



Appeal Decision

Site visit made on 22 July 2019 by S Witherley BA, PGDiP, PGDiP, Cert CIH, Assoc RTPI

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2019

Appeal Ref: APP/J4525/W/19/3228772

Land to the rear of Tudor Grove, Sunderland, SR3 1SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Marsden on behalf of Marikal Limited, against the decision of Sunderland City Council.
 - The application, Ref 19/00199/SUB, dated 5 February 2019, was refused by notice 2 April 2019.
 - The development proposed is described on the application form as a 4-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural matter

3. The address of the appeal site has been referred to differently by both the appellant and Council, for clarity the address used above has been taken from the Councils decision notice as this more accurately describes the location of the site.

Main Issues

4. The effect on 1) the biodiversity of the area with particular regard to the potential loss of open space and, 2) the character and appearance of the surrounding area.

Reasons for the Recommendation *-Biodiversity and open space*

5. The proposal comprises the erection of a single dwelling which would have a contemporary appearance with a grass roof. It would be located in an area that, under a previous planning application, 14/01638/FUL, was proposed as an area of restored magnesian limestone grassland (MLG), a visitors parking area and an area to display public information boards. An application to vary that application was approved under 18/01665/VAR, this saw the relocation of the visitor car parking spaces and information boards to an alternative location. The appeal proposal seeks to construct a dwelling of similar design, scale and specification to the dwellings previously approved.
 6. The appellant proposes that in order to mitigate against the loss of the MLG area, additional land be released from plots 1 and 2 and that this, along with the area of roof space of the proposed dwelling, would compensate for the area that would be lost.
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However, this proposal was not before the Council when it determined the planning application. The appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested third party views were sought. There is no indication that the amended scheme proposed by the appellant has been subject to any consultation and the area of land in question is outside the red line application site. In addition, the proposed amendments are so different they would involve an amendment to the development approved by 14/01638/FUL, which is not the subject of this appeal. The amendments proposed in the appeal submission cannot be accepted.

7. The appellant considers that adequate compensatory measures for the loss of designated MLG space would be put in place due to the provision of the green living roof and garden to the new dwelling. However, some of that area was already given over to hardstanding to accommodate a parking area and visitor display boards. In any event, no specific details of how this can be satisfactorily achieved have been submitted. I concur with the Council that the future use of the green roof and garden area would be difficult to control and there is no certainty these areas would be retained or managed. Policy CN22 of the City of Sunderland Unitary Development Plan (1998) (CSUDP), requires developments which have a detrimental effect on the biodiversity of an area to have an appropriate mitigation strategy in place, given the above concerns, it would not be considered possible to secure a successful mitigation scheme in this instance and, therefore, the proposal is in conflict with the aims of Policy CN22.
8. The ecology report concludes that the site has no particular value, however, it does not fully assess the implications of the loss of the open area restored MLG on the overall ecological mitigation or enhancement measures originally proposed. Nor does the report specify the MLG planting strategy that the report proposes for the green roof and garden of the proposed dwelling. The appellant claims that as the area is still under construction, the MLG management plan has yet to be implemented and as such coverage of the planned MLG would be easily implemented. It is also suggested that the proposal could provide additional MLG areas that would offset any loss of the open area as a result of the development. As such, the proposal would promote additional movement and the spread of ecology and biodiversity across the wider site. However, as noted above, this proposed mitigation relies on a scheme that has not been before the Council or any third parties. Therefore, on the basis of the available evidence, it is difficult to conclude that the proposed development would not have a materially harmful effect on biodiversity and openness of the area or diminish the sustainability of the wider site.
9. The provision of land for the preservation of habitats or the creation of compensatory habitats on land as part of new development proposals is a key aim of Policy CN18 and CN22. The loss of this MLG area would result in an important open nature conservation area being lost which would be in conflict with the aims of Policy B3, Policy CN18 and CN22. Accordingly, as a result of the development, the proposal is considered to be in conflict with the aims of Policies CN18 and CN22 and would, therefore, have a harmful effect on the biodiversity of the area with particular regard to the potential loss of open space.

Character and appearance

10. The appeal site is currently undeveloped land located at the entrance of the previous approved application 14/01638/FUL. The proposed design, scale and massing of the dwelling would be in keeping with the properties currently under construction under the 2014 permission. It would be sited within a plot of similar size and positioned at a similar

angle as the dwellings subject to the earlier 2014 permission and in this regard the proposal would accord with Policy B2. In terms of its impact on the character and appearance of the existing open area, which under the 2014 application was given over to an area of restored MLG, the appellant claims that the proposed mitigation including the private garden area, green roof, inclusion of planted hedgerows would provide adequate offsetting for the loss of this MLG area. However, these proposed measures cannot be seen as an adequate buffer or alternative green space provision particularly as the area would no longer be a public amenity space but part of a domestic curtilage which would not be accessible to the public. Given the gardens domestic use it would be reasonable to consider that there would be a means of enclosure which would further restrict the visual amenity of the area thus eroding the areas open characteristics. For these reasons there would be harm to the character and appearance of the surrounding area as a result of the visual intrusion of built development into the open area identified as restored MLG thus conflicting with Policy B2 and B3 of the CSUDP.

Other matters

11. The appellant claims that the Council do not have a five-year housing supply and whilst the National Planning Policy Framework seeks to significantly increase the supply of housing, there is no evidence in respect of the level of shortfall in housing land supply or the type of housing that is required in the area. The contribution to housing supply as one deliverable unit of accommodation would be very modest and would be significantly and demonstrably outweighed by the adverse effects upon the loss of biodiversity, open space and the harmful effect on character and appearance of the open green space. Whilst there would be some economic and social benefit arising from the works to construct the dwelling, due to the small scale of the proposal, these would be very modest and limited weight is given to this matter.

Conclusion and recommendation

12. Drawing all the above together, the harm caused to the biodiversity of the area with particular regard to the potential loss of open space outweighs findings on character and appearance of the proposed dwelling and other considerations advanced in support. The adverse impacts of the proposal as set out above, would significantly and demonstrably outweigh the benefits. On balance, the findings found in favour of the proposal do not outweigh the harm found.
13. For the reasons given above and having had regard to all other matters raised, it is recommended that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

A U Ghafoor

INSPECTOR