



## Appeal Decision

Site visit made on 23 September 2021

**by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 January 2022**

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### **Appeal Ref: APP/H0738/W/21/3276748**

### **Handley Cross, Leven Bank, Leven Bank Road, Yarm TS15 9JL**

- 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 Mr and Mrs W Bates against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 19/0345/OUT, dated 12 February 2019, was refused by notice dated 16 December 2020.
  - The development proposed is outline application with some matters reserved for the erection of upto 7 dwellings with associated means of access.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The application has been submitted in outline with all matters except access reserved for future consideration. I have dealt with the appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal.
4. The appellants have submitted a unilateral undertaking dated 20 September 2021 (the initial UU) which includes provisions regarding footpaths, road lighting, high speed broadband and landscaping within the highway. The Council raised a number of concerns about the terms and scope of this initial UU. In response, the appellants have provided a second unilateral undertaking dated 29 October 2021 (the second UU) which includes covenants relating to education contributions; affordable housing; training and employment; and a Section 278 Agreement in relation to landscaping, access works and footpath links.

### **Main Issues**

5. The main issues are whether the site would be an appropriate location for housing with regards to:
  - Local planning policy;
  - The character and appearance of the area, with due regard to highway safety;

- The living conditions of residents in respect of light, with due regard to protected trees;
- Accessibility of location; and
- Other matters relevant to the planning balance.

## **Reasons**

### *Local Planning Policy*

6. Policy SD3 of the Council's Local Plan 2019 (the Local Plan) establishes the housing strategy for the area. The appeal site is located outside of the limits to development defined on the Policies Map of the Local Plan, and the supporting text for policy SD3 of the Local Plan sets out that the site is therefore defined as being within the countryside.
7. Policy SD3(4) states that new dwellings within the countryside will not be supported unless they meet certain criteria. The appeal proposal would not fall within categories (a)-(c) of policy SD3(4) which relate to matters including housing for a rural enterprise, optimal use of a heritage asset, and the re-use of redundant or disused buildings.
8. Policy SD3(4)(d) refers to development of an exceptional quality or innovative nature of design. However, the appeal proposal is in outline, and there is no substantive evidence that the resultant development would meet the provisions of policy SD3(4)(d).
9. The appellants contend that reliance on the development limits is overly simplistic, and does not represent what they consider to be the edge-of-conurbation nature of the site. However, the limits to development and the provisions of policy SD3 are clearly set out, and I have assessed the proposal on that basis.
10. I conclude that the proposal would not fall within any of the criteria of policy SD3(4) of the Local Plan, or indeed any of the other provisions of that policy. The proposal would therefore conflict with the housing strategy as defined in policy SD3 of the Local Plan.

### *Character and Appearance, and Highway Safety*

11. Due to the proximity of the appeal site to the built-up area of Yarm, the appellants consider that the proposal would not appear as development within the open countryside. However, when approaching the appeal site from Yarm along the A1044, the character of the landscape changes significantly shortly before reaching the appeal site. The site is located at the start of a dip in the landscape which leads down to the River Leven, and which has extensive tree cover adjacent to the highway and projecting into the landscape. Despite the proximity to the edge of Yarm and recently approved development, the appeal site and its surroundings are an integral part of the countryside and of a distinctly different character from the built-up area.
12. Although the area may not have a specific landscape designation, and is not in a Green Wedge identified in the Local Plan, the appeal site does contribute to the area of countryside separating Yarm and Ingleby Barwick and which is important in retaining the physical identity and separate character of these settlements.

13. Although there is some sporadic residential development near the appeal site, the dwellings are not readily visible from the highway and are of an individual free-standing nature. Whilst there is a cluster of development near to the bridge across the River Leven, this is some distance from the appeal site and does not set a visual context for the proposal.
14. Although matters including layout and design are reserved matters, due to the extent of the site and the maximum number of dwellings proposed, it is inevitable that the scheme would lead to a cul-de-sac arrangement. In effect this would create a suburban enclave in this visually important area of countryside.
15. The proposed access would also be of a suburban appearance, and would enable views of the development from Leven Bank Road. Moreover, the proposed access would require works to the embankment and the removal of trees, which would increase the urbanised appearance of the development. Although further tree planting is proposed around the access this would not mitigate for the suburban form of the access or the views it would enable into the site.
16. A Landscape and Visual Impact Assessment (LVIA) submitted by the appellants concludes that the proposal would not result in significant detrimental harm to landscape character. The LVIA emphasises the screening provided by the existing trees and woodland surrounding the site, and proposes mitigation including further tree planting. However, based on what I have seen and read, the nature of the appeal proposal would be apparent from the surrounding area even allowing for potential mitigation, and particularly in views from Leven Bank Road. The intrusion of a relatively urban form of development into this area would lead to significant harm to this important extent of countryside between two distinct settlements.
17. If a less intrusive form of access design was to be proposed, then this would be unlikely to meet the appropriate highway standards. Mindful of the busy nature of the A1044 Leven Bank Road, such an access would lead to unacceptable harm to highway safety. Even then, the access would create a gap in the screen of trees along the highway, enabling views of this incongruous form of development.
18. I conclude that the proposal would appear as an incongruous form of suburban development in an important countryside gap. The proposal would therefore lead to significant harm to the character and appearance of the area, contrary to the character & appearance, design and landscape requirements of policies SD5 and SD8 of the Local Plan. The proposal would also be contrary to the Framework with regards to achieving well-designed places and conserving and enhancing the natural environment. Even if a visually suitable access could be created, it has not been demonstrated that this would be acceptable with regards to highway safety, and on that basis the proposal would conflict with policies SD8 and TI1 of the Local Plan and the Framework with regards to providing safe access to the highway.

#### *Living Conditions and Protected Trees*

19. The site contains and is surrounded by mature trees and woodland which contribute to the wooded character of the area. A number of the trees are covered by a Tree Preservation Order (TPO).

20. Shading diagrams submitted by the appellants indicate that large extents of the site would be affected by heavy shading from trees at various times of year, including summer evenings. Whilst the depicted layout of plots is indicative, and I am mindful that fewer than 7 dwellings may be built, it is evident that residential development on this site would be unduly affected by loss of light and overshadowing. This would lead to a dark and oppressive environment for residents of the site, with subsequent harm to their living conditions.
21. Whilst potential residents would be aware of the position of the trees, the implications of living next to such large trees could not be fully appreciated until occupation even allowing for the self-build nature of the proposal. I consider that this would raise undue pressure in the future for works to the tree canopies or potential removal of trees. Although works to protected trees would be subject to consent from the Council, given the potential effect on the living conditions of residents such works would be difficult to resist. In turn this may lead to significant works to the tree canopy in and around the site, with subsequent harm to the contribution that these trees make to the character and appearance of the area.
22. There may be potential to remove some trees on the eastern boundary of the site. However, it has not been demonstrated that this would overcome the concerns in respect of overshadowing of the site as a whole.
23. I conclude that the proposal would not provide suitable living conditions for residents in respect of light due to the effect of overshadowing from mature trees in and around the site. The proposed development would also place long-term pressure for the removal or significant works to trees which are the subject of a TPO with subsequent unacceptable harm to their amenity value. The proposal would be contrary to policies SD8 and ENV5 of the Local Plan with regards to the amenity of future residents as well as the protection of trees and woodland which are important to the character and appearance of the landscape. The proposal would also be contrary to the Framework with regards to ensuring that developments achieve a high standard of amenity for future residents as well as conserving and enhancing the natural environment.

#### *Accessibility of Location*

24. Although the appeal site is located in the vicinity of other built development, it is located some distance away from services and facilities. Pedestrian access to/from the site is also restricted due to the lack of a lit footway along parts of the A1044.
25. The appellants propose to improve the footpaths leading from the site and introduce street-lighting, although the Council questions the feasibility of this due to matters including reliance on land owned by third parties. However, I have assessed this appeal on the basis that the lit footpath links would be provided, mindful of the Undertakings provided by the appellants and the potential imposition of planning conditions. On that basis, the proposal would be located within walking distance of retail and other facilities provided at Healaugh Park. Whilst that walking distance would not be particularly short, subject to lit footpaths being provided the distance would not be so long or inconvenient as to render the site unsustainably located with regards to access to services. However, this can be said of many sites on the edge of this settlement.

26. There is also a bus-stop in the vicinity of the site which the evidence suggests provides a regular service to settlements, facilities and employment in the area. In combination with the proposed improvements to pedestrian access, this would mean that residents of the proposal would not be reliant on the private car.
27. I conclude that the proposal would be in a location which would provide suitable access for residents to services, facilities and employment in the area by sustainable modes of transport. The proposal would therefore not conflict with policies SD8 and TI1 of the Local Plan with regards to delivering a sustainable transport network, including through improvements to routes for pedestrians. The proposal would also not conflict with the Framework with regards to promoting sustainable transport.

### **Other Matters**

28. The proposal would add to the mix and supply of housing in the area, although in the light of the Council's housing land supply this benefit would be very limited. I acknowledge that the 5 year housing land supply figure is not an upper limit, but this does not add significant support in respect of the number of dwellings provided by the proposal. Similarly, the contribution to affordable housing in the area would also be of a limited degree, as would the contribution to the New Homes Bonus and Council Tax.
29. The proposal would increase self-build opportunities within the area, and the appellants emphasise that the Local Plan supports the delivery of custom and self-build housing. The Council refers to the Self-build and Custom Housebuilding Act 2015 and the requirement to keep a single register of people and groups who want to acquire a serviced plot of land. However, the Council states that there are sufficient approvals for self-build plots in the north and south of the borough which can meet the demand. The appellants submit that the Council's reference to there being 'sufficient approvals' to meet demand for self-build plots is not cogent justification to dismiss this as a benefit. However, given the evidence before me in relation to the need and supply of self-build plots, this matter carries no more than limited weight in favour of the proposal.
30. Residents of the proposal would support services and facilities in the area. However, given the scale of the development proposed, and within the context of the scale of services within Yarm and Ingleby Barwick, this benefit would be very limited at most.
31. The proposal would generate economic benefits through employment during the construction phase. The second UU also includes provisions relating to training and employment. However, due to the scale of the proposal the benefits arising from these matters would be to a limited degree and over a limited period of time.
32. The provision of a lit footway along Leven Bank Road would represent a benefit in respect of pedestrian safety. However, based on what I have seen and read, the number of pedestrians that this route would serve beyond those generated by the appeal proposal would be limited, with a commensurately limited benefit to the wider area.
33. The appellants propose to deliver high speed broadband for the site, and submit that once this is in the area it will be available for approximately 60

homes and local businesses to access if they so wish. The Initial UU includes a contribution to the Council in respect of this, although the Council considers that the broadband should be provided by the appellants and that this should be achieved by planning condition. Limited evidence has been provided as to how properties could connect to this new service or the costs involved for individual property owners. However, on the assumption that reasonable access could be provided to properties in the area, given the numbers referred to by the appellants and the fact that a more limited service currently exists, this would represent no more than a moderate benefit of the proposal.

34. Education contributions and landscaping would address the impacts of the development itself, and are neutral considerations in the overall planning balance.
35. I have had regard to the comments raised by third parties in support of the proposal, which refer to many of the identified benefits. However, the comments raised do not alter my conclusions in respect of the weight to be afforded to the benefits referred to, particularly in comparison to the identified harm arising from the proposal.
36. Reference has been made to a retirement village and a country club which have been permitted in the vicinity of the site. However, based on the evidence before me, these sites are located before the change in the character of the landscape on the approach to the appeal site. The consent for the country club has also lapsed. It has not been demonstrated that the circumstances of those schemes are a direct parallel to the appeal proposal in respect of the effect on character and appearance or the planning policy considerations in place at the time of those approvals. In any event, I have determined this appeal on its own merits.

### **Conclusion**

37. Notwithstanding my conclusion in respect of the accessibility of the appeal site's location, I conclude that the proposal would conflict with the development plan in respect of the housing strategy set out in the Local Plan; the character and appearance of the area and potentially highway safety; and the living conditions of residents in respect of light as well as the potential effect on protected trees. Even allowing for the potential benefits of the proposal considered cumulatively, these would not be sufficient to outweigh the significant harm arising from the development.
38. The proposal would be contrary to the development plan and the Framework as a whole with regards to achieving sustainable development. There are no material considerations of such weight that indicate that this appeal should be determined other than in accordance with the development plan. For the reasons given, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR