



Appeal Decision

Site visit made on 10 August 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2020

Appeal Ref: APP/J4525/W/20/3246281

Land North West of 23 Tintern Close, Houghton-le-Spring DH4 5LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Robert Place against Sunderland City Council.
 - The application Ref 19/01242/OUT, is dated 19 July 2019.
 - The development proposed is outline application with some matters reserved for the erection of 4no houses and associated means of access.
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Decision

1. The appeal is dismissed and planning permission for outline application with some matters reserved for the erection of 4no houses and associated means of access is refused.

Procedural Matters

2. The application has been submitted in outline with all matters reserved for future consideration except access and layout. I have dealt with the appeal on that basis.
3. The description of development in the heading above has been taken from the planning appeal form, which differs from that given on the planning application. In Part E of the appeal form it is stated that the description of development has not changed from that stated on the planning application form, but a different wording has been entered. I have used the description as given on the appeal form as this accurately reflects the proposed development.
4. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. In its Statement of Case, the Council has indicated the reasons for refusal had it resolved to determine the application. Both the appellant and the Council have been given the opportunity to comment further on these indicative reasons for refusal and I have taken account of the comments raised.

Main Issues

5. On the basis of the indicative reasons for refusal in the Council's Statement of Case, the main issues are the effect of the proposal on:
 - The provision of greenspace; and
 - Parking and highway safety.

Reasons

Greenspace

6. The appeal site is an area of amenity greenspace adjacent to housing and a garage court. The site contains no play equipment or other features, but as a maintained grassed area it makes a positive contribution to the visual and recreational amenity of the area. It is located in the Houghton Ward which, based on the evidence before me, has an above average quantity of greenspace compared to the city average. The Council's Greenspace Audit¹ identifies the site as being of 'low value'. That said, the Greenspace Audit also states that 'low value' does not mean that the greenspace is surplus to requirements. The value that the community places in this greenspace is reflected in the comments made on the proposal.
7. Policy NE4 of the Core Strategy and Development Plan 2015-2033 (the Core Strategy) requires that development which would have an adverse effect on the amenity value of greenspace should be refused unless, amongst other things, an agreed contribution is made towards new provision or improvement elsewhere within an appropriate distance. The appellant has indicated his agreement to make such a contribution.
8. Based on a formula in the Planning Obligations Supplementary Planning Document 2020 (SPD), the Council submits that this contribution would be of limited value due to the scale of the appeal proposal and would not compensate for the loss of the greenspace. However, there is no evidence of a threshold for the scale of contribution either in respect of the SPD or development plan policy. On that basis, even if the contribution is of a limited scale, the evidence suggests that this would comply with Council policy and advice. Furthermore, individual contributions of even a limited scale can cumulatively contribute to improvements elsewhere.
9. However, there is no planning obligation before me to provide a formal mechanism to ensure this contribution. I have considered whether it would be possible to use a negatively worded condition to require the appellant to enter into a planning obligation to secure the contribution in respect of greenspace. However, the Planning Practice Guidance² is clear that this is unlikely to be appropriate in the majority of cases and should only be used in exceptional circumstances where there is clear evidence that the delivery of development would otherwise be at serious risk, particularly in respect of complex development schemes. In this instance, I do not regard this threshold to have been met as the scheme is not particularly complex.
10. Furthermore, notwithstanding the scale of a potential contribution or the lack of an obligation, the appellant has provided no substantive evidence in respect of alternative space provision within an appropriate distance of the site. A robust assessment against the criteria for dealing with low value sites as set out in the Greenspace Audit³ has also not been undertaken. Although I saw that there are other areas of greenspace in the vicinity, it has not been demonstrated that the improvement of these areas could compensate for the loss of the greenspace on the appeal site.

¹ Sunderland Greenspace Audit and Report 2018

² Paragraph: 010 Reference ID: 21a-010-20190723

³ Paragraph 17.6

11. The appellant states that the land is owned by Gentoo Group which is responsible for the management of the estate. He submits that Gentoo would not have been prepared to sell the land if it considered that it was of some amenity value. However, this appeal must be determined on its planning merits, and the position taken by the land owner does not lead me to a different conclusion in respect of the amenity value of the site.
12. On the basis of a lack of a planning obligation and robust evidence in respect of improvement of greenspace, I conclude that it has not been demonstrated that the proposal would not lead to significant harm to the provision of greenspace in the area. The proposal would therefore be contrary to Policy NE4 of the Core Strategy with regards to the protection and enhancement of greenspace.

Parking and Highway Safety

13. Plot 1 of the appeal site would be located in close proximity to a number of lock-up garages. The Council expresses concern that this would lead to conflict between the residents of the proposal and the nearby garages. However, there is no dedicated parking space in front of the individual garages and the wider parking area is of ample size for the parking of vehicles without obstructing the movement of traffic. Whilst there may be temporary inconvenience as a result of vehicles parked in front of the garages when doors are opened and closed, this would be intermittent and of such a short duration so that it would not unduly affect access to the appeal site. In any event, the proposed site plan shows that there is sufficient space to relocate parking spaces to offset them from the garages, which could be ensured by a condition.
14. The Council also refers to a need for a further visitor parking space to serve the proposal. However, there is sufficient space to include this within the proposed layout and this could be ensured by a planning condition. Therefore, this matter does not weigh against the proposal.
15. Comments raised locally have also referred to restricted access for vehicles along Tintern Close. However, although I saw that the parking of cars along the road leading to the appeal site limited the potential for vehicles to pass each other, turning space would be available on the garage court to enable vehicles to enter and leave the area in forward gear. Furthermore, due to the limited number of units proposed, the development would also not lead to a significant increase in vehicle movements. The proposal would also provide a demarcated footway from Tintern Close to the appeal site, mitigating potential conflicts between pedestrian and vehicle movements.
16. I conclude that the proposal would not lead to unacceptable harm to parking or highway safety. The proposal would therefore comply with Policy ST3 of the Core Strategy with regards to the provision of safe and convenient access.

Other Matters

17. The appeal proposal would add to the supply of housing in the area. The National Planning Policy Framework (the Framework) emphasises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. I am also mindful that smaller developers such as the appellant can make a valuable contribution to the delivery of these sites. The Framework goes on to give great weight to the benefits of using suitable windfall sites within existing settlements for homes. However, it has

not been demonstrated that this would be a suitable site in respect of greenspace. On that basis, and due to the limited scale of the proposal, I consider that the benefits to housing supply would be limited and would not outweigh the significant harm that I have identified.

18. The appellant refers to competition law, but this does not fall within the remit of this appeal which I have determined on its planning merits.

Conclusion

19. Notwithstanding my conclusions in respect of parking and highway safety, I conclude that due to the harm in relation to greenspace the proposal would conflict with the development plan and the Framework when read as a whole in respect of promoting healthy and safe communities. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR