



Appeal Decision

Site visit made on 28 October 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2019

Appeal Ref: APP/A4520/W/19/3235243

Former West Boldon C of E School, North Road, Boldon NE36 0QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission.
 - The appeal is made by Mr Lea Smith against the decision of South Tyneside Metropolitan Borough Council.
 - The application Ref ST/1087/18/FUL, dated 4 November 2018, was refused by notice dated 22 May 2019.
 - The development proposed is Erection of 16no. residential dwellings associated access, infrastructure and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. the effect of the removal of trees from the site on the character and appearance of the West Boldon Conservation Area;
 - ii. the effect of the removal of the trees on wildlife biodiversity; and
 - iii. whether the trees have significance in relation to combating the adverse effects of air pollution and mitigating climate change.

Reasons

3. The site previously hosted the West Boldon C of E school, but this has since been demolished. The stone wall remains to the frontage with North Road. The site accommodates a large number of trees, most of which are positioned towards the boundaries of the site and many of which are the subject of a provisional tree preservation order made in March 2019. A sports pitch sits immediately to the north west of the appeal site. The site is within the West Boldon Conservation Area (the conservation area).

Character and appearance

4. The appeal site is within conservation area character area 3: Don Gardens as detailed within SPD 11¹. The north eastern flank of the site contributes towards the open nature of this part of the conservation area, providing a physical separation from the previously developed part of the site and North Road. The

¹ South Tyneside Local Development Framework Supplementary Planning Document 11 West Boldon Conservation Area Management Plan (2007).

trees within this section of the site contribute towards what is a verdant and pleasant approach/exit to West Boldon on North Road. The same verdant character is also evident within the core of the village closely to the south and as such it forms one of the defining features of the character and appearance of the conservation area.

5. The large majority of trees that are proposed for removal sit adjoining North Road, which runs adjacent to the front of the site. They are therefore the most prominent trees on the site from public viewpoints and as a grouping, they make a positive visual contribution.
6. Whilst many of the category A trees along the north west boundary would be retained, the evidence indicates that many of the most visually prominent trees which would be removed from the front of the site are also of good quality. One tree is classified as category A with a safe use life expectancy (SULE) of at least 40 years, while a further 11 trees fall within category B with a SULE of at least 20 years. They therefore have a significant remaining lifespan.
7. The West Boldon Conservation Area SPD seeks the protection of views in and out of the village that contribute to its character and setting. The removal of the group of trees would significantly detract from the appearance and heritage significance of the immediate area which currently provides a pleasant and verdant approach/exit to and from the core of the village.
8. Consequently, the proposal would fail to preserve the character and appearance of the conservation area contrary to Policies EA1(c) of the South Tyneside Local Development Framework Core Strategy (2007) (LDFCS) and Policies DM1(a,c) and DM6 of the South Tyneside Local Development Framework Development Management Policies (2011) (LDFDMP). These policies collectively seek development appropriate to local character, and the protection of existing trees and heritage assets. The scheme would also be contrary to guidance within the SPD for the Don Gardens character area which seeks the protect views in and out of the village that contribute to its character and setting.

Wildlife biodiversity

9. A Preliminary Ecological Appraisal (PEA) assesses the majority of the site as having low habitat value. The PEA states that the trees on the site appear well sealed, lacking any potential bat roost features. It also notes that while the trees provide some foraging habitat for bats, they are well lit from surrounding street lights, which would discourage their use by bats for this purpose, especially as better foraging opportunities are available elsewhere in the locality.
10. However, the PEA notes that the trees on the site have local value and offer limited nesting habitat to local bird populations. The adverse impact from the loss of the trees could be compensated for in part through the implementation of a mitigation strategy which would include restrictions on the timing of works and the provision of bird boxes and bat roosting opportunities within the scheme, amongst other mitigation features. These features could be conditioned were I minded to allow the appeal.

11. However, as part of the compensation strategy, the PEA also seeks the replacement of the trees which would be lost on a 2:1 basis with heavy standard nursery trees of native species.
12. The Green Infrastructure SPD² at B.9 reinforces the principle of tree replacement and states that those protected by a tree preservation order or within a conservation area should be identified and retained. It goes on to suggest that should a protected tree be removed, a replacement should be provided and shown on the plan, together with details of species and location. In order to provide adequate compensation, replacement planting would have to be provided on site, or at least very close to it in order to satisfy the guidance within the SPD.
13. There would appear to be little room to provide on-site replacement tree planting, taking into account the submitted layout plan. The Officer report suggests replacement planting could be provided within the immediate area. However, the evidence does not provide details of any replacement planting scheme. Nor is such a scheme included within the un-signed and un-dated s106. The evidence does not therefore demonstrate that adequate mitigation would be provided for the loss of the trees.
14. I conclude, on this issue, therefore that the proposal would be contrary to Policy EA3 of the LDFCS, Policies DM1(c) and DM7 of the LDFDMP and guidance within the Green Infrastructure SPD. These policies and guidance seek to protect biodiversity interests, to protect existing trees and provide replacement planting.

Air pollution and climate change

15. The National Planning Policy Framework (2019) (the Framework) at paragraph 148 acknowledges that the planning system should support the transition to a low carbon future in a changing climate. At Paragraph 170 it also states that planning decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to unacceptable levels of air pollution.
16. While it is generally accepted that trees can play a positive role in the prevention of climate change through their absorption of carbon dioxide, taking into account the broader picture, the scale of the tree loss on the site would be very limited in this context. The removal of the trees could not therefore be considered to result in demonstrable harm in this respect.
17. I am not therefore persuaded that the removal of the trees would significantly work against aims within the Framework to limit the adverse effects of air pollution or to mitigate climate change.
18. I conclude, on this issue, that the proposal would not be contrary to Policy EA5 of the LDFCS which relates to pollution.

² South Tyneside Local Development Framework Supplementary Planning Document 3 Green Infrastructure Strategy (2013).

Other Matters

19. I have noted the recommendation of Council Officers differed from that of Council Members. However, the Council Members were entitled not to accept the professional advice of Officers and to come to a different conclusion.
20. The appellant has suggested an alternative scheme would not be viable, therefore not allowing the delivery of the affordable dwellings. However, there is no firm evidence to support this argument and therefore I attach it very limited weight.
21. At the time of writing this decision I was in receipt of an un-signed and un-dated s106. The completion of this agreement would ensure affordable housing on the site. It would also see a financial contribution paid in respect of the funding of new additional extended and/or improved strategic ecological measures to mitigate the impacts of the Development on the Durham Coast Special Area of Conservation and Northumbria Coast Special Protection Area.

Planning Balance

22. The harm to the significance of the conservation area would be less than substantial. Paragraph 196 of the Framework requires such harm to be weighed against any public benefits of the proposal.
23. Notwithstanding the absence of a signed s106 to secure the affordable housing, I note that the appellant is a registered provider and that the appeal scheme would be part funded by Homes England. Consequently, I consider that there is a realistic probability that the scheme would be 100% affordable, and that is the basis on which I have undertaken the planning balance.
24. The provision of new housing, and affordable homes in particular, is a material consideration which carries significant weight in favour of granting permission. There would be further benefits arising from the redevelopment of previously developed land and the creation of a formal access to the playing field and visitor parking. These benefits attract moderate weight.
25. Nonetheless, these public benefits need to be weighed against the harm to the conservation area. This designation has statutory protection and any harm must be given great importance and weight in the planning balance. Some harm to biodiversity would also arise from the loss of the trees. Having taken all relevant material considerations into account, I find that the benefits do not outweigh the harm arising from the loss of the trees.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR