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## Appeal Decision

Hearing held on 22 July 2015

Site visit made on 22 July 2015

**by Malcolm Rivett BA (Hons) MSc MRTPI**

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

**Decision date: 24 August 2015**

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**Appeal Ref: APP/X1355/W/15/3005376**

**Land North of Durham Road, Spennymoor, County Durham**

- 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 Gladman Developments Ltd against Durham County Council.
  - The application Ref DM/14/02556/OUT, dated 22 August 2014, was refused by notice dated 2 December 2014.
  - The development proposed is a residential development of up to 300 dwellings, including site access, public open space, landscaping and associated infrastructure works.
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### Decision

1. The appeal is allowed and outline planning permission is granted for a proposed residential development of up to 300 dwellings, including site access, public open space, landscaping and associated infrastructure works at Land North of Durham Road, Spennymoor, County Durham in accordance with the terms of the application, Ref DM/14/02556/OUT, dated 22 August 2014, subject to the conditions set out in the attached Schedule.

### Preliminary Matter

2. The application was made in outline with all detailed matters other than access reserved for future consideration and I have determined the appeal on this basis.

### Main Issue

3. The adopted development plan for the area is the 'saved' policies of the *Sedgefield Borough Local Plan (1996)*. The main parties are agreed that this is silent in respect of the overall supply of housing and the suitability of the appeal site for residential development and that, consequently, it is appropriate to consider the scheme in the light of the second bullet point of the 'decision making' section of paragraph 14 of the *National Planning Policy Framework*. In view of this, and having regard to everything else I have read, heard and seen, I consider that the main issue of the appeal is whether or not any harm which would be caused by the proposal would significantly and demonstrably outweigh its benefits, having particular regard to:
  - The housing land supply situation in the area; and
  - The likely effect of the proposal on the implementation of brownfield housing developments in the area.

## Reasons

### Housing land supply situation

4. The emerging *County Durham Local Plan* contends that the objectively-assessed need (OAN) for new housing in the County is an average of 1651 dwellings per annum (dpa). Following hearing sessions as part of the Examination of the Local Plan the Inspector published interim views in which, at paragraph 43, he indicates he disagrees that 1651 dpa would be a reasonable calculation of OAN and that a reduced economic growth scenario (equating to 1435 dpa) would represent a more realistic forecast upon which to plan for. In the light of this the Council contends that, for the purposes of this appeal, 1435 dpa is the appropriate figure for the County's objectively-assessed need for housing.
5. It is the case that the Inspector's comments are his interim views only and not his final position on the plan. Moreover, I note that the Council disagrees with his views and has sought a Judicial Review of them. I also understand that the Council officers' contention that, for this appeal, 1435 dpa is the most appropriate figure for OAN has not been the subject of a formal Council resolution. However, with the Judicial Review pending, I concur with the Council that, in the light of the Inspector's interim views, which are the most up to date assessment of the emerging plan's soundness on behalf the Secretary of State, 1435 dpa is the most appropriate figure for the objectively-assessed need for housing in County Durham at this time. On the basis of an OAN of 1435 dpa, and accounting for shortfalls in delivery in previous years and a buffer of 20% (in accordance with paragraph 47 of the Framework) the County's housing requirement for the next five years (2015/16 – 2019/20) is 1982 dpa.
6. Following discussions between the parties since the submission of their written evidence the Council contended at the start of the hearing that it can identify a deliverable supply of land for 11072 dwellings (5.6 years supply) whilst the appellant argued the figure to be 8678 (4.38 years supply). At the hearing further common ground between the parties was identified in terms of (i) the appropriateness of assuming 10% non-delivery across all schemes of less than 12 dwellings, (ii) new evidence on dwellings likely and not likely to have been completed prior to April 2011 – the former appropriately not included in the five year supply given their existence prior to the assessment of housing need; and (iii) more up to date evidence on start dates/"build-out" rates on some large schemes.
7. This common ground results in the Council's position reducing somewhat from its initial 5.6 years supply contention and the appellant's position increasing somewhat from its initial 4.38 years supply contention, although it is impossible to produce precise figures and there remains a disagreement between the two of around a year's supply of housing land. The difference is largely accounted for by the appellant's less optimistic view on the speed at which housing schemes will commence and then be "built-out". On the balance of probabilities, and based on all that I've read and heard about the current housing market in the County and the circumstances of a number of individual sites, I consider it likely that the most accurate current forecast of five year supply lies somewhere between the Council's and appellant's position, indicating a supply of around about 5 years.

Proposal's effect on the implementation of brownfield housing schemes in the area

8. With reference to paragraphs 4.71 and 4.72 of the *County Durham 2013 Update Strategic Housing Market Assessment* (which refers to falls in house prices and a high level of repossessions) the Council contends that the housing market in Spennymoor is weak, with a market for around 100-120 dpa. I also note the local Councillor's comments about empty properties. The Council argues that, if permitted, the appeal proposal would be likely to prejudice (a mixture of slowing down and preventing) the delivery of already approved residential developments on brownfield sites in the area. I recognise the Framework's encouragement of the re-use of previously-developed land and, at the hearing Council officers referred to comments from various parties (including the landowner of a brownfield site with a permission for housing) about the undesirability of more housing schemes being permitted in Spennymoor. However, these are anecdotal comments and it is notable that no owner or developer of such a brownfield site has indicated these concerns in writing or objected to the appeal scheme.
9. Moreover, the evidence of new housing completions provides a much more positive picture of the housing market in the town than suggested by the Council. Completions in Spennymoor in each of the years 2011/12 – 2014/15 were above 100 dwellings and averaged 147 – 22% higher than the top of the 100-120 dpa range figure suggested by the Council as the market for new housing in the town. Moreover, in 2014/15 completions in the Southern Area of the County (in which Spennymoor is situated) were 99% (491 out of 496) of the forecast by the Council. In contrast, across the County as a whole, completions in this year were only 75% (1146 out of 1534) of the Council's forecast. This indicates that Spennymoor's housing market is stronger and more buoyant than the Council suggests.
10. Furthermore, in 2014/15 206 dwellings were completed in Spennymoor across six sites, three of which are brownfield and three of which are greenfield. 122 dwellings were completed at the brownfield developments with 84 on the greenfield sites. This clearly indicates that greenfield and brownfield housing sites can successfully be simultaneously delivered in the town. All in all I conclude that there is no convincing evidence to support the contention that granting permission for the appeal scheme would have a significant adverse effect on the delivery of brownfield housing sites in the area. Moreover, in the absence of clear evidence of harm in this respect, refusing permission for the scheme on this basis would run contrary to the aim of paragraph 47 of the Framework of ensuring choice and competition in the market for land for housing.

Other possible harm

11. The appeal site is an agricultural field bounded on the south and west by roads and on the east side by a footpath. It is of pleasant countryside character and I note that, as such, it is valued by a number of local residents including dog walkers. The field's development for housing would, to some extent, run counter to the Framework's core planning principle (paragraph 17) of recognising the intrinsic character and beauty of the countryside. However, this principle cannot be considered in isolation of other key aims of the Framework including delivering the homes the country needs (also paragraph 17). The Council has indicated that the County's housing needs cannot be met on

previously-developed land alone and I concur with its view that, whilst pleasant, there is nothing about the appeal site which would warrant its protection against development over and above any other area of countryside. It is the case that the scheme would conflict with policy 35 of the emerging *County Durham Local Plan* (which seeks to prevent most new development on non-allocated sites in the open countryside) but I agree with the main parties that, as an objected-to policy of a yet to found sound Local Plan, little weight should be given to this. I also note that the Council considers that the site's open countryside location would not in itself justify refusal of permission for the scheme.

12. Local residents express concern about the ability of schools, roads and hospitals to accommodate the new development and its effect on wildlife. As detailed below, subject to appropriate planning conditions and obligations, I am satisfied that no significant harm would be caused in respect of schools, wildlife or the highway network and I have seen no convincing evidence to indicate that hospitals would be adversely affected. The application is in outline only but there is also no reason to believe that the site could not be developed for up to 300 dwellings without causing overlooking, or other harm to the amenity, of neighbouring residents or unacceptable disturbance during construction. There is also no substantive evidence to indicate that it would cause flooding or public safety problems or would adversely affect property values.

#### Benefits of the scheme

13. The scheme would provide up to 300 new dwellings (with associated construction and financial benefits) contributing towards the identified need for new housing in both Spennymoor and the County as a whole. This is a benefit of the scheme irrespective of whether or not this need could be instead met on other sites. I concur with the appellant that the development would be sustainably located, being within a reasonable walking distance of local services including a primary school and convenience stores and being well-served by local bus services. The scheme would also provide up to 30 affordable homes contributing towards the area's identified need for such accommodation. Moreover, whilst the open space would be provided primarily for the residents of the development itself it would, no doubt, be of some benefit to the wider local community. It is also likely that there would be some biodiversity enhancement, dependent on the precise details of ecology measures agreed with the Council through reserved matters/the discharge of conditions.

#### Planning Balance and Conclusion

14. It is agreed that, in the context of a 'silent' adopted development plan and in line with the Framework, permission should be granted for the scheme unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. I have concluded that there is no convincing evidence to support the contention that the proposal would prejudice delivery of brownfield housing schemes in the area. Moreover, whilst, having regard to the desirability of recognising the intrinsic character and beauty of the countryside, some harm would be caused by the development of an agricultural field, this would be limited by the Council's statement that the use of greenfield sites will be necessary to meeting the area's housing needs and by the appeal site's lack of any particularly special countryside characteristics. Having regard to the effect

of planning conditions and obligations I conclude that no other significant harm would be likely to result from the scheme.

15. My conclusion that there is an around 5 years supply of deliverable housing land in the area does not indicate that there is, at this time, a fundamentally pressing need for permission to be granted for the scheme appeal scheme in order that housing needs can be met. However, clearly an ongoing supply of new permissions for housing will be necessary for the Council to maintain a five year supply of housing land and, in the context of the recognition that greenfield land will be required to meet housing needs, I consider that the current housing supply situation is not a reason justifying refusal of the scheme.
16. The Council argues that if more housing sites are needed in Spennymoor there are a number of potential part-brownfield sites which are more desirable to develop than the appeal site. However, in the absence of any guarantee that they will come forward for planning permission in the near future, I give this argument little weight.
17. Overall, and having regard to all other matters raised and the economic, social and environmental dimensions of sustainable development set out in paragraph 7 of the Framework, I conclude that the scheme represents sustainable development. Moreover, the limited harm likely to be caused by the proposal would not significantly and demonstrably outweigh the development's benefits, particularly in terms of contributing towards market and affordable housing needs in a sustainable location. Consequently, the appeal should be allowed.

#### Obligations and Conditions

18. At the hearing a completed Unilateral Undertaking was submitted which, in connection with the implementation of the scheme, provides for 10% of the housing to be affordable homes, for the transfer of open space within the development to a Management Company and for the payment of £639,100 towards the costs of the provision of three additional classrooms at Middlestone Moor Primary School.
19. Whilst not specifically applicable to the appeal proposal, policy H19 of the adopted *Sedgefield Local Plan* encourages the provision of affordable housing where there is an identified need. Although not adopted, the emerging *County Durham Local Plan* identifies a pressing need for affordable housing in the area and its policy 31 requires a scheme such as the appeal proposal to provide 10% affordable housing. I conclude that these policies, considered together with the guidance in paragraph 47 of the Framework about meeting affordable housing needs, demonstrate that the submitted undertaking's obligation in terms of affordable housing is directly related to the development, necessary to its acceptability in planning terms and fairly and reasonably related in scale. The provision of open space within the development is necessary to its acceptability under 'saved' policies L1 and L2 of the *Sedgefield Local Plan* and, given the importance of this space being managed and maintained in perpetuity, the undertaking's obligations in respect of the transfer of the open space to a Management Company also comply with these tests.
20. Policy 5 of the emerging *County Durham Local Plan* indicates that, where there is an identified need, new development will be required to contribute towards the infrastructure capacity necessary to meet the demand generated by the

development. Whilst not part of an adopted plan, in terms of education provision the policy is consistent with paragraph 72 of the Framework which states that the government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. It is common ground between the main parties that there are sufficient secondary school places in the area to cater for the needs likely to be generated by the appeal scheme and there is no convincing evidence to indicate otherwise.

21. It is also agreed that the development would be likely to create the demand for about 90 primary school places. Furthermore, whilst the submitted figures are not entirely consistent, it is essentially common ground that there are around 20 spare places at the nearest primary school (Middlestone Moor), 80 or so at Rosa Street Primary School, about a mile away, and in the order of a further 40 spare places at other primary schools in Spennymoor between a mile and around 2 miles from the appeal site. On a very simple analysis the 100 or so spare places at the two nearest primary schools would accommodate the 90 pupils likely to be generated by the scheme. However, bearing in mind the very small buffer between the demand and supply, I concur with the Council that it is unlikely that the specific school year requirements of the appeal scheme's children would match the availability of free spaces at these schools. Whilst it is more likely (although not certain) that appropriate class spaces would exist for the development's children across Spennymoor's primary schools as a whole, I am not persuaded that requiring primary-aged children to travel up to 2 miles across the town (or to schools outside the town) for their education is consistent with the cited sustainability of the appeal scheme which is one of the benefits I've concluded outweighs its harm. I reach this conclusion notwithstanding the Education Authority's standards concerning acceptable travel distance to school from existing residential areas.
22. In the light of this I conclude that the provision of funding towards the construction of three additional classrooms at the nearest primary school is directly related to the development, necessary to its acceptability in planning terms and fairly and reasonably related in scale. The undertaking provides for the payment of the education contribution in three instalments prior to the occupation of the 25<sup>th</sup>, 100<sup>th</sup> and 150<sup>th</sup> dwelling. I recognise that it is unlikely to be feasible to construct each of the new classrooms separately and that, thus, no additional education capacity would be likely to be available until some time after half the development's houses are occupied. Whilst not ideal from the Education Authority's point of view, equally it would not be reasonable to require the full contribution on initial commencement of the development given that there is likely to be existing school space to accommodate the development's initial primary school aged residents and that it may take a number of years for the site to be built-out and occupied to the point where the need for the new classrooms "kicks in". Consequently, I conclude that the undertaking's instalment obligations are, in this particular instance, reasonable.
23. As an outline planning permission conditions nos 1, 3 and 4 are necessary as the standard requirements concerning the submission of reserved matters and implementation of the scheme. Condition no 2 is necessary for the avoidance of doubt and because it has not been demonstrated that more than 300 dwellings could satisfactorily be accommodated on the site. Condition no 5, concerning phasing, is also necessary to ensure a satisfactory form of development. Conditions nos 6 – 13 are required in the interests of the character and

appearance of the new development and the area more widely, to protect the living conditions of neighbouring residents, to ensure the provision of suitable and sustainable drainage, to protect/enhance biodiversity, to appropriately record/preserve any archaeological remains and to ensure the necessary treatment of any contamination on the site. Conditions nos 14-18 are necessary to ensure the safe and efficient operation of the local highway network and, in the interests of sustainability, to maximise the use of modes of travel other than the car, including local bus services. The suggested condition concerning materials is not required given that the appearance of the development is a reserved matter; nor is that relating to affordable housing in view of the obligations in this respect set out in the Unilateral Undertaking. No other conditions are necessary in connection with this outline planning permission.

*Malcolm Rivett*

INSPECTOR

Richborough Estates

### **Schedule of Conditions**

- 1) No development shall take place until details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.
- 2) The development hereby permitted shall comprise no more than 300 dwellings.
- 3) 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.
- 4) The development hereby permitted shall begin not later than
  - (a) three years from the date of this permission, or
  - (b) two years from the date of approval of the last of the reserved matters to be approved; whichever is the later.
- 5) No development shall take place until a scheme outlining the phasing of development, including a site layout plan identifying land uses such as formal and informal open space and infrastructure, has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.
- 6) The reserved matters application for landscaping shall be accompanied by a detailed landscape masterplan and strategy demonstrating that the landscaping proposals have taken account of and been informed by the existing landscape characteristics of the site and by any loss of existing vegetation on the site.
- 7) No development shall take place until an Arboricultural Method Statement and Tree Protection Plan has been submitted to, and approved in writing by, the Local Planning Authority and any tree protection works required by the plan have been carried out in accordance with BS5837.
- 8) No development shall take place until a written scheme of archaeological investigation, including the methodology of further investigation works and a programme for the works to be undertaken, has been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details of methodology and programme.
- 9) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority and the approved Statement shall be adhered to throughout the construction of the development hereby permitted. The Statement shall provide for:
  - (i) The hours of work;
  - (ii) The parking of vehicles of site operatives and visitors;
  - (iii) The loading of plant materials;



- (iv) The storage of plant materials used in constructing the development;
  - (v) The erection and maintenance of security hoardings, including decorative displays and facilities for public viewing where appropriate;
  - (vi) Wheel washing facilities;
  - (vii) Measures to control the emission of dust and dirt during construction;
  - (viii) A scheme for recycling/disposing of waste resulting from construction works; and
  - (ix) A scheme for the route of construction vehicles to and from the site.
- 10) No development shall take place until details of the implementation, management and maintenance of a sustainable drainage scheme have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- (i) A timetable for its implementation, and
  - (ii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by a public body or statutory undertaker, or other arrangements to secure the operation of the sustainable drainage scheme throughout its life.
- 11) No development shall take place until details of the arrangements for the disposal of sewage from the development hereby permitted have been submitted to, and approved in writing by, the Local Planning Authority. No dwelling hereby permitted shall be occupied until the sewage disposal arrangements have been implemented in accordance with the approved details.
- 12) No development shall take place until details of on-site biodiversity enhancement measures, in accordance with the FPCR Ecological Appraisal (June 2014), have been submitted to, and approved in writing by, the Local Planning Authority. The details shall provide for the provision of 30 bat boxes and 30 bird boxes, planting or replacement of trees and hedgerows with native species and the use of wildflower or flowering lawn seed mixes within selected open spaces and around the balancing pond facility. Details of timescales for the implementation of the enhancement measures shall also be provided. Development shall be carried out in accordance with the approved details.
- 13) No development shall take place until
- (i) Details of site investigation have been designed for the site using the information obtained from the desktop investigation previously submitted in respect of contamination. The site investigation details shall be submitted to, and approved in writing by, the Local Planning

- Authority prior to the site investigation being carried out on site; and
- (ii) The site investigation and an associated risk assessment have been undertaken in accordance with the details approved by the Local Planning Authority; and
  - (iii) A method statement and remediation strategy, based on the information obtained from (ii) above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.
- 14) No development shall take place until detailed design drawings of the accesses to/from the site (which shall accord with drawing no 1363/09 Rev C) have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved detailed design drawings.
- 15) No development shall take place until full specification details (including construction, layout, surfacing and drainage) of the vehicular accesses, driveways, parking spaces and turning areas to serve the dwellings have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to first occupation of each dwelling in each phase of development and thereafter the turning areas and car parking spaces shall not be used for any purposes other than the parking and manoeuvring of vehicles.
- 16) No dwelling hereby permitted shall be occupied until a Travel Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan shall include objectives, targets, mechanisms and measures to achieve targets, implementation timescales, provision for monitoring and arrangements for a Travel Plan co-ordinator who shall be in place until 5 years after the completion of the final phase of the development. The approved plan shall be audited and updated and submitted for the approval of the Local Planning Authority at intervals of not greater than 18 months. The measures contained in the approved Travel Plan, and any subsequent modifications approved in writing by the Local Planning Authority, shall be carried out in full.
- 17) Prior to the completion of the 121<sup>st</sup> dwelling hereby approved junction mitigation works to junction S63 A688 shall be carried out, in accordance with details which shall have been previously submitted to, and agreed in writing by, the Local Planning Authority, unless the junction works have previously been carried out.
- 18) No dwelling hereby approved shall be first occupied until a scheme of improvements to bus infrastructure, comprising the location and detail of a new bus stop and timing for its implementation, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY**

Colin Harding	Durham County Council
Graeme Smith	Durham County Council
Laura Renaudon	Durham County Council

### **FOR THE APPELLANT**

Laurie Lane	Gladman Developments Ltd
Mark Johnson	Johnson Brook
Richard Mowat	Johnson Brook

## **DOCUMENTS SUBMITTED AT THE HEARING**

H1	Hearing Notification Letter
H2	Finalised Statement of Common Ground
H3	List of Suggested Conditions
H4	Planning Obligation by Deed of Undertaking under TCPA 1990
H5	Durham Five Year Supply Disputed Sites document
H6	Extract of County Durham 2013 Update Strategic Housing Market Assessment
H7	Extract of 2013 Strategic Housing Land Availability Assessment
H8	Sedgefield Borough Local Plan Policy H19
H9	Draft County Durham Local Plan Policy 31
H10	Draft County Durham Local Plan Policy 48
H11	Approval dates of completed sites in dispute
H12	Primary Schools Surplus Places
H13	County Durham Local Plan – Statement of Facts and Grounds in Judicial Review Proceedings
H14	Tudhoe Grange School, Planning Brief