



Appeal Decision

Site visit made on 24 April 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2018

Appeal Ref: APP/H0738/W/17/3190276

land at Thorntree Farm and rear of 93 Bassleton Lane, Thornaby TS17 0AQ

- 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 Mr Tom Howson against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 17/0103/FUL, dated 16 January 2017, was refused by notice dated 7 July 2017.
 - The development proposed is residential development comprising the erection of two houses and five bungalows plus associated garaging and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for residential development comprising the erection of two houses and five bungalows plus associated garaging and car parking at land at Thorntree Farm and rear of 93 Bassleton Lane, Thornaby TS17 0AQ in accordance with the terms of the application, Ref 17/0103/FUL, dated 16 January 2017, subject to the conditions set out in the attached Schedule to this decision.

Procedural Matters

2. Although not referred to in the Council's reason for refusal, I am aware of the Stockton-on-Tees Publication Draft Local Plan (September 2017) and its publication for public consultation in September 2017. I have not been advised that this document has been found to be sound or subsequently adopted by the Council and so its policies and provisions may still be subject to change and revision. The weight that I can give its provisions is therefore limited.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The site lies on the edge of Thornaby, with the majority of it comprising an extensive domestic walled garden laid to lawn and associated with 93 Bassleton Lane. The remainder of the site is formed from land associated with Thorntree Farm and an area of hardstand adjacent to it, currently used as car parking.
5. Beyond the substantial brick walls that mark a significant proportion of the southern and eastern site boundaries, are areas of woodland planting of varying age, density and species mix. These woodland areas, and the land beyond, lie within the Tees Heritage Park (THP). Policy CS10 of the Core Strategy Development Plan Document (CS) sets out the aims of the THP as

- being to provide open space accessible to the public and to enhance the area's landscape and biodiversity. In order to contribute to a better quality of life, the policy highlights the role of a high quality network of urban parks and green spaces.
6. However, despite the pleasant surroundings beyond the appeal site, a large residential development is currently under construction on land to the rear of 91 and 93 Bassleton Lane. Previously an open field between the housing on Lockton and Liverton Crescents and the woodland that adjoins the appeal site the development of this area of land significantly extends built development towards the appeal site and the dwellings adjacent to it. Whereas the group of dwellings at Nos 91 -95 and Thorntree Farm would have previously stood as a somewhat incongruous incursion into the countryside beyond Bassleton Lane, flanked by open countryside and the THP, the effect of the on-going residential development is to lessen the degree to which this grouping and the appeal site stand as an adjunct to the settlement.
 7. The appeal site is nonetheless largely open within the hard boundary created by the boundary walls. The Council describe the site as being variously within, or partly within, a Green Wedge as defined by CS policy CS10(3)ii). Despite its openness however, it is laid to lawn as part of a large and expansive garden area associated with NO. 93. In this respect, other than its proximity to the THP and general openness within the walls, it shares little of its character and contributes nothing in terms of recreational value to the THP.
 8. However, with regard to the Green Wedge, from the evidence before me I am not persuaded that the Stockton Core Strategy Key Diagram defines with any degree of precision the boundaries of the Green Wedge. In reaching this conclusion, I am mindful of the findings of a previous judgement in this regard¹. Furthermore, whilst I only attach very limited weight to its provisions, it is also enlightening to note that the Publication Draft Local Plan Policies Map² shows the appeal site within the limits of development and clearly outwith the Green Wedge.
 9. Nevertheless, I note the broad purpose and role of Green Wedges in contributing towards maintaining separation between settlements. CS policy CS10(3) states that such separation will be maintained through the protection and enhancement of the openness and amenity value of Green Wedges. I am also mindful of the National Planning Policy Framework's (the Framework) approach of seeking to recognise the intrinsic character and beauty of the countryside.
 10. Despite the site's brick boundary walls, which are most visible from within the THP at the site's southwest corner, neither the site nor its boundary walls erode the general sense of openness of the THP, or its overall amenity, recreation and leisure functions. However, unlike the situation at the time of the previous appeal³ I am mindful of the on-going residential development to the northeast of the site. Whilst that does not alter the relationship between the appeal site and the THP to the southwest, it significantly reduces the degree to which the appeal site might be seen as an incursion into the gap between Thornaby and

¹ Tiviot Way Investments v SOS for DCLG and Stockton-on-Tees Borough Council, July 2015 (ref: [2015] EWHC 2489 (Admin

² Prism Planning Statement of Case: Appendix 9

³ APP/H0738/W/14/2223808

Ingleby Barwick. In the same way that the woodland belt at the south of that site maintains the integrity of the THP and the separation between Thornaby and Ingleby Barwick, so too does the continuation of that area of woodland around the southeast and south of the appeal site. There would be no physical extension of the site's walled boundary, whilst the additional area of tree planting proposed would appear as a continuation of trees elsewhere around the perimeter of the site.

11. Having considered the appeal site's setting and its relationship with the land surrounding it, it is necessary to consider the scale, form and layout of the development. The two 2-storey dwellings would occupy broadly the same position as the existing farmhouse and also be broadly similar in terms of their scale, massing, position and orientation. In the context of the cluster of existing dwellings around the farmhouse, and indeed the built that they would replace, I find this element of the proposal to be neither large nor at odds with the character of the surrounding area. The farm buildings are not listed, nor fall within a conservation area, and have been altered over time. Their loss would not cause harm to the character or appearance of the surrounding area, or the relationship between the site and the THP.
12. The bungalows, however, would occupy the currently open area garden areas within the walled garden. However, I am satisfied that the boundary wall and, more particularly, the woodland areas and landscape belt around the majority of the site's eastern, southern and western boundaries would effectively screen the elements of the bungalow's roofs that would project above the level of the wall. The exception to this, however, would be at the southwestern corner of the site, where the otherwise continuous landscape belt along the western boundary peters out, leaving the wall exposed at its closest point to the network of footpaths that criss-cross the THP.
13. With regard to the previous appeal scheme, the Inspector was concerned that there would be a lack of relief between the boundary and the proposed buildings. This prominence would, he concluded, increase their prominence and emphasise the loss of openness. In this instance, the bungalow at plot 4 would be situated close to the existing brick wall, above which its roof structure would be clearly visible. Despite that, its roof form would be a receding feature and so would not overpower the otherwise currently open corner, whilst the roofs of the other bungalows, and the houses beyond, would be afforded only limited glimpses through the gap in the woodland areas at the southwestern corner of the site.
14. Significantly however, the appellant proposes a scheme of buffer tree planting and landscaping adjacent to this corner. This would extend the existing woodland areas along the western boundary, and link with the more extensive areas of woodland to the south and east of the site. This planting would ensure that the scale and massing of the proposed development, whilst initially visible from within the THP, would be neither overpowering nor visually intrusive. It would, over time, ensure that the proposed development would be absorbed into its immediate context and, significantly, without harm to the character, appearance, openness or amenity value of the site or the surrounding area. Nor, in the context of the on-going development to the northeast of the appeal site, would the development of the site result in an incongruous or jarring extension of built development into surrounding countryside, in this instance the THP.

15. There would be no direct physical impact upon the existing footpaths and cycleways that criss-cross the THP and which are, at the southwestern corner of the site, closest to it at that point. I have noted that the previous Inspector considered that the proximity of the dwellings to the boundary wall and, in turn, the boundary wall to the network of paths and trails, would result in the proposal making those paths and trails less attractive as a recreational experience. However, I am satisfied that with a suitably worded Grampian-style condition to the secure tree planting adjacent to the site's southwestern corner, the recreational experience would not be diminished. Indeed, the currently exposed length of brick boundary wall is at odds with the natural and regenerating environment of the THP around it. The tree planting would ameliorate the visual impact of the proposal in the short term whilst also screening the existing wall, and in the longer term providing a continuation of the existing planting elsewhere around the site's perimeter. Rather than causing harm to the character and appearance of the area surrounding the appeal site, and that of the THP, the proposal would provide a structured and management enhancement of both and would not diminish the separation between Thornaby and Ingleby Barwick.
16. Thus, for the reasons I have set out, I conclude that the proposal would maintain and, through appropriate landscaping and planting, maintain the separation between Thornaby and Ingleby Barwick and enhance the openness and amenity value of the area around the appeal site, including the adjoining Teesside Heritage Park. The proposal would not cause harm to the character or appearance of the surrounding area and there would be no conflict with CS policy CS10(3). Nor would the proposal fail to respect the National Planning Policy Framework's (the Framework) core principle of recognising the intrinsic character and beauty of the countryside.

Other Matters

17. Local residents object to the proposal on a wider basis than just the refusal reason expressed in the Council's decision notice. These include the demolition of Thorntree Farm, the effects of the proposal on access roads to the site, the effects of the proposal on local wildlife, the capacity of services and utilities to cope with the proposed development, devaluation of existing properties, precedent and impact on Green Belt.
18. Access to the appeal site, beyond the immediate Bassleton Lane would principally be from Thornaby Road via Bader Avenue. Reference is also made by neighbours to the potential use of other streets and, from my observations, I saw that there are a number of potential routes from the site through the adjoining residential development, towards Bader Avenue and Thornaby Road. However, the scale of the appeal proposal is modest and I note that highway safety did not form part of the Council's reason for refusal. I have not been presented with any substantive evidence to persuade me to reach a different conclusion to the Council in this respect.
19. The Council are satisfied that matters relating to utility capacity can be dealt with appropriately by condition. Devaluation is not a material consideration to which I can give any weight and, whilst other concerns are noted, these did not form part of the Council's refusal and I am satisfied that, having carefully considered these, they would not result in levels of harm that would justify the dismissal of the appeal. In addition, I have considered the appeal entirely on

its own merit and in the light of all the information before me, as would any future proposals, and I am satisfied that allowing the appeal would not set a precedent for further similar development in the future.

20. Although a number of references have been made by local residents to the effect of the proposal on the Green Belt, I have no evidence before me to suggest that the appeal site lies within formally designated Green Belt. I therefore give this matter very limited weight.

Conditions

21. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. Where necessary and in the interests of clarity and precision I have amended the suggested conditions.
22. In addition to time limit and plans conditions, which I consider to be necessary in order to provide certainty, I agree that conditions regarding the hard and soft landscaping details are necessary in the interests of character and appearance. In addition, a negatively worded condition regarding the additional area of tree planting shown on drawing no: S289 PL 003 Rev B on land not controlled by the appellant is necessary in the interests of character and appearance and I have no reason to suspect that the prospect of the action being performed within the permission's time limit would be restricted. Conditions regarding materials, means of enclosure and illumination details are also necessary in the interests of character and appearance.
23. Conditions relating to the working hours of the development site and the control of dust are necessary in the interests of living conditions of nearby residents, whilst a condition regarding land contamination is necessary in the event that contamination is encountered.
24. In order to ensure the proper archaeological recording of Thorntree Farm I agree that a condition is necessary and I have imposed the condition suggested by the Council. With regard to ecology and wildlife, a condition to ensure that the development is carried out in accordance with the submitted ecological appraisal is also necessary.
25. The Guidance advises that conditions that restrict the future use of permitted development rights 'will rarely pass the test of necessity and should only be used in exceptional circumstances'. However, given the site's location and the issues considered above in respect of the site's relationship with the land around it and the THP, it would not be unreasonable for me to restrict permitted development rights in the manner suggested by the Council. I have however amended the wording of the suggested conditions to avoid unnecessary duplication.

Conclusion

26. For the reasons I have set out, and having considered all other matters, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: S289 PL 001 Rev A; S289 PL 002; S289 PL 003 Rev B; S289 PL 005; S289 PL 006 Rev B; S289 PL 007 Rev A; and S289 PL011.
- 3) No development shall commence until full details of proposed hard landscaping have been submitted to and approved in writing by the Local Planning Authority. This will include all external finishing materials, finished levels, and all construction details confirming materials, colours, finishes and fixings. The scheme shall be completed to the satisfaction of the Local Planning Authority and in accordance with the approved details prior to the occupation of any part of the development.
- 4) No development shall commence until full details of a scheme of tree and shrub planting have been submitted to, and agreed in writing by the local planning authority, in respect of the area shown inset on drawing ref. no. S289 PL 003 Rev B, and that scheme has been implemented in accordance with the agreed details prior to the commencement of any development on site. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass and planting methods including construction techniques for pits in hard surfacing and root barriers. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in accordance with a scheme of agreed phases or prior to the occupation of any part of the development. Any trees or plants which within a period of five years from the date of planting die, are removed, become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.
- 5) No development shall commence until full details of the soft landscaping have been submitted to and approved in writing by the local planning authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in accordance with a scheme of agreed phases or prior to the occupation of any part of the development. Any trees or plants which within a period of five years from the date of planting die, are removed, become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.
- 6) The development hereby approved shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the

- Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.
- 7) Notwithstanding any description of the materials in the application, no above ground construction of the buildings shall be commenced until precise details of the materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 8) No construction of any means of enclosure shall commence until a scheme showing the details of the means of enclosure has been submitted to and approved by the Local Planning Authority. The scheme setting out the means of enclosure shall be implemented before the hereby approved dwellings are occupied and retained in perpetuity.
 - 9) Full details of the method of external illumination of buildings facades and external areas of the site shall be submitted and approved in writing by the Local Planning Authority prior to any such lighting being erected on site. Such a scheme shall include siting; angle of alignment; light colour; and luminance levels. The lighting shall be implemented prior to the occupation of any dwelling and be maintained thereafter wholly in accordance with the agreed scheme.
 - 10)
 - i) The demolition of Thorntree Farm and any associated buildings shall not commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions including;
 1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - ii) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (i).
 - iii) 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 approved under condition (i) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
 - 11) Prior to commencement of demolition works, a scheme should be provided to control dust emissions as a result of demolition works, such as dampening down, dust screens and wheel washers to prevent mud being tracked onto the highway. Mobile crushing and screening

equipment shall have any appropriate local authority PPC permit required and a copy of this permit available for inspection.

- 12) The development hereby approved shall be completed solely in accordance with the 'Recommendations' (section 6) of the submitted Preliminary Ecological Appraisal undertaken by Naturally Wild (date received 16th March 2017).
- 13) Notwithstanding the provisions of Classes A, B, C, and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015, the buildings hereby approved shall not be extended or altered in any way.
- 14) Notwithstanding the provisions of class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) there shall be no walls, fences, railings or other form of boundary enclosures erected between any point taken in line with the properties front elevation and the highway.
- 15) In the event that contamination is found at any time when carrying out the approved development, works must be halted on that part of the site affected by the unexpected contamination and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken to the extent specified by the Local Planning Authority and works shall not be resumed until a remediation scheme to deal with contamination of the site has been carried out in accordance with details first submitted to and approved in writing by the Local Planning Authority. This scheme shall identify and evaluate options for remedial treatment based on risk management objectives. Works shall not resume until the measures approved in the remediation scheme have been implemented on site, following which, a validation report shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall include programmes of monitoring and maintenance, which will be carried out in accordance with the requirements of the report.
- 16) No demolition / construction / building works or deliveries shall be carried out except between the hours of 08:00 and 18:00 on Mondays to Fridays and between 09:00 and 13:00 on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.