

Appeal Decision

Hearing held on 2 March 2017

Site visit made on 2 March 2017

by A Jordan BA Hons MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/V0728/W/16/3151396

Site to the south of Church Drive, (west of Salter's Lane), Boosbeck, TS12 3LS

- 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 Martin Shutt against the decision of Redcar & Cleveland Borough Council.
 - The application Ref R/2016/0198/OO, dated 23 March 2016, was refused by notice dated 19 May 2016.
 - The development proposed is residential development of eight, single-storey, bungalow dwellinghouses for the elderly and/or disabled.
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Decision

1. The appeal is allowed and outline planning permission is granted for eight, single-storey, bungalow dwellinghouses for the elderly and/or disabled at site to the south of Church Drive, (west of Salter's Lane), Boosbeck, TS12 3LS, in accordance with application Ref R/2016/0198/OO, dated 23 March 2016 and the plans submitted with it and subject to the conditions the attached Schedule.

Procedural Matters

2. The application is made in outline form, with approval sought for layout, appearance and scale, and the matters of access and landscaping reserved for later approval. Although not a matter before me, I note that the submitted plan ref RH/DP/002 shows access being achieved via High Street. This would require passing over an area of land which is not within the control of the appellant. Whilst I note that a failure to secure control of this land would prevent the proposed layout from being implemented, I have not been advised that access is unachievable and so do not consider that this is a matter which would preclude the grant of consent in this case.

Main Issue

3. The main issue for the appeal is whether the development would be in a sustainable location, having regard to policies which seek to protect the countryside and reduce reliance on the private car.

Reasons

4. Policy DP1 of the *Redcar and Cleveland Local Development Framework Development Policies Development Plan Document July 2007* (DPDPD) seeks to
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restrict development outside defined development limits to particular uses that require a countryside location. The policy predates the introduction of the *National Planning Policy Framework* (the Framework). Nevertheless insofar as it seeks to make a clear distinction between the urban area and the countryside, it is consistent with the aims of the Framework to recognise the intrinsic character and beauty of the countryside and to resist isolated new homes within it.

5. Policies CS2 and CS19 of the *Redcar and Cleveland Local Development Framework Core Strategy Development Plan Document July 2007* (CS) aim to concentrate most new development in existing urban centres, with more limited development in Service Villages such as Boosbeck. New development will be supported where it is accessible to local services and takes account of the needs and requirements of all people in the community.
6. The site is an area of open field which fronts onto High Street on the outskirts of the village. Church Lane, which defines the village boundary, lies to the site's north-western boundary. The field slopes steeply down to the road and the site, which sits at the base of the slope, is not visible in views from the rear across the fieldscape.
7. The appeal relates to the erection of eight bungalows, which would be arranged in a linear pattern along High Street. The Council consider that the encroachment of built form into the countryside would diminish the open quality of the site, and that this would lead to some harm to the character of the countryside in this location. Nevertheless, they acknowledge that the site does not have any particular landscape value, and that the topography of the site would screen the site in views from the north and east. Furthermore the Council are satisfied that the scale and design of the development would be appropriate and would not have an unacceptable or adverse impact on the streetscene at this end of the village. On this basis, although the introduction of built form where there was previously none would alter the appearance of the site, I conclude that the proposal would have a very limited impact on the character of the countryside in this location and would not lead to significant visual harm.
8. Boosbeck has some limited services, and is designated as a Service Village in the Core Strategy. It has a school and 2 convenience shops, a hairdresser, a church and 2 public houses. I note that the site is located on the edge of the village where street lighting is less in evidence and that the trip into Boosbeck is uphill. Nevertheless, I do not consider the site to be isolated, or that the distance, the level of illumination or the gradient to be prohibitive for most residents, including elderly residents, to be able to undertake the short journey on foot. Having regard to the circumstances of this case, the distances involved do not appear to me by rural standards to be excessive. Furthermore, the proximity of the bus stop would provide an alternative means of transport in some cases.
9. Therefore, whilst it is likely that most residents would choose to drive to wider range of services, including the doctors Surgery at Lindale, or to the supermarket in Skelton, I am satisfied that residents would be able to meet at least some of their daily needs by sustainable means. This factor, and the fact that the proposal comprises a relatively small number of dwellings, would limit

the extent to which the development would increase the number of sustainable journeys made and as a result would not lead to significant harm in this regard.

10. I therefore conclude that although the proposal would lie outside the defined settlement limits, and would conflict with policy DP1 of the DPD and CS2 of the CS, it would not be remote from the village and would not detract the character of the countryside in this location. Furthermore, it would provide reasonable access to day to day services. It would therefore not lead to significant harm in these regards and would not conflict with guidance in the Framework, which seeks to protect the intrinsic character and beauty of the countryside, to resist isolated new homes within it and to encourage development which reduces the need to travel and allows for access to services by sustainable modes of transport.
11. Furthermore, the proposal seeks to provide bungalows which are described as being for the elderly/disabled. In that the accommodation would be accessible and would meet the needs of elderly or disabled residents I am satisfied that the properties would meet an identified need in the district. I therefore find no conflict with policy CS19 of the CS which seeks to deliver inclusive communities by considering access to core facilities by all members of the community.

Other Matters

12. Although not a concern raised by the Council, the matter of highway safety was an issue of concern for some local residents. I was advised that the road to the front of the site was subject to speeding, and that the area to the front of the site had been the site of a fatal accident in recent years. Whilst I note these concerns, I take into account that the Council's Highway's Officer has raised no concerns in relation to the indicative access, subject to relevant conditions. I also noted on site that the road in front of the site afforded good visibility to the brow of the hill and was subject to a speed limit of 30 MPH. Therefore, although I have some sympathy for resident's concerns, I have no firm basis for concluding that the proposal would be harmful to highway safety. Furthermore, although I note that the area in front of the site is used for informal parking during services at the nearby church, given that Church Lane is single width, this would in practical terms prohibit its use for parking. It is therefore unlikely that the development would lead to Church Lane becoming blocked with displaced vehicles.
13. Residents also raised concerns in relation to drainage, and referred to incidents of localised flooding. The site has a culvert running along the site frontage. The local flood authority has raised no concerns in principle, provided that development includes measures to mitigate the risk of flooding in the area. Provided these measures can be satisfactorily included within the development, I am satisfied that the proposal can be implemented without increasing the risk of flooding in the area.
14. The appellant has argued that the Council is unable to demonstrate that there is a 5 year supply of housing land in the Borough. I also note the findings of other Inspectors at recent S78 appeals in relation to the Council's assessment of Objectively Assessed Need. In the absence of any substantive or persuasive evidence by either party at the hearing I am unable to draw a conclusion of the matter. Nevertheless, as I have not identified any significant harm arising from the proposal, I do not consider the matter to be

determinative in this case. In light of the impetus for housing growth implicit in the Framework, I attribute significant weight to benefits the development would bring by way of housing supply, including the need for accessible housing, and this weighs in favour of the proposal.

15. The site would lead to the loss of a small area of land from agricultural production. Although this weighs against the proposal, taking into account the relatively modest size of the plot, this limits the weight I attribute to this harm. Lastly, whilst I note the comments of residents in relation to the potential social isolation of residents, taking into account the position of the site close to existing properties and services, I see no reason why the nature of the development would exclude future residents from village life.

Conclusion

16. The proposal would not lead to harm as a result of its location, either as a result of its impact on the character of the countryside, or by increasing reliance on the private car. Neither would it be harmful to highway safety, or increase the risk of flooding, or lead to a significant loss of agricultural land. According, having regard to all other matters raised, including the benefits the development would bring to housing provision, the appeal is allowed.
17. The Council have suggested a number of conditions, which I have considered against the guidance provided in the Planning Practice Guidance. In addition to conditions relating to the period of implementation, the approval of reserved matters and approved plans, I also consider it reasonable and necessary to require details of the external materials to be used in the development, and for details of proposed boundary treatments, in order to ensure an acceptable appearance for the development. It is also necessary to impose a condition requiring implementation of the landscaping scheme following approval of the reserved matters. Taking into account the topography of the site and to ensure a satisfactory appearance for the development I also consider it reasonable that details of proposed ground levels are approved prior to commencement.
18. In order to protect the living conditions of nearby residents it is reasonable and necessary to require a construction management plan, which should include restrictions on hours of construction. In order to ensure that the development does not increase the risk of flooding in the area I consider it necessary to impose a condition requiring that an appropriate foul and surface water drainage system is provided on site. Furthermore, although the site is in agricultural use, and unlikely to be contaminated I nonetheless consider it a necessary precaution to impose a condition relating to potential contamination.
19. Lastly, I have considered whether an occupancy condition is appropriate in this case. The development is clearly described as being for the elderly or disabled and has been advertised as such during consultation. I am therefore of the view that the imposition of such a condition would be in line with the appellants stated intentions. Furthermore, to fail to restrict the occupation of the properties could run contrary to the principles outlined in *Wheatcroft*¹. The key test in this regard, is whether failing to restrict occupation would alter the nature of the proposal and deprive those who should have been consulted on

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, p37]

the changed development, the opportunity to make representations. As I cannot be assured that all those originally consulted would not be prejudiced by a revised scheme I cannot proceed on that basis and consider an occupancy restriction to be necessary.

20. At the hearing some members of the public were concerned that future dependents would be excluded from occupation if the primary occupier, who was disabled or elderly, was no longer resident. This may indeed be the case. However, it would be open for the Council to decide whether to enforce a restriction in such a case, or for the occupier to apply to have the restriction lifted, and in such circumstances, for the case to be decided on its merits.
21. I am satisfied that a planning obligation would not be necessary to restrict occupation in this case and that effective control over occupation could be provided by way of a condition requiring that the property is occupied by a person aged over 55, or someone who is disabled. After consultation with the main parties I am satisfied that the definition under the Equalities Act 2010 is sufficiently precise in this case to be in accordance with the description of development.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Martin Shutt	Appellant
Dr Anton Lang	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Claire Griffin	Redcar and Cleveland Borough Council
Rebecca Wren	Redcar and Cleveland Borough Council

INTERESTED PARTIES

Anne Clayton	Lockwood Parish Council
Cllr Anne Watts	Redcar and Cleveland Borough Council
Emma Garbutt	Redcar and Cleveland Borough Council
Neville Ball	Local Resident

Document Submitted at the Hearing

Publication Local Plan 2016 - H3 Housing Allocations

Schedule of Conditions

1. Details of the access and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last of the reserved matters to be approved, whichever is later.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Block Plan RH/DP/001, Proposed Layout RH/DP/002, Proposed Elevations RH/DP/003.
4. Prior to the first occupation of the development boundary walls and fences shall have been erected in accordance with a scheme that has first been agreed in writing with the Local Planning Authority and shall thereafter be maintained.
5. Prior to the commencement of development a construction management plan (CMP) shall be submitted to and agreed in writing with the Local Planning Authority. The scheme hereby approved shall then be implemented in accordance with the traffic management plan unless first agreed in writing with the Local Planning Authority. The details approved shall be retained for use until completion of the development unless first agreed in writing with the Local Planning Authority. The CMP shall include a limitation of working hours for all construction activities on this site 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 Bank Holidays.
6. Prior to the commencement of the development, or in such extended time as may be agreed in writing with the Local Planning Authority, details shall be submitted and approved of the foul and surface water drainage scheme and the development shall be completed in accordance with the approved scheme.

The design of the drainage scheme shall include;

(i) Restriction of surface water run-off rates (QBAR value) with sufficient storage within the system to accommodate a 1 in 30 year storm.

(ii) Measures to mitigate known surface water issues on the northwest corner of the site in order to mitigate the risk of increased flooding in this area.

(iii) The method used for calculation of the existing greenfield run-off rate shall be the ICP SUDS method. The design shall also ensure that storm water resulting from a 1 in 100 year event, plus 30% climate change surcharging the system, can be stored on site with minimal risk to persons or property and without overflowing into drains, local highways or watercourses.

- (iv) Full Micro Drainage design files (mdx files) including a catchment plan.
- (v) The flow path of flood waters for the site as a result on a 1 in 100 year event plus 30%.
- 7. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
- 8. Prior to the commencement of development details of the existing and proposed ground levels together with finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
- 9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 10. Details of the external materials to be used in the carrying out of this permission (including samples) shall be submitted to, and approved in writing by the Local Planning Authority, prior to the commencement of development and the development shall not be carried out except in accordance with the approved details.
- 11. Details of materials to be used for all hard surfaces shall be submitted to, and approved in writing by the Local Planning Authority, prior to the commencement of the development and the development shall not be carried out except in accordance with the approved details.
- 12. The occupation of the dwellings hereby permitted shall be limited to a person who is aged over 55 or complies with the definition of being disabled under

the Equality Act 2010, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.