



## Appeal Decision

Inquiry held on 13, 14, 15 and 16 October 2015

Site visit made on 16 October 2015

**by Peter Rose BA MRTPI DMS MCM**

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

**Decision date: 16 December 2015**

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**Appeal Ref: APP/V0728/W/15/3006780**

**Land south of Marske Road, Saltburn**

- 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 Taylor Wimpey (UK) Ltd against the decision of Redcar and Cleveland Borough Council.
  - The application Ref: R/2014/0631/OOM, dated 26 September 2014, was refused by notice dated 9 January 2015.
  - The development proposed is the erection of up to 130 dwellings, landscaping and ancillary works.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 130 dwellings, landscaping and ancillary works at Land south of Marske Road, Saltburn, in accordance with the terms of the application Ref: R/2014/0631/OOM, dated 26 September 2014, and subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs has been made by Taylor Wimpey (UK) Ltd against Redcar and Cleveland Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The application is for outline planning permission, with all matters except access reserved for subsequent approval.
4. At the Inquiry, an agreement made under section 106 of the Town and Country Planning Act 1990 and dated 13 October 2015 was submitted. The agreement has been signed and executed as a deed and I consider the appeal on that basis.

### Main Issues

5. The main issues in this appeal are:
    - (a) the location of the development with regard to the development limits defined in relation to Policy DP1 (Development Limits) of the Redcar and Cleveland Local Development Framework Development Policies Document July 2007 (the DPD);
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(b) the effect of the proposed development upon the contribution of the appeal site to a strategic gap between Marske and Saltburn, and with particular regard to Policy DP2 a), d) and e) (Location of Development) of the DPD, and Policy CS23 (Green Infrastructure) of the Core Strategy DPD July 2007;

(c) the effect of the development upon the existing intrinsic landscape quality of the appeal site, and;

(d) whether the Council is able to demonstrate a five year supply of housing land and its implications with regard to the National Planning Policy Framework (the Framework).

## **Reasons**

### ***Location with regard to development limits***

6. The appeal site is a large area of open land some 5.83 hectares in area adjacent to the western edge of Saltburn. It comprises part of an area of relatively low lying farmland rising gently to the south. The land has been previously used for agricultural purposes and is predominantly characterised as Grade 3b, not the best and most versatile quality.
7. To the west of the site is Saltburn Riding School. To the east lies a relatively modern residential estate forming the existing western extent of Saltburn, whilst to the north, south and west lie further open fields, much of which appear to be in agricultural use.
8. The main frontage to the site comprises Marske Road to the north which runs parallel to the National Cycle Route (NCR1), to the Tees Valley Railway Line and to Hazel Grove, all of which lie some distance to the north of the road.
9. Limited vegetation to the west of the application site forms a natural visual boundary beyond the Riding School and both partly conceal the otherwise prominent appearance of the land and the western edge of Saltburn in approaches along Marske Road.
10. The overall character and appearance of the site is as a large expanse of gently rising open farmland containing relatively few natural features and forming part of wider open countryside but set immediately against the built form of Saltburn to the east. The setting of the site is, however, a particularly exposed one, with considerable views available from Marske Road and lower lying land to the north, and in approaches along its southern boundary, particularly Public Rights of Way (PRW's) 117/18/1 and 117/18/2, which run down towards the site from the south and then cross parallel with its southern boundary towards Saltburn.
11. The appeal site sits between the physically separate and distinct settlements of Saltburn to the east and Marske to the north-west. The closest edges of the two settlements comprise the south-east corner of Marske and the north-west corner of Saltburn. The Council indicates the existing separation distance to be some 740 metres, the appellant's estimate is some 715 meters. The appeal site has a frontage of some 267 metres to Marske Road and the Council assesses the scheme would reduce the gap to some 610 metres.
12. Each settlement lies on opposite sides of Marske Road, each faces away from the other, and each displays an individual character and appearance. The

- respective positions and orientations of the settlements, the intervening features of Marske Road and the railway, and the undulating topography, all contribute to a sense of two physically detached and distinct settlements.
13. Policy DP1 (Development Limits) states that, within development limits, development will generally be acceptable where it accords with site allocations and designations in the Local Development Framework. It further states that development beyond development limits will be restricted to a range of circumstances, identified as criteria a) to i). I agree that none of these criteria are of direct relevance to the appeal proposal. The development limits for the purposes of Policy DP1 are defined in the Local Development Framework Proposals Map September 2007 (the Proposals Map) and the appeal site falls outside those boundaries.
  14. The appellant has submitted significant evidence regarding the status of the Proposals Map. In particular, it is maintained that the development limits accompanying Policy DP1 have not been subject to formal examination as part of the development plan process. Rather, they comprise the limits accompanying a previous 1999 Local Plan and their accompanying policy (LD1) was not saved as part of the current suite of development plan documents. That plan sought to make provision for the development needs of the Borough only up until 2006 and development limits were to be consistent with housing allocations for that period.
  15. Reference is also made by the appellant to the Report of the Examination into the Redcar and Cleveland Development Policies DPD dated 3 May (sic) following a hearing on 6 March 2007. At paragraph 5.1, the report acknowledges that Policy DP1 has in-built flexibility in that development limits will be reviewed and defined to take account of new site allocations. Significantly, the wording of the subsequent justification to the policy in paragraph 2.1 similarly states that development limits will be identified. The appellant maintains that no such review has been undertaken by the Council and I have little evidence otherwise.
  16. Reference was also made to an appeal decision by the Secretary of State dated 26 September 2013 (Appeal Ref: APP/V0728/A/13/2190009) which considered the same policy. The appeal related to an application for outline planning permission to develop land at Galley Hill Estate, Stokeley Road, Guisborough.
  17. In paragraph 67 of her report to the Secretary of State, the Inspector states that Policy DP1 dates from July 2007. She notes that the development limits at the time of the appeal were at least 14 years old, that the examination into the plan was in 1997, and that the preparation of the development limits was based upon work done prior to that. In paragraph 68, the Inspector confirms that the 1999 Local Plan defined development limits in order to identify land to meet development needs up to 2006, some 7 years before that appeal. In paragraph 69 she concludes that Policy DP1 cannot be used to refuse on any proper basis.
  18. Policy DP1 is clearly old and has out-dated value as part of any wider strategy towards current housing development in the Borough, and I have little evidence to suggest the limits are still meeting current or future development needs.

19. Nevertheless, paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The relevant test as to whether a plan is out-of-date is not simply one of age but of consistency with the Framework. The stated purpose of Policy DP1 is to contain future development and to make a clear distinction between the urban area and the countryside and, only in this specific regard, I find some consistency with the Framework. A core principle of the Framework is similarly for planning to take account of the different roles and character of different areas, and recognising the intrinsic character of the countryside.
20. Against that, however, the Framework also requires policies to take account of up-to-date housing needs and, by virtue of the passage of time, Policy DP1 clearly fails in that regard. I also have concerns regarding the structure of the policy by way of exceptions, and note reference made to other decisions regarding inconsistency with the Framework which requires a more balanced assessment of costs and benefits.
21. I therefore attach only very limited weight to Policy DP1 insofar as it is consistent with the Framework's commitment towards generally recognising the role and character of the countryside. Only to that extent, I conclude that the location of the proposed development, by incurring loss of countryside through built form, would be harmful with regard to the development limits in relation to Policy DP1.

### **Strategic gap**

Background: strategic gap

22. The Council maintains that the application proposes development within an area identified as a strategic gap with reference to Policy DP2 and Policy CS23.
23. Policy DP2 (Location of Development) states, amongst other matters, that, in assessing the suitability of a site or location, development will be permitted where it meets three criteria. The first is that the development should accord with site allocations and designations in other DPD's (Policy criterion a)). The second is that the development should not result in the unacceptable loss or significant adverse impact on important open spaces or environmental, built or heritage assets which are considered important to the quality of the local environment (Policy criterion d)). The third is that the development should minimise any adverse impact on the overall character of the streetscape or landscape of the area (Policy criterion e)).
24. My conclusions in relation to Policy DP1 above similarly apply to its corresponding reference in criterion a) to Policy DP2, but the expectations of the gap are more specifically identified with reference to Policy CS23.
25. Policy CS23 identifies four types of Green Infrastructure and this includes two strategic gaps, one between Marske and New Marske, and one between Marske and Saltburn. It is this second gap, between Marske and Saltburn, which is the subject of contention. The policy identifies the gap as a green area to be protected and, where appropriate, enhanced to improve its quality, value, multi-functionality and accessibility.

26. The accompanying narrative to Policy CS23 explains at paragraph 6.12 that strategic gaps will be protected to ensure that settlements do not coalesce with surrounding settlements to help maintain their identity.
27. The core planning principles set out by paragraph 17 of the Framework include a need for planning to take account of the different roles of different areas and I accept that the role of the appeal site currently includes being perceived to maintain part of a strategic gap between Marske and Saltburn.
28. Criterion d) of Policy DP2 refers to adverse impact upon important open spaces or environmental assets, but it is not maintained by the Council that the site falls within that definition in terms of its intrinsic landscape quality. Landscape impact is discussed further below but, with respect to criteria d) and e), the Council's evidence states that, in time, and allowing for the establishment of planting, the development would not have a significant adverse effect on wider landscape character or the intrinsic visual quality of the local landscape or its components.

Impact of upon the strategic gap

29. The proposed development would occupy the eastern side of the existing relatively open area of land between Marske and Saltburn and be located adjacent to the existing western boundary of Saltburn.
30. Notwithstanding the strategic aims of preventing coalescence between settlements and helping to maintain their identity, the precise boundaries of the gap have not been defined by the development plan beyond a broad brush indication, comprising a series of indicative arrows between the settlements set out in the Core Strategy Key Diagram to the Local Development Framework. The appeal site forms one part of an area very broadly indicated as a strategic gap in the Key Diagram.
31. Paragraph 8.8 of the Report of the Examination into the Redcar and Cleveland Core Strategy Development Plan Document dating from May 2007 refers to the Key Diagram and states that the strategic gap between Saltburn and Marske would need to be defined in detail on the Proposals Map.
32. In the absence of a more precise definition as expected from the Examination in Public, a detailed assessment and review has been submitted in evidence by the appellant to identify the essential extent of the strategic gap. The landform and vegetation associated with Hazel Grove and Pitt Hill Stell to the north of Marske Road, combined with the buildings of the Riding School and the associated valley landform and pattern of vegetation to the south, are considered to form a continuous visual boundary within the immediate landscape. The appellant considers this area immediately to the west of Saltburn, which includes the appeal site, is more strongly associated with the urban edge than with the wider landscape and is not necessary for retention as a gap. The appellant contends the appeal site is already experienced as being within the ambience of Saltburn.
33. In response, the Council dismisses this boundary to be a theoretical one, and asserts that the appellant's Landscape and Visual Impact Assessment (LVIA) has under-estimated the effects of the development upon the strategic gap. The Council refers to a complex legibility of the gap in the field. I note that to the south of Marske Road the gap is legible from publicly accessible locations, including PRW 117/18/1, and from private properties on the western edge of

Saltburn. To the north of Marske Road, the gap is visible from further PRW's, and from NCR1. I agree these give uninterrupted views both towards the coast and south into the rural landscape.

34. The Council acknowledges that the impact as experienced by users of the local road and rail network would be negligible, and from PRW's to the west, but assesses that pedestrians travelling along Marske Road would experience a visual impression of Saltburn appreciably closer to Marske.
35. The Council maintains that appreciation of the gap reflects a sequence of views as one moves through the landscape. It assesses that the open nature of the appeal site allows the exposed edge of Saltburn to be clearly legible in the landscape, making a valuable contribution to the clarity of the transition from open space to urban landscape and which is considered to have a direct bearing on the function of the gap. The Council considers the scheme would blur the definition between urban development and green open space. This would particularly apply to views from the PRW's to the south where the new development would be considered to overlap with the built form of Marske such that all sense of open space separating the settlements would be lost.

Findings: strategic gap

36. Policies DP2 and CS23 as applied by the Council to the development are essentially policies of spatial separation seeking to avoid coalescence and to maintain respective identities. Any development within the gap would physically and visually reduce the existing separation.
37. The western edge of Saltburn comprises the rear of residential properties in a linear and fairly sporadic form. The boundary does not have a particularly attractive, defining or otherwise distinct character or appearance, and contributes a fairly undistinguished identity in western views of the settlement.
38. I accept that the juxtaposition of the settlements and characteristics of surrounding topography are such that appreciation of the gap does not arise from a single static view, but from a varied sequence of views drawn from a wider experience and perception of the landscape at different locations.
39. The land in and around the gap also displays significant differences in levels, and a shallow ridge runs through from Windy Hill Farm and Tofts Farm to the north of Marske Road. At points along Marske Road, views of Marske are already obscured from the road. From higher land to the south of the appeal site, a wide horizon is visible, framed by distant views of the sea. Whilst there would be some interruption of these views at different points, views of the wider horizon and of the sea would remain intact.
40. There would be views from the south from which the proposed scheme would obscure any sense of space between Saltburn and Marske but, in the wider context, such views would be relatively isolated and limited.
41. Viewed from immediately behind the development to the south, the new development or its planting would be seen for a relatively short distance instead of a view to Marske. The fact that Marske would not be visible in such views does not necessarily create coalescence either visually or physically, and nor is there perception of loss of identity. The same would also apply to some loss of private views from the residential development to the east.

42. For users of the PRW's to the north, the scheme would bring Saltburn closer at a materially earlier point of any journey south.
43. The significance of the Riding School in views along Marske Road would remain unaltered, given the remaining intervening space between the School and the built development in the form of proposed planting.
44. Nevertheless, it is important not to confuse the effect on a view with harm to the identity of Saltburn. Visual coalescence in this instance must be about sightings of the two settlements as one development in the same view, and about the extent to which such views occur. This would significantly reflect matters of scale, distance and perspective. Such occurrences would be limited, and the remaining relative distance between the two settlements from the viewer would ensure that both would generally remain visually distinct.
45. Although there would be a reduction in perceived openness from short sections of local roads and footpaths, I am satisfied from the evidence presented, and from my own inspection, that there would be no significant overall reduction in the perception of a gap.
46. Furthermore, the indicative Parameters Plan includes a wide landscape buffer along Marske Road to the west of the proposed access which would vary in width from some 15 metres to 50 metres. Aside from works necessary to create safe sightlines, the existing hedgerow to Marske Road would be retained and, where possible, improved. A minimum landscape buffer of some 15 metres would be provided to the western boundary and a buffer to the southern boundary to a minimum depth of some 55 metres at its south-west corner. The height of the buildings along the southern edge is intended to be restricted to single storey to minimise intrusion on views from the adjacent PRW's to the south. The Parameters Plan also indicates that the eastern side of the main frontage adjacent to Saltburn would follow the existing settlement building line and then step back into the site to accommodate significant boundary planting.
47. I consider these proposals would represent a significant enhancement of the western boundary of Saltburn and of its subsequent identity. The development would provide an attractive planted gateway to Saltburn which would improve the scenic quality of its approach along Marske Road.
48. Reference was also made to a report by the Office of the Deputy Prime Minister (the ODPM) dated January 2001 and entitled 'Strategic gap and green wedge policies in structure plans: main report'. The report presents a discussion of research of a sample of relevant restraint policies. In Table 6.1, it found the essential features of strategic gaps to be the avoidance of coalescence and protection of the setting of urban areas. It found gaps to be generally up to two miles wide, identified no more land than necessary, and involved application of strict controls in allowing areas to be kept predominantly open. Paragraph 6.5 of the report also contrasted the purposes of strategic gaps with Green Belts, and found they do not offer the same level of presumption against development.

Summary: strategic gap

49. The appellant considers CS23 to be predominantly a spatial policy, and that it has little to do with the role, function and value of the landscape. I consider it to be both a spatial policy and, by implication, a landscape policy, insofar as it seeks to protect a landscape which forms part of a strategic gap.
50. In terms of its contribution to the gap, I do not find the appeal site to be an important open space or environmental asset as expressed by Policy DP2 d). I accept the proposal would incur some loss of space between the two settlements, but would not do so with an accompanying coalescence of Saltburn and Marske, or by compromising their respective identities and local distinctiveness. Hence I do not find that the scheme would undermine the value of the appeal site to the local community as part of the wider strategic gap.
51. The scheme would not be materially harmful to the strategic gap between Saltburn and Marske but would provide a more appropriate and visually attractive western boundary to the settlement drawing upon the natural topography of the landscape.
52. I therefore conclude that the location of the proposed development would not be harmful with regard to the appeal site's contribution to a strategic gap and would accord with Policy DP2 a), d) and e) and Policy CS23. The scheme would not compromise the development plan's identification of a strategic gap between Saltburn and Marske, would not result in the unacceptable loss or significant adverse impact on important open spaces or environmental assets which are considered important to the quality of the local environment, and would minimise any adverse impact upon the overall character of the landscape of the area in accordance with Policy DP2. The development would also ensure that a strategic gap between Saltburn and Marske would be retained and enhanced in accordance with Policy CS23.

**Landscape**

53. The Council's reasons for refusal do not refer to any existing intrinsic character or beauty of the site beyond its spatial significance outside the development limits and in relation to the strategic gap. Whilst this was not identified as part of the Council's decision, the extent of the scheme's landscape impact was a matter of reference by all parties throughout the inquiry and is relevant to the terms of Policy DP2.
54. Policy CS22 of the Core Strategy DPD (Protecting and Enhancing the Borough's Landscape) states that the overall approach will be to protect and enhance the Borough's landscape based on the overall character areas identified through the Council's Landscape Character Assessment. It further states that development will not be allowed if this would lead to the loss of features important to the character of the landscape unless the need for the development outweighs the landscape considerations. Policy CS22 is not identified as part of the Council's reasons for refusal but is relevant to related matters of landscape impact cited by the parties.
55. The Redcar and Cleveland Local Development Framework Landscape Character SPD (March 2010) (the Character Assessment) referred to in Policy CS22 divides the Borough's countryside into four Broad Landscape Areas. The appeal site is identified as part of the Redcar Flats, defined to be the coast and



countryside around Redcar and Marske. The Redcar Flats are characterised as a 'restoration landscape' where the land has lost a greater or lesser degree of landscape structure and would benefit from measures to restore that structure and character. This contrasts with a second characterisation of 'sensitive landscape' in which much landscape structure is present to give high strength of character which is sensitive to change.

56. Each Broad Landscape Area is further divided into Landscape Units. The appeal site forms part of Landscape Unit R2 defined as 'lowland farming'. Two of the three listed 'positive attributes' of this landscape are extensive views, some of which are identified to include the coast, and physical separation between urban areas. It identifies 'negative attributes' as 'hard' urban edges, and large field size and a sparse fragmented hedgerow pattern, with a general absence of hedgerow trees.
57. Whilst comprising greenfield land and of a rural character, the appeal site otherwise has no formal designation in relation to landscape quality, and few specific landscape features. The appellant's LVIA similarly concludes that the overall pattern of landscape and features within the site to be of low sensitivity.
58. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. I am also mindful of the Minister of State for Housing and Planning's affirmation by letter dated 27 March 2015 of the importance of the impact of development upon landscapes outside designated areas. In this regard, I have noted the extensive public opposition from the local community in Saltburn, and I accept that 'valued' does not necessarily just equate to designated landscapes, and that most open land adjacent to residential areas may have a value to local residents. Nevertheless, I am not persuaded on the evidence that it has features or quality that would place it in the category of being a valued local landscape in the sense intended by the Framework.
59. Similarly, I have also noted references made to the Guidelines for Landscape and Visual Impact Assessment, Third Edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment. Whilst I agree that the list of criteria for 'perceptual aspects' of landscapes set out in Box 5.1 should not necessarily be read as exhaustive, I find that any such valued landscape would still need to display some significant intrinsic character or other quality.
60. The Council also acknowledges that many aspects of the scheme are well considered and sensitive responses to the site's position on the edge of Saltburn, and in time would not have a significant adverse effect on wider landscape character or the intrinsic visual quality of the landscape or its components. The Council also indicates it would go some way to softening the appearance of the western edge of Saltburn.
61. The scheme seeks to develop the visual boundary created by the existing topography around the site so as to enclose and contain Saltburn without detriment to the identities of either settlement. The proposal would yield environmental improvements for the site as anticipated by its characterisation as a restoration landscape. In particular, the Character Assessment identifies existing features in this open landscape to be relatively sparse and that their retention to be important to place new development, to act as a basis for

additional planting, or for the creation of new landscape. I find this approach has been adopted by the proposed scheme, which would also be an appropriate response to the existing hard edge of Saltburn identified by the Character Assessment.

62. I therefore find that the scheme would not be harmful to the intrinsic landscape quality of the appeal site.

***Five-year housing land supply***

63. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing (OAN).

**Need**

64. No up-to-date housing requirement has yet been tested and agreed as part of the formal statutory development plan process. Such work is now underway by the authority and the inquiry was presented with a position statement in the form of the Council's Background Technical Paper: Five Year Housing Need and Land Supply Position dated September 2015, (the Background Technical Paper). No witnesses were provided by the Council to receive cross-examination and this document has the status of an untested written submission.
65. Nevertheless, the Council's position is that, drawing upon the Department for Communities and Local Government's (DCLG) latest 2012-based household growth projections, there is an anticipated household growth within the Borough of 176 households per annum to 2020. The Council's estimate is then, in various scenarios, qualified by its corporate aspirations, including aims to reverse population decline, to support local economic growth and to encourage economically active households. To reflect this 'corporate policy uplift', the Council's annual growth figure ranges from 176 to 286 households per annum.
66. In contrast, the appellant contends the Council has not sought to understand its full objectively assessed housing needs in any meaningful way. The appellant does not take issue with the Council's assessment of household projections, but considers that figure only to represent the starting part for assessment, and only reflects one element of overall housing need.
67. The appellant assesses the Council's OAN to be some 395 dwellings per annum. This reflects consideration of the economic implications for housing need based upon relatively conservative assumptions of economic growth of 0.2% per annum (109 jobs per annum).
68. The Planning Practice Guidance (the Guidance) identifies three steps to establishing overall objective housing need. The starting point is use of household projections published by the DCLG. It then advises that plan makers should make an assessment of the likely change in job numbers based on past trends and/or economic forecasts as appropriate, and also having regard to the growth of the working age population in the housing market area. Housing need should then be further adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings.

69. The Planning Advisory Service (PAS) has produced an Objectively Assessed Need and Housing Targets Technical advice note dated July 2015 which similarly advises that OAN should be derived from objective analysis of the evidence to the exclusion of any policy objectives, value judgements and supply-side factors such as physical constraints. It further recommends that consideration of future jobs be taken into account because jobs impact upon the demand for housing independently of any policy considerations, and locating housing close to jobs avoids unsustainable commuting. Indirect evidence of market signals should also be considered.
70. The appellant has indicated that the third element, market signals, does not significantly affect its overall figure of housing need and the appellant's assessment of household projections is also broadly similar to that of the Council. The key difference between the respective positions is therefore the absence of objective economic assessment.
71. I find that the Council's assessment of housing need, by failing to take proper account of economic implications, falls significantly short of the expectations of both the Guidance and of PAS. Whilst the appellant's alternative calculations have not been tested through the necessary rigours of a development plan process, I am satisfied that the assessment offers a realistic and robust indication of the Borough's full OAN in advance of any 'policy-on' considerations consistent with national guidelines. Further, the evidence suggests a level of need considerably greater than that identified by the Council.
72. Whilst the Council refers to advice in the Guidance that any cross boundary migration assumptions will need to be agreed with the other relevant local planning authority under the duty to co-operate, I do not consider that to be a reference to OAN but to 'policy-on' considerations. The appellant accepted that an element of the 109 jobs growth per annum would involve in-migration but, in response to a need arising from predicted local economic growth. I see no reason why that figure would need to be agreed with other parties as it would reflect organic job growth within the local area. I have also noted a number of appeal decisions quoted, none of which give any authority for disregarding economic considerations and which generally indicate the appellant's three-stage approach to be well-established.
73. The Council's position in relation to full objectively assessed housing need also falls significantly short of the approach affirmed in the Court of Appeal (*Hunston v SS CLG* [2013] EWCA Civ 1610). This found that it was mistaken to use a constrained figure for housing requirements below the fully objectively assessed needs.

#### Supply

74. I find there is significant common ground between the main parties regarding the availability of housing land within the Borough. The Council identifies a net five-year housing land supply for some 1,816 units, whilst the appellant identifies a supply for some 1,483 units. The difference relates to the status of some six sites as part of the calculation, and to the treatment and categorisation of smaller sites.
75. Footnote 11 to the Framework states that, to be considered deliverable, housing sites should be available now, should offer a suitable location for development now, and should offer a realistic prospect that housing

development will be delivered on the site within five years. Development should also be viable.

76. The Guidance further advises that planning permission or allocation in a development plan is not a pre-requisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up-to-date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out.
77. The Council explained that the re-categorisation of schemes providing up to nine units is in response to the advice of the Guidance. The Council considers it has simply sub-divided an existing category and has not incurred double counting of 85 units across 13 sites delivering 5-9 dwellings. I note this change in methodology has not been agreed by the relevant local Strategic Housing Land Availability Assessment (SHLAA) Partnership but do not have sufficient detailed evidence before me to demonstrate if and how the Council's revised calculation may distort the end total by virtue of double-counting as suggested.
78. On the basis of the site-specific details provided, my assessment of supply is that a limited proportion of the units proposed for the six sites in dispute is likely to be deliverable over the next five years, particularly allowing for likely units at the former Adult Education Centre and at Luke Senior Home. This leads me to conclude that the supply of housing land over the next five years is likely to be somewhere slightly above the appellant's figure of 1483, but below the Council's assessment of 1816.

Summary and implications: five-year housing land supply

79. As affirmed by the Court of Appeal in *Hunston v SS CLG* [2013] EWCA Civ 1610, it is not the purpose of a section 78 appeal to formally determine an authority's OAN, its housing requirement, or its available five-year housing land supply. That exercise is a legitimate part of a wider and more elaborate development plan process. It is necessary, however, to take a considered view, on the basis of the available evidence, as to whether the expectations of the Framework are likely to be met in those regards in order to weigh the appropriate implications for this particular appeal decision.
80. The Council questioned the extent to which the methodology set out in the Guidance and by PAS needed to be followed. Indeed, the Guidance is not mandatory, and states that there is no one methodological approach that will provide a definitive assessment of development need. It does advise, however, that the use of the standard methodology set out in the Guidance is strongly recommended because it will ensure that the assessment findings are transparently prepared. It explains that local planning authorities may consider departing from the methodology, but they should explain why their particular local circumstances have led them to adopt a different approach where this is the case.
81. In light of this clear advice, I find no justification for the Council to confine its assessment of housing need in the way it has. This same issue arose at an appeal relating to Land south of Cirencester Road, Fairford and involving a development of up to 120 dwellings (Appeal Ref: APP/F1610/A/14/2213318 dated 22 September 2014). In paragraph 19, contrary to the Council's assertion, the decision concludes that the Guidance requires employment

- trends to be reflected in an OAN as they are likely to affect the need for housing.
82. The Council considers it has 11.4 years of deliverable housing land against an annual 'policy-off' requirement of 176 dwellings. Based upon the appellant's assessment of supply and a more comprehensive assessment of requirement at 395 dwellings per annum, the appellant considers the Borough has only 2.6 years' worth of supply.
83. Notwithstanding these indications, no formal up-to-date statutory five-year housing land supply, reflecting both OAN and available land, is available as a product of the development plan process, and the onus of proof in demonstrating a five-year supply with reference to the Framework rests with the local planning authority.
84. The expected coverage of a robust, full objective assessment of housing need is set out in both the Guidance and by PAS. Whilst this content and methodology is not prescriptive, the very limited form of assessment undertaken by the Council, devoid of economic considerations, lacks both robustness and justification. At best, I find it reflects just one aspect of local housing need.
85. Setting aside differences in relation to housing supply, I find the Council has not undertaken an appropriate assessment of objectively assessed housing need. In the absence of an appropriate assessment of need, it is not possible to identify whether an adequate five-year supply of land is available to meet such need. Hence I find the Council is unable to demonstrate a five-year supply of housing land. This is also consistent with the appeal decision at Land south of Cirencester Road, Fairford referred to above. In that instance, the Council did not have a clear understanding of housing needs in the area as required by paragraph 159 of the Framework and, consequently, the Inspector found it difficult to see how a five-year supply can be demonstrated in the absence of an understanding of its OAN.
86. Accordingly, it also follows, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing are to be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework are also engaged, should the scheme be found to constitute sustainable development.
87. The implications for Policies DP1, DP2 and CS23, and their possible status as policies for the supply of housing, are set out in my overall planning balance to follow. The absence of a five-year housing land supply also places a premium upon the housing benefits of the proposed scheme.

### ***Section 106 agreement***

88. The section 106 agreement makes commitments to various matters, including affordable housing, public open space and a local labour agreement. The Council has provided evidence of compliance with the relevant statutory provisions set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I have also had regard to the Framework, and to the relevant advice of both of the Guidance, and of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published July 2015.

89. The Council confirmed at the inquiry that it is satisfied with the form and drafting of the agreement as a deed, which I also find to be generally fit-for-purpose, and both main parties raise no issues with its content.
90. Accordingly, I take the obligations into account as considerations of my decision.

***Sustainable development***

91. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development.
92. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. At the heart of the Framework in paragraph 14 is a presumption in favour of sustainable development. The Framework further identifies economic, social and environmental dimensions to sustainable development.
93. The scheme would undoubtedly provide considerable housing benefits, and not just in terms of affordable housing, but also in terms of market provision, and such benefits would be consistent with the social dimension of sustainable development. The investment represented by the development would also be consistent with the economic dimension. The undisputed economic benefits would include investment in construction and related employment for its duration, and include a proposed local labour clause forming part of the section 106 agreement. Benefits would also include an increase in local household spending and demand for services, and the financial contributions to the Council through New Homes Bonus payments.
94. There is also no dispute between the main parties that the location is, in principle, a sustainable one.
95. In environmental terms, and notwithstanding the Council's concerns towards the strategic gap, I do not find that the scheme would be harmful in that regard for the reasons already described.
96. I therefore conclude, having regard to the expectations of the Framework as a whole, that the proposed scheme would be sustainable development. Accordingly, the presumption in favour of sustainable development set out in paragraph 14 of the Framework is engaged, and this has two possible implications. Firstly, unless material considerations indicate otherwise, paragraph 14 makes a presumption in favour of approving proposals that accord with the development plan without delay. Secondly, it states that, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

## Other Matters

97. I have carefully considered all other matters raised, both at the inquiry and in written submissions.

### *Character and appearance*

98. Concerns have been raised regarding the impact upon the character and appearance of Saltburn, including its important heritage. The appeal site adjoins a post-war edge of Saltburn and I see little direct implication for its historic centre or overall character. Besides, this is an outline application with all matters of design and landscaping reserved for subsequent approval should the appeal be allowed.

99. I also note the indication given that the proposed scheme would involve a density of around 30 dwellings per hectare comparable to the surrounding area.

100. Given my assessment of its landscape impact as already described, I therefore have little reason to find that the scheme before me would be harmful in terms of its inherent character and appearance.

### *Traffic and highway implications*

101. The proposed access would lie towards the eastern end of the main Marske Road frontage.

102. I note that no objection has been raised by the Council regarding traffic and highway implications, and that considerable common ground exists between the main parties regarding both the impact and proposed mitigation.

103. Concerns have been raised by third parties, however, regarding the impact of the development with particular reference to the free and safe movement of vehicles and pedestrians around the site, and particularly in relation to Marske Road.

104. Significant evidence has been provided of survey work undertaken by the appellant to assess possible impacts, and of the measures proposed to safeguard the free and safe movement of highway users in accordance with national and local standards. These measures include visibility splays, some detailed works to Marske Road, and proposals for further speed reductions along the highway.

105. At the inquiry, concerns were also raised regarding speeding vehicles along Marske Road. I consider that any development proposal can only reasonably plan for traffic movement within the authorised speed limits and that issues of excess speed would be for other authorities to enforce as a separate matter.

106. General concerns have also been raised regarding the adequacy of footpath links and lighting in and around Marske Road, but I consider that to be a more general pre-existing matter relating to the wider settlement. I have little reason to find harm in that regard would be occasioned by the proposal itself, and I also note that no mitigation is sought by way of the planning agreement.

107. Whilst the submitted details set out the principles of the proposed access, a further, more detailed design will be required to ensure that vehicle and

pedestrian movement is fully safeguarded. Accordingly, should this appeal be allowed, such details may be considered by way of a planning condition.

108. I therefore find little evidence, including consideration of local accident records and of the general layout of local highways and of local road conditions, to conclude that the proposed development would be harmful to the free and safe movement of vehicles and pedestrians around the site.

*Education*

109. The inquiry heard significant evidence from the appellant regarding the existing capacity of local schools to absorb the possible additional demand for local school places arising from the development. The Council raises no objection on this basis, it is stated common ground that there are no school capacity or location issues that would form a basis to refuse planning permission, and no mitigation is sought by way of the planning agreement.

110. I therefore have no reason to find that the scheme would be harmful with regard to its impact upon local education facilities.

*Habitat survey*

111. Some concerns are raised by third parties regarding the adequacy of the submitted survey, and the possible implications of the development upon local wildlife. Even so, I heard at the inquiry that the site has not been dormant land but has comprised working farmland and is therefore already subject to significant on-going agricultural activity with possible implications for habitats and wildlife. The survey appears to be a generally reasonable and considered response to the circumstances of the site but, should this appeal be allowed, it would also be necessary to safeguard by way of planning conditions wildlife implications arising from clearance of vegetation and to ensure that the ecological recommendations of the scheme are appropriately implemented.

*Steelworks*

112. The recent announcement of closure of the Redcar steelworks has also been raised in evidence, both in terms of implications for housing need and for housing land supply. I note the appellant's initial assessment that closure does not give rise to a need to adjust its submitted OAN. Nevertheless, news of the closure was very recent to the inquiry, and no full assessments have yet been undertaken. I therefore agree with the Council that it would be premature to draw any specific conclusions relative to the appeal scheme at this time.

*Other concerns*

113. A range of other issues have been raised by third parties. These include loss of farmland, noise and odour implications for future residents of the development arising from the Riding School, the implications for the Riding School and for local businesses, for sewage and other services, for tourism and for flooding. These matters have not been raised as objections by the Council and I have considered the relevant evidence submitted by both the main parties. I have no reason to conclude that such matters represent grounds to preclude development.

114. Reference was also made to possible development of further sites in the vicinity, and of the possible precedent created by any development of the appeal site. Notwithstanding the importance of consistency in decision-making,



the planning circumstances of any individual site and of any proposed scheme will be different from others, and each proposal and site must be considered with reference to its own particular merits.

115. An issue was also raised as to whether development may be premature in view of the absence of an up-to-date development plan. The Guidance advises how weight may be given to policies in emerging plans and that, in the context of the Framework and the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission. An exception would be where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account.
116. The Guidance advises that such circumstances are likely to be limited to situations where both the development is so substantial, or its cumulative effect would be so significant, that it would undermine the plan-making process, and where the emerging plan is at an advanced stage but not yet formally adopted. Furthermore, the Guidance explains that the local planning authority would need to indicate clearly how the grant of permission would prejudice the outcome of the plan-making process.
117. Given the limited scale of the development in strategic, Borough-wide terms, and the absence of any imminent up-to-date development plan, I consider the proposed scheme would be neither premature nor prejudicial in that regard, and would otherwise be consistent with the advice of the Guidance.
118. I have noted the scheme has been assessed as not to involve Environmental Impact Assessment (EIA) development.
119. I have also had regard to all other planning decisions and appeals as referred to in the submitted evidence, and to all other considerations raised at both the inquiry and in written evidence.

### **Overall Planning Balance**

120. Policies DP1 and DP2 each seek to impose a general restriction on development outside defined limits, including housing. Both policies act as constraints to future housing supply by presuming against housing development outside development boundaries. As I consider the Council is unable to demonstrate a five-year supply of housing land, it follows that, for the purposes of paragraph 49 of the Framework, both policies are to be considered out-of-date. In this regard, I am also mindful of the age of those policies, and the possible extent of shortfall in housing land arising from the appellant's evidence.
121. In contrast, Policy CS23 seeks to maintain a gap between settlements and was not directed at covering all land outside the urban edge or otherwise restricting housing development. It also only relates to a relatively small part of the Borough and I cannot conclude that it is a policy relevant to the supply of housing. I find the development would accord with the requirements of Policy CS23.
122. The scheme would inevitably reduce the extent of land within the gap, but the fundamental purpose of the gap is to maintain physical separation and respective identities of the two settlements. A broad area of countryside would

remain and would be enhanced, existing joint visibility of the settlements within significant single views is already limited, and the existing sense of separation would not be significantly compromised. The essential function and character of the gap as a backdrop to the two settlements, taken in the round, would not be materially harmed.

123. The proposed scheme would incur some very limited harm to the countryside by developing outside the development limits of Policy DP1, as also repeated in Policy DP2. There would also be some limited harm from loss of views around the appeal site.
124. Weighed against that harm, I am satisfied the scheme would constitute sustainable development with significant economic and social benefits as described. Of particular weight would be up to 130 new homes in a Borough which is unable to demonstrate a five-year housing land supply and where the appellant's evidence indicates a substantial shortfall of housing land. The associated affordable housing benefits would also be significant and amount to 15% of the dwellings. The Tees Valley 2012 SHMAA indicated an affordable housing requirement in the Borough of 97 dwellings per annum. The annual requirement for Saltburn itself is some 21 dwellings per annum.
125. I also have regard to the consequences of housing under-supply, which would include restrictions upon the mobility of labour and constraints to economic growth.
126. I consider the scheme would give rise to environmental benefits through an attractive landscaped gateway to Saltburn as part of a visually enhanced western boundary.
127. I therefore find that the adverse impacts of the scheme would not significantly and demonstrably out-weigh the benefits, when assessed against the policies in the Framework taken as a whole, and with regard to the development plan as a whole.

### **Conditions**

128. I have considered the agreed list of conditions put forward by both parties to the inquiry. In assessing such matters, I have regard to the advice set out in both the Guidance and in the Framework in terms of both the need for individual conditions and of appropriate wording.
129. For the avoidance of doubt and in the interests of proper planning, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings.
130. Whilst the submitted drawings to be approved set out general principles of the access, full details of its design remain to be submitted and are required for agreement by the local planning authority. It was also agreed at the inquiry that the safety audit referred to by the Council in the suggested list of conditions would not be necessary given submission of further details and the jurisdiction of other legislation.
131. To protect the living conditions of neighbouring occupiers during construction, it is necessary to limit the hours of construction works.
132. To safeguard local traffic conditions during the works, it is necessary for arrangements for contractor parking, for materials storage, and for a

construction traffic management plan to be agreed by the local planning authority and to be implemented for the duration of the development.

133. It is necessary to protect the living conditions of future occupiers of the development by ensuring that appropriate arrangements are made for identification and treatment of any on-site contamination.
134. To contribute to a sustainable development, conditions require implementation of detailed drainage and flood mitigation measures, place limitations upon clearance of on-site vegetation, and require implementation of the submitted Habitat Survey recommendations.
135. The appellant has suggested inclusion of its indicative Parameters Plan as part of the approved drawings. This is put forward as a context for the submissions of reserved matters. The Council has reservations, however, and is concerned that the approved plan has the potential to fetter its discretion in relation to subsequent consideration of outstanding reserved matters. Whilst I have no objection to the Parameters Plan relative to the terms of the current application, the plan extends beyond the access reserved matter forming the subject of this submission and is not in itself necessary for that permission to be granted. Accordingly, I have not referred to that plan as part of the approved drawings.
136. The list of recommended conditions submitted to the inquiry also included various issues relating to the design and landscaping of the scheme. It was agreed these related to other reserved matters which were not formally part of the current application. The same also applies to a suggested condition relating to use of sustainable materials in construction.

### **Conclusion**

137. At the heart of the Framework is a presumption in favour of sustainable development. I find the proposed scheme would accord with that expectation having regard to the development plan and to the Framework as a whole.
138. For the above reasons, the appeal is allowed.

*Peter Rose*  
INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and be approved in writing by the local planning authority before any development begins 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 begin 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 drawings: Site Location Plan Ref: MR:S:LP; and Site Access Layout Ref: ITM9348-GA-004 Rev A.
5. No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and be approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and in accordance with an agreed programme. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and be approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures in accordance with details and a programme of works to be approved in writing by the local planning authority.
6. Prior to the commencement of any development, details shall be submitted to and be agreed in writing by the local planning authority of proposals to provide contractor parking and space for materials storage within the site for the duration of the works. The details approved shall be implemented prior to any commencement of development and shall be retained for use until completion of the development.
7. Prior to the commencement of any development, a construction traffic management plan shall be submitted to and be approved in writing by the local planning authority. The development hereby approved shall then be implemented in accordance with the management plan throughout the duration of the works.
8. The working hours for all construction activities shall be limited to between 08:00 and 18:00 Mondays to Friday and 08:00 to 13:00 Saturdays and not at all on a Sunday or a Bank Holiday.

9. The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref: 4129/FRA(A) dated September 2014 and including mitigation measures specified therein. The proposed drainage strategy and flood mitigation measures shall be implemented in accordance with full details and a programme to be submitted to and be approved in writing by the local planning authority prior to the commencement of any development.
10. Prior to the commencement of any development, full design details of the proposed access into the site based upon the drawings hereby approved, and including all associated works and proposed materials, shall be submitted to and be approved in writing by the local planning authority. The development shall be undertaken in accordance with the details as approved and the access shall be completed prior to the first occupation of any dwelling.
11. There shall be no site vegetation clearance as part of the development any year between March and August inclusive unless with the prior written consent of the local planning authority following submission of full details of the proposed works and of an accompanying survey of the vegetation to be affected, including implications for any identified habitats.
12. The development hereby approved shall incorporate the ecological recommendations of the submitted Habitat Survey dated August 2014 (paragraph 5.2) and such measures shall be implemented in accordance with full details and a programme to be submitted to and be approved in writing by the local planning authority prior to the commencement of any development.

Richborough Estates



	campaign team opposing the development
Leslie Manship	Local resident
Stuart White	Campaign for the Protection of Rural England (CPRE)

Richborough Estates

**DOCUMENTS SUBMITTED TO THE INQUIRY:**

1. Council's opening submissions by Alison Ogley
2. Extract from Guidelines for Landscape and Visual Impact Assessment, Third Edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment
3. Landscape Institute Advice Note 01/11, Photography and photomontage in landscape and visual impact assessment
4. Council Community Infrastructure Levy Regulations 2010 Compliance Statement (undated), Part 1
5. Council Community Infrastructure Levy Regulations 2010 Compliance Statement (undated), Part 2
6. Council statement of proposed plans dated 16 October 2015
7. Closing submissions by Alison Ogley dated 23 October 2015
8. Housing calculations attached to email dated 23 October 2015
9. Response to appellant's costs application dated 26 October 2015
10. Appellant's opening submissions by Richard Sagar
11. Copy of email from Mark Johnson to the Planning Inspectorate dated 12 October 2015
12. Printed portfolio of photographs (larger-scale versions of documents previously submitted in evidence)
13. Taylor Wimpey (North Yorkshire) Ltd position statement dated 15 October 2015 (withdrawn and superseded)
14. Taylor Wimpey (North Yorkshire) Ltd position statement dated 16 October 2015 (revised)
15. Closing submissions by Richard Sagar dated 26 October 2015
16. Costs application dated 23 October 2015
17. Costs application for the appellant- final comments from appellant- email dated 26 October 2015
18. Agreement under section 106 of the Town and Country Planning Act 1990 dated 13 October 2015
19. Agreed list of suggested planning conditions (undated)
20. Undated representation from Councillor J Lambert on behalf of the Saltburn, Marske and New Marske Parish Council
21. Petition of objection from local residents submitted by Terence Cox and accompanying Campaign Team Statement (undated)