



## Appeal Decision

Site visit made on 24 March 2009

by **C Hughes BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: enquiries@pins.gsi.gov.uk

Decision date:  
28 April 2009

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### Appeal Ref: APP/H0738/A/09/2092968 Kingfisher Way, Bowesfield, Stockton-on-Tees

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Banks Developments Ltd against the decision of Stockton-on-Tees Borough Council.
- The application Ref 08/0700/REM, dated 27 March 2008, sought approval of details pursuant to condition No 1 of a planning permission Ref 01/0600/P, granted on 6 May 2003.
- The application was refused by notice dated 30 June 2008.
- The development proposed is offices and associated car parking and landscaping in Area R.
- The details for which approval is sought are: siting, design, external appearance and landscaping.

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#### Decision

1. I allow the appeal, and approve the reserved matters, namely siting, design, external appearance and landscaping details submitted in pursuance of condition No 1 attached to planning permission Ref 01/0600/P dated 6 May 2003, in accordance with the terms of the application Ref 08/0700/REM, dated 27 March 2008, and the plans submitted therewith, as amended by plans submitted in June 2008 and suffixed PA243a and PA281a, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

#### Main issue

2. The main issue is whether the development of offices would accord with the terms of the outline planning permission for the site or whether the terms of that permission require a village centre to be located on the appeal site.

#### Reasons

3. Area R forms part of a much larger area, for which outline planning permission was granted for mixed development. Siting, design, external appearance and
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landscaping were all reserved matters. The description of development includes offices, houses and many other uses, but not shops, retail uses or a village centre. The approved plans do not show the distribution of land uses. There is no planning condition specifying the location or provision of a village centre. There is no evidence that a village centre on the appeal site is directly required by the terms of the outline planning permission.

4. Condition 4 of the outline permission states that "Prior to or concurrently with the submission of details relating to Reserved Matters, within 2 years of the date of this permission, a revised Masterplan shall be submitted to the Local Planning Authority for approval". The condition then goes on to set out what the Masterplan should include, but a village centre is not listed for inclusion. The first Masterplan did not include a village centre. Subsequent Masterplans have made provision for such a centre, on or close to the appeal site.
5. However national policy in Circular 11/95 states that any conditions relating to anything other than the reserved matters should be imposed when outline permission is granted. In my view, if the provision of a village centre in a position central to the overall development had been a crucial requirement for sustainability, or other, reasons, such provision should have been imposed on the outline permission. I consider that the introduction of a major feature, a village centre, not referred to in the outline permission, is not a matter which could be left to a Masterplan or Design Guide prepared after the grant of permission. Nor does a requirement of this type fall within the terms of the reserved matters. On the other hand, siting of offices, one of the land uses specifically referred to in the description of the development permitted by the outline permission, does fall within the reserved matters.
6. My overall conclusion on the main issue is therefore that the land use sought by the appeal application accords with the terms of the outline planning permission, whereas the terms of that permission do not require a village centre to be located on the appeal site.
7. I have taken account of all the other matters raised, including arguments concerning sustainability. In this connection the appellant intends to provide a village centre further north within the area of the outline permission, possibly as part of a larger development for which the Masterplanning process is under way. However, these other matters are outweighed by the considerations which have led me to my decision to allow the appeal. In approving the appeal proposal, I am imposing a condition requiring prior approval of materials, in the interests of the appearance of the area. The terms of the approval refer to the plans which form part of the application.

*C Hughes*