



Appeal Decision

Site visit made on 10 October 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023

Appeal Ref: APP/N1160/W/23/3321016

53 Newnham Road, Plymouth PL7 4AW

- 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 Neal Hiscocks of Cornerstone Homes (SW) Ltd against the decision of Plymouth City Council.
 - The application Ref 22/01836/FUL, dated 3 November 2022, was refused by notice dated 28 February 2023.
 - The development proposed is described as "the proposed application is for a residential development of 2 new dwellings and renovation to an existing dwelling."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on biodiversity.

Reasons

3. In respect of biodiversity, although the proposal is not major development, there is no dispute between the parties that it should be assessed in a manner proportionate to the type, scale and impact of development, as set out in Policy DEV26 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (JLP). This policy also says that enhancements for wildlife within the built environment will be sought where appropriate from all scales of development. Additionally, SPT12 of the JLP amongst other things seeks to protect, conserve and enhance the natural environment.
4. Paragraph 174 of the National Planning Policy Framework (the Framework) requires that decisions should contribute to and enhance the local environment in a number of ways, including provision of net gain in biodiversity. The Planning Practice Guidance (PPG) defines biodiversity net gain as works which *deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development. Biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures*¹.
5. The appellant submits that the Small Site Metric will not become law until April 2024 and it is therefore not relevant to this appeal. However, the PPG says that *the biodiversity metric developed by Defra and Natural England can be used to demonstrate whether or not biodiversity net gain will be achieved. It enables calculation of losses and gains by assessing habitat. The metric translates habitat distinctiveness, condition and extent into a score which is*

¹ Paragraph: 022 Reference ID: 8-022-20190721

presented in biodiversity units. To achieve net gain, a development must have a sufficiently higher biodiversity unit score after development than before development². As such, although described as a 'beta test' version and recognising the provision of a 10% biodiversity net gain would not currently be required, I am satisfied that the aforementioned biodiversity metric is relevant to this appeal.

6. The appellant's submitted ecological statement (ES) correctly identifies the site's pre-clearance results against the aforementioned metric. These show that additional hedgerows would result in a 106.58% increase in that unit above the baseline habitat. In that context, the ES advises that in the longer term, these hedges would be managed through traditional hedge laying/steeping once every 10 to 15 years. However, although a management plan condition is suggested that would mitigate against other biodiversity harm, including soft landscaping connections, habitat piles and bird/bat nesting bricks, I cannot be certain that the longer term hedge management measures would be enforceable through the use of such a condition. As such, there is no other mechanism before me that would effectively secure the long term management of these biodiversity features.
7. The area habitat would see a net unit change of -64.34% due, in part, to the large areas of proposed vegetated gardens which would provide poor target conditions. In light of this significant loss in a habitat unit and in an attempt to comply with the off-site compensation requirements of Policy DEV26 of the JLP, the appellant has submitted a Unilateral Undertaking (UU) which intends to provide a financial contribution by way of additional mitigation towards habitat loss. However, the UU is in a draft form and is not signed or dated. It therefore cannot be relied upon. For these reasons, even if the proposed hedgerows could be maintained in the longer term, the proposal would nevertheless result in a significant harm to the area habitat. The proposal would therefore not deliver proportionate biodiversity net gains or enhancements for wildlife.
8. I therefore conclude that the proposal would have an unacceptable effect on biodiversity. As such, the proposal would be in conflict with Policy DEV26 and SPT12 of the JLP. It would also fail to accord with paragraph 180 of the Framework where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

Other Matters

9. The appellant submits that the proposal would provide much needed high quality, well designed, appropriately scaled, energy efficient housing in a sustainably located area, making use of an empty corner site. They add that the development would deliver social and economic benefits through the creation of jobs during the construction phase, and that matters including drainage, access and contamination could be dealt with via appropriately worded conditions. However, any such benefits and mitigation would not sufficiently outweigh the harm I have identified above.

² Paragraph: 025 Reference ID: 8-025-20190721

Conclusion

10. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR