



Appeal Decision

Site visit made on 8 August 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 7 September 2022

Appeal Ref: APP/A4520/W/22/3295419

137 Beaconside, South Shields NE34 7PT

- 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 Jason Haw against the decision of South Tyneside Council.
 - The application Ref ST/0306/21/FUL, dated 5 March 2021, was refused by notice dated 11 January 2022.
 - The development proposed is described as 'change of use of open land to garden area. Also, new boundary fencing around the existing and proposed site'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I noted on my site visit that the appeal garden area and fence has already been constructed. I am considering this appeal on this basis.
3. The Council is taking enforcement action against the development. An appeal against this enforcement notice is not before me and I have considered this development on the basis of the as built development, as this is essentially the same as the proposal in the planning application.

Main Issues

4. The main issues are whether the development would:
 - be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - affect the openness of the Green Belt;
 - affect the character and appearance of the area;
 - affect the Marsden Old Quarry Local Wildlife Site; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

5. The appeal site is a detached property with a rear garden and close boarded boundary fence which backs onto the Marsden Old Quarry Local Wildlife Site. The main parties also do not dispute that the area behind the appeal property is within the South Tyneside Green Belt. A public right of way (RoW) known as Quarry Lane runs through the wildlife site and close to the appeal property's rear boundary fence. The property's garden and boundary fence have been extended and this has taken it into the Green Belt and the wildlife site by over 4.5 metres.
6. Although Policy EA1 of South Tyneside Council's Core Strategy 2007 (Core Strategy) significantly pre-dates the Framework it, amongst other matters, seeks to protect and enhance the openness of the Green Belt. While this is broadly consistent with the National Planning Policy Framework 2021 (the Framework), it does not set out any exceptions whereby development may be permitted. I therefore attribute moderate weight to this policy.
7. Paragraphs 149 of the Framework details that new development should be regarded as inappropriate in the Green Belt other than for a number of exceptions. One of those is within paragraph 149(c) for 'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'. Case law has identified that fences should be regarded as 'buildings' for the purposes of the Framework and as such the development falls within this exception. As can be seen from the submitted site plans, the new fence itself is little different from the remainder of fencing. The increase in the garden size in relation to the remainder of the garden area is relatively small, so the increase in length and overall bulk of the fence would be small. Therefore, I do not find the increase in garden size, or the proposed fence would be disproportionate to the original.
8. I therefore find that the development accords with the exception set out in paragraph 149(c) of the Framework and is not inappropriate in the Green Belt. Although it would conflict with Policy EA1 as that has no exceptions, I have given greater weight to the exceptions in the Framework as it is a more recent document.

Effect on the openness of the Green Belt

9. As I have found the development is not inappropriate there would be no harm to openness.

Character and appearance

10. Prior to the development, and as was evident from my site visit, the original garden and boundary fence was in line with those of the neighbouring properties. This gave the rear boundary treatments a consistent appearance. The development has resulted in a localised forward projection which detracts from the character and appearance when compared to the neighbouring gardens and fence line.
11. Furthermore, the wildlife site has a generally well vegetated buffer between the RoW and the rear boundary fence of the properties. While there are gaps in this vegetation which allows filtered views of the properties, the buffer still provides a very good level of screening. The development's forward projection has significantly reduced this separation at the appeal site thereby opening up views of the surrounding properties when compared to its original position. This

has been worsened by the surrounding damage to vegetation associated with the fence. The loss of separation, is not in keeping with the vegetated character and appearance of this area as viewed from the RoW.

12. In conclusion the development has adversely affected the character and appearance of the area and is contrary to Policy DM1 of the South Tyneside Development Management Policies 2011 (DMP). This policy seeks, amongst other matters, for new development to be designed to sensitively consider its surroundings and enhance its local setting.

Affect the Marsden Old Quarry Local Wildlife Site

13. The Marsden Old Quarry Local Wildlife Site encompasses the land up to the boundary of the appeal site and the habitat is characterised as including semi-mature trees, scrub and understory plants. The area is noted as a linked open space and wildlife corridor. It is also within the Cleadon Hills Area of High Landscape Value and significance and immediately adjacent to Marsden Old Quarry Local Nature Reserve. The habitats are noted as providing shelter and forage for a range of species and, in terms of the separation between the properties' garden fences and the lane, form a visual screen which creates a natural setting for the RoW and a more pleasant experience for users.
14. It was clear from my site visit that the development has disturbed the wildlife site. While this area is small, significant harm has occurred to the continuity of the buffer.
15. The appellant has offered to provide biodiversity enhancement through an appropriately worded planning condition. No ecological information has been provided and there is uncertainty regarding the biodiversity compensation required, a condition would fail the precision test set out under the Frameworks' six tests. Notwithstanding this, the compensation would not mitigate the adverse impacts caused by the development's forward projection in relation to loss of screening and harm to the natural setting.
16. In conclusion, the development adversely affects and harms the Marsden Old Quarry Local Wildlife Site and is contrary to Policy DM7 of the DMP and Policy EA3 of the Core Strategy. These policies, amongst other matters, seek to protect and enhance biodiversity and geological conservation.

Other Matters

17. I note that it has been raised that the development was required to resolve litter and dog fouling issues and provide a safe environment for the appellant and his family. However, little evidence has been presented justifying these, and even if that were the case, the harm I have found would outweigh these potential benefits.
18. Although there were no third party objections to the appeal submission, there was an objection during the planning application. In any event lack of objections from neighbours are not considerations that outweigh the harm caused by the development.

Overall conclusions and planning balance

19. I have found the development is not inappropriate in the Green Belt. Notwithstanding this, I have found that the development has significantly

adversely affected the character and appearance of the area and harmed the Marsden Old Quarry Local Wildlife Site.

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

J Symmons

INSPECTOR