



Appeal Decision

Site visit made on 25 April 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2023

Appeal Ref: APP/J4525/W/23/3315983

21 Skaylock Drive, Lambton, Sunderland, Washington NE38 0QD

- 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 Mr James Heron against the decision of Sunderland City Council.
 - The application Ref 22/01517/FUL, dated 7 July 2022, was refused by notice dated 4 October 2022.
 - The development proposed is change of use from open space to private garden with 1.8 metre boundary fence.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the above banner heading has been taken from the Decision Notice which is also reflective of the Appeal Form. This accurately describes the proposed development without going into matters regarding discussions that have taken place and ownership as set out on the original application form.
3. The appeal before me relates to a part retrospective application. At my site visit, I was able to see that fencing has been erected around most of the perimeter of the site. Notwithstanding this, I have based my decision on the submitted plans and information.
4. The Decision Notice cites Policy T8 of the City of Sunderland adopted Unitary Development Plan, 1998. However, the Council has since confirmed that this policy has been deleted and that it has been replaced with Policy ST3 of the Sunderland City Council Core Strategy and Development Plan (2015-2033), 2020 (CS). I have been provided with a copy of the relevant policy, which the appellant is aware of, and have determined the appeal accordingly.

Main Issues

5. The main issues are the effect of the proposal on:
 - The character and appearance of the surrounding area;
 - Biodiversity; and
 - Users of the adjacent footways, with particular regard to safety.

Reasons

Character and appearance

6. The appeal site falls within a sizeable, relatively modern, residential estate. It comprises a section of landscaped greenspace to the rear of No 21 Skaylock Drive. This landscaping appears to have been part of the original design of the estate and, together with other elements of remaining structural landscaping, visually softens the dense residential development. The appeal site also accommodates a number of mature trees. While none of these are protected by Tree Preservation Orders, they nonetheless provide a pleasant, verdant, appearance. This reinforces the positive contribution that the appeal site makes to the relief from built form.
7. The structural landscaping at the appeal site is also immediately adjacent to a public footway to the north that runs through the estate. Moreover, another footway runs to the east of the site, providing access to Holley Park. Consequently, the appeal site is in a visually prominent location and provides a sense of openness and visual relief along the adjacent footway network.
8. The proposal seeks to change the use of the land from open space to form part of the private garden associated with No 21 Skaylock Drive. This would be fully enclosed with a 1.8-metre-high boundary fence.
9. Although the development would not remove the entirety of the greenspace to the rear of No 21, a significant proportion of it would be incorporated into the garden of this property. This urbanisation would add to the cumulative loss of the structural estate landscaping, further eroding the visual relief it provides. New fencing would be similar to nearby boundary treatments. That said, it would draw the means of enclosure closer to adjacent footways, reducing the site's openness and exacerbating its harmful urbanisation. This would make nearby footways less pleasant routes for users. The presence of existing fencing close to other elements of estate landscaping, together with the varying degree of remaining openness along the footway network, does not justify the further harmful loss of greenspace at such a visually prominent location.
10. Furthermore, established trees would be incorporated into the rear garden of No 21. I cannot be certain that there would not be additional pressure to remove or heavily prune these to allow for greater enjoyment of the garden. There is therefore a risk that the scheme would also erode the pleasing verdant contribution that the site makes to this part of the estate, reinforcing its harmful overall effect. Precise wording for a condition aimed at securing the long-term preservation of trees has not been provided. Neither has a plan showing their exact location. On the evidence provided, I am therefore not satisfied that trees could be preserved via such a mechanism.
11. My attention has been drawn to two approvals for similar proposals within the locality. However, one of these decisions was made in 2007 under a different planning policy environment. Moreover, neither of these approvals concerned a site immediately adjacent to two footways. Consequently, I am

not convinced that these approved developments are directly comparable to the more prominent appeal scheme. Neither are they a justification for the further incremental and harmful loss of estate landscaping. In any event, I have considered this proposal on its own individual planning merits and in the light of current planning policy.

12. For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area and would be contrary to Policies BH1 and NE4 of the CS. Amongst other things, these require development to be of a scale and appearance which respects and enhances the positive qualities of the locality and protect, conserve and enhance the quality, community value, function and accessibility of greenspace and wider green infrastructure.

Biodiversity

13. As discussed, the proposal could result in pressure to alter or remove existing trees at the site. Although this would be harmful in a visual sense, there is no substantive evidence before me to show that these trees are of any real individual or group ecological value. Consequently, it has not been shown that their possible loss would cause notable harm to biodiversity. In this particular instance, I am therefore not persuaded that it would be appropriate to provide net gains in biodiversity, nor that a suitably worded condition could not achieve this were I minded to allow the appeal.
14. For these reasons, the proposal would not cause harm to biodiversity and would accord with Policies NE2 and NE3 of the CS. Amongst other things, these seek to provide net gains in biodiversity where appropriate and consider trees in terms of individual and group merit.

Safety

15. Although the proposal would make the adjacent footways less pleasurable routes for users in a visual sense, there is no substantive evidence before me showing that there are existing community safety issues along them. Neither is there any substantive evidence to show that the proposed means of enclosure would cause significant issues in this regard, particularly given that elements of surrounding footways are under natural surveillance by dwellings.
16. On this basis, the proposed development would not be harmful to the safety of footway users. It would therefore accord with Policy ST3 and BH1 of the CS which, amongst other matters, requires development to provide safe and convenient access for all road users and function well.

Planning Balance

17. The scheme would unacceptably harm the character and appearance of the area. It would therefore fail to fulfil the environmental objective of sustainability within the Framework. Although the proposal would not result in harm to biodiversity and in terms of the safety of users along nearby footways, the absence of harm is a neutral factor in the overall balance.

18. It follows that the proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

19. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR