

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**30<sup>th</sup> APRIL 2013**

**REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**12/2517/OUT**

**Land At Low Lane, High Leven, Ingleby Barwick  
Outline application for the erection of Ingleby Manor Free School and Sixth Form and  
residential development (350 dwellings) including means of access**

**This Application is now at Appeal (Public Inquiry commencing 14 May 2013)**

**SUMMARY**

Members may recall that at the Planning Committee on 5<sup>th</sup> February 2013, the above planning application was refused on the following grounds;

*Green Wedge/landscape character:*

01. *In the opinion of the Local Planning Authority the proposed development represents an unjustified incursion into the Bassleton Beck valley green wedge and by virtue of its scale and nature would have an unacceptable detrimental impact on the open character and visual amenity of the area and thereby harm the amenity value of the site and the separation that exists between the settlements of Ingleby Barwick and Thornaby, contrary to saved policy H03 of the Adopted Stockton on Tees Local Plan and policies CS3(8) and CS10(3) of the Adopted Core Strategy and paragraph 123 of the National Planning Policy Framework (NPPF).*

*Affordable Housing:*

02. *In the opinion of the Local Planning Authority the applicant has failed to provide any justification or viability assessment that to satisfy the Local Planning Authority that would reasonably justify a reduction in affordable housing provision, from the minimum 20% level identified within the Core Strategy, contrary to the requirements of Policy CS8(5) of the Core Strategy and paragraph 50 of the National Planning Policy Framework.*

The applicants, Tiviot Way Investments Limited (referred to as “the Appellants” hereafter), have subsequently lodged an appeal against the decision to refuse the application, which is due to be heard at a Public Inquiry over 4 days starting on the 14<sup>th</sup> May 2013. Determination of the appeal has been recovered by the Secretary of State for Communities and Local Government to whom the appointed Inspector will report in due course following the close of the Inquiry.

During the course of the appeal preparations the Appellants have increased their offer of affordable housing from 10% to 15% of the housing component (53 of the proposed 350 dwellings) on the basis that this would comply with the lower end of the range set out in Core Strategy policy CS8(5), which gives a target of 15-20% provision on new housing sites.

Furthermore, as a result of Tesco’s recent announcement that it is no longer to proceed with its planned extension to the Ingleby Barwick store, resulting in the planned investment in the highway infrastructure being lost. As the acceptability of the Low Lane scheme, in highway terms, was

based on the provision of the Tesco-funded improvements revised traffic modelling is currently taking place; and the consequent advice from the Head of Technical Services will follow within an update report.

The original report to members of the planning committee and the Council's two submitted proofs of evidence are attached as appendices to this report for background and information purposes.

## **RECOMMENDATION**

*That Members note and agree the following:*

- 1. That the stance taken by officers in the submitted appeal proofs in respect of the impact on the Green Wedge is reaffirmed;**
- 2. That the Appellants' offer of 15% affordable housing provision is rejected, and, the requirement for 20% affordable housing provision (given the greenfield nature of the appeal site) is maintained and consequently that the second reason for refusal stands;**
- 3. That the findings of the Head of Technical Services latest traffic modelling and advice be noted, and, that the Appeal Inspector be made aware of the situation;**
- 4. That Officers be authorised to proceed with the presentation of the Council's case at the appeal upon the basis of those arguments identified within the submitted proofs of evidence and to conduct the appeal thereafter as they deem reasonable in the best interests of the local planning authority.**

## **AMENDED PROPOSAL**

1. During the course of the appeal preparations the Appellants have stated that they are now willing to increase their offer of affordable housing from 10% to 15% in order to address and remove the second reason for refusal. They have asked Officers to seek the formal view of Members.
2. The Appellants' increased affordable housing offer consists of the following elements:
  - Provision of 15% of built units (in line with the lower end of the range identified within Core Strategy policy CS8), which equates to 53 units out of the 350 dwellings sought by the appealed application.
  - The tenure offered would be at 70% rented and 30% intermediate as required by the Strategic Housing Market Assessment (SHMA) and the Head of Housing's comments on the planning application.
  - The proposed housing bedroom mix would also be in line with that identified within the SHMA i.e. that 91% of the offered units would be 2 bedroomed and 9% 3 bedroomed units.
  - The affordable housing would be provided across the site 'in step with the provision of market housing'. i.e. for each of the 50 market houses provided the equivalent 15% of affordable housing would also be provided.

3. Should Members be satisfied with the above offer, this offer would need to be secured through a Section 106 agreement.
4. Members should be aware that no specific Affordable Housing Provider has been identified at present. Furthermore, any Section 106 agreement would need to make provisions to ensure that a suitable affordable housing provider is in place prior to the start of development.

## **CONSULTATIONS**

5. The following Consultees were notified and any comments received are set out below:-

### **Head of Technical Services**

Advice to follow within an update report

## **MATERIAL PLANNING CONSIDERATIONS**

6. The main planning considerations that will be raised at the forthcoming Inquiry stem from the previous two reasons for refusal of the application.

### **Impact on the Green Wedge:**

7. The planning considerations in respect of the Green Wedge are set out in paragraphs 30-39 and 47-51 of the original planning committee report. The arguments, in defending the appeal, are set out within the submitted proofs of evidence (Appendices 3 & 4 to this report). They are discussed, in summary, below.
8. Green wedges are a local designation to which the Council attaches significant importance. Their protection is set out in Core Strategy policy CS10 which is based solely around Environmental Protection and Enhancement. In this instance “the Bassleton Beck Green Wedge” encompasses a wide section of land running along Low Lane and north along Thornaby Road with its purpose to separate the settlements of Ingleby Barwick and Thornaby. The protection of the natural environment is also seen as a core element of the definition of sustainable development and forms a key part of guidance within the National Planning Policy Framework (paragraphs 109 & 113).
9. The Site lies outside the current settlement boundary of Ingleby Barwick and whilst it is acknowledged that this section of Green Wedge is relatively wide and that there would remain some element of separation between Ingleby Barwick and Thornaby/Teesside Industrial Estate, the scale of the appeal proposals is still significant. This would result in the physical reduction of the Green Wedge and an irreversible change in its character from open grazing/informal recreational land with an agricultural “feel” to one of built development with associated landscaping. Its role and function would therefore be significantly diminished.
10. Furthermore, although the impacts of the proposed development can be mitigated through buffer landscaping such screening would take at least 15 years to reach maturity bringing the development much closer to Thornaby and Teesside Industrial Estate in the short to medium term. In the longer term and although screened it would remain evident that built development had been brought much closer to Thornaby simply through the presence of the tree belts and buffer landscaping.

### Masterplan approach

11. The appealed application is for 350 dwellings and a free school. However, this needs to be set in the context of the representation received for the Environment and Regeneration LDD, which identifies that the Appellants have an aspiration to develop a far wider area than that shown within the red edge boundary for the application that was refused by Members in February 2013. It is part of the Council's case that the appealed application is, almost certainly, the precursor to a subsequent planning application or applications to develop a far greater area that could lead to development(s) totalling circa 1,500 dwellings.
12. As outlined above, the Council places great value on the role and function of green wedges; and although considerable value is also placed on the applicable Strategic Gap designation, if greenfield sites need to be released for housing development then it is preferable to release part of the Strategic Gap ahead of this Green Wedge.
13. If it were to be considered necessary to release land currently designated as Bassleton Beck Green Wedge for a housing allocation then it is essential that this is done through a master plan led approach. Such an approach has been fully recognised from the outset of the Ingleby Barwick development and Officers consider that it is fundamental to the ethos of achieving a physically and socially integrated community, such an approach is also emphasised by the NPPF.
14. Officers therefore ask Members to reaffirm the stance that officers have taken, within their proofs of evidence with respect to defending this reason for refusal at appeal on the impact on the Bassleton Beck Green Wedge.

### **Affordable Housing Provision;**

15. The original report to Members set out the planning policy requirements for affordable housing provision in paragraphs 21 –25.
16. As set out within the original report, Core Strategy policy 8(5) requires an affordable housing target of 15-20% on schemes of 15 dwellings or more and on development sites over 0.5 hectares in area. The Council remains committed to achieving housing delivery; and Core Strategy policy CS8 acknowledges this by allowing scope for provision at a rate lower than the standard target where robust justification is provided. The NPPF also makes it clear that alternative arrangements for affordable housing should only be considered where it can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities.
17. By increasing the affordable housing offer to 15%, it is acknowledged that the Appellants' scheme now meets the lower end of the target range set out within this policy. However, as also set out within the original report, on greenfield sites that are attractive to the market (such as this site), a 20% affordable housing contribution is being sought, unless robust evidence is provided to demonstrate that such a requirement would render a scheme unviable. The justification for such a stance is that the 2012 Strategic Housing Market Assessment (SHMA) identifies an annual deficit in the provision of affordable housing of 560 homes and in line with Government planning policy identified within the NPPF there is a need to create sustainable and mixed communities (paragraph 50).
18. The 2012 SHMA identifies that that there is an annual affordable housing target of 81 dwellings for the Ingleby Barwick housing sub-division. Although the revised offer of 15% affordable housing provision (53 dwellings) would go some way to helping to meet this annual target, by

way of comparison, the 20% affordable housing target would provide a contribution of 70 affordable dwellings.

19. In applying Core Strategy policy CS8 the Council has pursued a pragmatic approach, for example if development is proposed on a greenfield site with no known exceptional site development costs that is in an area attractive to the market. This approach has been consistently applied in both dealing with planning application and through pre-application discussions. It is also clearly evidenced by the Council's approach to the Morley Carr Farm planning permission where 20% affordable housing provision was secured and through other planning application where officers have re-iterated and agreed levels of 20% affordable housing.
20. No viability evidence was provided by the Appellants to support a reduced provision as part of the planning application. Nor has any been provided as part of the appeal. It is simply the Appellants' case that the new increased offer now accords with the range set out within policy CS8(5).
21. In considering the revised offer of 15% affordable housing provision as part of the proposed development, it remains the view of your Officers that no evidence has been provided to demonstrate that the development is not viable with 20% affordable housing provision either as a whole, or, that the Free School is not viable independently of the proposed housing. Furthermore, the residential element of the proposed development has not be presented as enabling/facilitating development; and even if the proposed dwellings were necessary to help facilitate the school no evidence has been provided to show that both the school and the affordable housing provision could not be provided by the provision of the 350 dwellings. Consequently, it remains your Officers' opinion that the higher target of 20% affordable housing provision should be maintained and that the second reason for refusal should stand.

#### **Access and Highway Safety Matters;**

22. As Members will be aware, the recent announcement by Tesco that they will not be proceeding with the planned extension to their Ingleby Barwick store, will mean that the £1.3m planned for highway improvements to the Ingleby Barwick road network will no longer be going ahead. These works would have allowed for; the widening to 4 lanes of Ingleby Way between Myton Way and Barwick Way roundabouts; local dualling or widening of Myton Way on the approach to Ingleby Way/Myton Way roundabout; and, the widening to 4 lanes of the carriageway between Myton Way roundabout and the Tesco access roundabout including the dedicate left turn in Tesco.
23. During the traffic modelling exercises to assess the highway impact for this appealed application, account was taken of all planned highway improvements including those identified above. In order to fully assess what the highway implications of the proposed Free School and 350 dwellings would be on the highway network as a result of these improvements no longer going ahead, the highway modelling has needed to be reprogrammed and re-run so that all impacts on the highway can be fully understood, assessed and any appropriate mitigation identified.
24. This work is currently ongoing and the Head of Technical Services will be providing detailed comments on the findings on the traffic modelling through an update report that will be brought before Members in due course.

## **Crime and Antisocial-behaviour**

25. As set out within the original committee report, Section 17 of the Crime and Disorder Act 1998 places a duty on the authority to consider the crime and disorder implications of the proposal. With respect to concerns regarding an increase in anti-social behaviour in the area, there is no evidence to suggest that this would occur and careful consideration would need to be given to the overall layout and design of the development at the reserved matters stage to ensure accordance with secure by design principles. The provisions of Section 17 of the Crime and Disorder Act 1998 have therefore been taken into account in the preparation of this report.

## **Human Rights Implications**

26. The Human Rights Act 1998, which came into force on the 2nd October 2000, incorporates into UK law certain provisions of the European Convention on Human Rights. The provisions require public authorities to act in a way that is compatible with Convention rights. During the determination of the planning application the adjoining residents were engaged, under Article 8, the right to respect for private and family life and Article 1 of the First Protocol, the right of enjoyment of property. The human rights of the owners of the application site may be engaged under the First Protocol Article 1 that is the right to make use of their land.

27. A grant of planning permission involves balancing the rights of a landowner or developer to develop on his land against the interests of the community as a whole and the human rights of other individuals, in particular neighbouring residents. The determination of a planning application in accordance with town and country planning legislation requires the exercise of a discretionary judgement in the implementation of policies that have been adopted in the interests of the community and the need to balance competing interests is an inherent part of the determination process.

28. The original committee report (attached) also sets out the material planning considerations of the application including those relating to residential amenity and although the refusal of planning permission may have infringed upon the applicants right to make use of their land this was balanced against the need to protect the environment and the amenity of neighbouring residents. The provisions of the European Convention of Human Rights have therefore been taken into account in the preparation of this report.

## **CONCLUSION**

29. In view of the contents of this report, Officers ask Members to note and agree the recommendations set out above in order to clarify the Council 's position in respect of defending the appeal.

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer: Mr Simon Grundy Telephone No 01642 528550**

## **WARD AND WARD COUNCILLORS**

<b>Ward</b>	<b>Ingleby Barwick East</b>
<b>Ward Councillor</b>	<b>Councillor Jean Kirby, K C Faulks &amp; Gillian Corr</b>

## **IMPLICATIONS**

### **Financial Implications.**

Section 143 of the Localism Act and planning obligations as set out in the report.

### **Environmental Implications.**

These are as outlined in the report above and relate to the loss of a greenfield site/parcel of land that is identified as green wedge to one of built development.

### **Community Safety Implications.**

Section 17 of the Crime and Disorder Act 1998 has been taken into account in preparing this report and it is not considered the proposed development would not be in conflict with this legislation.

### **Human Rights Implications.**

The provisions of the European Convention on Human Rights have been taken into account in the preparation of this report; and it is confirmed that the resolutions sought in the above recommendations, if accepted, will not contravene any human rights.

### **Background Papers.**

Regional Spatial Strategy (now revoked)

Stockton on Tees Core Strategy

Stockton on Tees Local Plan Alteration

Stockton on Tees Regeneration and Environment DPD (Preferred options)

National Planning Policy Framework (NPPF)

Planning Applications; 90/1965/P, 94/0385/P, 97/0884/P, 00/1063/P, 00/1064/P, 03/1976/P, 03/1977/P & 06/2593/OUT