



# Appeal Decision

Site visit made on 14 February 2023

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31 March 2023**

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## Appeal Ref: **APP/H0738/W/22/3309370**

### Land at Leven Bank

- 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 Creswell Welch against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 21/2169/FUL, dated 12 August 2021, was refused by notice dated 7 July 2022.
  - The development proposed is described as relocation of one dwelling previously approved under application ref 20/1049/VARY.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, including the designated green wedge.

### Reasons

3. The appeal site is a steeply sloped grazing paddock with associated timber structures. It is located in between the settlements of Ingleby Barwick and Yarm. There has been recent development and permissions granted nearby to the site, and I note the Local Plan allocations in the wider area. Nevertheless, the site is predominantly open which results in it having a semi-rural character, that creates an important sense of openness, providing visual relief from the nearby settlements. Even if it is within the development limits, it lies within a designated green wedge as an area of land important to remain open as a buffer zone between the settlements of Ingleby Barwick and Yarm.
4. The appeal site is spatially separate from the nearest settlement at Ingleby Barwick and so does not have urban edge characteristics. Instead, the appeal site and its immediate context is of a distinctly different character from the built-up areas, and from the location of the original dwelling this proposal seeks to replace, and is read as one of the last remaining parcels of semi-rural countryside in this location.
5. A Landscape and Visual Impact Assessment (LVIA) submitted by the appellant establishes a visual envelope covering the appeal site and surrounding area, with viewpoints and sensitive receptor locations. It concludes that overall, the proposal would not result in significant detrimental change to landscape character. However, while some of the locations identified had minor potential for visual effects, users of the public right of way (PRoW) FP1 and occupiers of

some properties to the west of the appeal site would have a clear view of the proposal and experience visual impact that the LVIA indicates could not be successfully mitigated due to the elevated position. Since the time of the LVIA, the position of the proposed dwelling on the site has been amended so that it is lower down the slope. However, this would bring it closer to the PRow.

6. The appeal proposal would introduce a substantial element of built development, that would be visible in views from the west, even allowing for additional landscaping to soften the proposal. The intrusion of an urban form of development would be detrimental in this open countryside gap between two settlements. While it would largely be screened from view from the main road, it would be readily apparent to users of the PRow and the occupiers of residential properties to the west of the site that the proposal would be an incongruous form of urban development within a countryside location. It would not respond positively to its context and would be a detrimental intrusion into the openness and visual relief currently provided by the site.
7. In 2011, the Landscape Character Assessment noted that development had changed the area, narrowing the corridor and resulting in a greater need to protect the green wedge in this location. To this end, the appeal site was identified in the Landscape Capacity Study as not being suitable for development to ensure the buffer zone to the existing urban fringe of Ingleby Barwick is maintained. I note that since then there has been further development in the area. Nevertheless, the appeal site remained in the designated green wedge in the more recent 2019 Local Plan, worthy of additional protection through Policy ENV6. Given the prevailing character and appearance of the area discussed above, it remains sensitive to development pressures.
8. In the area immediately surrounding the appeal site the green wedge is relatively narrow in its extent, which heightens its important role in preventing the merger of the settlements on either side and enabling each settlement to retain its own character. Given the elevated views of Ingleby Barwick from the appeal site and surrounding area, any development at the appeal site would erode the open character and visual relief, undermining the role and function of this designated land.
9. While the appeal site is relatively small in the context of the green wedge as a whole, the proposal would introduce a considerable amount of built form including a large dwelling, triple garage and retaining walls. Given the site's distance from the urban edge, the appeal scheme would not result in a physical extension of Ingleby Barwick.
10. However, it would represent a marked visual change and would have an urbanising effect, contributing to a small, but nevertheless detrimental element of visual coalescence. This would be particularly experienced from views into the site from the west. The proposal would therefore be detrimental to the local character of the green wedge.
11. The appellant has indicated in both the description of development and the appeal submissions that the proposal is for the relocation of one of the dwellings previously approved under a different application. The intention is to 'surrender' one of the four originally approved dwellings via a legal agreement. However, despite reference to a unilateral undertaking in their submissions

there is no mechanism before me to ensure that both schemes, and therefore five dwellings in total, are not built.

12. The Council have previously used a planning condition to limit a permission for another site nearby. However, even if this were possible in this case, while this would limit the overall development in the surrounding area, the proposal would still result in a new standalone dwelling at the appeal site detached from the other three, which I have found would cause harm to the character and appearance of the area and which would have a distinctly different impact on the character and appearance of the area than the permitted dwelling. Moreover, not building one of the dwellings under the existing permission, at a different site, would not make the appeal scheme acceptable.
13. It is indicated that all four dwellings with permission could be constructed, and this is a fallback position. However, that scheme has not been found to cause harm and accords with the development plan. Consequently, I find the suggested fallback position to have limited weight in the determination of the appeal.
14. Overall, the proposal would be harmful to the character and appearance of the area, including the designated green wedge, in conflict with policies SD8 and ENV6 of the Stockton-on-Tees Borough Council Local Plan (2019). These policies, amongst other things requires development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and responding positively to the landscape character of the area. Development within green wedges is required to avoid visual coalescence of built-up areas and adverse impacts on the local character.
15. The proposal would also be contrary to the provisions of Section 12 of the Framework, with regard to achieving well-designed places.

### **Other matters**

16. The appeal site is located within the catchment of the River Tees which flows into the Teesmouth and Cleveland Coast Special Protection Area/Ramsar site, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the habitat.
17. One of the reasons for refusal concerns the absence of any supporting information to demonstrate there would be no increase in nitrates or appropriate mitigation with regards to increased nitrates and phosphates from the proposed development discharged into the catchment. However, regulation 63(1) of the Regulations indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. Thus, given my findings on the main issue it is not necessary for me to consider this matter in any further detail.
18. While the appellant has expressed frustrations with the Council's handling of the case, this has not affected my consideration of the planning merits of the scheme.

## **Conclusion**

19. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

*F Harrison*

INSPECTOR