



Appeal Decision

Hearing Held on 10 March 2020

Site visit made on 9 March 2020

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2020

Appeal Ref: APP/M4510/W/19/3237896

Cells B & D, Land to the north of Hexham Road, Throckley, Newcastle Upon Tyne NE15 9DT

- 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 Gentoo Homes and Greenwich Hospital against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2015/1796/33/RES, dated 5 July 2018, was refused by notice dated 25 March 2019.
 - The development proposed is submission of details of access, appearance, landscaping, layout and scale for the development of 46 dwellings in cells B and D of Phase 1, pursuant to outline planning permission 2015/1796/01/OUT, dated 2/3/17 for the development of up to 580 houses. As amended by plans and information received on 8 February 2019, 5 March 2019 and 21 March 2019.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's Decision letter and the appellant's appeal form as this accurately describes the development proposed.
3. The proposal relates to reserved matters associated with an outline planning permission 2015/176/01/OUT for housing on the site. Condition 3 of the outline planning permission requires subsequent reserved matters relating to the development to comply with the principles established in the Throckley North Revised Masterplan (including Design and Access Statement, Design Code and Infrastructure Delivery and Phasing Plan) (Masterplan). I consequently give this document weight as a material consideration.
4. There is reference in the appellant's statement to a second appeal associated with application 2015/1796/15/RES. However, my assessment relates only to the planning application referenced 2015/1796/33/RES.
5. Since determination of the planning application the Council's Development and Allocations Plan 2015-2030 (DAP) has been found sound. At the Hearing the Council identified an intention to adopt the document in June 2020. I have consequently given due weight to the Policies contained within it.

6. To reflect the requirements of Policy DM6 Accessible Properties in the DAP, the appellant has consulted on minor amendments to the scheme. The Council confirmed at the Hearing that they consider the amendments to be minor in nature and so they would not materially alter the scheme or the ability of interested parties to take a view on it. There is little before me to lead me to a different conclusion.
7. A Unilateral Undertaking has been submitted during the course of the appeal. The Council confirmed at the Hearing that the submission of the document overcomes their fifth reason for refusal. I have determined the appeal on this basis.

Main Issues

8. The main issues are:

- The effect on the character and appearance of the area as a result of the design and layout of plots 2-11, 20, 21 and 22 and the adequacy of the proposed landscaping.
- Whether the proposal would provide acceptable living conditions for future occupiers of plots 2-10, 19, 20, 21, 23, 24, 28, 29, 35, 36 and 39 with regards outdoor amenity space and the effect on the living conditions of the future occupants of the dwellings with regards outlook and privacy.

Reasons

Character and Appearance

9. The appeal site is an irregular shaped plot of open land previously in agricultural use. It forms part of a wider site granted planning permission for 580 dwellings. To the west of the site, separated by a spine road is housing under construction (referred to as the Cussins cell). To the east, separated by a waggonway and a copse is what is referred to as the Miller cell. To the south of the site is an embankment topped with hedgerow which at its steepest has a 1 in 3 gradient.

Plots 2, 20, 21 and 22

10. Plot 2 sits in the south west corner of the site adjacent to the access to the spine road. It would be the first property to be viewed when looking east upon entering the site. Plot 22 would also sit in a prominent location at the corner of the entrance to the proposed southern access road, off the spine road. Both dwellings would be standard house types. Whilst plot 22 would be animated with weatherboarding and windows, there would be little to distinguish either property as forming part of a feature block location, even if accepting that the gable of plot 2 has been deliberately designed to be unseen when arriving into the site, and noting the reference to subtle variation in terms of facing materials or details in the design code of the Masterplan. Comparisons made with plot 36 of the Cussins cell do not alter my view on this.
11. The rotation of plot 22 may have been designed to mirror the approach taken with plot 36 of the Cussins cell and create an arrival point. However, the orientation and design features of the plot would generate a poor view when travelling south out of the site. It would be dominated by small narrow windows providing minimal relief on the façade of the dwelling and the rear

garden wall. Its curved shape would add minimal interest. The impact would be exacerbated by the fact that the dwelling would stand on higher ground and forward of the other properties on the spine road. It would be an incongruous addition that would not create a positive arrival point. It would therefore do little to justify breaking the consistent building line that would be experienced elsewhere along the spine road, in line with the Masterplan design advice for the southern gateway.

12. The design and layout of plots 2 and 22 would contribute little to active surveillance. Although plot 2 would front onto the spine road, the side elevation facing the slope would offer little surveillance as a result of a single small window which serves a non habitable space. The layouts and windows/ French doors of plots 3-10 would not address the lack of an active edge in that part of the southern boundary due to their orientation. Whilst accepting the surveillance provided by the properties that front onto the spine road, plot 22 would only have 2 small windows on the gable end fronting the spine road, one of which would serve a first floor cloakroom and so provide little surveillance. Similarly, the ground floor would serve the corner of a living room, generating little in the way of natural surveillance.
13. Plots 20 and 21 would stand forward of plots 15-19. Whilst acknowledging that its purpose is to increase the garden space available to plots 20 and 21, this and the position of the plots in relation to plot 22 would mean the unrelieved gable wall of plot 21, along with hardstanding of the wide forecourt to the double garage of plot 22 would be prominent when entering the road. The setback of the garages would do little to mitigate the impact. The bland visual appearance would have a harmful impact on the character and appearance of the area.

Layout of Plots 2-11

14. Plots 2-11 would be rear facing onto the southern slope. As such the housing would not positively address the space. Irrespective of any visual or biodiversity benefit resulting from the proposed planting on the southern slope, the orientation of the dwellings would close off the open space visually and physically to all those except the occupants of the plots on the southern boundary.
15. There is dispute between the parties regarding whether the open space should be open to the public. Irrespective of this, whilst the Masterplan may not specifically reference the orientation of buildings on the southern boundary, page 58 of the document identifies active frontages onto all streets, pedestrian routes and open spaces as a key feature of the design philosophy.
16. The landscape element of the Masterplan incorporates the principle of a network of landscaped buffer zones or corridors around the perimeter of the site providing off road circular routes linked to existing and proposed recreational paths crossing the site and within the surrounding area.
17. There is disagreement between the parties as to whether it is physically possible to walk along the slope. Even if it was not possible, it would not prohibit walking along its base enabling delivery of a green routeway. The appellant has identified that as a whole the development would deliver 3 times more open space than required by Policy. Be that as it may, the proposal would

not provide an opportunity for a key green recreational route that would link phase 1 and 2 of the development.

18. Whilst I accept that the proposed route would provide a direct link between the Miller cell and the Cussins cell, I disagree with the appellant that the alternative route proposed would have the same recreational value as a green recreational route as the setting would be very different. There is little before me to substantiate that a route different to that proposed would be contrary to secured by design principles or would be an illogical route, as suggested by the appellant. Whilst the point of linkage with the waggonway may be fixed, it has not been adequately demonstrated that a route that utilises the landscaped perimeter edge referenced in the Masterplan cannot be delivered.
19. The appellant has said that it is not possible to get public liability insurance to cover public access to the slope. However, this is not confirmed in the evidence before me. The email in appendix 28 of the appellant's statement of case identifies questions raised following discussions with the underwriters but it does not say insurance cannot be provided. This limits the weight I attach to it.
20. The appellant says Plan 900_12 Paths and Routes Rev E attached to reserved matters infrastructure permission 205/19796/15/RES acknowledges that the slope cannot be utilised for recreation. However, there is little before me to suggest that the pathway through the Gentoo site is fixed through that plan. Indeed, the key of the plan makes a distinction between informal paths/ routes denoted with a solid line and informal/ links 'to be provided in development cells by developers' with a hashed line. I do not consider the route to be fixed on that basis.
21. The appellant has identified that housing backing onto the slope in the Cussins cell was found acceptable. However, I note that the length was shorter and the schemes are not directly comparable. In any event, each case is determined on its own merits and my assessment is based on the information before me.
22. At the Hearing the appellant identified an intention to close off the land with wire fencing and hedging outside the site boundary, providing maintenance only. The appellant suggests that this has been endorsed by bodies involved in community safety and crime prevention, alongside target hardening measures which it is noted would be provided at the properties on the southern boundary, enabling a Secured by Design Award. However, in my reading of the evidence the comments made appear to be on the basis of there being no feasible alternative layout possible. On the evidence before me I am not convinced that is the case. As designed, the area along the southern boundary would become an ambiguous space susceptible to the potential for crime and anti social behaviour. The extra security measures proposed for the dwellings would not justify poor design.

Landscaping

23. The appellant has identified that the width of the proposed highways within the development has informed the landscape features in the layout of the scheme. However, I have not been presented with any substantive evidence that an alternative road layout would lead to the same outcome.
24. Where trees cannot be accommodated within front gardens due to spatial and highway constraints, shrubs are proposed. However, whilst accepting that in

some instances trees would be planted in front of integral garages, too often the planting of trees and shrubs would be located very close to the windows of properties. It is reasonable to expect that this would likely lead to pressure to cut back or remove the vegetation, even if low growing and evergreen species were used.

25. Similarly, in some cases planting beds would not be directly overlooked by the dwelling responsible for its maintenance, raising issues with regards to its long term upkeep. Whilst the appellant has identified that purchasers would have sight of the landscaping scheme prior to purchase, I am not convinced that this would obviate the risk of the pressure once the future occupants were living with the practicalities of the proposal. The narrow soil depth and width of planting borders on the southern and central roads of the scheme means that it is questionable whether the proposed planting would survive in the long term. The levels of soil required to support tree growth identified by the Council were not disputed by the appellant at the Hearing.
26. The scheme would have a highly engineered appearance dominated by the highway and car parking, fencing and walls. The proposed landscaping would provide little relief. There would be a particularly harmful impact on prominent street corner locations. For the reasons identified, I am of the view that cumulatively the visual softening of the built development from the proposed landscaping is over estimated.

Conclusion on Character and Appearance

27. The development would harm the character and appearance of the area and as such would conflict with the parts of Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (CSUCP) which requires new development to ensure connectivity, accessibility and legibility. It would also conflict with Policy ENV1.1 of the Newcastle upon Tyne Unitary Development Plan (UDP) which amongst other things requires new development to take full advantage of landform, landscape and other design features and incorporate hard and soft landscaping as an integral part of the design, maximising tree planting where appropriate and providing for its long term maintenance. It would also conflict with the part of Policy H4 of the UDP which requires high quality design and landscaping in all housing developments with particular attention paid to the character and quality of the local environment, safe convenient and comfortable circulation for pedestrians and measures for designing out crime.
28. Furthermore, the development would conflict with Policy DM20 of the DAS, the relevant parts of which require new development to deliver high quality and sustainable design by demonstrating a positive response to topography and natural and built landscapes, taking a comprehensive and co-ordinated approach to development, incorporating hard and soft landscaping as an integral part of the design, and ensuring development contributes to a reduction in crime and disorder, including delivering safe and secure buildings and spaces. It would also conflict with the parts of Policies DM27 and DM28 of the DAS which require development to optimise the benefits and enhance green infrastructure assets and contribute towards the delivery of new assets and which requires development to protect, enhance and manage existing trees and landscape features.

29. The scheme would also conflict with paragraph 127 of the National Planning Policy Framework (NPPF) which states that new developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Living Conditions

30. Plots 3-10 of the development have very short gardens, ranging in depth from some 5-7.5 metres. Whilst the gardens would cover the width of the dwelling, the overall size of the amenity space would nevertheless be small, particularly plots 3, 4, 8 and 9 which are semi detached dwellings. When adding refuse bin storage and cycle storage there would be limited space for activities associated with the garden such as drying clothes, sitting out and play. Even if, as the appellant suggests, small gardens are not uncommon in the city and that not everyone wants a large garden, in my view the level of amenity space would not be of a size appropriate for use by future occupiers, given what is proposed is family accommodation.
31. The short depth of gardens in plots 3-10 mean the boundary walls and fencing and the southern slope would be in very close proximity with direct views of it. This would create a restrictive and oppressive outlook due to the height and proximity of the embankment. There would also be limited outlook from the side of plot 2 which sits parallel to the slope. The situation would be exacerbated by the proposed planting on top of the embankment, adding additional height. It would cast a shadow over the garden spaces having a harmful impact on light, even if there would be no impact on privacy following measures to deter walking along the ridge as indicated by the appellant. There would be a real possibility of a pressure to prune or remove vegetation which would have a harmful impact on the green infrastructure network, even if the tallest trees were placed furthest away from the gardens. An annual review through the landscape management plan proposals would do little to mitigate the harm. Nor would the large format glazing to the living/ dining space to the rear of the properties.
32. At some 15.6 metres the separation distances between plots 28/29 and 35/36 would be significantly below the 21 metres identified in the Council's DCPS 17 – Spacing Standards for Residential Developments. The small front garden spaces would offer limited ability to soften overlooking with planting.
33. Plots 19, 20, 21, 23 and 24 would have rear separation distances of around 16.2-18.5 metres, measured from the nearest habitable rooms. Plots 19, 20 and 21 would also sit on higher ground and be located immediately south of the lower positioned units. There would also be a 16 metre separation between the rear of plots 36 and 39 with plot 36 sitting on higher ground. In all the cases there would be significant overlooking as a result of close proximity in an area where there would be some expectation of a greater level of privacy. Properties may be orientated to create an oblique angle but they would not be so oblique as to avoid a harmful level of overlooking. The 21 metres separation distance in DCPS 17 may only be a guide but when considered in conjunction with the overlooking to the rear and height differences to the south, the combination would cause an unacceptable level of harm.

34. The appellant has made reference to plots 31 and 33 of the Cussins cell in support of their case. However, there is dispute between the parties as to whether the difference in land levels makes the example directly comparable. In any event, as the plots are in a different location and their orientation is not exactly the same, I consider the circumstances to be different and as such limit the weight given to it.
35. The appellant has said that they have sought to achieve an optimal use of a Green Belt site, in line with paragraphs 122 and 123 of the NPPF. However, the efficient use of a site should not be at the expense of adequate living conditions. Whilst alternative layouts may have been considered with the proposed layout viewed by the appellant as the optimum design solution for a difficult part of the site, it would nevertheless cause harm to the living conditions of future occupants.
36. The proposal would not comply with Policy CS14 of the CSUCP which requires new development to ensure the wellbeing and health of communities is maintained and improved and would conflict with Policy H4 of the UDP which requires new development to provide good standards of outlook, natural light and privacy and measures for designing out crime. The development would also conflict with Policy DM23 of the DAS which includes a requirement for new development to provide a high quality environment and a good standard of residential amenity for existing and future occupants, ensuring development maintains a good standard of daylight, sunlight, outlook and privacy for future occupants.

Other Matters

37. The appellant has identified that a lower density development would raise issues over viability. However, I have little before me to substantiate such a claim and as such give little weight to this consideration.
38. Whilst reference has been made to the community benefits associated with the wider development, the Council confirmed at the Hearing that the development of the recreation ground is linked to the development of the Miller cell. I consequently give little weight to the point made regarding the amenity benefits of the recreational facility in connection with the scheme before me.
39. The appellant has raised issue with the information presented to the Council's Planning Committee prior to the determination of the planning application and the minutes published after the meeting. This is a separate matter between the Council and the appellant. My assessment has been based on the information before me.

Conclusion

40. For the reasons identified and taking into account all other matters, including letters of community support for the development, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Hugh Daglish	IDPartnership
Sharon Lumb	Southern Green
Jo Robinson	DPP
Reuben Taylor	Landmark Chambers

FOR THE LOCAL PLANNING AUTHORITY

James Sewell

Ian Platais

Sarah Miller

John Rippon

INTERESTED PARTIES

Marion Williams	Resident
Anne Whittaker	Resident

DOCUMENTS SUBMITTED AT THE HEARING

Suggested Grampian condition regarding access to the southern slope

Schedule of Plans – refused RM Application 2015/1796/33/RES

Schedule and copies of DM6 Compliant Plans