



Appeal Decision

Site visit made on 11 March 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Appeal Ref: APP/H4505/W/24/3356174

Land at Station Road/ Reay Street, Bill Quay, Gateshead, NE10 0UH

- 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 David Marshall on behalf of Marshall Construction and Letting Ltd against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref is DC/24/00588/FUL.
 - The development proposed is to construct 1 no. new two storey house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 and updated it on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The appeal site was the subject of a recent appeal decision¹, which was dismissed. This scheme sought planning permission for a three-storey dwelling, with a maximum overall height of approximately 9.33 metres. The primary difference between the proposal and the previous scheme is the reduction in height of the proposed dwelling to approximately 7.2 metres. The appeal decision is a material consideration in the determination of this appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of 5 Reay Street (No.5), with particular regard to outlook and light;
 - Whether the proposed development would deliver Biodiversity Net Gain; and
 - The effect of the proposed development on the character and appearance of the area.

¹ Appeal Ref: APP/H4505/W/24/3340974

Reasons

5. The appeal site comprises an area of grassed land situated on Reay Street. It forms part of a wider site which extends to Station Road. The surrounding area is mixed in terms of its character and includes parcels of vacant land, residential properties, a public house and industrial uses towards the river.
6. The appeal site forms part of a larger site for which planning permission² has been granted for the construction of three, three-storey dwellings. This application originally included a fourth dwelling, but this was removed. The proposed development would involve the construction of a detached, two storey dwelling, which would be of a similar design and appearance to the approved dwellings, albeit reduced in height.

Living Conditions

7. The residential property 5 Reay Street (No.5) is located adjacent to the appeal site, it fronts onto Reay Street, with its side elevation facing directly towards the appeal site. No.5 appears single storey when viewed from the front, but due to changes in land levels is two-storey at the rear.
8. The proposed dwelling would be set back from the road to allow for driveway parking to the front of the property. As a result, it would not follow the building line of the existing properties and would extend substantially beyond the rear elevation of No.5. Due to its siting and proximity to the neighbouring property, the proposed dwelling would be likely to result in an unacceptable loss of light to the side and rear elevations of No.5, as well as to parts of their garden.
9. The appeal site is located on higher ground than No.5 and although I accept that the proposals include works to lower the ground levels to match the road level, which would reduce some of the adverse effects of the proposed dwelling, its height and proximity to No.5 together with its overall size and depth, would result in an overbearing presence to the side and rear facing windows of No.5. This would result in a restricted and visually oppressive outlook.
10. There are windows in the side elevation of both No.5 and the proposed dwelling; however, those within the proposed dwelling would not be within habitable rooms and therefore I am satisfied that subject to the imposition of planning conditions requiring these to be obscure glazed, there would be no unacceptable loss of privacy for the occupiers of No.5.
11. My attention has been drawn to an appeal decision³ concerning a development to the rear of No.5, which included proposals for two dormer bungalows and an extension to the rear of No.5. The appellant states that this would have had a greater impact on the amenities of the Reay Street properties than the detached dwelling being proposed. However, the effect of a proposed extension to No.5 would be completely different in terms of its potential effects than the proposal before me. Therefore, whilst I accept that had this scheme been built this may alter how the proposed development is assessed, based on evidence provided with this appeal, this scheme has not been implemented and the planning permission may have lapsed. Therefore, I have assessed the impact of the proposed development based on the existing layout and relationship of the appeal site to No.5.

² Planning Application Ref: DC/20/01095/FUL

³ Appeal Ref: APP/H4505/W/19/3239200

12. Consequently, I therefore find that the proposed development would cause unacceptable harm to the living conditions of No.5 with particular regard to outlook and light. Thus, it would be contrary to Policy MSGP17 of the Gateshead Council Making Spaces to Grow Plan, adopted February 2021 (the MSGP) which states that planning permission will be granted for new development where it does not have an unacceptable impact on amenity or character of an area and safeguards the enjoyment of outlook and light.

Biodiversity Net Gain

13. In England, Biodiversity Net Gain (BNG) is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021). Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits
14. In respect of this appeal, the submitted Standard Biodiversity Metric⁴ concludes that the proposed development would result in a loss of 0.2138 biodiversity units equating to a loss of approximately 90%. To achieve BNG on-site, it would require an additional 0.2373 biodiversity units to be provided. The appellant has confirmed that due to the small size of the site that it is not possible to achieve biodiversity net gain on-site. They have therefore suggested that they would be willing to enter into a planning obligation to secure off-site mitigation or to purchase biodiversity credits. They state that this approach was agreed for the adjoining development⁵.
15. Nonetheless, I have not been provided with a suitable obligation, nor any further information to demonstrate it can be achieved. However, as I am dismissing the appeal for other reasons, I have not considered this matter further.

Character and Appearance

16. The Council has not raised any specific concerns in relation to the design, use of materials or layout of the proposed development, but considers it would cause harm to the character and appearance of the area by being sandwiched between the approved three-storey dwellings, and No.5 which appears as a single storey property from the roadside. However, whilst the proposed dwelling would be of a greater height than No.5, the reduction in height of the would provide a transition between the height of the three storey-dwellings and the single storey properties, including No.5 on Reay Street.
17. I therefore find that the proposed development would be compatible with the local character including its relationship to existing and surrounding buildings in terms of scale, height, massing, proportions and form. It would not represent an alien addition to the street scene in the context of the development which has been approved on the adjoining land.

⁴ Revision 1.3 (dated 20 September 2024)

⁵ Planning Application Ref: DC/20/01095/FUL

18. Consequently, I conclude that the proposed development would not cause unacceptable harm to the character and appearance of the area. Thus, it would be in accordance with Policy MSGP24 of the MSGP and Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle 2010-2030, adopted March 2015, which require amongst other things, development to be compatible with local character including relationship to existing townscape and frontages, scale, height, massing, proportions and form.

Other Matters

19. I note that the appellant has expressed frustration with the planning application process and communication by the Council, including but not limited to, procedural problems, change of case officer on more than one occasion and different advice being provided. Nonetheless, I am appointed to determine the appeal for this particular proposal only and these matters have no bearing on my assessment of the case.

Conclusion

20. For the above reasons, the proposed development would conflict with the development plan when considered as a whole. There are no material considerations of sufficient weight that would outweigh the conflict. Therefore, I conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR