



Appeal Decision

Site visit made on 1 February 2021

by **S Hunt BA (Hons) MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 16th February 2021

Appeal Ref: APP/H0738/W/20/3262557

Land south of Thornaby Football Club, Acklam Road, Thornaby

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Carlington Development Ltd against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 18/0409/OUT, dated 23 February 2018, was refused by notice dated 26 August 2020.
 - The development proposed was originally described as '*Residential development of up to 26 dwellings*'.
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Decision

1. The appeal is allowed and outline planning permission is granted for Outline application with all matters reserved save for access, for the residential development of up to 10 dwellings at Land south of Thornaby Football Club, Acklam Road, Thornaby in accordance with the terms of the application, Ref 18/0409/OUT, dated 23 February 2018 and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Carlington Development Ltd against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of the development was altered during the consideration of the planning application to reflect amendments to the proposals for a smaller development of up to 10 dwellings. It is on the basis of this description, which is set out in the Council's decision notice and on the appeal form, that I have made my decision.
4. The application was submitted in outline form, with all matters reserved for future consideration except for access. The submitted illustrative site plan 1232/002F indicates how 26 dwellings could be arranged within the appeal site. However no such plan has been submitted for the reduced quantum of 10 dwellings now proposed, therefore I have made my decision based on the site location plan 1232/001D only.

Main Issues

5. The main issues are:

- The effect of the proposed development on the character and appearance of the site and surrounding area with particular reference to potential loss of vegetation and the setting of the adjacent cemetery; and
- Whether sufficient information is provided to demonstrate that the proposed dwellings can be satisfactorily accommodated within the site.

Reasons

Character and Appearance

6. The appeal site comprises an irregular-shaped area of land, together with an existing vehicular access leading onto Acklam Road. It is located to the rear of a row of dwellings fronting Acklam Road and Thornaby Cemetery. There are a range of recreational uses nearby, situated around the Old River Tees, including the Thornaby FC football ground. Within the appeal site lies a detached dwelling 'Tees Cottage' and derelict former clubhouse and changing room buildings. These parts of the site, and related hardstanding, are previously developed land. The remainder of the site is heavily vegetated, with significant tree cover to the majority of its boundaries, which are subject to a Tree Preservation Order (TPO). The access track leads to an open area of grassland to the east, which is referred to in the submission as a sports pitch.
7. The presence of mature trees, nearby recreational uses and the cemetery give the appeal site a distinctly different green and open character, in contrast to the more developed urban area of Thornaby. Despite these characteristics, it is not subject to any particular protective designation or allocation in the Stockton-on-Tees Borough Local Plan (the Local Plan). It has not been put to me as a 'valued landscape' to which I should apply paragraph 170 of the National Planning Policy Framework (the Framework). The appeal site is self-contained, being enclosed by the aforementioned mature trees. Views into the main body of the appeal site from public vantage points, including the adjacent recreational land uses, are very limited.
8. The construction of a maximum of 10 dwellings with road infrastructure and associated hard landscaping would undoubtedly urbanise the site and alter its verdant character. However, this would not necessarily result in unacceptable harm to the character and appearance of the area. The appeal site is sizeable and there are less vegetated parts of the site which could accommodate up to 10 dwellings with minimal felling of trees. In particular, the western end of the site has the capacity to accommodate the majority of the proposed development. It has a more urban and run down character owing to the condition of the former clubhouse and a large area of hardstanding. It is the nearest part of the site to the existing dwellings fronting Acklam Road and their garages/ outbuildings, and subject to suitable design and layout would relate satisfactorily to them.
9. The eastern portion of the site which bounds the cemetery is more restricted given its narrow width and denser tree cover to its boundaries. Development in this location has the potential to result in a greater clearance of trees and vegetation, and consequently affect the setting of the adjacent Thornaby cemetery. On my site visit I saw that this particular part of the cemetery has a

more natural and organic character. It contains more sporadically located older gravestones, a lack of hardstanding and a good deal of vegetation, quite distinct to the eastern areas of the cemetery where there are more densely arranged gravestones and hardstandings. At the time of my site visit the trees were not in leaf, but those within the cemetery still provided good screening amongst the filtered views through the hoop top railing boundary fence.

10. I consider that an appropriately designed low density residential development here, with minimal loss of trees and vegetation, would be unlikely to undermine the setting, tranquillity and character of the cemetery. It is not unusual for dwellings to co-exist comfortably alongside a cemetery with limited effects on tranquillity of the overall cemetery. I am satisfied that potential visual effects would be minimised by the existing tree cover both within the appeal site and the cemetery, as well as additional landscaping as part of any future reserved matters submission.
11. Even with minimal tree loss during construction, there is the potential to result in future pressure to fell trees which currently exist alongside the cemetery boundary. Given the orientation, the occupiers of future dwellings would be affected by shading from the trees. However I acknowledge that the trees are afforded protection by the TPO and therefore the Council would retain control over any future tree works or felling.
12. Consequently, I am satisfied that up to 10 dwellings can be accommodated within the appeal site without undue harm to the character and appearance of the site and surrounding area. The proposed development would comply with the provisions of Policy SD5 (1) of the Local Plan, which, amongst other criteria, expects development proposals to be responsive to the landscape and have an acceptable impact on its character and distinctiveness. It would also comply with Policy SD8 (1) and (2) which seeks for the design of new development to take into consideration the context of the surrounding area and respond positively to landscape character including the contribution made by existing trees and landscaping, and establish a strong sense of place.

Lack of information

13. I have previously set out that the site is constrained by the presence of mature trees to its boundaries. The Council also cite changes in levels as a constraint, and no levels plans have been provided in the submission. Nonetheless, I saw on my site visit that the levels of the site itself are relatively even. Rather, it is the neighbouring land where there are more significant level differences; the houses on Acklam Road sit at a higher level than the site and the access to the Thornaby FC ground lies beyond a steep drop from the site.
14. The appeal is against refusal of an outline planning application with all matters reserved except for access. It is not necessary to provide further detail unless specifically requested within the relevant timescales. The access details are sufficiently clear as there is only one entrance point to the site, via an existing track leading to Acklam Road. Other reserved matters (in particular layout and scale) would be more directly affected by the aforementioned constraints and such details can be submitted with future reserved matters applications.
15. Conditions can require certain additional details to be specifically submitted with the reserved matters application(s), including an updated aboricultural impact assessment with tree protection details and details of existing and

proposed levels both on and adjacent to the site. Such details will inform the final layout, scale, appearance and landscaping of the development and will be subject to approval by the Council as part of such future application(s).

16. An updated illustrative site layout plan to show how 10 dwellings might be arranged would have been a useful addition to the submission, nonetheless it is clear to me that the site has capacity for this quantum of development. I therefore conclude on this main issue that sufficient information has been provided to demonstrate that the proposed dwellings can be satisfactorily accommodated within the site, in accordance with Policies SD5 (1) and SD8 (1) and (2) of the Local Plan, for the same reasons as the first main issue.

Other Matters

17. Reference has been made to previous planning decisions and a 2017 appeal decision¹ on this site. They have limited influence on my findings given that they were for more substantial development, and in the case of the previous appeal, encompassed the sports pitches to the east. I note that the previous consents lapsed several years ago and as such there is no realistic fallback position that I could give weight to. Likewise, I acknowledge that the existing buildings could be re-used as facilities associated with the football club, but they are in a state of dereliction and significant works would be required to bring them back into use. There is no evidence before me to suggest that crime and anti-social behaviour within the appeal site is a significant issue here.
18. Objections have been raised regarding traffic and parking issues. However there is no evidence before me to suggest that up to 10 dwellings would result in an unacceptable impact on highway safety. The existing access from Acklam Road is proposed to be improved by way of a dedicated right turn facility and the provision of footways and street lighting and this could be secured by a separate Section 278 Agreement. This would represent a benefit to existing users of the access including dwellings fronting Acklam Road and Thornaby FC. Parking provision and demonstration of swept paths for larger vehicles would need to be assessed as part of a future reserved matters application.
19. There is no evidence to suggest that there are any public right of ways within or adjacent to the site which would be affected by the development, although I acknowledge that it is the Council's intention to dedicate some land to such purpose in the future. There is no dispute that the site is in an accessible location. The consultation response from the Highways Transport and Design Manager suggests that the provision of footpath connections could be secured by legal agreement, however the location of such links have not been put to me and there is no indication that such links would be in the control of the appellant. In any event, the improvement of the existing access road would enable safe and convenient access to the site by non-motorised users from Acklam Road. The access track to the rear of existing properties on Acklam Road does not form part of the appeal site therefore rear access to their garages would remain as it is. A construction method statement, to be agreed by condition, would assist in minimising effects during construction on nearby occupiers.
20. Reference has been made to sewage and drainage issues in the locality. There is no evidence that the development would exacerbate any existing drainage

¹ APP/H0738/W/16/3157935

conditions, and a sustainable drainage scheme can be submitted at reserved matters stage and controlled by condition.

21. I have had regard to Thornaby Town Council's comments that the site forms part of land paid for by donations from Head Wrightson workers, nonetheless there is no evidence before me that the site has any heritage designation nor that the development would affect the setting of any nearby designated heritage assets. Given the presence of mature trees and distances from existing dwellings the development would not adversely affect living conditions including outlook. Any impacts on wildlife can be minimised by the protection and enhancement measures set out in the Preliminary Ecological Survey and Bat Survey. Given the age of the document, an updated survey can be required by condition.
22. No planning obligation is included in the appeal submission. The Committee Report sets out that contributions are not required for developments of 10 dwellings or less, and I acknowledge this would be the case for affordable housing provision in accordance with Local Plan Policy H4(3). However no justification or policy basis has been given for this limit in respect of open space or education contributions. Indeed, the consultation response from the Council's open space team indicates that contributions are required towards the provision of public open space. I have not been provided with any evidence to define the extent of any local deficiencies in open space and education facilities nor the effect that the proposed development might have on them. Whilst a figure has been supplied for public open space, no detailed information has been provided to show how and where the contributions should be spent, or if such space could be provided within the appeal site. Moreover, the Supplementary Planning Document referred to is not before me. Consequently, I am unable to conclude whether a planning obligation seeking to provide such contributions would meet the tests set out in paragraph 56 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the proposed development.

Conditions

23. I have undertaken some minor editing of the Council's conditions for precision and clarity. I have imposed standard conditions relating to approved plans, the submission of reserved matters applications and the commencement of development. A condition limits the development to the terms of the revised description for no more than 10 dwellings and a combined total floor space of 1000 square metres, as a higher number of dwellings would otherwise trigger the requirement for an affordable housing obligation.
24. In the interests of highway safety and minimising impact on the living conditions of neighbouring occupiers it is necessary to include a condition in respect of the submission of a construction method statement. This would include details of delivery and construction working hours and the appellant has agreed to this pre-commencement condition.
25. Details of existing and proposed levels on and around the site are required given the difference in levels just beyond the boundaries and in the interests of area character and living conditions.

26. The Council suggests conditions to secure fibre and internet connectivity and a reduction in predicted CO2 emissions of the development by at least 10% and these requirements would be in accordance with Local Plan policies ENV1 and TI3 to assist in meeting aims to reduce carbon emissions. I have amalgamated and simplified the conditions so that such details are provided with reserved matters.
27. A condition is required in the event that unexpected contamination is found during construction, given that there are historical potentially contaminative features located within 250 metres of the appeal site. The Environmental Health Officer also recommended a condition regarding noise limits relating to nearby road traffic, however this was not put forward by the Council in their list of suggested conditions and I would concur that it is unnecessary given the distance of the site from Acklam Road which is buffered by intervening land uses and tree cover.
28. Whilst a satisfactory tree report was provided in 2018, it is necessary to provide an updated arboricultural impact assessment including a tree protection scheme at reserved matters stage given the significant presence of trees on the site and in view of the fact that the layout of the proposed dwellings is currently unknown. An updated protected species survey (including any necessary mitigation measures) is also required given the age of the submitted preliminary ecological appraisal and habitat potential in the trees and derelict buildings.
29. Details of a drainage scheme are required to ensure satisfactory drainage of the site to reduce the risk of flooding and contamination to waters. I note that the Lead Local Flood Authority (LLFA) were unable to comment until an up-to-date site layout is provided therefore I have simplified and amalgamated the conditions suggested by the Council and required such details to be submitted with reserved matters so that the LLFA can fully assess the drainage scheme at that stage.
30. The Highways, Transport and Design Manager's recommended condition regarding surfacing of the access prior to development is unnecessary given that there is an existing hard surfaced access extending more than 15 metres from the existing highway. Their consultation response also refers to the need for detailed drawings of the access road and footway arrangements which would differ to those shown on the previously submitted illustrative layout plan. Therefore I consider a condition necessary to require such details (including right turn lane) at reserved matters, in the interests of highway safety and pedestrian connectivity. I note that a travel plan dated 2013 is provided in the submission however given that it refers to a previously proposed larger development and is of some age, an updated document would be necessary in the interests of encouraging non-motorised means of transport.

Conclusion

31. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Susan Hunt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1232/001D.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 5) The development hereby approved shall be limited to no more than 10 residential units and no more than a combined total floor space of 1000 square metres.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials including any restrictions on delivery times;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) measures to be taken, including but not limited to wheel washing facilities and the use of mechanical road sweepers operating at regular intervals or as and when necessary, to avoid the deposit of mud, grit and dirt on the public highway by vehicles travelling to and from the site;
 - vi) measures to control and monitor the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) details of the HGVs routing including any measures necessary to minimise the impact on other road users;
 - ix) delivery, demolition and construction working hours; and
 - x) A means of communication with local residents.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) The details submitted in accordance with condition 4 above shall include the following information:
- i) a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings;
 - ii) full details of the proposed finished floor levels of all buildings and hard landscaped surfaces.

The development shall be carried out in accordance with the approved details.

- 8) The details submitted in accordance with condition 4 above shall include:
- i) Details and location of open access ducting to facilitate fibre and internet connectivity from the homes to the public highway; and
 - ii) A written scheme which details how the predicted CO2 emissions of the development will be reduced by at least 10% through the use of on-site renewable energy equipment or the use of specific building materials.

The approved details shall be implemented on site and brought into use prior to first occupation of any dwelling and maintained as approved.

- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 10) The details submitted in accordance with condition 4 above shall include:
- i) An updated Arboricultural Impact Assessment including a plan showing the position of every tree on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;
 - ii) a schedule in relation to every tree identified listing information as specified in paragraph 4.4.2.5 of BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and any proposed pruning, felling or other work;
 - iii) in relation to all trees identified to be retained on the plan referred to in i) above, details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and
 - iv) a scheme to include all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of BS 5837) (or in an equivalent British Standard if replaced) which is to be implemented prior to commencement of any site clearance works or development.

Construction and demolition works shall be carried out in full accordance with the approved details and all tree work shall be carried out in accordance with BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).

- 11) The details submitted in accordance with condition 4 above shall include the results of an updated survey checking for the presence of protected species and their suitable habitat, and a scheme for any necessary mitigation. All works shall be carried out in complete accordance with the approved scheme of mitigation.
- 12) The details submitted in accordance with condition 4 above shall include a surface water and foul drainage scheme. It shall be in general accordance with the Flood Risk Assessment (FRA) & Surface Water Management Strategy 4948/FRA01A and shall include the following details and mitigation measures detailed within the FRA:
 - i) Discharge rate from the development is to be restricted to 5l/sec into the Old River Tees;
 - ii) Details of how surface water flows entering the proposed development site, (highlighted on the EA flood maps), are to be managed;
 - iii) An allowance of 10% provided within the drainage design for Urban Creep;
 - iv) Information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - v) A timetable for its implementation; and
 - vi) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The drainage scheme including mitigation measures shall be implemented as approved prior to the first occupation of any of the dwellings, and retained in accordance with the approved management and maintenance plan.

- 13) The details submitted in accordance with condition 4 above shall include details of improvements to the existing vehicular access from Acklam Road including right turn lane and pedestrians/cyclist facilities. No dwelling shall be occupied until the access improvements have been completed in accordance with those details and they shall thereafter be retained.
- 14) Prior to the first occupation of any dwelling an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented and monitored in accordance with the provisions contained therein.