



Appeal Decision

Site visit made on 22 January 2018

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2018

Appeal Ref: APP/H0738/W/17/3187827

Land North of Thorpe Thewles, Durham Road, Thorpe Thewles TS21 3JN

- 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 Simon Studholme and Sarah Hirst against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 17/0943/OUT, dated 5 April 2017, was refused by notice dated 7 September 2017.
 - The development proposed is residential development of up to 40 dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 40 dwellings at Land North of Thorpe Thewles, Durham Road, Thorpe Thewles TS21 3JN in accordance with the terms of the application, Ref 17/0943/OUT, dated 5 April 2017, subject to the conditions set out in the schedule attached to this decision letter.

Application for costs

2. An application for costs was made by Simon Studholme and Sarah Hirst against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline including consideration of access, with all other matters reserved. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the plans as being illustrative. In the interests of clarity I have used the more comprehensive address employed by the Council in their decision notice in the heading above.

Main Issues

4. The main issues raised by this appeal are whether the proposed development would represent a suitable location for housing, with particular reference to accessibility of education, employment and services, and the effect the proposed development would have on the character of the village.

Reasons

5. The appeal site is an area of pasture lying to the north of existing groups of houses at St James and North Closes. It is bounded by an area of woodland to the north, and is adjacent to the tree lined Durham Road to the west and A177 to the east. The development would be served by a vehicular access off

Durham Road with potential links to an existing public footpath to the east. Indicative plans show housing development set within existing and new tree planting with a pocket park within the housing area and a larger area of green space to the east, including land outside the site but in the appellants' control.

Suitability of location for housing

6. Thorpe Thewles is a village with two pubs, a church and a parish hall which would all be within easy walking distance of the site. However, the village has otherwise very limited services and places of employment and no school. Whilst the development would help to sustain what facilities are available in the village, future residents of the development would be likely to have to travel elsewhere for many of their day to day needs.
7. Nevertheless, the appellants' Transport Statement identifies that the village is served by two bus services linking it to other villages, a supermarket and larger towns in the wider area. Although not appearing to operate on Sundays or into the evenings, the frequency and times of these services are such that they could offer a realistic alternative to occupiers making private car journeys to access services, facilities and employment not available in the village. In addition there is a service to a sixth form college in term time. No details have been provided to support the Council's contention that local transport is not reliable.
8. The availability of such alternatives, as well as footpath links to recreational opportunities, would be unlikely to avoid occupiers using private cars for some journeys, and interested parties report that many existing residents do so at present. However, future occupiers would have a choice of sustainable transport modes to support many day to day activities and consequently not be reliant on private car journeys. Whilst such options may be more limited in evenings and weekends I am conscious that the National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
9. Furthermore, whilst future occupiers may reasonably be expected to rely on services and facilities in the main urban area of Stockton-on-Tees given its proximity and accessibility, sustainable transport is available to nearby villages where services and facilities are also on offer.
10. These are circumstances which accord with the Framework's approach of locating housing where it will enhance or maintain the vitality of rural communities to promote sustainable development in rural areas. Conversely, there is no substantive evidence that demands arising from additional households either from the development itself, or when considered cumulatively with other development which has planning permission in the village, would have an adverse effect on services or facilities in the village or elsewhere, subject to mitigation for effects on education provision that I have dealt with below.
11. Whilst noting the material differences between the two schemes, I am conscious that in granting planning permission recently for a housing development at Thorpe Beck Farm in the village, the Council considered Thorpe Thewles to be a sustainable location for housing having regard to alternative sustainable transport modes. This weighs in favour of the proposal in this respect.

12. As the development would be well serviced by an attractive choice of transport modes, including public transport, providing alternatives to private vehicle use, it would accord with criterion 1. of Core Strategy¹ Policy CS2. There would nevertheless remain some limited harm through the likelihood of some reliance on private vehicles to access services and facilities outside of those times when bus services are available.
13. Whilst the likely increase in number of dwellings would be sizeable as a proportion of those existing, this itself would not render the development as an unsustainable one.

Character

14. Thorpe Thewles is characterised by older properties arranged around the main routes through the village and its open spaces, interspersed and largely surrounded with groups of twentieth century houses, many arranged in cul-de-sac configurations. Despite its proximity to the A177 dual carriageway, from my observations it has a relatively compact, rural village atmosphere, albeit I note that interested parties have identified that roads get busy at certain times of the day.
15. The development would increase the size and population of the village with up to 40 new dwellings on the edge of the settlement. The layout suggested by the indicative Development Framework would allow for the enhancement of existing tree planting around the site as well as integration to existing road and footpath routes. This would enable the new development to both be well related to the established settlement as well as a degree of planting helping to assimilate the development into the village.
16. The addition of an estate of new housing would not be at odds with the existing character of the village which is formed to a notable extent by groups of twentieth century housing, albeit in smaller groups or estates than the appeal site. Although the site is reasonably large in itself, the indicative plans show the built frontage, set back from Durham Road, would not extend much farther north than existing development on the opposite side of the road. Both the development, and the village, would be visually and physically contained by the extensive wooded area to the north. Consideration of reserved matters of layout, appearance and landscaping will enable the Council to ensure that such aspects of the development do not adversely affect the character or appearance of the village.
17. The development would undoubtedly change the scale of the existing village and I can appreciate from the considerable opposition to the development that the present size of the village is something which residents value. However, there is no substantive evidence that this increase in physical size and population would necessarily harmfully alter the village which would retain its relatively compact, rural village character. Whilst the Council consider that any expansion (if required) should be by way of small infill developments I have not been directed to any development plan policy or guidance that would indicate that such an approach is necessary.
18. Therefore, even considered cumulatively with other developments which have planning permission, it has not been demonstrated that the changes the

¹ Stockton-on-Tees Borough Local Development Framework – Core Strategy Development Plan Document, 2010.

development would bring about would have materially harmful effects on the character of the village. The development would avoid conflict with the Framework's character and design approach.

19. Although the Council consider that the development would result in an unacceptable increase in demand on existing infrastructure in the village, there is no indication of what infrastructure would be affected and nor why it would be unacceptable. Interested parties have highlighted concerns relating to capacity at GP surgeries in nearby villages or towns, however this does not amount to a conclusive reason as to why additional dwellings in this village would be unacceptable.

Planning Obligation

20. The appeal proposal is accompanied by a signed, sealed and dated planning Obligation. This would provide for 15% of the dwellings on the site as affordable housing and provide either open space on the site or adjoining land, or alternatively a financial contribution towards improvements at the nearby Wynyard Woodland Park. Notwithstanding the views of the Parish Council that funds should be directed to sporting facilities in the Parish Hall, this approach is in line with the requirements of Core Strategy Policies CS8 and CS11 for affordable housing and infrastructure priorities including open space.
21. Although the type of housing on the site has yet to be established it is reasonable to expect that some of it would be suitable for families with dependents of school age and the Obligation would provide mitigation against increased demand for school places which could arise from the development. The obligation provides a mechanism for a financial contribution towards primary and secondary education, dependant on the number of family homes provided.
22. I consider that the measures in the obligation are necessary, related directly to the development and fairly related in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework. I can therefore take the Obligation into account.

Planning balance

23. Although the Council considers that it has a five-year housing land supply this is dependent on a development plan which they advise is not yet at publication stage and therefore carries limited weight. In these circumstances that such a supply cannot be demonstrated, Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date and that housing proposals need to be considered in the context of the presumption in favour of sustainable development at paragraph 14 of the Framework.
24. I have found some limited harm through the likelihood of reliance on private vehicles when bus services are not available and this adverse effect carries moderate weight. Set against this harm, the proposal would have the social benefits of providing up to 40 new dwellings including on site affordable housing along with new or enhanced open space. There would also be social and economic benefits in supporting facilities and services within the village

and nearby settlements. Economic benefits would arise during the construction phase. Together these carry significant weight.

25. Overall the adverse impacts identified above do not significantly and demonstrably outweigh the social and economic benefits and there are no specific policies in the Framework which indicate that the development should be restricted. Consequently the proposal would represent sustainable development as defined in the Framework. The development accords with the development plan and material considerations do not indicate otherwise.

Other Matters

26. I am conscious that my conclusion differs from that of an Inspector considering an appeal² relating to a single dwelling in the village, referred to by interested parties. However, the benefits arising from that proposal would have been materially different to those in this appeal and subsequently the Council's decision at Thorpe Beck Farm has indicated a different approach being taken. Also, I have determined the appeal on the basis of the evidence before me. I note that 'The Future of Rural Villages' document referred to in that decision has not been relied upon by the Council whose Delegated Report notes that is not adopted policy, was commissioned as part of the evidence base for an emerging plan and considered that it only be given limited weight in that case.
27. Interested parties have raised concerns about existing traffic conditions within the village which they consider would be compounded by the development. However, based on the appellants' Transport Statement the development would only be likely to generate a relatively limited number of additional vehicle trips during peak periods. The effects of relatively modest increase in traffic on roads through the village, even at busier times, are therefore not likely to have any severe adverse effects on highway safety. I note that the Council reached a similar conclusion in this respect.
28. There is no reason to suggest that in subsequently considering details which are reserved matters, that the layout or scale of the development would adversely affect the living conditions of occupiers of existing dwellings adjacent to the site.
29. The effect of the development on purely private interests such as views over the site from existing properties are not considerations which have had a bearing on my decision. Poor internet connections which may be experienced by residents would not amount to a reason to withhold permission for the scheme. There is no substantive evidence that new housing would be likely to increase anti-social behaviour in the village. Consequently, these other matters have not led me to a different conclusion.

Conditions

30. It is necessary to specify the approved plans and require finished floor levels to be approved as this provides certainty. In order that the development reflects the principles set out in the Development Framework and recognising the importance certain aspects of existing and proposed landscaping will have in ensuring the character and appearance of the area is preserved, it is necessary to specify certain elements which need to be incorporated into subsequent

² APP/H0738/W/15/3029882.

reserved matters submissions, including an approach to protecting those trees to be retained.

31. Requiring an element of renewable energy to be provided on site will help mitigate the effects of the development in terms of climate change. In order to protect highway safety and limit noise and disturbance to existing residents it is necessary to limit construction hours, require a suitable access to the site to be formed and that a Construction Management Plan is agreed. It is necessary that drainage details are approved in order to avoid risk of flooding and that sewage is disposed of properly. Adverse effects on wildlife can be avoided by requiring the recommendations in the Habitat Survey to be implemented. These conditions will go some way to addressing interested parties' concerns in those respects. For the avoidance of doubt, in the interests of highway safety and providing convenient access for pedestrians and cyclists it is necessary to require the access to be implemented before any dwellings are occupied.
32. In light of potential for contamination it is necessary in the interests of health that this be investigated, remedied if necessary and measures put in place should unexpected contamination be found during works. Given the potential archaeological interest on the site it is necessary that an appropriate scheme of investigation is carried out. In order that they are effective it is necessary that a number of conditions require matters to be approved before the development commences, as otherwise the mitigation would not be effective or it could not be certain that the aspects necessary to make the development acceptable would be implemented.

Conclusion

33. For the above reasons, and having had regard to all matters raised, the development would be in a suitable location for housing and would not harm the character of the village. It would accord with the development plan and the Framework and the appeal is therefore allowed.

Geoff Underwood

INSPECTOR

Schedule of Conditions

- 1) 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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 2015/THEW/005C, 7699-L-02 REV A and P0806.20170627.SK002 Rev. A.

- 5) The details of the reserved matters shall broadly follow the principles and parameters set out on the indicative Development Framework drawing 7699-L-02 REV A.
- 6) The following matters shall be addressed and/or incorporated in the details to be provided for approval of reserved matters:
 - (i) The landscaping scheme should maximise the screening of the proposed residential development from the public right of way which runs through the application site;
 - (ii) A shade parameter plan should be included which should be used to inform the final layout to ensure that the amenity of the properties and gardens of existing and proposed homes would not be adversely affected by shading from any existing or proposed planting;
 - (iii) The landscaping scheme should maximise the retention of the trees within the highway verge along Durham Road;
 - (iv) The public right of way which passes through the application site should not be lit;
 - (v) The landscaping scheme should include the strengthening of the existing tree planting in the north east corner of the site as it tapers to less than 10m, and;
 - (vi) Open Space shall be provided (a minimum of 0.6 hectares) along with details of the long term management arrangements for the public open space for a period of 25 years.
- 7) Notwithstanding the approved plans, the landscaping and layout reserved matters applications shall include a plan identifying the trees, shrubs and hedges to be retained on the site and an appropriate management plan for those trees, shrubs and hedges shall be submitted to and approved by the local planning authority prior to development commencing. No tree, shrub or hedge shall be cut down, uprooted or destroyed, topped or lopped other than in accordance with the approved details. Any tree, shrub or hedge planted as a replacement which within a period of 5 years from the completion of the development dies or is removed, uprooted or destroyed or becomes seriously damaged or defective must be replaced by another of the same size and species unless directed in writing by the local planning authority.
- 8) All ecological mitigation measures set out in the recommendations to the Extended Phase 1 Habitat Survey - Delta-Simons Project No. 16-0047.01, shall be implemented in full accordance with the timescales, sequencing and details set out in those recommendations.
- 9) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 10) No development above ground level shall take place until details of how the development hereby permitted will meet at least 10% of its predicted energy requirements, on site, from renewable energy sources or other alternative measures such as a fabric first approach, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 11) No development above ground level shall take place until a detailed scheme for the disposal of foul and surface water from the development hereby permitted has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) Construction works and all associated groundworks, activity and deliveries shall take place only between the hours of 0800 and 1800 on Mondays to Fridays and only between the hours of 0900 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 13) No development shall take place (except for the purposes of constructing the initial site access) until that part of the access extending 15 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the Council's Design Guide and Specification.
- 14) No development shall take place, including any preparatory or groundworks and deliveries, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The Construction Management Plan shall provide details of:
 - (i) the site construction access;
 - (ii) the parking of vehicles of site operatives and visitors;
 - (iii) loading and unloading of plant and materials;
 - (iv) storage of plant and materials used in constructing the development;
 - (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing;
 - (vi) measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site;
 - (vii) measures to control and monitor the emission of dust and dirt during construction;
 - (viii) a Site Waste Management Plan;
 - (ix) details of the routing of associated HGVs;
 - (x) measures to protect existing footpaths and verges, and;
 - (xi) a means of communication with local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period.

- 15) No development shall take place until an assessment of the risks posed by any contamination based on an Intrusive Ground Investigation shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.

- 16) No development shall take place where (following the risk assessment based on an Intrusive Ground Investigation required by condition 15)) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before the development is occupied.
- 17) 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 or relevant phase of development is resumed or continued.
- 18) No development shall take place until a programme of archaeological work including a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions – and:
- (i) the programme and methodology of site investigation and recording;
 - (ii) the programme for post investigation assessment;
 - (iii) the provision to be made for analysis of the site investigation and recording;
 - (iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (v) the provision to be made for archive deposition of the analysis and records of the site investigation, and;
 - (vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- No development shall take place other than in accordance with the Written Scheme of Investigation.
- 19) No dwelling shall be first occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 18) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 20) No dwelling shall be first occupied until the means of access for vehicles, pedestrians and cyclists and associated visibility splays shall have been constructed in accordance with the approved plans. The access and visibility splays shall be retained thereafter.