



Appeal Decision

Site visit made on 19 December 2022

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2023

Appeal Ref: APP/M4510/W/22/3309213

3 Princes Meadow, Gosforth, Newcastle upon Tyne NE3 4RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Ms Emma Mace against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2021/1077/01/DET, dated 19 May 2021, was refused by notice dated 1 August 2022.
 - The development proposed is change of use to garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the original application form. However, the plans submitted with the application and the description on the Council's decision notice includes reference to the erection of a 2-metre-high boundary fence, and I have determined the appeal accordingly.

Main Issues

3. The main issues of the appeal are:
 - Whether the proposed development would preserve or enhance the character or appearance of the St. Nicholas Hospital Conservation Area (CA); and
 - The effect of the proposed development on the local green infrastructure network and its ecological habitat value.

Reasons

Character and appearance

4. The appeal site comprises an area of landscaped public open space which fronts onto Emblehope Drive. The site lies within the CA and as such, special attention has been paid to the desirability of preserving or enhancing the character or appearance of the CA. I have had regard to paragraph 199 of the National Planning Policy Framework (the Framework) in terms of giving great weight to the CA's conservation.
5. The CA is noted for its attractive mature parkland setting. The appeal site falls within sub area 3 where open-linked green space with mature trees are a

- special characteristic of the area. The retention of the open green space with mature trees is identified as a key issue within the St. Nicholas Hospital character statement. The Management Plan specifically states that the open space and parkland setting, and tree cover should be retained and maintained.
6. The landscaped open space covers a large area along Emblehope Drive and there are a number of mature trees, shrub planting, and bushes located onsite. This contributes positively to the character and appearance of the area acting as a visual buffer between built development.
 7. The proposed development would reduce the strip of landscaped public open space and this together with the positioning of the fence closer to the main road and excessive length would make it more visually prominent and incongruous, in this landscaped context.
 8. Although the plans show the retention of existing trees and shrubs, it is undisputed that some shrubs would need to be cleared or heavily pruned to facilitate the development. Two of the retained trees would be contained within the appellant's garden area which would be enclosed by the timber fence and their presence would be less obvious and thus removing positive features within the street scene. This would also make the proposed fence more visually prominent as the level of screening would be reduced.
 9. Although the projection of the fencing would be level with adjacent neighbours, this would not reduce its prominence as it would still result in a lengthy boundary treatment being located closer to the road.
 10. Additionally, and whilst I appreciate the appellant's commitment to preserve and maintain the trees, they would be placed under greater pressure to be pruned and thinned to allow greater enjoyment of the garden area. The lack of engineering works and a condition removing permitted development rights would not sufficiently mitigate against such pressure.
 11. I conclude that the proposed development would fail to preserve the character or appearance of the CA and would cause less than substantial harm to its significance as a designated heritage asset. Paragraph 202 of the Framework explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There is no substantial evidence before me of benefits relating to the reduction of anti-social behaviour or crime and thus the benefits associated with the scheme are entirely to the benefit of the occupiers by increasing their private amenity space. As these are not public benefits, I have not weighed them against the harm to the CA to which I have attached great weight given the CA's conservation advised by the Framework.
 12. The proposed development would therefore be contrary to Policies CS15 and CS18 of the Core Strategy and Urban Core Plan (CSUCP), Policies DM15, DM20, DM23, DM28, and DM30 of the Development and Allocations Plan (DAP) which together, amongst other things, requires development to contribute to good place-making through the delivery of high quality and sustainable design, and the conservation and enhancement of the historic environment. The proposed development would also be contrary to paragraph 199 of the Framework in terms of giving great weight to the CA's conservation.

Green infrastructure network

13. No substantive evidence has been submitted to demonstrate that the proposed development would not have a detrimental impact upon the value of the green infrastructure network as a local wildlife corridor. Given the presence of mature trees, shrub planting, and bushes located onsite coupled with the nature of the works which could disturb and potentially harm ecological habitat that may be present, I cannot be certain that no habitat would be harmed by the proposal. The location near the highway/built up area does not convince me otherwise.
14. I note the appellant's suggestion to include a condition requiring bird boxes and soft landscaping. However, in the absence of any information regarding the likely impact of the proposal, then it remains unclear if such a condition would be necessary.
15. I therefore conclude that it has not been satisfactorily demonstrated that local ecological habitat would be protected and consequently, the proposed development would not comply with Policy CS18 of the CSUCP, Policies DM27, DM28, DM29 and DM30 of the DAP, which together, amongst other things, requires development which may affect any designated site, biodiversity or important habitat or species, or geological feature must be supported by an up to date ecological assessment to ensure the likely impact of the proposal can be assessed and mitigated. The proposed development would also be contrary to chapter 15 of the Framework which relates to conserving and enhancing the natural environment.

Other Matters

16. The appellant refers to works which would not require planning permission as well as rights upon completion of the purchase of the land. However, this is a theoretical position only and there is no substantive evidence to suggest that there is any reasonable likelihood for this to occur. In any event, I am considering the scheme that is in front of me and I have identified the harm that would arise. Such matters as well as delays during the planning process which has caused a level of frustration has not therefore affected my findings on the main issues.
17. I note that the proposed development would provide more useable space for the occupants of the host property. However, this would not outweigh the harm I have identified.

Conclusion

18. The proposed development would conflict with the development plan when considered as a whole. There are no material considerations, either individually or in combination including the provisions of the Framework, that outweighs the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR