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# Appeal Decision

Site visit made on 6 November 2018

**by Elaine Gray MA(Hons) MSc IHBC**

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

**Decision date: 10 December 2018**

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## **Appeal Ref: APP/V0728/W/18/3200383**

### **Land at former Ryehills School site, Redcar Lane, Redcar TS10 2HN**

- 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 Chris Dodds against the decision of Redcar & Cleveland Borough Council.
  - The application Ref R/2017/0728/FFM, dated 6 September 2017, was refused by notice dated 25 January 2018.
  - The development proposed is erection of 49 no. 2, 3 and 4 bedroom two-storey dwellings with associated works.
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### **Decision**

1. The appeal is allowed and planning permission is granted for erection of 49 no. 2, 3 and 4 bedroom two-storey dwellings with associated works at Land at former Ryehills School site, Redcar Lane, Redcar TS10 2HN in accordance with the terms of the application Ref R/2017/0728/FFM, dated 6 September 2017, and subject to the conditions in the schedule to this decision.

### **Application for costs**

2. An application for costs was made by Mr Chris Dodds against Redcar & Cleveland Borough Council. This application is the subject of a separate Decision.

### **Preliminary Matters**

3. A revised version of the National Planning Policy Framework (NPPF) was published in July 2018. The main parties have been given the opportunity to comment as to any implications of the revisions to the NPPF on this appeal.
4. Planning appeals must be determined on the basis of the development plan as it exists at the time of the Inspector's decision. The Council adopted the Redcar and Cleveland Local Plan (LP) in May 2018, and as a result, policies from the Redcar and Cleveland Local Plan 1999 have been superseded. Accordingly, I have based my consideration on the policies of the 2018 LP.

### **Main Issue**

5. Subsequent to the planning application to which this appeal relates, the appellant submitted a further application<sup>1</sup> which introduced a number of revisions to the scheme. Although that application was refused, the appellant wishes the revised plans to be taken into account in this appeal. The Council

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<sup>1</sup> R/2018/0155/RSM

are satisfied with this approach, and they have indicated that they no longer wish to defend the first reason for refusal, which related to the effect of the proposal on the character and appearance of the surrounding area.

6. Therefore, the remaining main issue is whether the proposal would accord with Policy H3 of the Redcar & Cleveland Local Plan, with particular regard to the number of dwellings proposed.

### **Reasons**

7. The appeal site comprises a plot of land that was previously part of the Ryehills School site. The site lies within development limits, and is located in a predominantly residential area. The proposal would create 49 new dwellings.
8. LP Policy SD2 directs development to the most sustainable locations in the borough, with the majority focused in the urban and coastal areas, including Redcar. LP Policy H3 relates to housing allocations, and Policy H3.12 identifies the 'Land adjacent Rye Hills School' as being allocated for approximately 30 housing units, subject to a number of criteria.
9. The Council's objection centres on the proposed total of 49 houses, which would be 19 over and above the number envisaged for the allocated site. However, the appeal site, at 1.4 hectares, is slightly larger than the allocated site (1.23 hectares), and this additional area allows the accommodation of six more dwellings.
10. The wording of Policy H 3.12 in the emerging LP indicated that the allocated site should be developed at a net density of up to 30 dwellings per hectare. A total of 49 dwellings on the 1.4 hectare site would result in a provision of 35 dwellings per hectare. I note, however, that the reference to the density has been removed from the adopted version of Policy H3.12.
11. I accept that the appeal scheme proposes a larger number of dwellings than envisaged by the policy, and to that extent a policy conflict arises. Conversely, the scheme would provide housing on an allocated site in a sustainable location, and would make efficient use of previously developed land. It would also make a contribution in lieu of affordable housing. The proposal would comply with the aims of LP Policy SD2, and with the NPPF, which confirms the Government's objective of significantly boosting the supply of homes. The concern with regard to character and appearance having been resolved, the Council have not objected to the scheme on any other ground, and from the evidence before me, I have no basis on which to take a different stance.
12. Therefore, although the appeal scheme would provide more than approximately 30 homes on the allocated site, it would comply with the broader aim of LP Policy H3 to provide housing on this site, and I conclude that the benefits of the scheme would outweigh the identified conflict with LP Policy H3.12. The scheme would also accord with LP Policy SD2 and the NPPF.

### **Other Matters**

13. I have had regard to the concerns raised by neighbours, including the effect of the proposal on traffic and parking, and particularly access by ambulances in the area. However, I note that the Highway Authority has assessed the impact of the proposal on highway safety and capacity, and found the scheme to be

acceptable in those regards. I am therefore satisfied that the proposal would not be detrimental to highway interests.

14. Turning to character and appearance, I am satisfied that the proposed two storey houses would generally complement the character of the surroundings in terms of design and materials. Whilst the density would be higher than parts of the surrounding area, it is not unusual for densities to change within built up areas, and so I consider that the development would not be out of keeping in this location. The Council raise no issues in terms of open space, trees or ecology, and I have no basis on which to take a different view.
15. In terms of residential amenity of residents, the separation distances between the proposed dwellings themselves, and between the proposed and existing dwellings, are sufficient to ensure adequate living conditions. There is little substantive evidence before me that air quality would be significantly harmed by the proposal. I acknowledge that the views of some existing residents from their homes would be restricted, but this would not justify the withholding of planning permission. The presence of unsold housing elsewhere in the area has not had a bearing on my consideration of the appeal scheme.

### **Planning obligation**

16. Regulation 122 of the Community Infrastructure Levy Regulations 2010 requires that if planning obligations are to be taken into account in the grant of planning permission, those obligations must be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question.
17. The appeal is accompanied by a completed and signed s106 agreement, securing an off-site financial contribution in lieu of affordable housing on the site. The agreement is not in contention in this appeal. I am satisfied that the agreement meets the tests set out in the CIL regulations. I have therefore taken the s106 agreement into account in reaching my decision.

### **Conditions**

18. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the Planning Practice Guidance. As a result, I have amended some of them for clarity and brevity.
19. For certainty, it is necessary that the development is carried out in accordance with the approved plans. Conditions relating to contamination, drainage and surface water are necessary in the interests of safety and proper site management.
20. Conditions requiring adherence to the Construction Management Plan and hours of operation are appropriate to ensure there are no significant adverse impacts upon the living conditions of local residents, or upon the highway. A condition relating to landscaping is appropriate in the interests of character and appearance.
21. It is essential that the requirements of Conditions 4, 5 and 8 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.

## Conclusion

22. For the reasons above, I conclude that the proposed development accords with the development plan as a whole, and so the appeal is allowed.

*Elaine Gray*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GH70:L:01 Rev C; GH70:L:02 Rev A; GH70:L:03 Rev C; GH70:L:04 Rev C; GH70:L:07; GH70:L:08; 4795-C-D1-01 Rev 0; SD700 Rev A; SD701 Rev B; SD703 Rev B; SD712 Rev G; SD100 Rev D; SD103 Rev B; SD111 Rev B; SD107/3 Rev -; 201/1F; 13/201-8 Rev D; 212/1-; 13/212-9 Rev -; 301/1G; 13/301-8 Rev D; 311/1A ; 13/311-8 Rev B; 309/1E; 13/309-10 Rev C; 304/1E; 13/304-10 Rev E; 307/1B; 13/307-10 Rev E; 310/1D; 13/310-10 Rev C; 401/1G; 13/401-9 Rev C.
- 3) The development hereby permitted shall be implemented in line with the drainage scheme contained within the submitted document entitled Drainage Assessment dated August 2017. The drainage scheme shall ensure that both the foul and surface water flows discharge to the combined sewer at manhole 9701. The surface water discharge rate shall not exceed the available capacity of 51.31 l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.
- 4) Prior to the commencement of the development, details shall be submitted and approved by the local planning authority in writing of the surface water drainage scheme, and the development shall be completed in accordance with the approved scheme. The design of the drainage scheme shall include:
  - (i) Restriction of surface water greenfield run-off rates (QBAR value) with sufficient storage within the system to accommodate a 1 in 30 year storm;
  - (ii) The method used for calculation of the existing greenfield run-off rate shall be the ICP SUDS method. The design shall also ensure that storm water resulting from a 1 in 100 year event, plus climate change surcharging the system, can be stored on site with minimal risk to persons or property and without overflowing into drains, local highways or watercourses;
  - (iii) Full Micro Drainage design files (mdx files) including a catchment plan, and;
  - (iv) The flow path of flood waters for the site as a result on a 1 in 100 year event plus climate change.

The discharge rate should be limited to 10l/s.

- 5) Prior to the commencement of the development, details of a Surface Water Drainage Management Plan shall be submitted to and approved in writing by the local planning authority. The Management Plan shall include:
  - (i) The timetable and phasing for construction of the drainage system;
  - (ii) Details of any control structure(s);
  - (iii) Details of surface water storage structures, and;
  - (iv) Measures to control silt levels entering the system and out falling into any watercourse during the construction process.The development shall be carried out in accordance with the approved Management Plan.
- 6) The development hereby permitted shall not be occupied until a Management & Maintenance Plan for the surface water drainage scheme has been submitted to and approved by the local planning authority. The plan shall include the following;
  - (i) A plan clearly identifying the sections of surface water system that are to be adopted, and;
  - (ii) Arrangements for the short and long term maintenance of the SuDS elements of the surface water system.
- 7) The Construction Management Plan, submitted with the application and received by the local planning authority on 12/10/2017, shall be adhered to at all times during the construction phase and additionally, BS5228:2009 Code of practice for noise and vibration control on construction and open sites shall be adhered to at all times during the construction phase.
- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out 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), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 45 days of the report being completed and approved in writing by the local planning authority.

- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 10) Demolition or construction works shall take place only between 07:30 and 18:00 on Mondays to Fridays and 07:30 to 13:00 on Saturdays, and shall not take place at any time on Sundays or Bank Holidays.