
Appeal Decision

Site visit made on 1 February 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/W0734/W/20/3262389

**Land immediately south of Nunthorpe Gardens / North of A1043,
Nunthorpe, Middlesbrough (Known as Nunthorpe Grange)**

Grid Reference Easting: 454210 Grid Reference Northing: 514680

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Stephenson (Persimmon Homes Teesside) against the decision of Middlesbrough Borough Council.
 - The application Ref 18/0786/FUL, dated 7 December 2018, was refused by notice dated 8 September 2020.
 - The development proposed is the erection of 128no residential dwellings with associated access, landscaping and infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposal has altered from the initial planning application form to the 'erection of 97 residential dwellings with associated access, landscaping and infrastructure'. This appears to have been as a result of the reduction of the scheme from the initially proposed 128no. dwellings. The revised description appears on the decision notice and has also been adopted on the appeal form. I have therefore determined the appeal on the basis of the revised description.

Main Issue

3. The main issue is whether the appeal proposal would achieve a well-designed place, with particular regard to its relationship to the character of the surrounding area and car parking arrangements.

Reasons

Planning policy context

4. The land to which the appeal relates sits on the north east fringe of a larger site which is identified as a housing allocation under Policy H29 of the Middlesbrough Housing Local Plan – Housing Core Strategy and Housing Development Plan Document (MHLP) (2014). The land is included within that covered by the Council's Nunthorpe Grange Design Code (NGDC) (2019).

5. I consider that the most important policies are DC1 and CS5 of the Middlesbrough Local Development Framework Core Strategy (CS) (2008) and Policy H29 of the MHLF, all of which are quoted in the reason for refusal.
6. Policies DC1 and CS5 of the CS are general development management policies which amongst other things require proposals to take into account their relationship with the surrounding area and be of a high-quality design. These policies have consistency with the National Planning Policy Framework (the Framework) which at Part 12 amongst other things promotes high quality places that are sympathetic to local character. I do not therefore consider policies DC1 and CS5 of the CS to be out of date.
7. Policy H29 of the MHLF states amongst other things at part a) that development proposals will be expected to provide a residential development that reflects the housing types in the area. Such principles, amongst other parts of the policy are in accordance with the Framework. However, the policy seeks to restrict the number of dwellings at the site to 250. In contrast, the Framework at paragraph 122 takes a more flexible approach to housing density and therefore housing numbers that could be accommodated on the site. This policy is therefore partially out of date. The NGDC also suggests the provision of a greater number of houses on the site, at 350.

Whether the appeal proposal would achieve a well-designed place

8. The appeal site is a large and irregularly shaped area of open land to the south east of Nunthorpe Gardens, closely adjacent to the main body of Nunthorpe. The site is set around a central pond area containing boggy ground and reeds, bounded to the south east by the A1043.

Relationship to the character of the surrounding area

9. The NGDC advises that amongst other things the layout of the houses must create a high quality and spacious development reflective of the density and established character of other areas of Nunthorpe. It identifies that housing densities within areas of Nunthorpe in close proximity to the site range from 6 to 21 homes per hectare. The appellant indicates that the required density for the appeal area is 18 dwellings per hectare and that the density proposed within the appeal scheme is 33.6 per hectare.
10. The NGDC identifies sample areas for the broader site, with sample areas E and F within the appeal site. It suggests that in area E along the south east boundary the houses will be reducing in density from the centre of the development being predominantly detached homes. It identifies that area F should incorporate the lowest density of the development at around 18 homes per hectare with large homes on generous plots. The northernmost section of the site adjacent to Nunthorpe Gardens would be broadly reflective of the design code area F, incorporating reasonably well spaced detached properties, reflective of the nearby established dwellings.
11. However, to the east of this area, the development would be much more intense. Detached houses would be significantly outnumbered by semi-detached and terraced dwellings placed closely together. Hence, this part of the appeal site would be much more intensively developed than what is envisaged by the NGDC and would subsequently fail to respond positively to existing local character and identity.

Car parking

12. The layout would make extensive use of rear parking courts particularly to the northern end of the site, where designated car parking would often be set away from the dwellings with which it would be associated. Some dwellings would have to be provided with narrow ginnels to enable residents to access the courts underlining their peripheral location to the properties. The NGDC does not rule out the use of parking courts completely where in curtilage parking cannot be provided. However, the clear desire within the NGDC is for parking to be provided unobtrusively to the front or side of the dwellings which would avoid the need for parking courts.
13. As identified by Secured by Design Guidance¹ (SDG), rear parking courts are discouraged. This is because they introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated, are often unlit and can provide areas of concealment which can encourage anti-social behaviour.
14. For this reason, SDG indicates that courts should be amongst other things within view of active rooms. The parking courts would be most visible from first floor windows throughout the development. The house types that would sit closest to the parking courts would incorporate a traditional arrangement whereby kitchens and living rooms would be on the ground floor. The view of the parking courts from rooms with an active visual connection would therefore likely be obscured by intervening boundary fencing given that they would be on the ground floor.
15. The rear gardens of properties close to the parking courts would provide the primary in curtilage outdoor space for the occupiers of those properties who would, reasonably, be likely to want the gardens enclosed by robust fencing.
16. While a condition requiring suitable lighting to the parking courts would be reasonable, I am not satisfied that a condition which would require boundary treatment of such limited height to provide the active visual connection required would also be reasonable. Such a condition would therefore be likely to fail the conditions tests were I to impose it.
17. Contrary to NGDC guidance, there would be 8 properties where the width of the driveway at the point where it meets the road would be greater than 50% of the property boundary. The number of properties where this would occur is small in the context of the overall number of dwellings and some landscaping would be provided to the sides. However, these properties are focussed together in one part of the site at plots 70, 71, 72, 73, 79, 80, 96 and 97 where car parking would dominate the front of the dwellings to the detriment of the appearance of the development.
18. To conclude on this matter, the extensive use of parking courts would therefore increase both the actual and perceived risk of crime within the development which would be to the detriment of future occupiers. The car parking that would dominate the front of the dwellings towards the southern end of the site would be to the detriment of the appearance of the scheme.

¹Secured by design homes 2019 Version 2, March 2019

Conclusion on main issue

19. As a result of the density of the scheme, which would be significantly higher than envisaged within the NGDC, the proposal would subsequently fail to respond positively to existing local character and identity, conflicting with this document. For this reason, the proposal would also therefore conflict with policies CS5(c and f) of the CS and DC1(b) which amongst other things require well designed places that enhance the built environment and take account of the visual appearance and layout of the development and its relationship with the surrounding area. The proposal would also conflict with Policy H29(a) of the MHLP which amongst other things requires development proposals on the Nunthorpe Grange site to reflect the housing types within the surrounding area. There would be an area of the site where parking would dominate the front of dwellings, contrary to guidance within the NGDC.
20. The extensive use of parking courts which would have limited views from active rooms would increase the risk of and fear of crime within the development. They would fail to accord with Policy CS5(e) of the CS which states amongst other things that proposals should create a safe environment where crime or fear of crime does not undermine quality of life by incorporating the aims and objectives of SDG concepts. The proposal would therefore fail to achieve a well-designed place.

Other Matters

21. I note that approval has been granted by Middlesbrough Borough Council and Redcar & Cleveland Borough Council to increase the number of dwellings to be provided on other sites within the area. However, there is nothing to indicate that the circumstances at those sites are so comparable such that they provide justification for the appeal proposal. No evidence has been submitted which convinces me that the market conditions are such that a design code compatible development would not be practical or viable at the site.
22. Policies H12 and H29 of the MHLP require affordable housing contributions in association with larger residential schemes such as that before me. The appellant has provided a draft unilateral undertaking relating to this and other contributions. On the evidence before me, it appears that the need for the contributions sought by the Council arise from the development and satisfy the 3 tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and at paragraph 56 of the Framework. However, the planning obligation that I have before me is neither signed nor dated and I can only therefore afford it very limited weight.

Planning Balance and Conclusion

23. The proposal would fail to achieve a well-designed place which should be afforded substantial weight and importance in the planning balance. The conflict with the NGDC is a matter I afford significant weight given the recent nature of the document and given the promotion of design codes within the National Design Guide² as a means of achieving the important goal of well-designed places. The Framework at paragraph 124 also states that the creation of high-quality buildings and places is fundamental to what the planning and

² National Design Guide – Planning practice guidance for beautiful, enduring and successful places – Ministry of Housing, Communities & Local Government January 2021

- development process should achieve. The proposal does not make the required contribution towards affordable housing and this weighs against it.
24. I have identified the most important policies for determining this application. Of these, the proposed development would conflict with Policies CS5(c, e and f) and DC1(b) of the CS and Policy H29(a) of the MHLP. Inevitably there will be some policies and aspects of these policies with which the proposal would comply. Nevertheless, the appeal scheme would conflict with the development plan when taken as a whole.
25. Paragraph 11 of the Framework establishes the presumption in favour of sustainable development. The “tilted balance” may be engaged in 2 circumstances. In relation to housing provision, the evidence indicates that the Council can demonstrate a 5-year supply of deliverable housing sites to meet its local housing need.
26. In relation to the most important policies I have found that one is partially out of date, but not the majority. Overall, I consider that the basket of most important policies is not out-of-date in this case. For these reasons the “tilted balance” would not be engaged. Also taking account of the supply of deliverable housing sites, the presumption in favour of sustainable development would not apply.
27. One of the most important policies (H29 of the MHLP) can be considered partly out of date where it outlines a maximum of 250 dwellings across the wider site. However, I consider that this conflict should be attributed limited weight, given that the recent NGDC suggests the site could accommodate more dwellings, a matter which the Council does not dispute.
28. The proposal would provide additional homes and would have the range of economic benefits which are usually always associated with a large housing scheme. It would, for example, provide new jobs during the construction period. There would also be a contribution to economic growth and the generation of household expenditure would help to support the local economy and provide local jobs.
29. However, in my overall judgement the positive factors are insufficient to outweigh the negative ones, and do not indicate that the decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR