The Planning Inspectorate

Appeal Decision

Site visit made on 9 February 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 2 March 2016

Appeal Ref: APP/H0738/W/15/3129660
The Mains Nursing Home, Drovers Lane, Redmarshall, Stockton-on-Tees TS21 1ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice within the prescribed period of a decision on a planning application.
- The appeal is made by Mr Paul Dowell against Stockton-on-Tees Borough Council.
- The application Ref 15/0803/OUT is dated 1 April 2015.
- The development proposed is an outline application for residential development comprising four dwellings.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development comprising four dwellings at The Mains Nursing Home, Drovers Lane, Redmarshall, Stockton-on-Tees TS21 1ER in accordance with the terms of the application, Ref 15/0803/OUT, dated 1 April 2015, subject to the conditions set out in the schedule attached to this decision.

Procedural Matters

2. Although the appeal is against the failure to determine the planning application within the prescribed period the Council has issued a decision notice dated 10 July 2015. As the appeal had been submitted before that notice was issued the decision notice does not constitute a formal refusal of the application. I have however taken the notice to be a record of the Council's main concerns with regard to the proposal.

3. The appeal form names both Mr Dowell and The Mains Nursing Home as the appellant although only Mr Dowell was listed on the planning application form. As the right of appeal is reserved to the original applicant I have taken Mr Powell to be the appellant in this case.

4. The application sought permission for five dwellings but this was reduced to four prior to the appeal being lodged and I have adopted the revised description of development given in the appeal form. Also, although the application form indicates that approval was sought as part of the application to the details of access, layout and scale, the appeal statement and officer report both indicate that this was revised such that detailed consent is now sought only in respect of the proposed means of access with all other details reserved for subsequent approval. I have therefore considered the appeal on this basis

and, other than in respect of the site boundary and access arrangements have treated the plans as providing an illustration of how the site might be developed and of the likely scale and height of the dwellings which would be erected.

Main Issue

5. The main issue is whether the proposal would constitute sustainable development having regard to the accessibility which future occupiers of the proposed dwellings would have to employment opportunities and essential services.

Reasons

6. Paragraph 49 of the National Planning Policy Framework (Framework) states that housing applications should be considered in the context of the presumption in favour of sustainable development and that, where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date. The Council accepts that it is unable to demonstrate a 5 years forward supply of deliverable housing sites. Neither has it disputed the appellant's assertion that, notwithstanding recent permissions in Carlton, the bulk of the 107 dwelling requirement in the rural parts of the borough that was identified in the Stockton-on-Tees Rural Housing Needs Assessment (2013) remains unmet.

7. Policies CS7 and CS8 of the Stockton-on-Tees Core Strategy Development Plan Document (2010) (Core Strategy) and saved Policy HO3 of the Stockton-on-Tees Local Plan (1997) (Local Plan) are relevant policies for the supply of housing for the purposes of paragraph 49 of the Framework and should be treated as not being up to date. Saved Local Plan Policy EN13 should be similarly treated in that it seeks to restrict the level of housing development outside of the defined development limits. I do not consider that the development limits themselves are rendered out of date because the wording at paragraph 2.41 of the Local Plan indicates that these were drawn to define the break between urban and rural land uses and landscapes and that their purpose is to help protect the countryside from all forms of inappropriate development and not just to control where housing development is undertaken.

8. A very small part of the appeal site lies outside of the development limits of Redmarshall as currently defined but this apparent anomaly has been regularised in the publication draft of the emerging Regeneration and Environment Local Plan (RELP). The revised boundary follows the fence line of the appeal site, providing a clear demarcation between the village and the agricultural land to the south and would serve to give protection to the open countryside outside of the settlement. The site should, therefore, be treated as being within the defined development limits of the village.

9. The Council does not allege any conflict with any existing or emerging local policy but its assertion that Redmarshall is an unsustainable village is founded on the assessment set out in the Planning the Future or Rural Villages Study (Villages Study) (2014) produced as part of the evidence base for the RELP. Neither the RELP nor its evidence base has been submitted for examination and the Villages Study, which is intended to inform and support the proposed housing strategy in the RELP, can therefore be given very limited weight.

10. In view of the housing supply position the proposal falls to be considered in the context of the statement at paragraph 14 of the Framework that, where relevant policies are 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 in the Framework taken as a whole. Relevant case law[1] has established that there is no requirement to carry out a prior or free-standing assessment of sustainability before applying the balancing exercise defined by paragraph 14. The sustainability of the proposed development should therefore be assessed by a positively weighted balancing of the benefits and adverse impacts against the policies in the Framework as a whole.

11. The proposal would make a small but, nevertheless useful, contribution to meeting the overall shortfall in new housing provision in Stockton and the shortfall against the specific need that has been identified within the rural areas. Due its location within the settlement limits the proposal would make use of land deemed to be an appropriate location for built development and would not involve the development of land in the open countryside. The proposal would also represent an investment in the village both by the developer and the purchasers of the proposed dwellings who would subsequently generate household spending to support businesses and services in the area. These positive benefits should be given considerable weight in the appeal. On the other side of the equation the alleged adverse impacts, as set out in Council's proposed reason for refusal, are that the occupants of the proposed dwellings would have to travel for employment, education, retail and recreational uses.

12. As it would be wholly unrealistic to expect that the employment and other daily needs of a person moving into a village could be met without the need to travel elsewhere, the key concern is whether such journeys would be unsustainable. However the information set out in the Villages Study does not suggest that this would be the case. Indeed, Table 5 of that document records Redmarshall as having ready accessibility by sustainable means of transport to sources of employment which are realistically likely to be able provide employment for residents, and to other services and facilities.

13. The range and frequency of local bus services does, in my view, reflect the appellant's argument that Redmarshall forms part of a cluster of settlements in close proximity to the urban area of Stockton rather than being a remote village in upper Teesdale. Moreover, the range of employment opportunities that would be accessible to occupiers of the proposed development is considerable for a rural village, particularly having regard to the scale and number of businesses within the Stillington employment area.

14. Redmarshall has a church, a public house and children's play area (albeit an unequipped one) and the occupiers of the proposed development would have access to schools by sustainable means of transport. Hence the main deficiencies underlying the Council's concerns would appear to be the lack of a village shop, village hall and equipped play area. However, there are bus services to Tesco and nearby Carlton has a Post Office and shop which is a 10 minute walk from the appeal site. The route to Carlton is relatively flat with

[1] Dartford Borough Council v Secretary of State for Communities and Local Government and Landhold Capital Ltd [2014] EWHC 2636 (Admin) and Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin)

pavements along its full length and with the most of the path running along Kirk Hill being separated from the carriageway by a grass verge. My impression that this would be a reasonably comfortable walk for many residents was confirmed by my witnessing some six people making the journey on foot, in one direction or the other, during the relatively short duration of my site visit. The village hall and equipped play area in Carlton would be within a slightly longer walking distance and these facilities and the Post Office and shop would also be easily accessible by bicycle.

15. Having regard to this level of accessibility to a range of employment opportunities, educational and other services I agree that the Council's approach to the assessment of the sustainability of the village is too narrow and does not have proper regard to the guidance at paragraph 55 of the Framework that, where there are groups of smaller settlements, development in one village may support services in a village nearby. The Council's approach also appears to lack any assessment of what level of custom existing businesses and services need to ensure their long term sustainability or of what the effect of preventing any new development would have on the long term viability of existing services and businesses within the villages that are classed as unsustainable.

16. For the reasons set out above, I conclude that whilst the occupiers of the proposed dwellings might need to travel outside of Redmarshall for employment, education and some of their other daily needs, the proposal would not have an unacceptable effect in terms of encouraging travel by unsustainable means. In the absence of any other alleged harm, I find that there would be no adverse impacts that would significantly and demonstrably outweigh the benefits of the development. Accordingly the proposal would constitute sustainable development and should be granted planning permission.

Other Matters

17. I note the appeal decision in relation to a proposed 50 bed nursing home on the appeal site and the Inspector's comments with regard to the level of services in Redmarshall and that there has been no significant change in services and facilities in the village since that decision in 2009. However the nature and scale of development that was the subject of that appeal was very different to that now proposed and, importantly, the decision predates the publication of the Framework policies with regard to sustainable development.

18. The Council has raised no concerns with regard to the scale of the proposed houses or the indicative layout shown in the appeal plans and I consider these to be appropriate in the context of the site's location within the development limits. The development would inevitably change the appearance of this edge of the village when viewed from the south, but this would not be unduly harmful subject to appropriate landscaping of the site boundary. Some third party objectors have raised concerns about the location of the access and the traffic generated by the proposal but the Council's Highways Officer has found these to be acceptable and I saw nothing on my site visit that would lead me to question that judgement.

Conditions

19. As the permission is in outline with only the details of means of access approved at this stage conditions requiring the submission of all other reserved

matters and that no development should commence until those matters are approved are necessary. I have modified the reserved matters condition to require that the landscaping details should include details of existing trees to be retained and how they would be protected during the construction works, and to specify that the site layout details should include details of the improvements to the shared access road and the replacement car parking provision to serve the nursing home. Because the permission is in outline I have added a condition which approves the site layout plan only insofar as this defines the site boundary, means of access, and that part of the site which is subject to the water main easement.

20. The appeal site is in an area of potential archaeological interest and a condition is needed to require a programme of archaeological work as part of the development. A condition is needed also to require the submission and approval of a drainage scheme for the site and to ensure that the works are carried out in accordance with the approved details. It is appropriate that a condition be added which requires that the details of finished ground and floor levels of the properties should be approved to ensure that these are in keeping with current ground levels and that the proposed houses will have an acceptable relationship with the existing adjoining buildings. The actions that these conditions require before the commencement of development are necessary such that no harm is caused to any features of potential archaeological value, and to ensure the acceptability of the drainage proposals and ground and slab levels before the start of development so as to avoid any potentially abortive works.

21. In order to minimise disruption to the operation of the nursing home a condition is needed to require that the improvements to the shared access and the replacement car parking provision for the nursing home be completed prior to the commencement of construction works on any of the dwellings themselves. A condition is also required to ensure that the approved hard and soft landscaping works are completed prior to any part of the development being occupied. Finally, in order to protect the amenity of users of the nursing home and nearby residential properties, conditions are needed to limit the hours of working and to prevent the open burning of waste on the site during the construction programme.

22. As I have seen no evidence to suggest that there is any risk of below ground contamination on the site, I do not consider that the condition suggested by the Council relating to contamination is necessary. I have also considered the Council's suggested condition with regard to energy performance; however as Core Strategy Policy CS3 (5) states that the 10% renewable sources requirement applies to major developments of 10 dwellings or more there would appear to be no justification for imposing such a requirement in relation to the appeal proposal.

Conclusion

23. I conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR

Conditions for Appeal Ref: AP/H0738/W/15/3129660

1) Details of the appearance, landscaping (including details of trees to be retained and how they are to be protected during construction works), layout (including the proposed improvements to the shared access road and provision of replacement car parking provision to serve the nursing home), and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

4) The development hereby permitted shall be carried out in accordance with the approved plan No PO2B except in respect of those matters which are reserved for subsequent approval.

5) No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and:

   (a) The programme and methodology of site investigation and recording;

   (b) The programme for post investigation assessment;

   (c) Provision to be made for analysis of the site investigation and recording;

   (d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;

   (e) Provision to be made for archive deposition of the analysis and records of the site investigation;

   (f) Nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation;

   No demolition or development shall take place other than in accordance with the written scheme of investigation approved as part of this condition.

   The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

6) No development shall be commenced on site until a scheme of foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The development shall be undertaken in

accordance with the approved scheme and shall be completed prior to the occupation of any dwelling.

7) No development shall take place until a scheme of ground levels and finished floor levels for all properties within the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the finished floor levels of all adjoining properties. The development shall be carried out in accordance with these approved details.

8) The improvements to the shared access road and the replacement parking provision to serve The Mains Nursing Home shall be carried out in accordance with the details approved as part of the reserved matters and shall be completed and available for use prior to the commencement of construction works on any of the dwellings hereby permitted.

9) All hard and soft landscape works shall be carried out in accordance with the details approved as part of the reserved matters. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.

10) No construction/building works or deliveries associated with the construction phase of the development shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 9.00am and 1.00pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.

11) During the construction phase of the development there shall be no open burning of waste on the site.