



Appeal Decision

Site visit made on 11 February 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal Ref: APP/W4515/W/24/3356896

Land at Briardene Way, Backworth, Newcastle upon Tyne

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Samuel Neale of Northumberland Estates against the decision of North Tyneside Council.
 - The application Ref is 23/01170/FUL.
 - The development proposed is construction of 6no. 2 bed apartments with associated access, landscaping and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two reasons for refusal on the decision notice, however the Council has confirmed that they no longer intend to pursue the second reason for refusal relating to a protected site. A signed and dated Unilateral Undertaking (UU) to secure the required coastal mitigation has been submitted and I will return to this matter later in my decision.
3. On this basis, the main issues are the effect of the proposal on:
 - the character and appearance of the area, including landscaping; and
 - biodiversity.

Reasons

Character and appearance

4. The appeal site is a grassed area of land associated with the adjacent housing estate. It forms part of a landscaped corridor between the A19 and the dwellings that front Briardene Way, providing an appreciable spaciousness and visual separation between the built forms. The site has an open character with verdant qualities that contributes positively to the character and appearance of the area.
5. The proposal has been designed to reflect the nearby dwellings, however it would erode the spatial qualities of the area and result in a noticeable increase in built form within the verdant landscaped corridor. Despite having a small footprint in the context of the corridor as a whole, the proposal would interrupt the linear landscaping. This visual intrusion would be readily apparent in views from the nearest dwellings, and to pedestrians, cyclists and vehicles along Briardene Way. Moreover, the positive contribution the site makes in aesthetic terms to the

character and appearance of the area is clearly valued by residents. Consequently, the loss of this area of undeveloped land would be detrimental to the prevailing character and appearance of the area.

6. The site's inclusion in the landscape strategy for the permitted reserved matters scheme for the adjacent housing estate is said to be as a result of the re-alignment of the main road which resulted in an area of surplus land. Nevertheless, and despite being shown as land for housing on an illustrative masterplan at the outline stage, the appeal site has an important function as a clear component of a linear landscaped area. In doing so it forms an integral part of the design quality of the permitted reserved matters scheme.
7. While the site is small, it is relatively flat in comparison to the majority of the wider undulating landscape buffer and so provides residents with the opportunity for access to a usable area of green space. The appeal site is not designated as open space or green infrastructure, nevertheless, the development of the site would result in the worsening of green space provision for residents. The appellant maintains that the appeal site is not publicly accessible, however it is labelled on the reserved matters approved Landscape Strategy Plan as an area of public realm. Even though there are other areas of designated open space in the locality, interested parties indicate that the site is a much-valued area used by dog walkers, bird watchers, children and families. I have no reason to doubt residents' comments and that the appeal site has an important community function.
8. Green infrastructure can comprise the broadest range of green spaces and can provide more than one benefit. Despite being adjacent to the A19, as part of a linear landscape buffer it is reasonable to view the appeal site as forming part of the green infrastructure network. Interested parties have indicated that the site has value to the community in terms of access and function and so the proposal would not meet the circumstances where the loss of green infrastructure would be acceptable, set out in North Tyneside Local Plan (2017) (NTLP) Policy DM5.2.
9. The proposal would result in the loss of green space, and it has not been demonstrated that as part of the green infrastructure network the site does not have value to the community in access and function. Overall, it would fail to take the opportunity to enhance the area and the way it functions and would thus diminish the quality of development compared to the previously approved scheme, contrary to the aims of the Framework which seeks well designed places.
10. To conclude, the proposal would be unduly harmful to the character and appearance of the area, including landscaping and would be in conflict with NTLP Policies DM5.2, DM5.3 and DM6.1. Amongst other things, these policies require development that would result in the loss of any part of the green infrastructure network to demonstrate that the site no longer has any value to the community in terms of access and function. In addition, accessible green space will be protected, and proposals are required to be designed responsively to landscape features and have a positive relationship to neighbouring buildings and spaces.

Biodiversity

11. The planning application (subject of this appeal) pre-dates the introduction of a statutory requirement for Biodiversity Net Gain (BNG). However, NTLP Policy DM5.5 includes a requirement that proposals protect biodiversity, minimise the fragmentation of habitats and wildlife links and incorporate features providing net

gains to biodiversity. No minimum percentage is specified, but the policy is clear that a net gain should be achieved. In addition, NTLP Policy DM5.9 requires that existing trees, hedgerows and landscape features are protected.

12. The appellant has utilised the standardised BNG metric as a measure of the existing biodiversity value of the site and of the anticipated change in biodiversity units as a result of the proposal. The pre-development biodiversity value of a site is a critical step in establishing whether BNG would be delivered. Two BNG metrics have been submitted. BNG Metric V1 is based on the site as existing, and BNG Metric V2 is based on the landscaping subject of the reserved matters permission having been fully implemented and established.
13. The Landscape Strategy Plan approved as part of the reserved matters permission indicates that the appeal site was to be a gateway landscape feature, planted with wildflower grass, drifts of native bulbs and native shrub planting to provide all year-round cover and species of benefit to wildlife and biodiversity. This is also shown on the approved Planting, Ecological Mitigation and Management Plan. A condition was imposed on the reserved matters permission to ensure that any trees or plants that die or become seriously damaged or diseased within 5 years are replaced.
14. The Council has concerns that the landscape strategy has not been fully implemented and the matter is said to have been referred to enforcement. The appellant's submissions have not provided any substantive evidence to account for the poor quality of the landscape and indicate that BNG Metric V1 should be the basis for the calculations.
15. However, the Arboricultural Impact Assessment (2023) states that the majority of trees planted at the appeal site have died which is attributed to poor ground preparation and a lack of aftercare, particularly watering. Furthermore, the BNG Assessment also appears to suggest that the agreed landscape works associated with the adjacent development have not been completed and indicates that some elements were not implemented correctly. For example, to the south of the site wildflowers are shown on the approved landscape strategy but mixed scrub has been planted.
16. In my mind this creates uncertainties about whether the current quality of the site is the correct basis for the BNG calculation. If a site had been deliberately cleared to nullify its biodiversity value, it would be appropriate for the BNG calculation to consider the habitats that were originally present. In the same way, it therefore seems to me that it is reasonable to base an assessment of the appeal site on BNG Metric V2. Furthermore, this would take account of the planting at the site having only recently been planted and so would ensure that habitats for wildlife are left in a measurably better state than they were before. In doing so it would ensure that the proposal meets the requirements of NTLP Policies DM5.5 and DM5.9 that development should protect biodiversity and protect and enhance the overall condition and extent of trees.
17. Based on BNG Metric V2, the assessment shows that there would be a net loss of biodiversity of -10.81%. While some enhancement measures are proposed, the scheme would not deliver a net gain in biodiversity. It would be inconsistent with the aims of Framework paragraph 187 that requires planning decisions to

contribute to and enhance the environment by, amongst other things, minimising impacts on and providing net gains for biodiversity.

18. For the reasons given above, I conclude that the proposal would be harmful to biodiversity and would conflict with NTLP Policies DM5.5 and DM5.9.

Protected Site

19. The North Tyneside Coastal Mitigation Supplementary Planning Document (2019) identifies that development in all parts of North Tyneside is required to contribute to fund a tariff-based approach to coastal mitigation. This will ensure there are no likely significant effects from development in the area on the Northumbria Coast Special Protection Area, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the regulations).
20. A dated and signed UU has been submitted to secure the required contributions. Nevertheless, the regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat. As the scheme is unacceptable for other reasons, it is not necessary for me to consider the implications of the proposal upon the protected site.

Planning Balance

21. I have found that the proposal would be harmful to the character and appearance of the area and harmful to biodiversity, in conflict with NTLP Policies DM5.2, DM5.3, DM5.5, DM5.9 and DM6.1. I attach significant weight to these harms.
22. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites, it is therefore correct to apply the presumption in favour of sustainable development set out in Framework paragraph 11 d) ii. It is agreed that the latest available housing land supply position is 3.37 years or 3,485 dwellings from November 2022, based on the housing requirement set out in the development plan. The appellant suggests that these figures would be lower still taking account of under delivery since 2022.
23. While the Council's position is that they did not have a five-year housing land supply at the time of their decision and that position has not changed for this appeal, in line with Framework paragraph 78, as the development plan is more than five years old, housing land supply should be based on local housing need. The appellant indicates that based on the standard method, the need for housing increases from 780 dwellings per annum (dpa) to 989 dpa. Thus, at best the Council has a 3.37 year supply but the position based on local housing need is likely to be worse, resulting in the need for more housing.
24. In this context, the proposal would deliver six homes in an accessible location. In doing so it would help to address the shortfall of housing and would deliver small dwellings to meet local needs. Taking account of the scale of the proposal and meeting the needs of specific groups, although there is considerable support for new housing, the benefits in terms of the overall position would be moderate. I therefore give these social benefits moderate positive weight.
25. There would be no provision for affordable housing and the proposal would not secure a well-designed place for the reasons explained under my main issue. The provisions of the Framework seek to deliver both a sufficient supply of homes and

well-designed places. In addition, the Framework says that the creation of high-quality places is fundamental to what the planning and development process should achieve. That would not be the case for the appeal scheme.

26. The proposal would result in some benefits, but it would also cause harm. Weighing the two up is a matter of planning judgement. In this case, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and in having particular regard to the key policies listed in Framework Footnote 9.

Conclusion

27. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate a decision should be made other than in accordance with it, including the Framework. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR