



Department for
Communities and
Local Government

Colin Griffiths Esq.
Satnam Planning Services
17 Imperial Square
CHELTENHAM
Gloucestershire
GL50 1QZ

Our Ref: APP/H0738/A/13/219538
Your ref:

26 September 2013

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY TIVIOT WAY INVESTMENTS LTD
LAND NORTH OF LOW LANE, HIGH LEVEN, INGLEBY BARWICK, TS17 0LW
APPLICATION REF: 12/2517/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul Griffiths BSc(Hons) BArch IHBC, who held an inquiry between 14 and 17 May and on 28 June 2013 into your appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Stockton-on-Tees Borough Council ('the Council') to refuse outline planning permission for the erection of Ingleby Manor Free School and Sixth Form and residential development (350 houses) including means of access, dated 19 October 2011.

2. The appeal was recovered for the Secretary of State's determination on 18 February 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendation. A copy of the Inspector's report (IR) is enclosed. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Matters arising after the close of the inquiry

4. Four letters were received after the inquiry had closed. The Secretary of State has carefully considered these representations, but as they do not raise matters that would affect his decision, he has not considered it necessary to circulate them to all parties. The correspondence is listed at Annex A to this letter and copies will be provided on application to the address at the bottom of the first page to this letter or to PCC@communities.gsi.gov.uk.
5. The Secretary of State has had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance is currently in test mode and for public comment, he has attributed it limited weight.

Policy Considerations

6. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Stockton-on-Tees Local Plan (1997), and the Stockton Core Strategy Development Plan Document (2010). The Secretary of State agrees with the Inspector that the development plan policies relevant to the appeal are those set out at IR5.2 – 5.8.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework – March 2012); the Ministerial Policy Statement - planning for schools development (August 2011); and Circular 11/1995: *Use of Conditions in Planning Permission*.

Main issues

8. The Secretary of State agrees with the Inspector that the main issue to be considered is whether any harmful impacts that would be caused by the proposals, in terms of the green wedge, the character and appearance of the area, and recreational opportunities, in particular, are outweighed by any benefits (IR11.1).
9. The Secretary of State notes that the Council cannot demonstrate a five year supply of deliverable housing sites (IR11.2), the supply of deliverable housing sites is far short of the five year supply required in the Framework (IR11.3), and that no specific development plan policy was brought to the attention of the Inspector which deals with the provision of the Free School and Sixth Form (IR11.4). He has had regard to paragraph 72 of the Framework which sets out that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities and agrees with the Inspector that great weight should be given to the need to create schools. The Secretary of State has also had regard to paragraph 14 of the Framework which makes it clear that where the development plan is absent, silent, or out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole (IR11.5).

10. The Secretary of State notes that the site lies within the designated green wedge, and that while it has little to offer in terms of landscape quality, being flat and largely featureless, it is open in character, undeveloped, and in agricultural use. He is mindful that one of the core principles of the Framework is that the intrinsic character and beauty of the countryside should be recognised and he accepts the Inspector's conclusions that the proposal falls contrary to the development plan policies stated in IR11.6 & 11.7. He agrees with the Inspector that the site's utility, in recreational terms, is limited to the footpath that crosses it (IR11.8) and, because the footpath would be a less attractive recreational experience for most, as a result of the development, the proposal would be harmful and is contrary to the development plan (IR11.9).

11. For the reasons outlined by the Inspector at IR11.10 to 11.12, the Secretary of State agrees with the Inspector's conclusion that, taken together, the degree of harm that the proposal would cause in relation to the green wedge designation, the character and appearance of the area, and the utility of the footpath in recreational terms would be limited (IR11.13). In so doing, he notes the Inspector's cognisance of the manner in which the Council has sought to address their housing supply shortfall.

12. The Secretary of State agrees with the Inspector that, in terms of the open market housing proposed, while the Council is taking steps to address the existing shortfall, the provision of around 300 units represents a significant benefit (IR11.14). For the reasons outlined at IR11.15, the Secretary considers that the provision of 53 units of affordable housing that the scheme would bring forward also represents a significant benefit. For the reasons given by the Inspector, the Secretary of State considers that the doubts about delivery raised by the Council bear little on the weight to be attached to the benefits inherent in the provision of open-market and affordable housing (IR11.16).

13. In terms of the Free School and Sixth Form, for the reasons outlined in IR11.17 to 11.19, the Secretary of State accepts the Inspector's conclusion that there is no cogent reason why anything other than great weight, as outlined in paragraph 72 of the Framework, should be attached to the benefits of providing a new Free School and Sixth Form (IR11.20). He also agrees with the Inspector's conclusions about other benefits outlined in IR11.21 & 11.22 in respect of community use, employment and economic activity.

14. The Secretary of State accepts the Inspector's conclusions on a number of other issues: the Grade II listed Little Maltby Farm (IR11.23), the concerns raised by the Council and others about the appellant's future intentions for the green wedge (IR11.24), the Council's concern about the lack of a master-plan (IR11.25), and the argument that permitting housing on the appeal site would undermine the Council's attempts to deal with their housing supply shortfall (IR11.26).

Balancing Harm against Benefits

15. The Secretary of State agrees with the Inspector's conclusions, at paragraph 11.27 of the report, that the sum total of the harm caused would be limited.

16. For the reasons outlined at IR11.28, the Secretary of State agrees with the Inspector that the different elements of the proposals would bring forward benefits of a different nature. In terms of the housing element, given the prevailing situation in terms of housing supply in the Borough, the Secretary of State is satisfied that these

benefits are sufficient to justify the housing element of the proposals, whether or not the Free School and Sixth Form ever materialises. He agrees with the Inspector that, for this reason, there is no need for a Grampian condition linking the two elements together. The Secretary of State considers that the Free School and Sixth Form would widen choice in education, provide community facilities, and generate employment and economic activity. He agrees with the Inspector that these factors add significantly to the benefits the housing element of the proposals would bring forward.

Conditions and Obligations

17. The Secretary of State has had regard to the proposed conditions set out at Annex D of the Inspector's Report and to the planning obligations contained in the Unilateral Undertaking referred to in 10.1-10.17 of the IR. He has taken account of the Inspector's comments at IR9.1-9.16 and 10.1-10.17 on conditions and on the obligations, and to Circular 11/95 and the CIL Regulations 2010 as amended. He is satisfied that the conditions are reasonable and necessary, and meet the tests of Circular 11/95. He is also satisfied that the planning obligations are directly related to the development and are fairly and reasonably related to it in scale and kind, and is CIL-compliant. He therefore agrees with the Inspector's reasoning and conclusions on these matters.

Overall Conclusion

18. The Secretary of State acknowledges that the proposals fail to accord with the development plan in terms of its impact on the green wedge, the character and appearance of the area, and recreational opportunities. He agrees with the Inspector that, given the provisions of paragraph 215 of the Framework, and the findings in the IR, the Framework is a material consideration that carries weight such as to justify a decision other than in accordance with the development plan.

Formal Decision

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for the erection of Ingleby Manor Free School and Sixth Form and residential development (350 houses) including means of access, in accordance with planning application ref: 12/2517/OUT, dated 19 October 2011, subject to the conditions listed at Annex B of this letter.

20. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

21. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

23. A copy of this letter has been sent to the Council. A notification letter or e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Lindsay Speed

Authorised by the Secretary of State to sign in that behalf