
Appeal Decision

Site visit made on 24 June 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal Ref: APP/J4525/W/20/3248332

**1, White Hill Road, Easington Lane, Houghton-Le-Spring, Sunderland
DH5 0PA**

- 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 Paul Brownsword against the decision of Sunderland City Council.
 - The application Ref 19/00942/FUL, dated 23 May 2019, was refused by notice dated 6 January 2020.
 - The development proposed is described as change of use of scrub/waste land adjoining residential property to be included in residential curtilage as a garden area.
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Decision

1. The appeal is dismissed

Procedural Matter

2. The Council has advised that since the decision was issued, with the exception of Policy EN10 of the City of Sunderland Unitary Development Plan (1998), the relevant policies have been superseded by policies NE2, NE3, NE4, HS3, BH1, HS1 and ST3 of the Sunderland City Council Core Strategy and Development Plan 2015-2033 (January 2020). From the evidence before me, I am satisfied that in making this appeal the appellant was aware of this change. Being the most up to date policies of the development plan, the appeal is determined on this basis.

Main Issues

3. The main issues are the effect of the appeal proposal on:
 - Character and appearance of the area, with particular regard to visual intrusion;
 - Ecology and biodiversity interests of the area; and
 - Recreational value and public enjoyment of Elemore Vale.

Reasons

Character and Appearance

4. Located on the edge of a residential housing estate, the appeal site forms part of a leafy, unmade pedestrian gateway into the wider Elemore Vale Local Wildlife Site (LWS). I observed that the narrow section of the appeal site which adjoins that footway opens up further past the appellant's property into a

secluded section of long grass and scattered scrub. A tree belt and more dense ground cover define its boundary with Elemore Vale. Further woodland located on the other side of the footway reinforces the informal, leafy, secluded characteristics of the appeal site. I observed that the appeal site serves as an intimate, green transition from the residential estate, which quite swiftly but unexpectedly opens up to signify arrival into the more open and vaster Elemore Vale.

5. Whilst a small amount of littering and remnants of a bonfire were apparent at the time of my visit, this was not to an extent that negatively affected these important credentials which define the character and appearance of this gateway. Indeed, the site's ground cover had regenerated substantially in comparison to the submitted photographs.
6. The means of enclosure proposed would be consistent in design terms with other boundary enclosures in the vicinity. The proposed planting scheme would, in time, provide some increased canopy cover. Furthermore, the appeal proposal would be largely screened from Elemore Vale by an intervening tree belt, dense ground cover and boundary planting.
7. However, these observations do not diminish the fact that localised impacts would result as the appeal proposal would significantly alter the character and appearance of much of the length of this pedestrian route. I observed that this would be to an extent that would be visually intrusive. This is because the appeal proposal would further extend a man-made structure, albeit lower, hard up against the footway along much of the remainder of its length. This would erode the existing natural green buffer and diminish advancing glimpses into Elemore Vale. Furthermore, it would domesticate this secluded, more informal, intimate leafy area and significantly reduce its transitional role.
8. For these reasons, I find that the proposal would be harmful to the credentials that are important to defining the character and appearance of the area, with particular regard to visual intrusion.
9. Saved Policy EN10 of the City of Sunderland Unitary Development Plan (1998) requires development proposals to be compatible with the principal use of the neighbourhood. Policy BH1 of the Sunderland City Council Core Strategy and Development Plan 2015-2033 (January 2020) states that to achieve high quality design and positive improvement development should be of a scale, layout, appearance and setting which respects and enhances the positive qualities of nearby properties and the locality. Given the harm that I have found, the appeal proposal conflicts with these policies.

Ecology and Biodiversity Interests

10. My attention has been drawn to the more recent review of the LWS boundary which seeks to incorporate the appeal site into the wider designation. However, the Council has confirmed that the outcome is still the subject of public consultation later this year. Furthermore, whilst I note the assertion from the Council that the LWS has ecological value, this has not been supported by sufficiently detailed evidence for the appeal site itself. Significantly, that evidence confirms that it is based upon a survey conducted in 2017.
11. Whereas, the appellant has provided a detailed assessment which draws opposing conclusions together with some opportunities for habitat

improvement through the implementation of an ecological enhancement plan. Both of these are based upon a very recent survey that was undertaken by a suitably qualified person. Being more contemporary, I attach greater weight to the appellant's ecological evidence. However, I understand many of the Council's concerns about the some of the details of the proposed enhancement works and their longevity. As such, I attribute limited weight to the level of likely net-gains which would arise from that particular scheme.

12. Therefore, from the evidence before me, I cannot conclude that the appeal site has an ecological value that should be protected from the alternative use and associated development proposed. For these reasons, I do not find that the appeal proposal would be harmful to the ecology and biodiversity interests of the area.
13. Policy NE2 requires developments to demonstrate how they will provide net-gains in biodiversity and avoid or minimise adverse impacts on biodiversity. It also sets out the means by which any such impacts must be justified to be acceptable when development adversely affects an LWS either directly or indirectly. Policy NE3 states that where trees are impacted negatively by proposed development then justification, mitigation, compensation and maintenance measures will be required to be provided. Policy NE4 states that development will be refused on green space which would have an adverse effect upon its nature conservation amongst other things. Based upon the evidence before me, in the absence of any harm being clearly substantiated, and the potential for some net-gains, I find no conflict with these policies in terms of effects on ecology and biodiversity.

Recreational Value and Public Enjoyment

14. From the evidence before me and my site inspection, whilst I am satisfied that the appeal proposal would not impede public access along the adjoining footway, I have found that the appeal proposal would adversely alter the character and appearance of the area. Being a green pedestrian gateway serving Elemore Vale, I find that this harm would translate to the recreational value and public enjoyment of the area.
15. From a quantitative perspective, I observed that the site forms part of a much wider area of publicly accessible green space which provides informal recreational opportunities. However, I note that no evidence has been provided from either party to substantiate the current position in respect to the level of publicly accessible green space within the area to justify the loss or otherwise.
16. From a qualitative perspective, as evidenced and observed, the site has been subjected to some past anti-social behaviour. However, I did not observe that the appeal site presented an unsightly area or intimidating atmosphere so as to negatively impact upon those seeking to access the wider green space via this green gateway. I agree that the inclusion of the site within the LWS would not in itself safeguard the site from such behaviour in the future. However, given my observations and in light of the submitted evidence regarding ongoing partnership working between key stakeholders to address anti-social behaviour in the area, I am not sufficiently convinced that the current state would deteriorate should this appeal not succeed.
17. For these reasons, I find that the appeal proposal would be harmful to the recreational value and public enjoyment of Elemore Vale.

18. Policy NE4 states that development on green space will be refused where it would have an adverse effect upon amenity and recreational value amongst other things, unless it can be demonstrated provision is surplus to requirement. Given the harm that I have identified and in the absence of any evidence to quantify a surplus to requirement, I find conflict with this policy.

Other Matters

19. I note that the appellant would be accepting of a planning condition that rescinded permitted development rights. However, this would not address the totality of the harm that I have found. Furthermore, given that this appeal proposal is for a change of use to garden, it would not be reasonable to restrict future proposals and activities that would be normally associated with such a use.
20. By virtue of the height and closed design of the means of enclosure proposed, despite local support, I do not find that the appeal proposal would improve surveillance of the area to a degree that would justify the harm that I have found. Nor have my observations or the evidence submitted convinced me that the appeal proposal would necessarily design out crime.
21. I note that the development plan contains a number of other policies which seek amongst things to manage effects relating to contaminated land, quality of life and accessibility. Nonetheless, I find that compliance with these, together with my findings regarding the relevant ecology and biodiversity considerations, are both individually and collectively out-weighted by the harm to the character and appearance of the area and the harm to the recreational value and public enjoyment of Elemore Vale and the consequential conflicts with Policies EN10, BH1 and NE4. Accordingly, I find that the appeal proposal conflicts with the development plan when taken as a whole.

Conclusion

22. For the reasons set out above, the appeal should be dismissed.

C Dillon

PLANNING INSPECTOR