



Appeal Decision

Site visit made on 10 June 2025

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2025

Appeal Ref: APP/V0728/W/25/3361871

The Smiths Dock Inn, Skippers Lane, Normanby, Redcar and Cleveland TS6 0JF

- 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 L&L Developments against the decision of Redcar and Cleveland Borough Council.
 - The application Ref is R/2022/0895/OOM.
 - The development proposed is outline application (some matters reserved) for residential development comprising 12 (no) dwellings and apartment block (16 apartments) (demolition of existing public house building)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with appearance and landscaping reserved for future consideration. The elevation drawings show details of appearance. However, the Design and Access Statement confirms that these are indicative designs. Given the nature of the application, I have considered them as such.
3. In the banner heading, I have referred to the description of the development from the decision notice. The proposal was amended during the course of the application, and this revised description more accurately describes the proposal than that contained within the original application form.

Main Issues

4. The main issues are:
 - Whether the proposal would secure an adequate contribution towards the provision of affordable housing, with regard to the relevant provisions of the development plan;
 - The effect of the proposal on the integrity of European sites, with particular regard to recreational disturbance and nutrient neutrality; and
 - The effect of the proposal on the character and appearance of the area, including the setting of the grade II listed building known as the Smith's Dock Company War Memorial.

Reasons

Affordable housing

5. Policy H4 of the Redcar & Cleveland Local Plan Adopted May 2018 (the Local Plan) seeks a minimum level of 15% affordable housing on all appropriate housing developments of 15 or more dwellings, to meet needs identified in the Strategic Housing Market Assessment (SHMA). The appellant has not sought to dispute this through the appeal, and the evidence indicates that they had confirmed their willingness to enter into a Section 106 legal agreement to secure this.
6. Nonetheless, the Procedural Guide: Planning appeals – England advises that, in written representations appeals, the appellant must provide an executed and certified copy of the planning obligation at the time of making their appeal. A legal agreement has not been provided as part of this appeal, and so there is no mechanism to secure the affordable housing provision as part of the development.
7. The proposal would thus not secure an adequate contribution towards the provision of affordable housing, with regard to the relevant provisions of the development plan. It would be contrary to Policy H4 of the Local Plan for the reasons set out above.

European sites

8. The appeal site is located within the zone of influence for recreational disturbance and the nutrient neutrality catchment area for the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site. The Teesmouth and Cleveland Coast SPA is legally underpinned by the Teesmouth and Cleveland Coast SSSI.
9. As the competent authority, I must have regard to The Conservation of Habitats and Species Regulations 2017 (as amended). These regulations require that, where a project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives.
10. The SPA/Ramsar is a wetland comprised of a wide variety of habitats including: intertidal sand and mudflats, rocky shore, saltmarsh, freshwater marsh, saline lagoons, sand dunes and estuarine and coastal waters on and around the Tees estuary, which has been considerably modified by human activities. These habitats provide feeding and roosting opportunities for an important number of waterbirds.
11. The SPA/Ramsar is designated for the following qualifying features: Avocet, Common tern, Knot, Little tern, Redshank, Ruff, Sandwich tern and assemblages of a wide range of breeding, wintering and passage waterbird species. The conservation objectives of the site are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the habitats, populations and distribution within the site of the qualifying features.
12. The appeal site is within 6 km of the SPA and Ramsar site, where residential development is likely to have a significant effect on the integrity of the site, through increased recreational use of the coastline. Furthermore, the SPA/Ramsar is in unfavourable condition due to nutrients (in this case nitrogen), where new development may have an adverse effect by contributing additional nutrients.

13. The proposal would increase the local population and, in turn, lead to an increase in recreational disturbance and nutrient loading from nitrogen. Given the unfavourable status of the SPA/Ramsar, it is likely to have a significant effect on the aforementioned species and habitats (both alone, and in combination with other development). I must therefore undertake an appropriate assessment in accordance with the Habitat Regulations.
14. Human disturbance of birds can have several impacts. Birds may be more alert, reducing the amount of food eaten, or may fly away from the disturbance, forgoing valuable feeding time and using excess energy. This may increase bird mortality or reduce the amount of energy a bird has to fly back to its breeding grounds, leading to alterations in population and/or distribution patterns of SPA species. The Council requested payment of £200 per dwelling from the appellant towards mitigation measures set out in the Teesmouth & Cleveland Coast SPA Recreation Management Plan November 2017, which the appellant has indicated their agreement to. However, there is no mechanism before me, such as an executed legal agreement, to secure this payment and ensure it is allocated accordingly.
15. In addition, excessive levels of nutrients can cause rapid growth of certain plants through eutrophication. Dense algal mats can impair waterbird foraging success and high concentrations of nutrients in water can impact sensitive fish, epifauna and infauna communities, and hence adversely affect the availability and suitability of bird breeding, rearing, feeding and roosting habitats. Given the conservation objectives, without adequate mitigation, any net increase in nutrient loads arising from the development would adversely affect the integrity of the SPA/Ramsar.
16. The appellant has calculated that the development would generate 18.29kg TN/year between the occupation date and the long-term end date, though a copy of the completed nutrient budget calculator has not been provided. A Provisional Nutrient Credit Certificate signed by NE has been submitted, confirming that NE has reserved 18.29kg worth of credits for future purchase by the appellant. However, the evidence indicates that the nutrient load calculated is incorrect, and so the number of credits sought is insufficient. The Provisional Nutrient Credit Certificate also expired on 20 June 2025 and while the appellant advises an extension has been given until 15 August, neither a signed copy of the extension nor the Final Nutrient Credit Certificate are before me.
17. While the Council has suggested a condition could be used to secure the requisite nutrient credits as part of the reserved matters application, I cannot be sure based on the information provided that NE would have enough credits left to allocate at that stage, and there is no alternative mitigation scheme before me. The evidence is therefore not sufficiently precise, robust or conclusive on this matter.
18. As the competent authority in this case, I must be able to rule out all reasonable scientific doubt that the proposal would have an adverse effect on the integrity of the SPA/Ramsar at the time of my decision. Given the above concerns and omissions, and the high level of statutory protection afforded to the SPA/Ramsar, I am not satisfied that a condition would provide adequate certainty that adverse effects on the integrity of the SPA/Ramsar would be avoided.
19. Consequently, I cannot conclude, beyond all reasonable scientific doubt, that the appeal scheme would not have an adverse effect on the integrity of European sites, with particular regard to recreational disturbance and nutrient neutrality.

Accordingly, the proposal would conflict with Policy N4 of the Local Plan. This policy, among other provisions, seeks to ensure that the borough's biodiversity and geological resources are protected and enhanced, and that priority is given to protecting internationally important sites, including by requiring that within 6km of the SPA/Ramsar proposals that would lead to increased recreational disturbance contribute towards strategic mitigation measures identified in the Recreation Management Plan.

Character and appearance

20. The appeal site comprises a vacant public house and its surrounding curtilage, including a surface car park to the rear and areas of incidental open space. It is flanked by a cricket club and bowls club to the north and south respectively. To the east is the Smiths Dock Park. The wider area is residential in nature, comprising a mix of predominantly detached and semi-detached 2-storey houses and bungalows, and some short terraces. Dwellings nearby have semi-enclosed front gardens or drives and private rear gardens, some of which are generously sized.
21. The parkland next to the site provides a verdant and open setting to the area and a break in the otherwise suburbanised landscape. The Smith's Dock Company War Memorial (the LB) is in the park to the north-east of the site. Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) requires special regard to be given to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.
22. The significance of the LB is derived from its finely carved Portland stone detailing, its record of the impact of world events on the local community and the sacrifices made in the conflicts of the 20th century. It holds group value as one of 3 identical memorials built in north-east England to honour fallen workers of the Smith's Dock Company. It's parkland location and the short avenue of yew trees leading up to it provide a verdant and spacious setting.
23. The proposal would replace the existing pub, with 12 detached and semi-detached houses along a central spine road. This would lead to an apartment building at the rear of the site set across 3 levels and extending almost the full width of the site. The houses would be served by private driveways and garden spaces, with additional car parking and incidental open space in front of the apartment building.
24. The proposed detached and semi-detached house types and layout would not appear incongruous or out of keeping with the surrounding area, where there is a mix in the appearance, size and age of dwellings. Moreover, the existing vacant and boarded up pub does not positively contribute to the prevailing character and appearance of the area and the wider site appears unkept. While additional development on the site would reduce its openness, its redevelopment would have a positive effect on the character and appearance of the area overall.
25. There are few examples of apartment buildings locally, with most structures no more than 2 stories in height. However, the indicative elevation details show that the proposed apartment building would have a somewhat suburban form and appearance. Third floor accommodation would be contained within the hipped roof structure, which would feature several dormer windows and roof lights, while its overall ridge height would not be much higher than that of the proposed dwellings or neighbouring dwellings. The building would be set back a significant distance

from Skippers Lane. Additionally, mature landscaping around site boundaries and within the surrounding area would provide a considerable degree of screening.

26. While the proposal would feature a higher density of housing than some neighbouring areas, I am satisfied based on the evidence and my own observations that the site can accommodate this level of development without appearing cramped or resulting in a sense of overdevelopment.
27. While it would be a relatively prominent addition in the setting of the nearby LB, the proposed apartment building would remain an appreciable distance from the memorial itself and would be symmetrically placed. It would not harm the character and appearance of the area, as set out above. On the other hand, the existing pub is a detracting feature, which the proposal would remedy. Moreover, the parkland setting of the LB is already characterised by residential development around its periphery, including a contemporary housing development to the north-west. Ultimately, the proposal would not detract from the features of special architectural or historic interest from which the LB derives significance. It would thus have a neutral effect on the setting of the LB, thereby preserving its significance.
28. The proposal would not have a harmful effect on the character and appearance of the area, including the setting of the grade II listed building known as the Smith's Dock Company War Memorial. It would be in accordance with Policies SD4 and HE2 of the Local Plan. These policies, among other provisions, seek to ensure that all development is designed to a high standard, makes the most effective and efficient use of available land, respects or enhances the character of the site and its surroundings, and preserves or enhances the historic environment, including the significance of designated heritage assets and their immediate setting.

Other Matters

29. The proposal would contribute to the local housing supply, though the SHMA did not highlight any unmet demand for flats locally, and there is no mechanism to secure affordable housing. It would reuse previously developed land adjoining an existing residential area, with access to local services and amenities, provide a temporary economic boost during construction, and additional residents may contribute to the vitality and viability of the community. However, these benefits would be relatively modest given the scale and context of the development and insufficient to outweigh the identified harm and development plan conflict.

Conclusion

30. I have found that the proposal would not have a harmful effect on the character and appearance of the area, including the setting of the LB. However, this does not overcome the harm and development plan conflict arising from the failure to demonstrate that the proposal would secure an adequate contribution towards the provision of affordable housing and would not have an adverse effect on the integrity of European Sites. The proposal would thus conflict with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

Ryan Cowley

INSPECTOR