



Appeal Decision

Site visit made on 5 January 2022

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30/05/2022

Appeal Ref: APP/V2723/W/21/3279989

The Ashes, Silver Street, Barton DL10 6JJ

- 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 Mr John Paul Lawson (Lawson Farms) against the decision of Richmondshire District Council.
 - The application Ref 19/00635/OUT, dated 9 September 2019, was refused by notice dated 5 February 2021.
 - The development proposed is Outline Application with Some Matters Reserved for the Demolition of the Existing Farmstead and HGV Centre and Construction of 27 Dwellings and 5 Self-Build Plots, Public Open Space and Associated Infrastructure.
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Decision

1. The appeal is allowed and outline planning permission is granted for Outline Application with Some Matters Reserved for the Demolition of the Existing Farmstead and HGV Centre and Construction of 27 Dwellings and 5 Self-Build Plots, Public Open Space and Associated Infrastructure at The Ashes, Silver Street, Barton DL10 6JJ in accordance with the terms of the application, Ref 19/00635/OUT, dated 9 September 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application is for outline planning permission, with all matters except for access reserved for future consideration. An indicative site layout is submitted with the application, and I have taken this into account only in so far as determining the acceptability, in land use principle terms, of erecting thirty-two dwellings on the site.

Main Issue

3. The main issue is whether the appeal site is a suitable location for residential development.

Reasons

4. The appeal site comprises a pig and cattle farm and a haulage depot located on the edge of the built-up area of Barton. Policy SP4 of the adopted Richmondshire Local Plan Core Strategy (RLP) identifies Barton as a Primary Service Village covered by the North Richmondshire Spatial Strategy (NRSS). The NRSS sets a housing target for the North Richmondshire sub-area of 285 dwellings over the plan period with 105 of these being in the Primary Service Villages (PSVs) of Barton, Middleton Tyas and Melonsby. It also states that this target reflects the area's pattern of smaller settlements and the aim to reduce further potential out-commuting to the Tees Valley. This sub area target contributes to the overall target of 180 dwellings per annum for the plan area which the supporting text states is not a ceiling for the

level of expected growth. If the sub-area target for the PSVs were to be evenly distributed between each of the PSVs this would equate to approximately 35 dwellings per PSV over the plan period.

5. The Council has highlighted other proposals in the sub-area that either have been or are soon likely to be granted planning permission including: Refs. 18/00316/VAR & 18/0177/AORM for 35 dwellings in Middleton Tyas; Ref. 15/00721/FULL for 44 dwellings and a village hall in Melonsby; and Ref. 17/0829/OUT, for up to 35 dwellings at Rose Villa farm in Barton. The Council's statement has also referred to second application for Rose Villa site that has been submitted (20/00133/OUT) but that has not yet been determined. In its view the approval and submission of these schemes means that the appeal proposal would significantly exceed the housing target for the sub area as set out by policy SP4 although they do acknowledge that this target is not a ceiling.
6. However, according to the evidence the Melonsby proposal is yet to be determined. Furthermore, according to the Council's statement the Rose Villa scheme (Ref. 17/0829/OUT) is not in its view classed as deliverable under the Framework. Moreover, the evidence submitted by the appellant also appears to show that there were question marks around the viability of the same Rose Villa Scheme particularly around the provision of 30% affordable housing as the submitted planning statement stated that the development would only be viable with a contribution of 15% affordable or less and by delivering approximately 50 dwellings¹.
7. Consequently, the evidence before me is not sufficiently clear and unambiguous to indicate that the Rose Villa scheme (Ref. 17/0829/OUT) would deliver the up to 35 dwellings that it currently has outline permission for. In addition, given that the subsequent application for the Rose Villa site Ref. 20/00133/OUT, has not been determined, I also cannot be certain that this new scheme would deliver the 50 dwellings applied for should that scheme obtain planning permission.
8. I also note that as outlined in their statement of case, the remaining target for the PSVs, taking into account dwellings already delivered as of 31 March 2021 would be approximately 62 dwellings. However, as stated above, the Melonsby scheme has not yet been determined and the actual completions for the Middleton Tyas scheme are not currently known. Furthermore, the Council also state that the Rose Villa Farm scheme is not defined as being deliverable under the Framework and there are doubts about the scheme's viability. Consequently, even if the Middleton Tyas scheme did deliver the level of housing anticipated by the Council in early 2022 it is not certain that this would mean that the target would be reduced to below the 32 dwellings that the appeal scheme would likely provide as argued by the Council.
9. In any event, in the context of the above and taking the targets contained within policy SP4 into account, given that the Melonsby scheme has not yet been determined, and that the other Barton scheme is according to the Council not classed as deliverable, I am not convinced that the proposal would lead to the housing target for either Barton or the PSV's as a whole being substantially exceeded as the Council have argued.
10. Additionally, according to the appellant's statement the proposal would be financially viable including the provision of affordable and self-build housing. This fact has not been challenged by the Council.

¹ See appendix 3a of appellant's statement

11. I therefore consider that the indicative proposal would positively contribute to the housing target for the sub-area set by policy SP4 which is not a ceiling target.
12. The appeal site is located on the edge of Barton and is bounded by residential development on one side. Moreover, according to the evidence it is within walking/cycling distance of the services and facilities located within the village which include a village shop, public house, bus stops, primary school, and village hall/institute. Accordingly, and bearing in mind the Braintree judgement², I consider that in functional terms the situation 'on the ground' in this case is that the appeal site is for all intents and purposes located within the village.
13. In any event policy CP4 of the RLP supports schemes that are located within or adjacent to the development limits of identified settlements, subject to several criteria including that the site is accessible and well related to existing facilities which the proposal would be. Indeed, given its location within walking and cycling distance of the services and facilities in Barton I consider the appeal site to be in a sustainable location.
14. As stated above, based on the evidence, I also consider that the potential housing that the proposal would provide would not mean that the overall housing target as set by policy SP4 for the sub area would be exceeded.
15. As a result, and taking all the above factors into account, I consider that the indicative proposal would accord with the relevant locational and spatial requirements of policy CP4 i.e., criteria 1a, 1c, 1e, 2a and 2b(i). Accordingly, I therefore conclude that the appeal site would be a suitable location for housing. The proposal would therefore meet the relevant requirements of policies SP4 and CP4 of the RLP.

Other considerations

16. As set out in the evidence, the proposal would likely provide several benefits including: the use of previously developed land; contributing to the sustainability of services and facilities in Barton; the removal of agricultural activities from the centre of the village thereby reducing traffic movements of large agricultural and haulage vehicles through it and reducing the associated noise and odour issues created by these existing farming activities; providing efficiency and operating benefits of locating the remaining farming activities from the appeal site to a less constrained site to the south of the village; and the removal of the unsightly farm and haulage yard complex with its visually-dominant elements and its replacement with a well-designed residential scheme with new visually sensitive landscaping and green space. Given the scale of the proposal I afford these benefits considerable weight.
17. The appellant has also submitted a signed and executed unilateral undertaking for the on-site provision of a policy compliant proportion of affordable housing and the on-site provision of recreation/play facilities. According to the evidence the UU would be necessary to make the development acceptable in planning terms; is directly related to the development; and would be fairly and reasonably related in scale and kind to the development. Therefore, and being mindful of the relevant tests set by paragraph 57 of the Framework I afford this consideration substantial weight.
18. The main parties also agree that the proposal would provide an element of self-build housing thereby enabling the Council to fulfil its statutory duty in this regard.

² Braintree District Council v SSCLG Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

As a result this consideration carries considerable weight in favour of the appeal scheme.

Other Matters

19. Interested parties have raised concerns in relation to: traffic and highway safety; design and quality; impact on local infrastructure; impact on local services and facilities; local amenity; accessibility; and crime and anti-social behaviour. However, for most of these matters where residents objected there was often a corresponding level of support from other residents. While for others there was either just local support or just local objection. However, while I note that many residents objected to the proposal, the matters that they objected to have either not been raised as a concern by the Council or there is no substantive evidence before me, such as an objection from the Highway Authority, to justify those concerns.
20. Consequently, taking this into account, given the benefits that the proposal would provide and the fact that many residents also support the scheme, I consider that the objections are not of sufficient weight to outweigh the benefits or the fact that the proposal would comply with the development plan for the area when read as a whole. As a result, these matters are not such as to warrant refusal of the indicative proposed development.
21. The Council has not contested the proposal's acceptability in relation to criteria 1b, 1d, 1e, 1f, 1g, 2b(ii) and 3 (a to e) of Policy CP4. From the evidence before me I have no reason to disagree. As such, these matters are not determinative.

Conditions

22. A set of suggested conditions was submitted by the appellant which the Council agree with, and I have used these as the basis for those I have imposed on the appeal scheme.
23. I have imposed conditions as set out in the attached schedule in light of the use of planning conditions set out in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (the Guidance). Consequently, in the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions as suggested by the appellant.
24. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. I have also imposed a necessary condition requiring compliance with the submitted approved plans, but only in relation to access as this is not a reserved matter.
25. I have imposed a necessary condition to specify the quantum of indicative housing development permitted in the interest of maintaining the development plan's spatial strategy. I have also imposed a necessary condition to ensure that the proposal is sustainably constructed in the interest of environmental sustainability.
26. In the interest of highway safety, I have imposed necessary conditions: requiring the submission and approval of highway layout and construction details; ensuring that adequate visibility splays are created and maintained at the proposed access; and requiring the submission and approval of details of off-site required highway improvement works.
27. In the interest of the living conditions of nearby residents I have imposed necessary conditions: requiring the submission and approval of a construction method statement; restricting the hours of construction works; and requiring that

an assessment of traffic noise, which demonstrates noise levels at the position of the nearest noise sensitive receptors and provides mitigation measures as necessary, to be carried out.

28. To minimise potential flood risk I have imposed necessary conditions requiring: infiltration testing for soakaways and if necessary the submission and approval of a scheme restricting the rate of development flow runoff from the site; the submission and approval of an appropriate Exceedance Flow Plan for the site; the demonstration of suitable maintenance of the proposed sustainable urban drainage scheme (SuDS) arrangement to the satisfaction of the local planning authority; and that the development be implemented in accordance with the submitted Flood Risk & Drainage Assessment.
29. In order to prevent pollution of the aquatic environment I have imposed a condition requiring the submission and approval of a scheme, detailing the treatment of all surface water flows from parking areas and hardstanding through the use of roadside gullies, oil interceptors, reed beds or alternative treatment systems; and that the use of parking and hardstanding area shall not commence until the approved treatment scheme has been completed.
30. I have also imposed necessary conditions requiring: the submission and approval of materials samples; that the proposal be constructed of the approved materials in the interests of the character and appearance of the area.
31. In order to ensure good design, I have imposed necessary conditions requiring the submission and approval of: detailed cross sections showing the existing ground levels in relation to the proposed ground and finished floor levels for the development; and details and samples of the materials to be used in the construction of the external surfaces of the development.
32. In the interest of minimising risks from potentially contaminated land I have also imposed conditions requiring that an investigation and risk assessment be carried out should any contamination be discovered during the proposal's construction; and that if contamination is found or suspected at any time during development, all works would stop with the local planning authority being notified in writing.
33. In the list of suggested conditions submitted by the appellant reference is made to Drawing No. C002 Rev.C (Church Land Site Access Junction). However, no such drawing appears to have been submitted as part of their evidence. As a result, I have not included this drawing in the list of approved plans condition that I have imposed.

Planning Balance and Conclusion

34. For the reasons given above, I conclude that the indicative proposed development would accord with the development plan for the area taken as a whole. The proposal would also provide significant benefits and there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh these benefits. Furthermore, there are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

C Coyne

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing No. SK02revE; Existing Site Plan Drawing No. SK03 revA; Indicative Site Layout Drawing No. SK05-D3.
- 5) The permission hereby granted provides for a maximum of 32 dwellings to be developed on the site.
- 6) The development hereby permitted shall deliver carbon savings by exceeding the minimum standards prevailing through Part L of the Building Regulations. Prior to the commencement of any part of the development, an energy statement confirming how carbon savings are to be delivered with reference to the extent that this will exceed Building Regulation Requirements along with an explanation of why this is the maximum level that would be feasible and viable for this particular proposal, shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.
- 7) No above ground construction shall commence until details of the proposed highway layout and construction have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details. The details shall include but not be limited to:
 - a) Road, cycleway and footway construction;
 - b) Lighting;
 - c) Surfacing;
 - d) Materials;
 - e) Drainage;
 - f) Access, turning and parking;
 - g) Traffic calming; and
 - h) A programme for completion of the works.
- 8) There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 90 metres to the north west and 45 metres to the south east measured along the nearside channel line of Church Lane from a point measured 2.4 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 9) Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

- (i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:
- a) The provision of a 2 metre wide footway on Church Lane which extends northwards from the site entrance to a point which is to be agreed adjacent to the Playing Field Site. Provision shall be made to deal with surface water drainage from the carriageway adjacent to the new length of footway and the width of the existing carriageway shall not be reduced.
 - b) Church Lane shall be widened to 5.5 metres from a point adjacent to the northern end of the existing layby on the east side of Church Lane to the south east of the site, north westwards to a point adjacent to the existing 30 Mph Speed Limit Signs.
 - c) An appropriate Warning Sign and associated 'SLOW' road marking shall be placed on the southbound approach to the site to advise of the 'Staggered Road Junction'.
 - d) A scheme to extend the existing 30 Mph Speed Limit to the north shall be agreed. The Legal costs involved with this and the costs associated with moving the signs shall be covered by the applicant.
- (ii) A programme for the completion of the proposed works has been submitted to and approved writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 10) No above ground construction shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a) the formation of a construction access including the formation of visibility splays;
 - b) the parking of vehicles of site operatives and visitors;
 - c) loading and unloading of plant and materials;
 - d) storage of plant and materials used in constructing the development;
 - e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f) wheel washing facilities;
 - g) measures to control the emission of dust and dirt during construction;
 - h) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - i) access arrangements for emergency vehicles during the construction phase; and
 - j) details of construction vehicles and routes.
- 11) Hours of working on the development site are restricted to between the hours of 8 am and 6 pm Mondays to Fridays, and the hours of 8 am and 1 pm Saturdays, with no working on Sundays or Bank Holidays.
- 12) Development shall not commence until infiltration testing for soakaways have been completed in accordance with BRE 365 and test results have been submitted to the Local Planning Authority. If infiltration is not feasible, a scheme restricting the rate of development flow runoff from the site must be

submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to greenfield runoff rate and/or a minimum 30% reduction of the existing positively drained runoff rate for the 1 in 1, 1 in 30 and 1 in 100 year rainfall events.

A 30% allowance shall be included for climate change effects and a further 10% for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

- 13) No development shall take place until a suitable maintenance of the proposed SuDS drainage scheme arrangement has been demonstrated to the local planning authority. Details with regard to the maintenance and management of the approved scheme to include; drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.
- 14) The development shall not commence until a scheme, detailing the treatment of all surface water flows from parking areas and hardstanding through the use of road side gullies, oil interceptors, reed beds or alternative treatment systems, has been submitted to and approved in writing by the Local Planning Authority. Use of the parking areas/hardstanding shall not commence until the works comprising the approved treatment scheme have been completed. Roof water shall not pass through the treatment scheme. Treatment shall take place prior to discharge from the treatment scheme. The treatment scheme shall be retained, maintained to ensure efficient working and used throughout the lifetime of the development.
- 15) No development shall take place until an appropriate Exceedance Flow Plan for the site has been submitted to and approved in writing by the Local Planning Authority. Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. This is achieved by designing suitable ground exceedance or flood pathways. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.
- 16) Development shall be implemented in line with the drainage scheme contained within the submitted document entitled "Flood Risk & Drainage Assessment" dated July 2019. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 9001 and ensure that surface water discharges to the surface water sewer at manhole 9002. The surface water discharge rate shall not exceed the available capacity of 5.0 l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.
- 17) No above ground construction shall commence until detailed cross sections have been submitted to and approved in writing by the Local Planning

Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.

- 18) No development shall be commenced until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's Model Procedures for the Management of Land Contamination CLR11, has been submitted to and approved by the local planning authority. If deemed necessary, a scheme for the remediation of any contamination shall be submitted and approved by the local planning authority before any development occurs. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the local planning authority.
- 19) If contamination is found or suspected at any time during development, all works shall cease and the local planning authority shall be notified in writing immediately. No further development shall be undertaken until a detailed site investigation and risk assessment, having regard to current best practice, has been carried out. Where remediation is necessary a Remediation Strategy shall be submitted to and approved in writing by the local planning authority before any further development occurs.
- 20) The developer shall carry out an assessment of traffic noise, which demonstrates noise levels at the position of the nearest noise sensitive receptors and provides mitigation measures as necessary, to demonstrate that the development can comply with BS8233.
- 21) No above ground construction shall commence until details and samples of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved by the local planning authority. The development shall be constructed of the approved materials in accordance with the approved method.

End of Schedule