



Appeal Decision

Site visit made on 10 November 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/X1355/W/20/3248702

14 Laing Square, Wingate TS28 5JE

- 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 Vardy against the decision of Durham County Council.
 - The application Ref DM/19/01849/FPA, dated 16 May 2019, was refused by notice dated 20 September 2019.
 - The development is described as Change of use of land in garden area, prior to purchase from Durham Homes.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the time the application was determined by the Council, the County Durham Plan (CDP) has now been adopted in October 2020. This replaces the District of Easington Local Plan 2001. The appellant has been made aware of the change in local policy and has been given the opportunity to comment. Therefore, they have not been prejudiced as a consequence of the change in local policy.
3. At the time of my site visit, the development had been carried out.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. Laing Square forms part of a larger planned estate with vehicular roads surrounding all sides of the square. Corner green spaces have been designed into the original layout and provide visual relief to the built form, making a positive contribution to the character and appearance of the area.
6. I have taken into account the wording of Policy 26 of the CDP that resists the loss of open space '*unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements*'. Furthermore, I have taken into account Policy 29 in my considerations in its aims to achieve well designed places.

7. The appeal site has been completely enclosed while the other corners of Laing Square remain laid to grass and open in character. The removal of all this land and its enclosure is therefore at odds with the character of the area.
8. The location of the boundary fence at the back of the pavement significantly conceals the appearance of all the land. Its design and continuous unbroken nature creates a hard edge to the street scene. Thus, the complete loss of a sizable parcel of open space, and enclosure on a prominent corner removes a landscaped area that would otherwise have the effect of creating a softening appearance to a densely built up area.
9. Whilst there are other areas of public open space close to the appeal site, however, the loss of this corner has reduced the characteristic open aspect of a prominent corner plot and thus harmed the appearance of the area.
10. The appeal site may previously have been poorly maintained and subjected to anti-social behaviour, although I have no good reason to believe that these matters could not be resolved through other, less harmful measures. Other corner areas of open space may have been surrounded by enclosures and used as garden land, however I do not have any detailed evidence regarding the planning history of these sites. In any case, rather than setting a precedent for the appeal scheme, such examples serve to highlight how the cumulative effect of incremental changes to small areas of open space can have a materially adverse effect on the character and appearance of an area.
11. The petitions of support and the support letter from the Parish Council are noted. However, I must consider the effect of the appeal scheme on the character and appearance of the area with regard to all existing and future residents.
12. The appellant explains that they and their partner have personal health considerations and provided a letter from a medical nurse practitioner with details of his own health conditions.
13. The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 sets out the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appellant is one with a protected characteristic for the purposes of the PSED. However, as a result, it does not follow that the appeal should necessarily succeed, but rather that I have a duty to consider the implications of my decision upon this person.
14. I have had due regard to the appellant's health circumstances. The desirability of retaining the land for the appellant to enjoy is an important consideration in this case as it is stated that it has been beneficial to their health. However, I have not been provided with substantive evidence to demonstrate precisely in what way the appeal scheme contributes positively to their health conditions, or how a negative appeal outcome would disadvantage their personal health. Furthermore, there is nothing before me to demonstrate that there are no other ways of achieving the appellant's objectives without relying on this particular scheme. I therefore apply limited weight to the health considerations based on the information before me.

15. There is no evidence provided within the appeal submission which leads me to conclude the land drainage situation can only be improved by way of the appeal scheme. Furthermore, there is no evidence to demonstrate that the land is surplus to requirements.
16. Having had regard to the policy aims to protect the character and appearance of an area, in this case I consider that greater weight attaches to the public interest. Therefore to conclude, I find the proposal has a harmful effect on the character and appearance of the area and is in conflict with the CDP 2020 Policy 26 that seeks to avoid the loss of open space, and Policy 29 in its aims to achieve well designed places.

Other Matters

17. Issues with regard to the Council's service and inaccurate plans should be in the first instance referred to the Council. These matters do not materially affect my consideration of the planning merits of the appeal.

Conclusion

18. Bringing all matters together, for the foregoing reasons, I have come to the conclusion that the appeal should be dismissed.

Alison Scott

INSPECTOR