



Appeal Decision

Site visit made on 12 September 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/X1355/W/23/3326086

Land at West Farm, Old Shotton, Peterlee SR8 2NA

- 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 Andrew Stout against the decision of Durham County Council.
 - The application Ref DM/22/00941/FPA, dated 25 March 2022, was refused by notice dated 19 May 2023.
 - The development proposed is described as detached house (application to extend extant permission expiry 21/05/2022).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted with the appeal to illustrate a dwelling with accommodation over 3 floors instead of 2 floors, with altered siting and site layout. The Planning Guide: Planning appeals – England advises that it is important that what is considered by the Inspector is essentially the same scheme that was considered by the LPA and interested parties at the application stage. While it was submitted during the processing of the planning application and the views of consultees were sought, the amended scheme was not ultimately considered by the Council. Taking into account the substantially different siting and design, including window arrangement, I cannot be certain that it would not lead to possible prejudice to interested parties, including the neighbours, if I was to accept the amended scheme. Therefore, I have determined the appeal on the basis of the plans considered by the Council.

Main Issues

3. The main issues are the effects of the proposal on:
 - i) The character and appearance of the area; and
 - ii) The living conditions of future occupiers, with particular regard to private outdoor space.

Reasons

Character and appearance

4. The appeal site is an irregularly shaped parcel of land between The Green to the east and the landscaped A19 corridor to the west. It is in the village of Old Shotton, which includes mixed age properties including single and 2 storey terraced dwellings, former farm buildings and detached dwellings. Old Shotton is in a well-wooded setting at the edge of a larger settlement.

5. The proposal would be accessed via, and well set back from, The Green. The dwelling would be set in a narrow tapering plot bordered by residential development to the east and south and with mature trees along its northern boundary. The dwelling would form part of a building group including detached single storey dormer dwellings and detached garages. Its greater height would be mitigated by the change in ground levels and it would be finished in materials to match the neighbouring dwellings. The Council considers that the design would be acceptable in this location and I see no reason to disagree.
6. The canopies of the neighbouring trees along the northern boundary overhang the appeal site. While there are differences between the site plan and the topographic survey, the plans suggest that the dwelling would be very close to the root protection zones and within the canopy spread of trees. However, no substantive evidence in the form of an arboricultural impact assessment appears to have been provided to demonstrate that the root protection zones could be adequately protected and that trees would not need to be significantly pruned to facilitate construction of the dwelling.
7. Moreover, the proposal also fails to consider the implications of the future growth of trees for the appeal scheme. There would be ground and first floor windows close to edge of the tree canopies. Even if the trees did not affect future light and outlook to the windows, the dwelling would be affected by branches and leaf fall. Taking into account the degree of shading to the parking area and garden and the associated management burden, future occupiers would be likely to seek to substantially prune or fell the nearby trees. Particularly if the occupiers' safety was an issue, or the trees were causing damage, it would be difficult for the Council to resist tree works applications.
8. Consequently, the proposal would result in the loss of mature trees that form part of the established wooded setting of Old Shotton. While the trees are set well back from The Green, their tall canopies are visible in public and private views and they form part of the backdrop to the settlement. Moreover, the trees are prominently located adjacent to the A19, where they form part of a verdant tree-lined corridor and they function to screen the settlement edge. The trees are also conspicuous and function as a visual amenity to users of the footpath that runs between the A19 and the settlement edge at this point.
9. The loss of trees along the appeal site boundary would open up views of the settlement from the A19 and the adjacent footpath. The proposal would diminish the woodland landscape setting for the village, which would detract from the strong established sense of place and local distinctiveness of Old Shotton. The constrained nature of the site would not accommodate compensatory replacement planting.
10. Therefore, I conclude that the proposal would harm the character and appearance of the area. It would conflict with policies 29 and 40 of the County Durham Plan adopted 2020 (the CDP). These require, among other things, that proposals should contribute positively to an area's locally distinctive character, townscape and landscape features and that existing trees that contribute positively to the locality are adequately retained and integrated, having regard to factors including potential future conflict, future management requirements and growth potential. It would also conflict with the aims of the National Planning Policy Framework in relation to development being sympathetic to its surroundings, maintaining a strong sense of place and acknowledging the

important contribution that trees make to the character and quality of the environment and to climate change mitigation.

Living conditions

11. The dwelling would be well separated from the neighbouring dwelling, 2 Barn Court, and views towards the rear garden of No 2 would be screened in part by the intervening garage. The proposal would also be well separated from the neighbouring dwelling to the south, The Tree Tops, and the non-habitable room window in the facing gable would not result in overlooking of the neighbouring habitable room windows. Therefore, the proposal would not be detrimental to neighbouring residential occupiers.
12. The layout illustrates a large area of hardstanding carparking towards the centre of the plot, with a narrow tapering garden area at the western end and the dwelling at the eastern end. The dense overhanging trees to the north and west would significantly overshadow the house and its garden during the afternoon and evening, which are the times of day that future occupiers would be most likely to be outside. By virtue of the layout and deep shade, the proposal would not provide high quality private outdoor space suitable for family use, including sitting out and socialising, the drying of laundry and children's play. Furthermore, taking into account the growth and longevity of the trees, future spread of rooting areas and canopies would increasingly overshadow the garden and conflict with the building and parking areas, to the further detriment of residential amenity.
13. Therefore, the proposal would fail to provide an adequate standard of living conditions for future occupiers, with particular regard to private outdoor space. It would conflict with the residential amenity aims of CDP Policy 29.

Other Matters

14. The appeal relates to a resubmission of a previously approved scheme (ref DM/18/02482/FPA). However, the permission was not implemented and it lapsed before the Council determined the planning application subject of the appeal. As the earlier permission cannot now be implemented, it is not a fallback position at this site. Moreover, while the scheme was acceptable in the earlier policy context of the Easington District Plan, the CDP is the development plan for the purposes of the appeal. As can be seen from my decision, I found harm and conflict with the development plan. Consequently, while the principle of development may be acceptable, the previous permission does not provide a justification for the appeal and it carries limited weight in its favour.
15. The proximity of the A19 means that future occupiers would be subject to traffic noise, with consequent adverse impacts on their living conditions. Although a noise impact assessment has not been provided with the appeal, I understand that an assessment was carried out and it recommends a range of mitigation measures including noise barrier fencing, façade sound insulation and acoustic glazing and ventilation. While the Council is satisfied that the necessary mitigation measures could be secured by the imposition of a planning condition, this, and other matters that accord with the development plan, are neutral factors.
16. The proposal is within 6km of the Heritage Coast Special Area of Conservation (SAC), designated for its unique vegetated sea cliffs on magnesium limestone

exposures. The SAC supports a complex mosaic of habitats with rare species growing together in unusual and species-rich assemblages. The habitats and species are vulnerable to recreational visitor pressure. Consequently, in accordance with the Council's Habitat Regulations Assessment: Developer Guidance and Requirements, the proposal would incur a sum of £756.61 to mitigate the increased recreational pressure. Although I understand the payment would need to be secured by means of a planning obligation, no Unilateral Undertaking or Section 106 agreement has been provided and the proposal does not demonstrate that the impacts on the habitats site would be adequately mitigated. Nevertheless, as I am dismissing the appeal for other substantive reasons, this is not a matter that I need to consider further.

Conclusion

17. For the reasons set out above, I conclude that the proposal would harm the character and appearance of the area and it would fail to provide adequate living conditions for future occupiers, with particular regard to private outdoor space. It would conflict with the development plan and there are no material considerations, including the lapsed planning permission, that would outweigh that conflict.
18. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR