



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/20/3246282

Land North West of 25 Burns Avenue North, Houghton-le-Spring, Tyne and Wear DH5 8HA

- 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 19/01545/OUT, is dated 12 September 2019.
 - The development proposed is outline application with some matters reserved for 5no 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 5no 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

- Highway safety.

Reasons

Greenspace

6. The appeal site is an area of open greenspace adjacent to a manoeuvring and parking area which serves nearby dwellings and garages. Although the site does not contain recreational facilities such as play equipment, as a maintained area of grassed open space it makes a positive contribution to the visual and recreational amenity of the area. Comments raised locally also emphasise this amenity value. The site is in the Copt Hill Ward which, based on the evidence before me, has a below average quantity of greenspace compared to the city average. The site is also not identified as being of low value in the Council's Greenspace Audit¹.
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. 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. The fact that the appeal site is within a ward identified as having a below average greenspace quantity provision adds to my concerns on this matter, as an improvement elsewhere may not justify the loss of greenspace in an area of under-provision. This is

¹ Sunderland Greenspace Audit and Report 2018

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

reflected in the Greenspace Audit which advises a particular focus on increasing provision in areas of deficiency, rather than a decrease which would result from the appeal proposal.

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 elsewhere, I conclude that it has not been demonstrated that the proposal would not lead to significant harm to the provision of greenspace. The proposal would therefore be contrary to Policy NE4 of the Core Strategy with regards to the protection and enhancement of greenspace, especially in areas of deficiency.

Highway Safety

13. Access to the appeal site is via a route which also serves a number of garages and a parking area for nearby dwellings. The initial part of the access is via a relatively narrow lane which is below the Council's parameter in respect of two-way traffic. The adjacent footpaths are also of limited width, with the result that pedestrians and other footway users may be deflected onto the carriageway, particularly disabled users and those with prams or pushchairs. Due to the constrained nature of the access, there is no potential to increase the width of the footways without further reducing the substandard width of the carriageway. The increase in pedestrian movements resulting from the appeal proposal along this substandard route would significantly increase the potential for collisions between vehicles and pedestrians, to the detriment of highway safety.
14. Pedestrian access to the proposal would also cross the manoeuvring area associated with the existing garages and dwellings. Due to the turning and reversing manoeuvres in this area as well as the lack of demarcated and convenient footpaths leading to the site, this may also lead to conflict between vehicles and pedestrians to the detriment of highway safety.
15. The appellant contends that the access meets the Council's specifications for 5 dwellings served by a private shared access. However, when combined with the existing volume of traffic movements and nature of vehicle manoeuvres, the access to the appeal proposal would be materially different to that via a private shared access. I have also had regard to the Council's comments that the increase in vehicular traffic resulting from the proposal would not harm highway safety, although this comment does not relate to pedestrian movements. Consideration of these matters does not lead me to a different conclusion on highway safety based on what I have seen and read.
16. The Council refers to a need for a further visitor parking space to serve the proposal. However, there is sufficient space to include this within the site layout and this could be ensured by a planning condition. This matter does not therefore weigh against the proposal.

17. Notwithstanding my comments in respect of parking provision, I conclude that the proposal would lead to unacceptable harm to highway safety due to inadequate pedestrian access to the site. The proposal would be contrary to Policy ST3 of the Core Strategy with regards to the provision of safe and convenient access.

Other Matters

18. 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 small builders 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 highway safety and greenspace. On that basis, and due to the limited scale of the proposal, I consider that the benefits to housing supply are limited and would not outweigh the significant harm that I have identified.
19. Comments raised locally include reference to damage to a fence on the site boundary, although this comment seems to relate to problems generated by an adjacent developed site rather than the use of this open space. In any event, this matter can be addressed as part of the maintenance of the site and does not carry any significant weight in favour of the proposal.
20. 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

21. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR