



Appeal Decision

Site visit made on 8 April 2025

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/H0738/W/24/3355724

Land Adjacent to Low Lane and Thornaby Road, Ingleby Barwick, TS8 0BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs I & D J Snowdon against the decision of Stockton-on-Tees Borough Council.
 - The application Ref is 18/0195/OUT.
 - The development proposed is a residential development comprising up to 200 homes and including provision of a neighbourhood centre, multi-cultural centre, primary school, extension to Maltby Cricket Club, open space and means of access.
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Decision

1. The appeal is allowed, and planning permission is granted for residential development comprising up to 200 homes and including provision of a neighbourhood centre, multi-cultural centre, primary school, extension to Maltby Cricket Club, open space and means of access at land adjacent to Low Lane and Thornaby Road, Ingleby Barwick, TS8 0BW in accordance with the terms of the application, Ref 18/0195/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr & Mrs I & D J Snowdon against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline with approval sought for access. Layout, appearance, landscaping and scale would be the subject of future applications for approval of reserved matters. Plans were submitted showing the access and an illustrative layout of the site. Illustrative plans have been treated as such.
4. During the course of the appeal, an updated illustrative masterplan has been submitted. I have taken it into account insofar as it is only illustrative given the nature of the application and the matters which are reserved for future determination. I do not consider that any prejudice arises as a result of this.

Main Issues

5. The main issues are

- whether or not the proposal would provide realistic travel alternatives to the private car,
- whether or not it would lead to harmful visual coalescence,
- whether the proposal would harm highway safety and convenience, and
- the effect of the proposal on the Teesmouth & Cleveland Coast Special Protection Area (SPA).

Reasons

6. The appeal site forms the eastern edge of site allocation “IB3 Little Maltby Farm, Low Lane” in the Stockton on Tees Borough Council Local Plan, adopted 30 January 2019 (the Local Plan). That allocation sought to deliver 1155 dwellings across the whole allocation, and the 200 units proposed in this appeal contribute to that amount. Policy H1 of the Local Plan identifies residential developments on sites such as this as being required to deliver the housing requirement for the area.

Travel

7. As noted, the appeal site is part of an allocated housing site within the Local Plan. As such, the overall sustainability of the site, and by extension, proposals to develop it, in terms of its connectivity, relationship to local facilities and services has already been assessed. I accept that at plan-making stage this would necessarily have typically been a lighter-touch consideration than at application stage. But the detailed effects of the appeal proposal were considered and found acceptable in the previous appeal, and then each time the appeal proposal was presented to committee. Nothing has materially changed since then. In fact, connectivity and the provision of safe and accessible routes which do not require the use of a private car has likely improved, and continues to improve as the wider allocation continues to be developed on other sites. The evidence of the appellant is clear on this point and I find no other evidence, either submitted to me, or following my site visit, to reach a different conclusion.
8. At the most recent presentation of the proposal to Members, Officers and the appellant had apparently agreed that the footbridge to the north, crossing Bassleton Beck and providing a shorter, but non-adoptable standard, connection into Ingleby Barwick was no longer required. Although Members did at one point resolve to approve the application without this footbridge link, it is now clear that they consider it to be of value.
9. Having visited the area and examined the evidence, whilst I agree that the site is sustainably located, is relatively close to facilities and services, and would provide on-site facilities, a northern footbridge link would provide improved, shorter access for some, to other existing facilities and services within Ingleby Barwick to the north.

10. In considering this matter, I note that the appellant has made provision for it within their planning obligation, their original planning application and highlighted it in their 2018 Design and Access Statement. To my mind this gives rise to a reasonable expectation of its provision, and the appellant has not otherwise sought to suggest that it would not ultimately be deliverable, or that it would harm the overall deliverability of the proposal.
11. Despite the ultimate decision of the Council, it is clear that Officers are satisfied that the proposal would secure suitable access to bus services already in operation, and that this is a suitable and long-term viable option. I also note the proposal by the appellant to provide welcome packs and travel incentives to first-occupiers, secured through the planning obligation.
12. Whilst I note the concern of Members that funding or provision of suitable routes may not secure or establish a viable bus service over the long term, an element of this is of course significantly beyond the control of the appellant, being a function of market forces. Nevertheless, the proposal does seek to include a spine road connecting to other development, a temporary bus turning loop and bus stop facilities. Whilst the detail of these would be secured through reserved matters applications, they do nevertheless demonstrate a commitment to, and the availability of non-car means of transport.
13. I therefore find that the proposal would provide realistic travel alternatives to the private car and would not therefore conflict with Policies SD6(1), TI1(1), TI1(2) or TI1(12) of the Local Plan in this respect.

Coalescence

14. The western and northern edges of the appeal site effectively abut existing, under-construction, or proposed housing sites. The eastern side of the appeal site includes, indicatively, a substantial area of retained farmland, a relatively new, but now well-established line of landscape planting. Beyond that line is an area of land reserved for nitrate mitigation. Further to the east, between the site and the Thornaby Road carriageway is a wide, grassed verge, apparently previously acquired for a road-widening scheme. Beyond the relatively wide Thornaby Road lies a large industrial and trading estate. The bulk of the residential area of Thornaby lies further to the north.
15. Taking those factors together, I cannot agree that the proposal would lead to the visual coalescence of Ingleby Barwick and Thornaby. Furthermore, the eastward expansion of Ingleby Barwick across this site and those which adjoin it, is plan-led growth in the area, and those effects must have been considered and found acceptable at plan-making stage. I must also note that the Council has not suggested how or why such visual coalescence, were I to have found that it may occur, would in fact be harmful.
16. I therefore find that the proposal would not result in harmful visual coalescence, and would not conflict with Policy SD8,1(g) of the Local Plan.

Highway matters

17. Although the Council, and Members in particular have expressed concern over levels of congestion and safety on Thornaby Road and Low Lane, there is no evidence to support this view. Indeed, the evidence, accepted by the local highway authority is that although the proposal would add vehicle movements onto the network there is sufficient capacity within it to accommodate the traffic likely to be generated by the development, and this can be done safely.
18. Since the application was originally made, the Thornaby Road and Low Lane junction has been updated with changes made to the signal timings. The positive effect of this on the safety of that junction is borne out by the accident record in the evidence before me.
19. The appellant has committed to delivery of a highway mitigation scheme to provide a segregated left-turn filter on the Ingleby Way approach to the A1044 Thornaby Road / Ingleby Way / Stockwell Avenue Roundabout, despite their suggestion that the need for this improvement is not wholly connected to, or driven by the appeal proposal. I will return to that particular matter later in connection with the Planning Obligation.
20. I therefore find that the proposal would not harm highway safety and convenience and would not therefore conflict with Policies SD8,1(f) and TI1(6) of the Local Plan

Teesmouth and Cleveland Coast SPA

21. The appeal site is within the Tees Catchment and is therefore subject to 2022 Natural England guidance in respect of the unfavourable condition of the River Tees and levels of nitrogen. The proposal would result in an increase in the nitrogen load into the catchment from the site and would therefore have a likely significant effect on the SPA.
22. To address this, the appellant proposes to include an area of woodland planting within the site, which, coupled with the reversion of the agricultural land, will result in no net increase in nitrogen load into the catchment. A woodland management plan is proposed to ensure the ongoing effectiveness of the mitigation. This would be secured by condition.
23. Natural England has been consulted as part of this Appropriate Assessment and has identified that, subject to the mitigation identified and proposed, the integrity of the SPA can be protected and there would be no net increase in nitrogen load into the catchment as a result of the appeal proposal.

Conditions

24. The Council has essentially supplied, in their 2024 report to committee conditions to be attached, should planning permission be granted. Having had regard to the requirements of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance I have imposed those requested conditions.

25. Taken as a whole, I am satisfied that the conditions imposed are necessary amongst other things to ensure the satisfactory appearance, landscaping, layout and scale of the completed development, to ensure that it is appropriately delivered, can be safely accessed, drained, and is acceptable in all other relevant regards. Condition 17 is required to ensure that the effect of the proposal on the SPA is acceptable. I am therefore satisfied that the conditions I have imposed meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Planning obligation

26. Having considered all of the evidence and tests relating to the planning obligation which accompanies the appeal, it is my view that it should take effect as freely entered into and submitted, including the provision for the Bassleton Beck Bridge for the reasons set out above.
27. Although the appellant has questioned the need for the highways obligation, on the basis that the level of the contribution is disproportionate, their own evidence makes plain that the works delivered by that obligation would improve network conditions and mitigate the residential highway impact of the development.
28. Similarly, although the appellant has questioned the bus service contribution, primary school requirement and left-turn lane obligation, these are all evidence-based, and the obligation is structured in such a way as to allow the flexibility requested by the appellant here. As such, I consider it appropriate to leave those requirements in the obligation as drafted and executed.
29. The contributions set out in the obligation reflect an evidence-based, policy-supported position on contributions which the proposal is required to make and are the ones found acceptable by Officers at the Council and agreed to by the appellant. Whilst it may ultimately be the case that obligations are amended in future, as allowed for under various mechanisms, to my mind this approach is the fairest and most appropriate given the particular circumstances of this site and this proposal.
30. I have had regard to the evidence, the relevant guidance in the Framework and considered whether the requirement for the contributions meet the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. I am satisfied that the contributions would be necessary to make the development acceptable in planning terms, directly relate to the development and are fairly related in scale and kind to the development.
31. A signed and sealed agreement under section 106 of the Act has been provided. I am satisfied that this undertaking is appropriate legally and with regard to what it will secure and deliver. On that basis, I consider that the proposal could secure satisfactory and necessary contributions towards the matters identified in the committee report and the bridge connection discussed above.

Conclusion

32. At the time the appeal was submitted, the Council could demonstrate a five-year supply of housing land. However, this site was included within that supply, and it appears that by refusing to grant planning permission on this and other allocated sites, the Council has potentially reduced that level of supply to below five-years. Further, the 2024 revisions to the Framework look likely to significantly increase the amount of housing required in the area, and the Council has confirmed that the Local Plan is now deemed out of date and requires a full update.
33. I also note that the presumption in favour of sustainable development set out in the Framework likely now applies to this proposal. I have found no adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Given that, the proposal benefits from that presumption in the Framework, indicating that planning permission should be granted.
34. Taking all of the above into consideration, I find that the proposal accords with the development plan. Not least owing to its allocation within the development plan for the use proposed in the appeal, but also for the specific reasons set out above, including the lack of any justified or evidence-based conflict with the specific development plan policies identified in the Council's decision.
35. I have considered other material considerations but find that none of them are of such weight to indicate that a decision be taken other than in accordance with the development plan. There are however, in the contents of the Framework, material considerations which also weigh significantly in favour of the proposal above and beyond its compliance with the development plan.
36. The appeal should therefore be allowed.

S Dean

INSPECTOR

Schedule of Conditions

1. The development hereby approved shall be in general accordance with the following approved plan(s);

LTP-2691-TS-06-01-B	23 May 2019
5755_200	26 January 2018
5755_201_F	September 2024
2. Details of the appearance, landscaping, layout, and scale of each phase of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before development of the phase concerned begins, and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
4. The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
5. No development shall take place until a Phasing Programme for the development hereby permitted has been submitted to and approved in writing by the local planning authority. This shall identify the phasing of infrastructure, landscaping, public open space (in accordance with the Open Space Strategy), accesses, associated community facilities and residential areas within the development permitted herein. Development shall be carried out in accordance with the approved Phasing Programme.
6. No development shall take place until an open space strategy has been submitted to and approved in writing by the Local Planning Authority. This shall identify the extent, location, phasing and design of public open space within the development permitted herein. Development shall be carried out in accordance with the approved open space strategy.
7. The total number of dwellings authorised by this permission shall not exceed 200.
8. No development shall take place until an Energy Statement identifying the predicted energy consumption and associated CO2 emissions of the development and detailing how the housing in that particular phase of the development will achieve a 10% reduction in CO2 emissions over and above current building regulations through the energy hierarchy has been submitted to and been approved in writing by the Local Planning Authority. Where this is not achieved, it must be demonstrated that at least 10% of the total predicted energy requirements of the development must be provided from renewable energy sources either on site or in the locality of the development. Thereafter the development shall be carried out in full accordance with the approved details.

9. No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority relevant to that element of the development hereby approved. The approved CMS shall be adhered to throughout the construction period relating to that element of the development and shall provide details of:
 - i. Construction access;
 - ii. Parking of vehicles of site operatives and visitors;
 - iii. Loading and unloading of plant and materials;
 - iv. Storage of plant and materials used in constructing the development;
 - v. The erection and maintenance of security hoarding including decorative displays and facilities to public viewing, where appropriate;
 - vi. Wheel washing facilities; measures to control and monitor the omission of dust and dirt during construction;
 - vii. A Site Waste Management Plan;
 - viii. Details of the routing of associated HGVs;
 - ix. Measures to protect existing footpaths and verges; and a means of communication with local residents.
10. No construction activity or deliveries shall take place except between the hours of 0800 and 1800 on Monday to Friday and 0900 and 1300 on Saturdays. There shall be no construction activity on Sundays or Bank Holidays.
11. No development in a particular phase shall take place until a timetable for the implementation of the ecological mitigation measures within that phase as set out within the submitted Ecological Impact Assessment (Naturally Wild, January 2018) has been submitted to and been approved in writing by the local planning authority. The ecological mitigation measures shall be implemented in accordance with the approved timetable.
12. Notwithstanding the information submitted as part of the application the neighbourhood centre (including the community centre) and any associated landscaping and parking provision shall not exceed a total site area of 0.3 hectares. The maximum net retail floor space of any retail unit shall also not exceed 280sqm.
13. No development shall take place on any particular phase until a scheme for the protection of habitable rooms within the dwellings on that phase from the effects of traffic noise and neighbouring commercial uses has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

14. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. Such details shall be in accordance with the submitted "Flood Risk Assessment and Surface Water Management Strategy" and include;
- a) Detailed design of the foul water management system
 - b) Detailed design of the surface water management system
 - c) A build program and timetable for the provision of the critical surface water drainage infrastructure
 - d) A management plan detailing how surface water runoff from the site will be managed during construction phase
 - e) The arrangements for the future maintenance and management of the SuDS elements of the surface water system, including:
 - I. Identification of those areas to be adopted and
 - II. Arrangements to secure the future operation of the system throughout its lifetime.

Thereafter the development shall take place in accordance with the approved details.

15. If during the course of development of any particular phase of the development, contamination not previously identified is found to be present, then no further development on that phase shall be carried out until the developer has submitted to, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be carried out as approved.
16. If work does not commence within 2 years from the date of the submitted ecology survey, a maximum of three months before works commencing on site a suitably qualified ecologist shall undertake a checking survey to ensure that no protected species or their habitat are present on site. The results of the survey shall be submitted and approved in writing by the local planning authority and identify any additional or revised mitigation measures required.
17. No development shall commence until full details of the woodland mitigation scheme have been submitted to and been agreed in writing with the Local Planning Authority. Such a scheme shall include details of proposed location; species mix, planting size and densities; and be of a minimum area of 3.8 hectares as detailed on drawing 5755_200 submitted with the Nutrient Mitigation.

The woodland mitigation scheme shall be carried out in accordance with the agreed details and shall be planted prior to the occupation of the hereby approved dwelling. The woodland planting shall be maintained in accordance with the submitted maintenance plan (Rossetta, March 2024).

End of Schedule of Conditions



Costs Decision

Site visit made on 8 April 2025

by **S Dean MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Costs application in relation to Appeal Ref: APP/H0738/W/24/3355724 Land Adjacent to Low Lane and Thornaby Road, Ingleby Barwick, TS8 0BW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr & Mrs I & D J Snowdon for a full award of costs against Stockton-on-Tees Borough Council.
- The appeal was against the refusal of the Council to grant subject to conditions planning permission for up to 200 homes and including provision of a neighbourhood centre, multi-cultural centre, primary school, extension to Maltby Cricket Club, open space and means of access.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 49 of the PPG, which sets out a non-exhaustive list of behaviour which may give rise to a substantive award against a local planning authority effectively details much of the Council's behaviour in respect to the substance of the matter under appeal.
4. The Council has, by refusing to grant outline planning permission in this case and then defending this appeal managed to demonstrate many of the behaviours in that list, such that it would be further wasted time to list them, beyond simply noting that they are set out in the applicant's claim for costs and the PPG.
5. Members are of course not bound to accept the recommendations of their Officers, and defending an appeal following the refusal of such a planning application is, of course, not unreasonable in itself.
6. However, if professional or technical advice is not followed, then reasonable planning grounds for taking a decision contrary to those recommendations need to be provided supported by relevant evidence.
7. The Council themselves acknowledge that this is a difficult task as the decision was taken on the basis of individual judgement, Members' own observations and knowledge. However, that does not absolve the Council of the need to produce, or even attempt to produce evidence to substantiate each reason for refusal, and give a clear, specific and accurate assessment of the impacts.
8. The Council did not do this in this case.

9. No substantial evidence was submitted to support the reasons for refusal, or properly explain why a development proposal for a site allocated in the local plan, clearly subject to developer interest, and adjoining occupied and under-construction parts of the same allocation was refused planning permission.
10. This behaviour is plainly unreasonable with respect to the substance of the matter under appeal, that is, a development on a site allocated for it in the development plan, and has clearly caused unnecessary or wasted expense to the applicant to the degree set out in their application.

Conclusion

11. The criteria for an application for an award of costs has two limbs. Firstly, a party must behave unreasonably. It has been established above that the Council did so.
12. The second limb of the test is that that unreasonable behaviour has caused unnecessary or wasted expense in the appeal process. I find that it is clear that it has. As a result of the actions of the Council the applicant has been put to the expense of submitting an unnecessary appeal.
13. I therefore find that the Council has demonstrated behaviour in their handling of the appeal which was unreasonable in the terms of the PPG, and which then resulted in unnecessary or wasted expense.
14. The application for a full award of costs should therefore be allowed.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stockton-on-Tees Borough Council shall pay to Mr & Mrs I & D J Snowdon the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
16. The applicant is now invited to submit to Stockton-on-Tees Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Dean

INSPECTOR