceptable and would be in accordance with Policy LP13 of the Peterborough Local Plan (2019).

g) Crime and Disorder

The Police have stated that there have been no reported anti-social behaviour incidents in the last 4 years. The existing boundary to 85 Outfield has shrub planting adjacent to it which acts as a buffer. The proposal would result in the new boundary fence directly abutting the grassed area potentially making the property at greater risk of being impacted upon by anti-social behaviour. The loss of part of part of the public open space to development does not appear to reap any benefits as regards to reducing anti-social behaviour, especially as the more than half the area existing open space will remain.

h) Other Issues

The bushes on site are low level so it is difficult to see how they impact on drainage at the property. Under this proposal the tree on the public open space would become closer to the property than presently, so it is likely any potential issues could be more of a problem than they are now.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

7 Recommendation

The Executive Director of Place and Economy recommends that Planning Permission is **REFUSED**

- R1 The proposed change of use, to enable the provision of an extension to No. 85 Outfield, would result in the loss of existing, useable public open space within the Bretton Ward and the specific locality of Outfield. The proposed use of the land is for extension and private garden rather than public open space and the scheme proposes no alternative re-provision of the public open space within the surrounding area. In addition, no wider public benefit would be gained from the loss of the public open space into residential curtilage for the adjacent property to facilitate an extension. Accordingly the proposal is contrary to Paragraph 97 of the National Planning Policy Framework (2019), and Policy LP23 of the Peterborough Local Plan (2019).
- R2 The proposal, by nature of its size, scale and position would unacceptably impact on

the character and appearance of the site and surrounding area. The enclosure of this land would leave a visually awkward boundary with the open space, would result in the loss of buffer landscape planting, and would reduce the usability and amenity of remaining open space. The loss of this open green space would have an adverse visual impact on the character and appearance of the surrounding streetscene. As such the proposal would be contrary to Policy LP16 of the Peterborough Local Plan (2019).

- R3 The direct and indirect impacts on the remaining category B Norway Maple, and the future pressures for maintenance to allow the proposed extension to co-exist with this existing tree is not considered to be acceptable. For high value category A and B trees development should be designed around the retention of these trees and minimising the impacts upon them. In this instance to facilitate the extension an ongoing long term maintenance burden is placed on this third party owned tree is which is not considered acceptable. The proposal is therefore contrary to Policy LP29 of the Local Plan (2019).

Copies to councillors: Ellis Angus, Warren Scott, Burbage Chris

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