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# Appeal Decision

Site visit made on 27 June 2022

**by M Ollerenshaw BSc(Hons) MTPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 August 2022**

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**Appeal Ref: APP/V2723/W/21/3285179**

**Land east of Cookson Way, Catterick**

- 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 Alastair Cliffe, Berkeley DeVeer against the decision of Richmondshire District Council.
  - The application Ref 20/00322/FULL, dated 30 April 2020, was refused by notice dated 22 September 2021.
  - The development proposed is full planning permission for residential development (135 dwellings) including access, parking, open space and associated infrastructure (as revised 03.11.2020, 20.01.2021 and 22.03.2021).
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## Decision

1. The appeal is allowed and planning permission is granted for residential development (135 dwellings) including access, parking, open space and associated infrastructure (as revised 03.11.2020, 20.01.2021 and 22.03.2021) at land east of Cookson Way, Catterick in accordance with the terms of the application, Ref 20/00322/FULL, dated 30 April 2020, subject to the conditions set out in the schedule at the end of this decision.

## Preliminary Matters

2. In the decision above I have used the description of development given on the appeal form, save for its reference to full planning permission. That description accurately reflects the revised proposal and is the same as the one used in the Council's decision notice.

## Main Issues

3. The main issues are the effect of the development proposed on the character and appearance of the area, and whether the public open spaces would be functional and accessible.

## Reasons

### *Character and appearance*

4. The appeal site comprises 4.1 hectares of grassland to the east of Cookson Way, which forms part of a large housing development known as Regents Park. The site is surrounded by agricultural land to the north, south and east. Existing properties to the west are separated from the appeal site by an area of open space with a public footpath running through it. The site boundaries are predominantly formed by established hedgerows, including some trees, and post and rail fencing.

5. An outline planning application and subsequent reserved matters application for 107 dwellings on the site have been approved<sup>1</sup>. Whilst the appeal scheme proposes an additional 28 units, the extant planning permission is an important material consideration in considering the acceptability of the appeal scheme. I have no reason to believe that the approved development would not be implemented and it therefore represents a realistic fallback position.
6. The appeal scheme would provide for a mix of two, three and four bedroom dwellings. Whilst the layout would incorporate some long rows of two storey dwellings, there would be variety in the house types within these rows which would include a range of detached, semi-detached and terraced properties with varying ridge heights and roof forms. Therefore, whilst the appeal scheme may not include as a great a range of house types as the existing larger development to the west, it would provide an appropriate mix of dwellings that would reflect the character of the wider area.
7. The layout of the scheme would not provide for dwellings that would 'turn the corners'. However, the street pattern and design of properties would not be dissimilar to the extant scheme for 107 dwellings and would broadly reflect existing development in the area. The fenestration to the side of corner buildings would provide some articulation to these plots, which would be softened in most cases by new planting. The open views at the end of cul-de-sacs are an appropriate design approach as these would allow for visual connection to the countryside beyond the site. The provision of a footpath between the public open space in the northern part of the site and the north-western corner of the site would provide connectivity to the existing footpath beyond the western boundary of the site. The layout of the proposal would allow for future pedestrian and cycling connections to the development to the south and east.
8. Although most of the units would have parking spaces in front of the dwellings, the landscaping scheme indicates that these rows of parking spaces would be broken up by tree and shrub planting which would soften the impact of the parking areas. Moreover, based on my observations of the area including the layout of the housing development to the west, frontage parking is not an uncommon feature of development in the locality. The development would create tree-lined streets in accordance with the aims of paragraph 131 of the National Planning Policy Framework (Framework).
9. The dwellings would be largely offset from the boundaries of the site with additional planting proposed which would supplement the existing landscape buffer provided by hedgerows and trees. That would soften views of the development from the areas of countryside to the north, east and south and from the public footpath to the west. Some of the plots would be situated close to the southern boundary of the site, but the existing hedgerow and trees along that boundary would partially screen this part of the development from the south.
10. Policy SP4 of the Richmondshire Local Plan 2012-2028 Core Strategy (Core Strategy) sets out the scale and distribution of housing development for the Borough. It requires 79% of new housing development to be focussed within the Central Richmondshire area, with 62% of this within the Catterick Garrison area. This totals 1,900 dwellings up until 2028 or 180 dwellings per annum

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<sup>1</sup> Council ref 17/00628/OUT and 19/00757/AORM

across the District. The Council is currently preparing the Local Plan Review with the consultation on this stage expected to be held in Autumn 2022. The proposal would deliver 28 more dwellings than its estimated capacity of 107 as set out in the Preferred Options draft document. However, I have no substantive evidence before me to indicate that the proposal would lead to the housing target for the Central Richmondshire area being substantially exceeded. Furthermore, the supporting text for Policy SP4 of the Core Strategy states that the target of 180 homes each year is not a ceiling for the level of expected growth. The site is not within Catterick Garrison Strategic Direction of Growth Area, but it adjoins the built-up part of the settlement. There is no dispute between the main parties as to the principle of the development or that it is appropriately located in relation to access to services and facilities.

11. I accept that the appeal proposal would result in a greater density than the extant approval for the site and the development currently proposed to the south and east. However, the evidence before me indicates that the density of the scheme would not be dissimilar to the housing development to the west and would not, therefore, be out of character with the pattern of development in the wider area.
12. For the above reasons, I conclude that the appeal scheme would not amount to overdevelopment of the site and would not be harmful to the character and appearance of the area. Accordingly, the proposal would comply with Policies CP3 and CP13 of the Core Strategy, which, amongst other things, seek to promote the efficient use of land, ensure that proposals are of high design quality that provides visually attractive development and respects and enhances the local context. The proposal would provide an appropriate mix of housing and complies with the aims of Core Strategy Policy CP5, which requires proposals to take account of local housing requirements in terms of size, type and tenure of dwellings. I also find no conflict with paragraph 134 of the Framework, which states that development that is not well designed should be refused, or paragraphs 119, 124 and 125 of the Framework, where these seek to ensure that development makes efficient and effective use of land.
13. The proposal would positively contribute to the housing target for the Central Richmondshire area set out in Policy SP4 of the Core Strategy which is not a ceiling target and I therefore find no conflict with that policy or with Policy CP4 of the Core Strategy, which requires new housing to be located either within or adjacent to existing settlements and occupy a location with reasonable access to services and facilities.

#### *Public open space*

14. The appeal proposal would include two areas of public open space. These would be in the same locations as approved in the reserved matters application for 107 dwellings. Although the size of the open spaces would meet minimum requirements, the Council is concerned about the locations of these spaces. The proposed Local Area of Play (LAP) would be located in the northern part of the site. A Local Equipped Area of Play (LEAP) would be provided in the south-western corner of the site. Whilst the open spaces would not be centrally located, they would be within easy walking distance from all of the plots and readily accessible from the footways and public footpaths through the development.

15. While the LEAP would be located at the entrance to the development, which the Council considers would make it vulnerable, it would be prominent here and overlooked from plots 1 and 2 and 131-135. It would also be readily accessible to residents of the neighbouring development to the west. The LAP would have a good level of natural surveillance from nearby dwellings, including plots 23-27, 86-87 and 91-94. I see no compelling reason why the proximity of the LAP to the pump station would reduce the useability of this area of open space, particularly as there would be planting around the pump station which would partly screen it from view.
16. I conclude that the proposed public open spaces would be both functional and accessible, and in this respect would accord with Policies CP11 and CP13 of the Core Strategy, which require development to provide visually attractive, functional, accessible and low maintenance development and ensure the provision of sufficient quality recreational facilities. There would also be no conflict with paragraph 130 (e) and (f) of the Framework, where these require an appropriate amount and mix of development (including green and other public space) that creates places that are safe, inclusive and accessible, and promote health and well-being.

#### *Other considerations*

17. The appellant has submitted a signed Section 106 Agreement for the provision of a proportion of affordable housing on site in accordance with the general aims of Policy CP6 of the Core Strategy. The Section 106 Agreement also secures the payment of an education contribution towards providing additional educational facilities at Colburn Community Primary School to mitigate the effects of the development; and a contribution towards improvements to existing play and recreation facilities within Brough With St Giles. I am satisfied that the planning obligations contained within the Section 106 Agreement are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. They meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.

#### **Other Matters**

18. Objections have been raised by interested parties regarding a range of other matters, including the capacity of local services and infrastructure to cater for more houses, increased traffic and pollution, refuse collection capacity, issues with sewerage and impacts on local residents arising from construction works. However, these matters do not form part of the Council's reasons for refusal and I have no reason to disagree with this assessment based on the evidence before me and my own observations on site. Any environmental effects arising as a result of the construction phase of the development, including issues with dust and noise, can be adequately controlled through the implementation of a construction management plan, which can be secured by condition. The evidence before me indicates that the proposal would not increase flood risk elsewhere and in this respect would comply with the requirements of Policies CP2 and CP4 of the Core Strategy. Subject to conditions, any ecological impacts can be suitably mitigated in accordance with Core Strategy Policy CP12. I have no evidence before me to indicate that the proposal would adversely affect any heritage assets or archaeology. In this regard the proposal

would accord with the requirements of Core Strategy Policy CP12 and section 16 of the Framework. Impacts upon property values and loss of views fall outside the scope of this appeal.

### **Conditions**

19. I have had regard to the conditions suggested by the Council in their statement. In imposing conditions I have had regard to the relevant tests in the Framework, Planning Practice Guidance and of statute. In that context I have modified the wording of some of the conditions proposed by the Council without altering their fundamental aims.
20. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty.
21. In the interests of preserving and enhancing biodiversity, conditions are necessary to secure the implementation of the mitigation measures outlined in the Ecological Appraisal and submission of an Ecology Management Plan. In order to secure the protection of trees, a condition is necessary to ensure that the development is carried out in accordance with the tree protection measures set out in the Tree Survey Report.
22. A condition relating to contaminated land and remediation is necessary in order to identify and minimise any risks associated with contamination from past uses.
23. To protect the living conditions of neighbouring residents, a pre-commencement condition is necessary to agree the details of a construction management plan, including measures to control dust and noise during the construction phase of the development.
24. A pre-commencement condition is necessary to agree details of the layout of the open space areas, and to secure details of arrangements for the future maintenance of these areas, in the interests of future residents of the development and visual amenity. A condition requiring details of external lighting is necessary in the interests of future residents and to minimise light pollution.
25. Details of foul water sewerage disposal are required by a pre-commencement condition to secure the satisfactory drainage of the site. A condition to require details of a satisfactory outfall for surface water from the site, and a condition which controls flowrates, are also required to ensure that the site is suitably drained. In the interests of public health and to protect the strategic water supply, a condition relating to a scheme for an adequate water supply for the development is also required.
26. In the interests of the character and appearance of the area, conditions are required in relation to landscaping, samples or details of materials and boundary treatments, and to ensure the use of black guttering and downpipes.
27. A condition requiring the development to be undertaken in accordance with the submitted Energy Statement is necessary to ensure sustainable energy use and to meet the requirements of the development plan.

## **Conclusion**

28. I conclude that proposed development would accord with the development plan for the area taken as a whole. The proposal would provide a number of social and economic benefits which would include the provision of a significant number and mix of new dwellings, including affordable homes, employment opportunities created during the construction phase of the development and future spending in the local economy. There are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh these benefits.
29. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed subject to conditions.

*M Ollerenshaw*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 19-5352-02, 3635-102 REV E, 3635-103, 3635-201 REV E, 3635-202 REV E, 3635-203 REV E, 3635-204 REV E, BDV.24.05 REV B, BDV.24.05 REV B Colour, BDV.24.06 REV B, BDV.24.20 REV A, BDV.24.021 REV A, BD.24.02. REV M, BDV.24.03 REV D, BDV.24.04 REV A, BDV.EL.09, BDV.EL.05, BDV.EL.06, BDV.EL.02, BDV.EL.03, BDV.EL.04, ASK.01 REV A, AYS.01 REV A, BAI.01 REV A, BIR.01 REV A, BIR.02 REV A, CAD.01, DAL.01 REV A, FER.01 REV A, HOR.01 REV A, LAY.01 REV A, OAK.01, RIP.01 REV A, SAL.01 REV A, WEN.01 REV A, GA.01, GA.02, GA.03, 20M/1005/1020, 20M/1005/1021, 20M/1005/1022, 20M/1005/1023, 20M/1005/1024, 20M/1005/1025, 20M/1005/1026, 20M/1005/1007 REV G, 20M/1005/1014 REV A, 20M/1005/1015 REV A, 20M/1005/1019, AMA/20535/ATR009, AMA/20535/TRO14.1, AMA/20535/TRO14.2, AMA/20535/TRO14.3, AMA/20535/TRO14.4, AMA/20535/TRO14.5, and AMA/20535/D/001 REV B.

#### *Before development commences*

- 3) No development shall take place until a scheme to ensure that on-site and off-site foul water sewerage, designed to serve the whole development, is of adequate capacity to ensure proper disposal to the receiving public sewer network has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme and the number of properties to be constructed within that phase, or within any other period or number of properties as may subsequently be agreed in writing, by the Local Planning Authority. The dwellings hereby approved shall not be occupied until the approved drainage works have been constructed in accordance with the approved plans.
- 4) No development shall take place until a scheme to ensure that on-site and off-site works to ensure an adequate water supply for the development, that will not cause detriment to existing properties within the area, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the timing and phasing arrangements embodied within the scheme and the number of properties to be constructed within that phase, or within any other period or number of properties as may subsequently be agreed in writing, by the Local Planning Authority.
- 5) No development shall take place until a detailed layout of the open space areas including specifications of any equipment, seating, surfacing, associated fencing and landscaping, and precise details of the arrangements to be made for the maintenance of the open space areas, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the development and shall be maintained thereafter.
- 6) No development shall take place until an Ecology Management Plan has been submitted to and approved in writing by the Local Planning Authority, in

consultation with the Yorkshire Wildlife Trust. The development shall thereafter be carried out in accordance with the approved details.

- 7) Details of what steps shall be taken to prevent the emission of dust and noise from the site during construction, in the form of a Construction Management Plan, shall be submitted to, and approved in writing by the Local Planning Authority prior to the development commencing. The development shall be carried out in accordance with the approved Construction Management Plan.

*Before occupation or other stage conditions*

- 8) Prior to the occupation of any of the dwellings hereby approved, details of a scheme of external lighting in both private and shared parts of the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for low level, low intensity lighting. The scheme shall thereafter be fully installed and operated in accordance with the approved details before the final dwelling on the site is occupied.
- 9) Before their use in the development hereby approved, samples or details of materials to be used in the construction of the external surfaces shall have been submitted to and approved by the Local Planning Authority in writing. The development hereby permitted shall be undertaken in accordance with the agreed samples or details, and retained as such thereafter.
- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.
- 11) All guttering and downpipes shall be black in colour and any fascia boards shall be kept to a minimum practical depth. Alternatively, guttering may be fixed by spiked rise and fall brackets.
- 12) The approved boundary treatments for each plot shall be fully implemented in accordance with dwg BDV.24.05 REV B prior to first occupation of the dwelling on that plot.
- 13) The flowrate from the site shall be restricted to a maximum flowrate of 8.34 litres per second. A 30% allowance shall be included for climate change and an additional 10% allowance for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. Principles of sustainable urban drainage shall be employed wherever possible.
- 14) No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.

- 15) The development shall be carried out in full accordance with the recommendations and remedial measures specified in the approved Tree Survey Report (report reference 2771, dated May 2017), including all tree and root protection measures.
- 16) Unless otherwise approved in writing by the Local Planning Authority, the development shall be carried out in full accordance with the approved Landscape Masterplan, dwg 3635-102 REV E and accompanying planting plans dwgs 3635-201 REV E, 202 REV E, 203 REV E and 204 REV E and Landscape Masterplan – Eastern boundary dwg 3635-103.
- 17) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.
- 18) The development shall be carried out in accordance with the recommendations and mitigation measures specified in the approved Ecological Appraisal (report reference 3933, as updated April 2020).
- 19) The development hereby permitted shall be carried out in accordance with the submitted Energy Statement and associated appendices (report reference 008063 Issue 1, dated March 2021), in order to exceed the minimum standards prevailing through Part L of the Building Regulations to the maximum level that is feasible and viable for this particular development.