



Appeal Decision

Hearing Held on 22 September 2021

Site Visit made on 22 September 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/W0734/W/21/3268784

Land at Ford Close Riding Centre, Brass Castle Lane, Middlesbrough TS8 9EE

- 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 Ms Susan Jamison Ritchie of Stonebridge Homes against the decision of Middlesbrough Council.
 - The application Ref 20/0199/FUL, dated 8 April 2020, was refused by notice dated 8 December 2020.
 - The development proposed the demolition of existing buildings and the erection of 69 dwellings along with open space and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address differs between the application form, the appeal form and that stated on the Council's decision notice. I have taken the site address from the Council's decision notice as this most accurately reflects the site's location, and this was confirmed by the parties at the hearing.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021, and this post-dates the Council's decision notice. The main parties were invited to comment on the implications of the revised Framework for the appeal and I have taken these comments into account in reaching a decision.

Main Issue

4. The main issue in this case is the effect of the development on housing choice in the Borough, with particular regard to the type and density of the proposed housing, and the design and layout of the scheme, including trees.

Reasons

Planning policy context

5. The development plan for the area comprises the policies of the Middlesbrough Housing Local Plan (2014) (the MHLP), the Middlesbrough Local Development Framework Core Strategy (2008) (the MCS) and the Marton West Neighbourhood Plan (2016) (the MWNP). The appeal site is allocated for residential development by Policy H30 of the MHLP and Policy MW4 of the MWNP.
6. In this case, the most important policies are Policies H1 and H30 of the MHLP, Policies CS5 and DC1 of the MCS and Policy MW4 of the MWNP. Policies CS5 and DC1 were not directly quoted in the Council's decision notice. However,

given the main issue in this case, it was agreed at the hearing that these policies were relevant to the appeal. Both parties have referred to these policies in their submissions and therefore no one would be prejudiced by me taken them into account as part of my decision.

7. Policies CS5 and DC1 of the MCS are general development management policies which, amongst other things, require all development proposals to demonstrate high quality design in terms of layout form and contribution to the character and appearance of the surrounding area. These policies are consistent with those set out in Part 12 of the Framework which seeks to achieve well-designed places.
8. Policy H30 of the MHLP allocates the site for a high quality, high value executive residential development to provide a maximum of 50 dwellings, and associated access improvements. This is further supported by the allocation in the MWNP where Policy MW4 states that proposals for a high-quality residential development at Ford Riding School will be supported where an element of the dwellings provided should be bungalows.
9. In isolation, Policy H30 is inconsistent with the more flexible approach to housing densities set out in the Framework because it specifies a maximum of 50 dwellings. Therefore, this policy is partially out of date. Nevertheless, Policy H1 provides greater flexibility in stating that proposals for fewer than the minimum or more than the maximum dwelling requirements for the site will only be considered where it can be clearly demonstrated through a design led approach and having regard to the characteristics of the surrounding area and any site specific policy requirements that an alternative capacity is more appropriate.
10. Thus, when read together, the overall policy approach is consistent with the Framework which, at paragraph 124, requires that planning decisions should support development that makes efficient use of land, taking into account the identified need for different types of housing and the importance of securing well-designed, attractive and health places, amongst other things.

Effect of the development on housing choice, type and density of housing, design, layout and trees

11. The appeal site is located to the east of Brass Castle Lane and extends to approximately 5.5 hectares (ha) of predominantly open fields surrounded by mature woodland to its south and west. A former riding school and associated buildings exist to north of the site including a single dwelling. A large agricultural style portal frame building, and a telecommunications mast are located towards the eastern corner of the site.
12. The MHLP identifies a need for high value executive housing to create sustainable communities and re-balance the local housing market which suffers from low value housing stock and an acute undersupply of executive homes. The need for high value executive housing to support economic growth and address problems of outward migration is also highlighted in the examining Inspector's report on the MHLP¹.
13. The MHLP defines executive housing as 'typically of high quality detached accommodation having 4+ bedrooms, set in their own grounds in the region of 7 dwellings per hectare. Suited to the needs and aspirations of higher income

¹ Report on the Examination of Middlesbrough Housing Local Plan, The Planning Inspectorate, 31 October 2014

households, and likely to be in Council Tax bands F, G & H'. This is a reasonable definition for the purposes of applying relevant policies of the development plan.

14. The proposal would provide 10 detached homes with five bedrooms, 40 detached dwellings with four bedrooms, 8 bungalows with three bedrooms and 11 bungalows with two bedrooms. This would achieve a density of 24 dwellings per ha with a large attenuation pond located towards the front of the site, as part of the overall drainage strategy for the development.
15. The appellant suggests an apparent policy conflict between MHLP Policy H30's requirement for high value executive housing and MWNP Policy MW4's requirement for bungalows to be provided as part of the development. The suggestion being that bungalows are inevitably smaller and of lower value and thereby meeting a different housing need to that of executive housing. Nevertheless, little evidence has been put forward to support these assertions and I see no reason why larger well-designed bungalows set in more generous grounds could not provide executive style homes. Accordingly, there is no conflict between the policy requirements for the site.
16. The proposed bungalows would provide a mix of two and three bedroomed properties, eight of which would be semi-detached and three would be in a short terrace. These dwellings are unlikely to offer high value properties and, despite in most cases exceeding the national space standards², their limited size and form would not meet the MHLP's definition of executive housing. In this regard, the proposal would fall short of the Council's policy expectations for the delivery of executive homes.
17. The other 50 proposed dwellings would provide large family homes with four and five bedrooms. However, as part of the overall scheme, the housing would be laid out in long regimented runs with limited spacing between properties. Other than a handful of properties at the entrance to the site and at some corner locations, the houses would be set in relatively small plots with their frontages dominated by parking and include back-to-back rear garden arrangements. Whilst it could be argued that these are typical features of many modern housing estates, these are not characteristics of a high quality, high value executive homes and therefore I am not convinced that the design approach justifies the proposed density.
18. As part of the overall sustainable drainage strategy for the development a single large detention basin (SuDS pond) is proposed to the front of the site alongside Brass Castle Lane. The location of the proposed SuDS pond appears to be largely dictated by the topography of the site, with this ground area sitting at a lower level. Enhanced landscaping around the SuDS pond would attract wildlife and soften its appearance. The appellant suggests that it will largely be screened from views along Brass Castle Lane by the retention of the existing roadside hedge. Footpaths are also proposed around the SuDS pond.
19. Nonetheless, the positioning and size of the SuDs pond does not relate well to the overall design and layout of the scheme. It would have the appearance of an overly large and obviously engineered drainage solution rather than a more organic and cohesive part of the development. I accept that SuDS ponds are increasingly common features of modern housing schemes. However, in this case, the use of a single large pond positioned apart from the housing detracts

² Technical housing standards – nationally described space standard, March 2015, Department for Communities and Local Government

from the overall quality of the scheme. There is little evidence to suggest that this is the only suitable location or feasible solution to achieve a sustainable drainage scheme to serve the development. Furthermore, a lower quantum of development is also likely to reduce the requirement for such a large SuDS pond.

20. Now turning to trees, a short belt of tall mature trees crosses the site, running parallel with Brass Castle Lane. The trees provide a prominent landscape feature which, owing to their elevated position in relation to the adjacent lane and the residential area to the north, make a positive contribution to the character of the surrounding area.
21. The policy impetus set out in Policy H30 of the MHLP is to retain and integrate mature trees and hedgerows, where possible. The proposed highway access from Brass Castle Lane would punctuate this band of trees resulting in the loss of nine trees. This would harmfully dissect the existing tree belt and diminish its contribution to the character of the surrounding area.
22. Contrary to the policy expectation, there appears to have been little consideration given to how the existing tree belt would integrate with the development, with the proposed housing simply positioned behind the trees. In this context, the proposed design and layout of the development appears to have approached the trees as a constraint to be overcome rather than an asset to be utilised in the overall design of the scheme. 104 replacement trees would be provided as part of the overall landscape strategy for the development however these would take time to grow and would be a poor substitute for the loss of the mature trees.
23. Furthermore, the Council have suggested several alternative solutions to overcome this issue including realigning the access road to the south of the tree belt. However, the appellant has offered no substantive reasoning as to why this or other less harmful options could not be achieved.
24. Paragraph 131 of the Framework recognises that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. The Framework states that planning decision should ensure that new streets are tree-lined unless there are clear justifiable and compelling reasons as to why this would be inappropriate. The policy also seeks to ensure that appropriate measures are in place to secure the long-term maintenance of newly-planted trees.
25. The proposal is supported by a Landscape Masterplan which shows a mix of new trees of varying standard peppered throughout the development. However, these trees are predominantly within the private gardens of the proposed dwellings and while some would be positioned within the front gardens close to the street, I am not convinced that this would amount to a truly tree-lined street. Moreover, no justification has been put forward to suggest that a tree-lined street would be inappropriate.
26. At the hearing comparisons were drawn with the adjacent Grey Towers development of executive housing where, the appellant points out, the site allocation was exceeded, resulting in a greater density and some smaller homes. However, the Council consider that this scheme followed an exemplary design led approach which justified a greater number of dwellings. I was able to see parts of this neighbouring development during my visit and could see that it offers a high quality residential environment based on an organic layout with the SuDS pond providing a village green-like focal point, enhanced by

attractive landscaping. Consequently, any comparisons with this scheme only serve to highlight the design deficiencies of the appeal proposal.

27. The spacing and relationship between properties would in some instances result in a technical breach of the separation distances set out in the Council's Urban Design Supplementary Planning Document. In most cases, the shortfall would be minimal, and the Council considers that this would not adversely affect the living conditions of future occupants. That may well be the case, but this only adds to my concerns over the density, design and layout of the scheme.
28. Taking all of these points together, I find that the proposal would not offer a high quality, high value executive residential development. Therefore, the proposal would add to the existing oversupply of non-executive homes in the area and, in doing so, would undermine the Council's efforts to re-balance the local housing market.
29. Consequently, the proposal would be detrimental to housing choice in the Borough, with particular regard to the type and density of the proposed housing, and the design and layout of the scheme, including trees. Therefore, the proposal would be contrary to Policies H1 and H30 of the MHLP, Policies CS5 and DC1 of the MCS and Policy MW4 of the MWNP, the requirements of which are set out above.
30. The proposal would also be contrary Sections 5 and 12 of the Framework which, among other things, seek to achieve well-designed places and the delivery of a sufficient supply of homes by providing a variety of size, type and tenure of housing to meet the local housing needs of differing groups within the community.

Other Matters

31. Interested parties have raised concerns with the proximity of dwellings to a telecommunications mast that is located within the far eastern corner of the site. However, there is no evidence before me to suggest that this would be contrary to the regulations governing telecommunications infrastructure. Furthermore, the Council did not raise this as a concern, and I see no reason to take a differing view.
32. The appeal is supported by a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990. This would secure financial contributions towards strategic highway improvements, local environmental improvements and the provision of on-site affordable housing. However, the lack of a planning obligation did not form a reason for refusal and therefore this matter is not determinative. Consequently, as the appeal is being dismissed on other grounds, I do not need to consider this further.

Planning Balance and Conclusion

33. The proposal would not result in a high quality, high value executive development and therefore it would undermine the Council's efforts to re-balance the local housing market. These harmful impacts and the subsequent conflicts with development plan policies are matters of very substantial weight and importance in the planning balance.
34. I have identified the most important policies for determining this application and have found the proposal to be in conflict with each of these policies. The

proposal would be compliant with some aspects of these policies and other policies but would conflict with the development plan when taken as a whole.

35. In relation to the most important policies, I have found Policy H30 of the MHLP to be partially out of date but when read together with other development plan policies the approach to housing delivery is consistent with that of the Framework. Accordingly, I am content that the basket of most important policies is not out-of-date in this case. Nor is there any dispute over the Council's housing land supply or delivery of new homes. For these reasons, the presumption in favour of sustainable development does not apply and therefore the 'tilted balance' is not engaged.
36. The proposal would bring about social and economic benefits through the provision of additional homes including affordable housing. There would be job creation during the construction of the development and the local economy would be supported via household expenditure and support for local services and facilities in the locality. These benefits carry moderate weight in favour of the scheme.
37. The lack of harm in relation to other matters such as living conditions, highway safety, etc are of neutral consequence in the planning balance and therefore weigh neither for nor against the proposal.
38. Overall, the benefits and other matters put forward in support of the appeal are not of sufficient weight to outweigh the harm I have found and therefore they do not indicate that a decision should be made other than in accordance with the development plan.
39. Consequently, for the reasons given, I conclude that the appeal should be dismissed.

J M Tweddle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Stuart Natkus	Barton Willmore
Ms Hannah Woodall	Barton Willmore
Ms Katie Purdam	Stonebridge Homes

FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Clarke	Head of Planning
Mr Andrew Glossop	Development Control Manager
Mrs Michelle Pearman	Principal Planning Officer
Mr Simon Thompson	Highways Engineer

INTERESTED PARTIES:

Cllr C Hobson

Cllr J Hobson

Cllr D Coupe

Mr J Roebuck