



Appeal Decision

Hearing Held on 11 July 2023

Site visit made on 10 July 2023

by S Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/H0738/W/23/3316364

Mount Leven Farm, Leven Bank Road, Yarm

- 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 Mandale Homes against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 21/2925/FUL, dated 19 November 2021, was refused by notice dated 21 December 2022.
 - The development proposed is Construction of 215 no dwellings, together with associated landscaping and external works.
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Decision

1. The appeal is dismissed.

Application for costs

2. Prior to the Hearing an application for costs was made by Mandale Homes against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The proposed development has been screened under Regulation 14(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and concludes that the proposal would not be likely to have a significant environmental impact in view of the nature, scale and location of the proposed development and the nature of the receiving environment.
4. The appeal submission includes a completed planning obligation under section 106 of the Town and Country Planning Act 1990 (s106), and the Council have provided a statement of compliance in respect of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations). I make further references to the s106 throughout the decision.

Main Issues

5. The main issues are:
 - Whether the proposed development would adequately meet the needs of the ageing population;

- Whether the existing Mount Leven roundabout is safe and suitable to serve the proposed development, effects on highway safety, and accessibility of the site;
- The effects of the proposed development on the character and appearance of the area; and
- The effects of the proposed development on green space, with particular reference to the River Leven valley.

Reasons

Policy Background, Planning History and Fallback Position

6. The appeal site comprises open fields located to the north of the A1044 Leven Bank Road between the settlements of Yarm and Ingleby Barwick. A roundabout has been constructed as part of a scheme for a retirement village approved in 2013 (outline consent)¹ and 2016 (reserved matters)², and this would provide access to the appeal site and other development land around it. The site was subsequently allocated in the Stockton-on-Tees Local Plan 2019 (the Local Plan) by policy H1(2) as an existing housing commitment which benefits from planning permission. The capacity of commitment Y4 is listed as approximately 346 dwellings. This figure reflects the 2016 reserved matters consent for 332 dwellings on the aforementioned retirement village site plus 14 dwellings at Busby Way which were allowed on appeal in 2015³.
7. The appeal site forms around 12.6 hectares in area of the 30 hectare allocation. This area of land also includes land approved for use as a country park⁴ located between the retirement village and the south side of the River Leven.
8. Prior to adoption of the Local Plan in 2019, the site formed part of the 'green wedge'. It no longer lies within this designation, but the green wedge continues to wrap around the northern and eastern edges of the site and forms a buffer between Yarm and Ingleby Barwick.
9. Comparisons to the previously approved retirement village form a key part of the case of both parties, and the above planning history (which informs the relevant Local Plan policies) is a material consideration in this appeal insofar as it could be argued to form a fallback position. This is notwithstanding the lack of evidence before me as part of the appeal submission (including any certificates of lawful development) to substantiate this, but I acknowledge that both parties are in agreement that a lawful start has been made to each of the consents within the requisite time period. I therefore proceed on the basis that the aforementioned planning consents are all extant.

¹ 13/0776/EIS: Outline planning consent with all matters reserved except for access, for development of a retirement village including related leisure and social facilities and infrastructure (approved 20 September 2013)

² 15/2161/REM: Reserved matters approval for the erection of 332 no retirement dwellings, 68 bed nursing home and community facilities (approved 17 February 2016)

³ 14/0807/OUT and APP/H0738/A/14/2226575: Residential development of 14 no. units (appeal allowed 19 January 2015)

⁴ 16/3049/FUL: Application for the setting out public access in an area to be designated as a country park to include the construction of a new footbridge (approved 26 September 2018)

Needs of the Ageing Population

10. Local Plan policy SD3 sets out the housing strategy for the Borough, and at part 2a specifies the priority for the Council to deliver a range and type of housing appropriate to needs and addressing shortfalls in provision, including the provision of housing to meet the needs of the ageing population and those with specific needs.
11. Local Plan policy H4 sets out a range of criteria which seek to meet the housing needs of the Borough. Specifically, criterion 14 refers to some of the housing commitments previously identified in policy H1, including Y4. It states that the Council require the delivery of '*housing specific to meeting the needs of the ageing population*' through the current planning permission or any subsequent application. The relevant housing commitment Y4 is listed as '*Mount Leven (Part of)*'.
12. The Council put to me that the '*part of*' the housing commitment not required to meet the needs of the ageing population would be the 14 dwellings off Busby Way. These were approved as general market dwellings without an age restriction. On the other hand, the appellant inferred that because the meaning of '*part of*' is not specifically noted in policy H4(14) nor the supporting text, it could be interpreted more flexibly. They put to me that the remaining areas of housing commitment Y4 would meet such needs, including the care home.
13. However I disagree. Policy H1(2) refers to housing commitments, and these differ from housing allocations for future developments which are listed at policy H1(1). Criterion 14 of policy H4 was evidently written in direct response to the extant consent for the retirement village which comprises 100% housing restricted to the over 55's, as secured both by condition and in the s106⁵. When reading the Local Plan as a whole, and specifically policies H1 and H4 together, it is clear that the vast majority of the allocation should continue to meet the specific needs of the ageing population. I agree with the Council that the Busby Way development site is the only part of the commitment exempt from this.
14. Both the s106 and condition 10 of 13/0776/EIS for the retirement village specify that at least one member of a single household should be over 55, and that the restriction shall not apply to the surviving spouse or partner (following the death of the qualifying occupier) if they are below this age. The wording is usual for this type of development. It would be perverse for a condition or agreement to specify that only over 55's could live in the property given that they may have younger partners or dependents within their household. By virtue of its inclusion in the s106, when the property is re-sold it would revert to the over 55's requirement. Whilst there are some limitations to this type of age restriction, it is clear in its meaning and purpose and meets the tests in paragraphs 56 and 57 of the National Planning Policy Framework (the Framework).
15. Paragraph 60 and 62 of the Framework seek for the needs of groups with different housing requirements to be addressed, and for such housing to be assessed and reflected in planning policies, including for older people. The supporting text to policy H4 refers to the Strategic Housing Market Assessment (SHMA) which identifies the growing elderly population within the Borough.

⁵ Section 106 Agreement for 13/0776/EIS dated 20 September 2013 : Third Schedule Part 7

Paragraph 5.59 refers to the need to provide more accessible and adaptable homes in order to help people maintain their independence for longer. Here, the Local Plan also specifically refers to the existing commitment at Mount Leven anticipated to deliver housing provision specific to the ageing population. The Council confirmed that this is the only housing allocation in the Borough which is required by the Local Plan to provide this type of housing.

16. I was also directed to a note⁶ which formed part of the evidence base for the Local Plan examination, which also refers to the SHMA. It highlights the increasing older population in the Borough and the associated onset of disabilities, with the need for a practical approach to future proofing housing to allow for ageing of residents which underpins support for policy H4(9) (previously 8) to require more accessible homes in the Borough.
17. Instead of an over 55's restriction the appellant seeks for 100% of the housing to meet the optional Building Regulations part M4(2) in relation to accessible and adaptable dwellings, and for 9.3% to meet part M4(3) which relates to wheelchair user dwellings. The requirements are proposed to be secured by condition (no.4) and are in excess of the requirements of policy H4(9) which seeks for 50% and 8% of new homes to meet these standards respectively.
18. Whilst it is commendable that 100% of the houses would meet part M4(2), the uplift in properties meeting part M4(3) is marginal. These dwellings would not only be suitable for older people with mobility issues but would meet the needs of younger people with disabilities and this would be an appropriate provision within the housing mix.
19. Policy H4(14) is clear in its requirement to achieve the provision of accommodation for the ageing population, however I am not persuaded that the two storey houses are specifically designed with such occupiers in mind. From the plans before me, they represent typical suburban style two storey family houses and do not clearly display features which would make them appropriate for older people. It is by no means necessary for all such accommodation to be single storey only to meet needs, but the floor plans for majority of the two storey houses fail to even include a ground floor room which could feasibly be used as an accessible bedroom.
20. It appears that a number of the provisions set out in part M4(2) such as parking close to entrances, step free access to the ground floor and inclusion of a ground floor WC could be readily provided to meet the optional requirements. Nonetheless, it is unclear whether the necessary widths and clearances have been met, or if adaptations could be easily carried out in future to increase the accessibility and functionality of the dwellings to meet the needs of the elderly, such as provision of a downstairs bedroom or enabling a stairlift to be fitted. I was assured at the hearing that the plans were drawn up to meet the optional building regulations, and that they are 'future proofed' so they can be adapted to meet needs. However I am unconvinced that the layouts readily allow for such future adaptations, and whether the recommended condition could be enforced and the relevant provisions retained in perpetuity.
21. I was provided with a copy of the decision and approved plans for the reserved matters approval 15/2161/REM following the hearing. Alongside a care home and community facilities it comprised 100% bungalows (332 in total) of five

⁶ Note: Policy H4(8) – Meeting Housing Needs

different house types between one and three beds. The appellant indicated that some of these bungalows would not even meet current space standards, however there is limited evidence before me to substantiate this. The floor plans provided indicate spacious rooms and circulation spaces in single level homes, which appear to be of the type to be desirable to and suitable for older people. I acknowledge that there is no requirement for the approved bungalows to meet part M4(2) and/or (3). Nevertheless, I am unconvinced that the two storey dwellings before me would be preferable to or more suitable for older people who have mobility issues and indeed younger people with disabilities. In concluding this, I accept that the extant scheme is a fallback position capable of being implemented.

22. Consequently I am not satisfied that the proposed development, in particular the two storey dwellings, and without an age restriction, would adequately represent housing specific to meeting the needs of the ageing population and would therefore conflict with Local Plan policy H4(14) and SD3(2a) together with paragraphs 60 and 62 of the Framework.

Highway Safety and Accessibility

23. Reason for refusal 2 primarily relates to the suitability of Mount Leven roundabout to serve the proposed development, but the Council's case and numerous local objections also refer to the sustainability of the development for non-car users. This is in relation to both sustainable transport options and safe and suitable access for pedestrians and cyclists. I deal with the access for motor vehicles and the associated works on Mount Leven Road first, and I will turn to accessibility for pedestrians and cyclists later in this section.
24. The site lies adjacent to the existing urban area of Yarm and a short distance away from neighbouring Ingleby Barwick. I noted on my site visit that access for motor vehicles from both settlements via the A1044 Leven Bank Road and then towards to the A19 is relatively straightforward. Access into the site would be provided from Leven Bank Road via an existing roundabout completed in 2017 which formed part of the planning consent for the retirement village. This stretch of Leven Bank Road is subject to a 40mph speed limit and as far as I am aware there are no proposals to reduce this limit. The A1044 towards Ingleby Barwick in this location has a rural appearance and nature, and is largely unlit except for the approach to the roundabout.
25. The Transport Assessment and subsequent Technical Notes, in response to comments raised by the Local Highway Authority and National Highways, comprehensively set out the trip generation and distributions for the proposed development taking into account the different type and nature of housing than that previously approved. This includes use of the local 'Yarm Aimsun Model'. The Highway Authority are satisfied that the change in housing provision would not have a severe impact on the assessed junctions, and they do not have concerns regarding the impact of the proposals on the capacity of the local highway network. Likewise, National Highways are satisfied with the effects relating to the operation of the nearby A19. Without evidence to the contrary I am inclined to agree with the position of the highway authorities in relation to highway capacity.
26. Interested parties put their concerns to me regarding the design of the roundabout, realignment of Leven Bank Road and the installation of associated street lighting. It was put to me that the existing roundabout design is not fit

for purpose, and that driver behaviour puts highway safety at risk. I have had regard to the accident data, and also heard anecdotal evidence from local residents about numerous other minor accidents unlikely to have been reported in the data.

27. I saw for myself on site that there is a level of poor driver behaviour on this stretch of Leven Bank Road when negotiating the roundabout. A large proportion of drivers do not slow down on approaching the roundabout and 'straight line' it rather than driving round it. I acknowledge that the design of the roundabout allows for this, and that because it only currently has two arms there is no requirement to give way. Once the arm which provides access to the appeal site becomes operational for construction and operational traffic, driver behaviour is expected to change accordingly as oncoming traffic would necessitate vehicles to slow down and give way.
28. I also observed that visibility is more limited than it would have been prior to construction of the roundabout, because it has been offset from the original route of the road towards the appeal site. The presence of a hedge alongside the access and verge immediately to the east of the roundabout results in a marked narrowing of the verge towards the neighbouring access at 'Hillcroft'. This verge is also partially obstructed by lighting columns and an electronic speed limit sign. As a pedestrian, I found the verge towards the direction of Ingleby Barwick and the nearby bus stop to be a treacherous route, severely limited by the growth of vegetation in high summer and muddy underfoot after a period of rain.
29. Nonetheless, the roundabout and associated works within the verge are in place, having been subject to the appropriate highway agreements. I also acknowledge that the roundabout has departures from standard, but accept that the required independent Road Safety Audits demonstrate its safe operation with implemented mitigation measures. In respect of potential obstruction of third party land, this is a civil matter. I am not party to the highway agreements and am unable to comment on their legality or the extent of highway land as this is not detailed on the plans before me.
30. Whether or not they are sited upon third party land, the location of the lighting columns is of relevance to my considerations. The columns are located such that they have the potential to limit proposed works to create a footway towards the nearby bus stop. The Transport Assessment includes a plan which indicates the location of the footway connection and the bus stop, as well as an indicative location for a tactile crossing point. However, these plans are not of such a scale and detail that I am able to establish whether the footpath is of appropriate width or if it is obstructed by any street light columns, hedges or any other features. Being mindful of the adjacent road speeds, presence of obstacles and the need for the path to be accessible by a range of users, without such details I am unable to conclude if sufficient space could be accommodated in accordance with local and national guidance.
31. I heard that the local bus operator has recently announced cuts to services which pass the appeal site (service 17). However this appears to be a live issue and there is no evidence before me to indicate either way whether the service is in place, will remain or be re-instated in the future. Nonetheless, the footpath link along Leven Bank Road towards the bus stop would still form part of the proposals.

32. The s106 for the approved retirement village secures provision of a shuttle bus service for residents. It is uncertain whether this would continue to be feasible within the of the remainder of the allocated site. The evidence indicates that a bus route through the site in the future is unlikely, although I acknowledge that the road layout is designed to allow for use by buses in the future. Nonetheless, this adds to my concerns that sustainable transport options are limited for the future residents of this site contrary to paragraph 112 a) of the Framework.
33. Paragraph 92 of the Framework seeks for decisions to aim to achieve healthy, inclusive and safe places which include street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, that are safe and accessible. Paragraph 110 b) requires safe and secure access to the site to be achieved for all users, and paragraph 112 a) states that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas. Paragraph 112 c) goes onto say that places should be safe, secure and attractive, minimising the conflict between pedestrians, cyclists and vehicles whilst responding to local character and design standards. Local Plan policy TI1 parts (3) and (12) seek for accessible, convenient and safe routes for pedestrians, cyclists and other users to be delivered and ensure that access to sustainable transport modes is maximised.
34. The Transport Assessment includes a 'walk accessibility plan'⁷ which indicates approximate walking distances within 2km to areas of both Yarm and Ingleby Barwick including local shops and services and public transport routes. The town centre of Yarm is in excess of 2km from the site. The adjacent Levendale estate has some limited facilities within a 5 to 15 minute walk including a convenience store and primary school. Further afield, stated to be a 15 to 20 minute walk away, Healaugh Park includes a dental practice, public house, takeaways, supermarket and convenience store with post office facilities.
35. However the accessibility plan fails to indicate the routes which would be taken by pedestrians or cyclists to reach such facilities, therefore I cannot be certain that they are within a reasonable distance or are safe routes for non-car users. The proposal for unrestricted occupancy dwellings would by its nature attract more families with children, and I heard that they could attend schools either in Yarm or Ingleby Barwick. Pedestrian accessibility in an eastern direction to Ingleby Barwick is extremely limited; the River Leven and its steep sided valleys provide a physical barrier to reaching the neighbouring settlement, so the only route is via the A1044.
36. There are no continuous footways to the north side of the A1044 which would provide pedestrian access either east or west towards the nearest settlements. I observed that the footway on the south side towards Ingleby Barwick is narrow and overgrown in many places, is largely unlit and as such is unsuitable for a range of users. There are no pedestrian crossings allowing safe access over to the south side of the road, nor are any proposed. A footpath to the nearby westbound bus stop is proposed, but as explained above I am not satisfied that this can be achieved within the space available.
37. There is an existing public right of way leading to the nearby Levendale estate at Spell Close from directly within the appeal site, which then continues beyond

⁷ Transport Assessment November 2021: section 5.1.1 figure 5.1

Mount Leven Farm towards the bridge over the River Leven at the edge of Ingleby Barwick. This section of the public right of way runs along the edge of a field and is currently overgrown therefore its route was difficult to observe on my site visit. The westerly section of the public right of way to Spell Close joins footpath links towards Glaisdale Road as well as to Braeworth Close and Busby Way. These links provide good access to the wider area, but the public right of way to Spell Close from the edge of the appeal site is accessed via a stile, is unsurfaced, and restricted in width by the presence of a tall fence and vegetation. Alone, it would not provide a satisfactory pedestrian link for all users from the appeal site towards Yarm.

38. In view of the above, I consider that the appeal site is not in a suitably accessible location for non-motorised users. Therefore an alternative route is required to encourage residents to walk or cycle. Without a feasible choice of routes, the majority of residents are highly likely to use the private car over any other mode of transport, contrary to paragraphs 92, 110 and 112 of the Framework.
39. I have considered whether the site could be made more accessible, through limiting the need to travel and offering a genuine choice of transport modes as sought by paragraph 105 of the Framework, and whether the required improvements could be feasibly delivered as part of the proposed development. I have already found that use of the A1044 Leven Bank Road is not a safe or suitable route for pedestrians and there are doubts over whether a footpath link to the bus stop could be achieved.
40. A new footpath/cycleway link to the Levendale estate is proposed from the far north-west corner of the site towards Busby Way which then connects to the wider urban area. There are no existing links onto the site in this location, and provision of the proposed route is reliant on the delivery of an approved footpath link via third party land through the approved Busby Way housing development.
41. A Grampian condition (no. 34) is suggested to secure the link prior to occupation. I queried whether this was achievable and how such a link on third party land could be secured given it does not form part of the s106. Following the hearing I was forwarded a copy of a legal agreement dated 11 July 2023 between the appellant and the owners of the Busby Way development land which sets out a footpath deed of easement. I note that whilst it is unnecessary for the houses on the Busby Way development to be built out in order to complete the link, it can only be achieved by the purchase of land and partial demolition of the existing dwelling at 15 Busby Way. I note that the plans appended to the agreement represent a different housing layout and vehicular access to that most recently approved⁸ by the Council. The previously approved plans indicate the footpath takes a slightly different route to Busby Way, situated within a wider area and landscaped buffer between it and existing and proposed dwellings. There is a bungalow at no.16 which has a side window in close proximity to the new route of the footpath, and I also note that no.15 is shown as being retained. I am aware of concerns in relation to living conditions and this adds to my doubts regarding the feasibility of the new route.

⁸ 23/0064/VARY Section 73 application to vary conditions no2 (approved plan) and no4 (soft landscaping) of planning approval 17/2694/REM -to allow a footpath link from the adjacent site at Land East Of 15 Busby Way - Approved 30 June 2023

42. The purpose of this document is clear, in that it seeks to secure a footpath link for use by the appellant who would ultimately purchase this part of the Busby Way site. However a number of matters remain in doubt which could prevent the pedestrian/cycle link from coming forwards, not least the lack of certainty regarding its delivery which is reliant on other parties. Complications include the uncertainties relating to the form and route of the path, its proximity to existing dwellings, and ongoing revisions to the Busby Way development site. I am mindful of planning practice guidance and the prospect of the works being agreed by all parties to enable the housing development to be implemented in a reasonable time period. There is no provision in the s106 for the off-site footways. Additional land not in the control of the appellant or the Highway Authority may be needed to achieve the required links, potentially requiring separate planning applications as well as the agreement of the affected landowners. Without the acceptance of details, the delivery of the entire proposed development could be frustrated by Grampian condition no.34.
43. An agreed footpath/cycleway to Busby Way would represent the only safe and suitable access for all non-car users to access services and facilities within Yarm. Without it, the development would not be accessible nor safe for such users and lead to occupiers being more likely to use their cars instead which is contrary to local and national aims to promote sustainable modes of transport.
44. I am mindful that the extant retirement village consent for the site does not include such a pedestrian link to Busby Way. Instead it includes provision for a shuttle bus, secured by the s106. The over 55's are more likely to be retired and less likely to have school-aged children residing with them. Furthermore, the retirement village was designed as a community development incorporating a range of on-site facilities⁹, which would reduce the need for occupants to travel elsewhere. The Council and numerous interested parties have put to me that such provision represented significant benefits which originally led the Council to approve the retirement village against officer advice. It is unclear whether such facilities would remain in the wider commitment, as there appears to be a re-design planned of this area, with a care home currently proposed in this location¹⁰. That application is currently undetermined, but the wider re-design adds some doubt to whether the extant retirement village scheme has a realistic prospect of being implemented.
45. In terms of access for motor vehicles, it has been adequately demonstrated that the Mount Leven roundabout and the local highway network could operate within capacity and without severe effect, and that the internal road layout and parking provision would meet the required standards largely satisfying Local Plan policy SD8(f) which requires new development to provide safe and satisfactory access and parking for all modes of transport.
46. Nonetheless, there is a lack of detailed evidence to assure me that an appropriate footway along Leven Bank Road and footway/cycleway connections to Busby Way can be achieved to ensure that the proposed development can be made accessible in a safe manner suitable for non-motorised users to access nearby settlements and sustainable transport modes. The proposed development therefore conflicts with Policy TI1 (3) and (12) of the Local Plan in failing to give priority to provision of accessible, convenient and safe routes for

⁹ 15/2161/REM indicates a community hall/leisure centre, retail unit(s), bowling green and tennis court within Village 2

¹⁰ 2125-SK-CARE HOME-B

pedestrians and cyclists and failing to ensure that access to sustainable transport modes is maximised. In turn, the proposed development conflicts with Paragraphs 92, 105, 110 and 112 of the Framework.

Character and Appearance

47. The appeal site comprises open undeveloped land typical of the River Tees Corridor landscape character area (LCA) as defined in the Stockton on Tees Landscape Character Assessment 2011. It is bounded by hedgerows, small copses and lines of trees around the public right of way which also forms the vehicular access to Leven Bank Farm. The relatively flat and uniform nature of the site changes quite dramatically where it drops down into the River Leven Valley. Here, land is designated in the Local Plan as green wedge by policy ENV6(4). Beyond the valley, the urban edge of modern housing at Ingleby Barwick can be clearly seen in the distance. To the west, the Levendale estate in the town of Yarm is directly bounded by the appeal site. Leven Bank Road between the two settlements is more sparsely populated, with sporadic dwellings including a small hamlet just beyond the road bridge over the River Leven.
48. Neither the site nor surrounding landscapes are subject to any national designations, nor is there any information before me to suggest that the landscape is valued in the context of paragraph 174 a) of the Framework.
49. The submission includes a comprehensive Landscape and Visual Impact Assessment (LVIA), which appropriately assesses the landscape and visual effects in accordance with the third edition of the Guidelines for Landscape and Visual Impact Assessment. I would agree with its assessment of effects on landscape character both during construction and on completion to be moderate, and I have had particular regard to the fact that the site is allocated for development therefore a change in its character to a more urban environment is therefore inevitable.
50. The LVIA includes a number of visuals taken from key viewpoints around the site, both long distance and in shorter range. I find these to be sufficiently representative of sensitive receptors, which include nearby residents and users of public rights of way. However the visuals are of limited value in that they only provide a broad indication of the location of the development in these views and do not show the heights nor extent of the proposal. No visuals have been provided to indicate how the proposals would appear in their surroundings.
51. On visiting the majority of these viewpoints, I found that long distance views of the site are relatively limited because of the surrounding more undulating topography, and the filtering effects from nearby trees and surrounding residential development. I largely agree with the assessment of effects set out in Appendix C of the LVIA. In particular, visual receptors on the eastern edge of Yarm and users of the public right of way which crosses the site (in the area of viewpoint 7) would experience a substantial change in views with moderate to major effects both during construction and when completed.
52. The scale of the site and the number of dwellings is significant and there is no doubt that the proposed development would have an urbanising effect on the landscape causing a moderate degree of harm. Nevertheless, such effects would be localised. Mitigation measures including retention of much of the

existing vegetation, together with planting of new native woodland and shrub blocks and trees around the site could be secured by conditions. Such measures would assist in screening and softening the proposed development as well as enhancing biodiversity.

53. In terms of the detailed design and layout of the proposed development, the Council were not forthcoming in setting out their concerns in this respect. Nonetheless numerous local residents have raised concerns regarding matters of design, in particular the two storey nature of the dwellings. I was provided with a copy of the elevations of the approved retirement village bungalows after the hearing and find them to be markedly different to those before me, being of high quality design and use of materials appropriate for its semi-rural location.
54. Being greater in height than the previously approved bungalows, the proposed two storey dwellings would inevitably appear more pronounced in the landscape and in local views and in turn, their detailed design would be more conspicuous. I find the design of most of the proposed house types in the appeal scheme before me to be somewhat bland and generic, with little evidence to suggest that local distinctiveness has been taken into account. Instead the proposed development takes references from the modern development on the adjacent Levendale estate which is described in the Design and Access Statement as having no particular architectural character or style. The proposals would be generally compatible with these nearby dwellings. However the design fails to reflect the wider character of the river valley including the more historic and characterful properties around the Leven bridge, nor the areas which enjoy a closer relationship with the nearby River Tees (including the centre of Yarm and Egglecliffe). Notwithstanding the inevitable harm to the landscape already established by the extant approval and the allocation of the site, I am not persuaded that the scheme for the two storey dwellings represents a high quality and beautiful development in accordance with section 12 of the Framework.
55. I therefore find that the design and scale of the proposed two storey dwellings would result in harm to the visual character and appearance of the area and would conflict with Local Plan policies SD5 and SD8 of the Local Plan which, together and amongst other things, expect development to be designed to the highest possible standard taking into consideration the context of the surrounding area including landscape character and to reinforce local distinctiveness. Furthermore the proposed development fails to meet the aims of section 12 in particular paragraph 130 of the Framework which includes a number of criteria which aim to ensure the creation of well-designed places.

Green Space

56. The Council's concerns relating to green space are primarily attributed to the effects on the adjacent River Leven valley. The site nor its surroundings are not designated local green space (as referred to in paragraphs 101 to 103 of the Framework) nor does the development affect a public open space designation.
57. I am satisfied that there would not be conflict with the aims of the policy ENV6(4) in relation to the green wedge. No built development is proposed within the designated area of green wedge and the local character and separate identity of Yarm and Ingleby Barwick would be maintained so that no physical or visual coalescence would arise. I have considered the issue of area

character in the previous section of this decision and have found that there would be moderate harm to the character and appearance of the area, which includes the River Leven valley, but nonetheless I do not find sufficient harm to warrant rejection of the proposals in this respect given that the site is allocated in the Local Plan.

58. The obligations within the s106 include provision to enable public access to the land to the south of the River Leven as a country park, and provide for ongoing maintenance and management. These obligations are akin to those in the s106 for the approved retirement village. The Council has provided a plan of an aspiration for a 'Tees Heritage Park'¹¹ covering a much wider area around the rivers, which is supported by Local Plan policy SD5 (1k). However the status of the heritage park project is presently unknown.
59. The definition of 'Country Park Scheme' in the s106 includes reference to provision of a footbridge over the River Leven. A bridge does not form part of the appeal proposals before me, but a footbridge was approved as part of the planning application for the country park¹², where the footbridge is indicated near to where the River Leven joins the River Tees. In the s106 before me, plan two indicates that only the land to the south of the River Leven forms part of the country park, between the river and the approved retirement village. The land does not include the river itself or a landing site to the north side; any river crossing would have to land on third party land not in the control of the appellant or the Council.
60. The appellant is correct that the Local Plan makes no reference to the need for the footbridge link or the country park, nonetheless it has been put to me that the application approved in September 2018 remains extant and as such could be implemented. Like the retirement village consent there is no associated lawful development certificate, but the parties agree that a lawful start has been made. In the absence of evidence to the contrary relating to this separate and historic application I am unable to establish the position in terms of the lawfulness of that consent. Nevertheless, I acknowledge the appellant's submissions that the footbridge is undeliverable in terms of land ownership constraints. Additionally, I understand that there is no public access to the north side of the river aside from a permissive path, from which access is only possible via steps up a steep gradient into the Round Hill Avenue housing area at Ingleby Barwick.
61. I also heard from local residents that implementation would be hindered by a number of factors including a range of ecological constraints. Whilst the appellant has highlighted that the costs of the bridge are not commensurate with the scale of the development proposed, I am unable to draw any conclusions on this given that such costs are not before me. Nonetheless there are arguably a number of potential obstacles to the delivery of the scheme and as such a real prospect of the consented footbridge being implemented is doubtful. Consequently, I am not persuaded that the inclusion of the footbridge in the s106 would meet the tests set out in paragraph 57 of the Framework.

¹¹ Stockton-on-Tees Council Statement of Case Appendix A: Tees Heritage Park Map

¹² Post Hearing Document: 16/3049/FUL Application for the setting out public access in an area to be designated as a country park to include the construction of a new footbridge at Mount Leven Farm, Leven Bank Road, Yarm – Approved 26 September 2018

62. Overall on this main issue I find that the proposed development would not result in significant harm to green space, specifically the green wedge between Yarm and Ingleby Barwick. It would provide for public access to a country park which, even without a footbridge, would represent a significant benefit of the scheme. In this respect it would be compliant with Local Plan policies ENV5, ENV6, SD5 and SD8.

Other Matters

63. The waste water discharges from the appeal site would have a hydrological connection to the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site which is situated some 7.4km away and is designated for its internationally important populations of Annex II bird species which are supported by the intertidal mudflats and sandflats. A shadow Habitats Regulations Assessment¹³ (HRA) including a stage 2 Appropriate Assessment was submitted by the appellant with the application. As competent authority, I have a duty under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) to consider whether the waste water discharge from the proposal would be likely to have a significant effect on the integrity of its interest features as a result of water quality (nitrogen) impacts. It is anticipated that the development would result in an additional nitrogen load of 33.45kg per year which would require mitigation in the form of removal of proposed sheep grazing land of 13.75ha at the adjacent country park, to be secured in the s106 together with its management in perpetuity. This approach has been agreed by the Council and Natural England. Were I minded to allow the appeal, I would be required to undertake an Appropriate Assessment. Nevertheless, considering that the appeal is to be dismissed for other reasons as set out, no further consideration is required on this matter.

64. Near to the site of the approved footbridge is Round Hill castle mound and bailey (ref. 1006760). Scheduled Monuments are heritage assets of the highest national significance, and any loss of significance from development within its setting requires clear and convincing justification as set out in paragraph 200 of the Framework. There is no description of the monument in its list entry nor public access to it. I am satisfied that the appeal site does not lie within the setting of this heritage asset given the distance involved and the intervening landform of the river valley.

65. Local representations have referred to a range of other concerns including the principle of development on the site, living conditions and other matters. The principle of residential development (notwithstanding whether it is specific to the ageing population) has been established both by the extant consent and the allocation of the wider site in the Local Plan as an existing housing commitment. As I am dismissing the appeal on the main issues for the reasons given above, I have not addressed other matters further.

66. A signed and completed s106 agreement has been submitted and covers a range of obligations already referred to in this decision including the country park (and footbridge) and nutrient neutrality. Other obligations include use of a local labour agreement, education contributions, an NHS contribution and affordable housing. The s106 has been agreed by the Council and the obligations reflect the relevant consultation responses. Aside from my concerns

¹³ Shadow Habitat Regulation Assessment Screening Report and Appropriate Assessment Revision 2 (October 2022)

regarding the inclusion of the footbridge in the country park scheme, I have no reason to disagree that the remaining obligations would not meet the tests set out in the CIL Regulations. However none of the obligations persuade me that the conflict with the development plan could be overridden. Likewise, I do not find that the imposition of conditions would make the development acceptable.

Planning Balance and Conclusion

67. The delivery of 20% policy compliant on-site affordable housing, with an appropriate mix of housing types and tenures, is a significant benefit of the overall scheme. Whilst concerns were put to me that the Council may be on a downward trajectory in relation to its delivery of housing, the most recent published position¹⁴ before me is that the Council can presently demonstrate a five year housing supply. Notwithstanding this the proposals would make an important contribution to the overall housing supply in the Borough, and given the Framework's emphasis on the delivery of housing it is appropriate for me to attach significant weight to this.
68. The provision of a 100% housing which meets Part 4(2) of the Building Regulations is a significant benefit over and above the policy requirement of 50%. However, this is offset by the lack of housing which would specifically meet the needs of the ageing population given the lack of an age restriction and the propensity of two storey dwellings over and above the previously approved retirement village proposals.
69. Delivery of on-site open space and a publicly accessible country park to the south of the River Leven also represents a significant benefit. Other contributions including to the NHS for an increase in GP surgery capacity, primary and secondary education are standard requirements set out in the Councils policies and guidance and are needed to offset the increased strain on local services as a result of the increase in local population, and the weight is limited by this. There would be both social and economic benefits from employment opportunities during construction, which are secured in the s106 to include a local labour agreement to ensure 10% of jobs are made available to residents of target areas. This and increased spending in the supply chain and local area attract moderate weight.
70. The majority of these benefits would also be realised by the previously approved retirement village. However the extant scheme, which it is maintained could continue to be implemented, also includes a number of other benefits over and above that before me. These include the provision of 100% single storey housing for older people, on-site (retail), leisure and social facilities, and a shuttle bus.
71. Many of the issues raised by the Council and interested parties would not, in isolation, result in any significant harm. The site is allocated for residential development and benefits from an extant consent. Subject to suitable conditions or planning obligations the proposed development would generally accord with policies relating to design, character and appearance, living conditions, green space and landscaping, biodiversity, drainage and flood risk.
72. However I have found that the lack of housing specific to and adequately secured for the needs of the ageing population conflicts with policies H4(14)

¹⁴ Stockton on Tees Borough Annual Position Statement 2022/23 to 2026/27

and SD3(2a) represents a departure from the housing commitment in the Local Plan and fails to comply with paragraphs 60 and 62 of the Framework.

73. I have also found that there would not be an unacceptable effect on highway safety nor would the residual cumulative impacts on the road network be severe. However, it has not been fully established that the proposed off-site works to enable access by pedestrians and cyclists would be acceptable or achievable. Without works to provide a footway to Leven Bank Road and a footway/cycleway to Busby Way, access for all users would be extremely limited and contrary to local and national planning policy aims to promote sustainable modes of travel. I have also concluded that the proposed two storey dwellings would result in additional and unacceptable harm to area character and appearance, in conflict with the design policies of the Local Plan and within section 12 of the Framework.
74. The benefits I have outlined above do not outweigh the harm caused by the conflict with the development plan as a whole. For the above reasons and having regard to all other matters raised, the appeal is dismissed.

Susan Hunt

INSPECTOR

APPEARANCES

For the Appellant:

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Roddy Macdonald, Eversheds Sutherland
Andrew Gardner, Landscape Architect
Gavin Snowball, Dynamic Transport Planning

For Stockton-on-Tees Borough Council:

Dominic Waugh, Fairhurst
Stephane Pietrzak, Milestone Transport
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Julie Butcher, Head of Legal Services
Councillor Tony Riordan
Councillor Lynn Hall
Councillor Dan Fagan
Councillor Sherris
Councillor Hampton

Interested Persons:

Michael Brazell
Bill Bates
Martin Chisholm
Peter Foster, Sustainable Rural Development
Forum
Joyce Hardy, Yarm Town Council
Thomas Howson
Sarah Jones
Ian McGregor
Christine Mundy
Jim Slater
Doreen Smith
Deborah Watt

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

Related Planning Applications:

13/0776/EIS Outline planning consent with all matters reserved except for means of access, for development of a retirement village including related leisure and social facilities and infrastructure at Mount Leven Farm, Leven Bank Road, Yarm

- Decision Notice dated 20 September 2013
- Section 106 Agreement dated 20 September 2013
- Site Location Plan ref: 1128/001
- Indicative Layout ref: 1128/016B

15/2161/REM Reserved matters approval for the erection of 332 no retirement dwellings, 68 bed nursing home and community facilities. at Mount Leven Farm, Leven Bank Road, Yarm

- Decision Notice dated 17 February 2016
- Site Layout Plan ref: 1404401
- House Types 1 to 5 refs: 1420/P/020A, 021A, 022, 023, 024 and 025

16/3049/FUL Application for the setting out of public access in an area to be designated as a Country Park to include the construction of a new footbridge at Mount Leven Farm, Leven Bank Road, Yarm

- Decision notice dated 26 September 2018
- Country Park Landscape Plan ref: 1505.52 D

14/0807/OUT Residential development of 14 no. units at Land off Busby Way, Mount Leven, Yarm

- Appeal Decision APP/H0738/A/14/2226575 dated 19 January 2015
- Section 106 Agreement dated 11 December 2014
- Illustrative Masterplan ref: ALA223L01 PL1

23/0064/VARY Section 73 application to vary conditions no2 (approved plan) and no4 (soft landscaping) of planning approval 17/2694/REM to allow a footpath link from the adjacent site Land East Of 15 Busby Way, Yarm

- Decision notice dated 30 June 2023
- Site and Landscaping Plan ref: 20-07/SK01E

23/0866/OUT Outline application with some matters reserved (access) for the erection of an up to 68 bed care home (C2) with ancillary community facilities at ground floor level and associated infrastructure and landscaping

- Application form dated 27 April 2023
- Proposed Site Plan ref: 2125-SK-CARE HOME-B

Appeal Decision: APP/H0738/W/22/3309370 – Land at Leven Bank: Relocation of one dwelling previously approved under application ref 20/1049/VARY (Dismissed 31 March 2023)

Legal Agreement relating to the proposed sale and purchase and/or grant of easements relating to land at Mount Leven/Busby Way, Yarm dated 11 July 2023

Local Plan Policies Map (2019)

Local Plan Evidence Note: Policy H4(8) – Meeting Housing Needs

Supplementary Planning Document: Meeting Housing Needs (May 2021)

Stockton on Tees Landscape Character Assessment (26 July 2011)