



## Appeal Decision

Site visit made on 13 February 2015

by **P Eggleton BSc(Hons) MRTPI**

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

Decision date: 23 March 2015

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**Appeal Ref: APP/H0738/W/14/2223808**

**Land at Thorntree Farm and to the rear of 93 Bassleton Lane, Thornaby, Stockton-on-Tees TS17 0AQ**

- 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 T Howson against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 14/0787/REV was refused by notice dated 8 May 2014.
  - The development proposed is residential development comprising the erection of two houses and six bungalows plus associated garaging and parking.
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### Application for Costs

1. An application for costs was made by Mr T Howson against Stockton-on-Tees Borough Council and is the subject of a separate decision.

### Decision

2. The appeal is dismissed.

### Main Issue

3. The main issue is the effect on the character and appearance of the area.

### Reasons

4. A proposal to develop the rear part of this land for housing was dismissed at appeal in 2008. At that time, the site was shown as being within the green wedge on the proposals map of the Stockton-on-Tees Local Plan 1997 (LP). That development would have resulted in five bungalows. The inspector found that the development would seriously detract from the open nature of the landscape within the green wedge and the local identity and setting of the settlements that it separates. It was found to conflict with LP Policy EN14.
  5. Policy CS10(3ii) of the Stockton-on-Tees Core Strategy Development Plan Document 2010 (CS) replaced LP Policy EN14 and includes the up-to-date guidance with regard to green wedges. It seeks to maintain the separation and the quality of the urban environment by protecting and enhancing the openness and amenity value of the green wedges. It requires a more positive approach to the openness and amenity value of the green wedges than the
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former policy but overall, the position has not changed significantly since the previous appeal.

6. The map approved for consultation purposes in association with the Regeneration and Environment Local Plan (RELP) includes this site, and the land associated with houses to the north, within the green wedge. Initially, it had been recommended by officers for exclusion. I understand that this followed a green wedge review but I do not have details of that report. In any event, the recommendation was not accepted by the Council.
7. Given that the RELP consultation period has not yet expired, the future position of the boundary of the green wedge is not definitive. However, given that the consultation document includes the same boundary as the historical boundary shown on the LP proposal map and associated with the former LP Policy EN14, until a formal change has been accepted, I consider it reasonable to accept the historic and proposed RELP green wedge boundary at this time. I find CS Policy CS10(3ii) to be generally consistent with the environment policies of the *National Planning Policy Framework* and therefore afford it substantial weight.

#### *Character and appearance*

8. The green wedge, in this area, is generally characterised by its open character. It provides a wide linear area of amenity space that follows the valley associated with Bassleton Beck. It includes a network of paths and cycle routes and I understand that it makes up part of the Tees Heritage Park. There is generally a clear distinction between development associated with the settlements and this open land that separates them.
9. The position of the boundary of the green wedge, in the vicinity of the site, is unusual as it includes six properties to the south and east of Bassleton Lane. The character of the land on which these buildings are set, clearly differs from the open areas and the general character of the green wedge. These dwellings form the perceived built-up limit of the settlement.
10. Although the gardens to the rear of the three most southerly properties, 93 and 95 Bassleton Lane and Thorn Tree Farm, are set within an area enclosed by a high brick wall, they are generally undeveloped and open. However, the garden land divides into two distinct areas. The gardens immediately to the rear of the houses make a limited contribution to the wider openness of the green wedge as they are so closely associated with the built development. The additional area of lawful garden associated with number 93, that lies beyond the rear boundaries of number 95 and Thorn Tree Farm, has a more open character.
11. The wall that encloses the rear of the site does reduce its openness but the land is not closely related to development, other than the wall. It appears as a pocket of open land that is not intimately associated with the urban form of the settlement but it is also distinct from the amenity area within the green wedge. It significantly intrudes into the open area of the green wedge and it detracts from the visual amenity of those using the adjacent cycleway and footpaths.
12. From outside the site, the wall screens all of the garden land so it is not clear exactly where the divide between the two elements falls. However, the rear section of land, which forms much of the proposed development site, does

- make a significant contribution to the openness of the green wedge. I acknowledge however that it is not shown as urban green space on the RELP Plan and as it is enclosed and in private ownership, it makes little contribution to general amenity. Its appearance does however detract from the visual amenity and character of this area.
13. The proposal would significantly extend the perceived extent of development associated with the settlement. It would also represent a relatively intensive form of development and although the proposed bungalows would have low profiles, they would be clearly evident above the wall. Planting exists outside the site, adjacent to some areas of the wall. However, in other areas the wall is exposed to views from the adjacent rights of way. The proximity of the proposed development to the wall would ensure that the buildings would be relatively imposing when viewed from these paths. The layout would fail to provide sufficient space to include meaningful landscaping that would soften the appearance of the wall or the buildings close to it.
  14. Paragraph 73 of the *Framework* makes it clear that opportunities for recreation can make an important contribution to the health and well-being of communities and paragraph 75 seeks to protect and enhance public rights of way. Whilst the footpaths and cycleway would not be physically affected, the proposal would result in them becoming a less attractive recreational experience. One of the core principles of the *Framework* is that the intrinsic character and beauty of the countryside should be recognised. This proposal would result in harm to the character and appearance of the area and to this part of the Tees Heritage Park.
  15. The lack of relief between the boundary and the proposed buildings would substantially increase their prominence and emphasise the loss of openness. The layout proposed would therefore represent poor design. I also find that the use of a standard bungalow design fails to adequately address the constraints that result from this layout. The relationship of plot 7 to its associated outdoor amenity space would be extremely poor. The limited gardens of plots 4-6 would also represent a cramped form of development, despite this edge of settlement location. The standard design would also provide little architectural interest. The proposal does not meet the design standards expected by the *Framework*.
  16. Overall, the proposal would reduce the openness of this area of green wedge and would result in development extending significantly further into this generally open area of land. It would be contrary to Policy CS10(3ii) as it would erode rather than maintain the separation between urban areas and it would fail to protect or enhance the openness or visual amenity value of the green wedge. Elements of the proposal fail to reach a satisfactory design standard and the *Framework* is clear that permission should be refused for development of poor design.

#### *Other matters*

17. The Council accept that they are unable to demonstrate a five year supply of housing land in accordance with the *Framework*. In such circumstances, policies relevant to the supply of housing should not be considered up-to-date. The *Framework* indicates that developments should be approved unless any

adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against its policies as a whole. This is a material change in circumstances since the 2008 appeal.

18. Given the housing position, there would be considerable benefits to the provision of additional new housing on this site. The mix of housing, including the development of bungalows, would gain support from CS Policy CS8. This edge of settlement site represents a relatively sustainable location for new development and gains support from CS Policy CS2. The properties could be built to high standards with regard to sustainable living and the use and generation of energy and as such, subject to such measures being required by condition, would gain support from CS Policy CS3. The proposal would also generate short-term employment and economic activity.
19. I have been referred to a number of other applications that have resulted in permission being granted for housing within parts of green wedges within the borough. I have not been provided with the full details of these but I have been provided with the decision of the Secretary of State relating to land north of Low Lane, High Leven, Ingleby Barwick. This also refers to the other developments mentioned by the appellant and it is clear that the benefits of each of those individual schemes was found to outweigh the harm that would result, including the harm resulting from the loss of the openness of the green wedge and conflict with Policy CS10(3).
20. The Low Lane appeal related to a large housing site and a Free School and Sixth Form. In that case, the benefits of the proposal were similarly found to outweigh the harm that would result. The scale of harm to the green wedge was also considered and it was found that the degree of separation that would remain between the settlements would be sufficient for them to remain readily perceptible as separate entities. Although reducing the amount of separation, I consider that this would also be the case with regard to the current appeal.
21. I must stress that it is clear from the description, that the character and utility of the green wedge in the Low Lane case, differs significantly from the area in the vicinity of the appeal site. The proposal was also for a large number of both market and affordable houses that would make a greater contribution towards housing need. That proposal was in outline and a number of matters were left to be resolved at the detailed planning stage. I have had regard to the reported findings but I must also consider this development on its own merits and balance the harm against the benefits, with paragraph 14 of the *Framework* in mind.
22. I acknowledge that the use of the land as a garden is lawful. I also note the plans submitted showing a swimming pool building within the rear area of garden. It is suggested that it could be built as permitted development as it would fall within the curtilage of a dwellinghouse and would be an ancillary use. Even if I accept that such works represent permitted development and there is a strong likelihood that the building would be erected in an area of the site that would have the greatest wider impact, I would not be satisfied that this would cause the level of harm that would result from the appeal proposal. The issuing of a lawful development certificate, accepting the use of this land as garden, has however occurred since the previous appeal and I have had regard to the matters put forward in this regard.

23. I have considered the concerns lodged with regard to the loss of the farmhouse. However, the new houses proposed to the north of the site would result in improvements to the environment when viewed from the head of Bassleton Lane. I am satisfied that, subject to the suggested recording condition, these benefits would outweigh the concerns expressed and would represent a positive feature of the development.
24. I have had regard to the professional views of the Council's officers. Whilst these provide some weight in favour of the proposal, the Council is entitled to take an alternative view.

### *Conclusions*

25. There are clearly substantial benefits to the development of new housing, given the Council's housing position. The proposal also gains support from a number of development plan policies. This area of land does not contribute physically to the amenity of the neighbouring land and has a distinctly different character. The effective extension of the settlement would not be a positive feature but the scale of harm to the green wedge would be limited given its existing lawful use and defined margins.
26. The development would however result in harm to the openness of the green wedge and would conflict with the policy that seeks to protect it. I also have concerns with regard to the layout and design of the proposal. The proximity of development to the boundary and the lack of space for landscaping would not adequately respect the openness of the area beyond the site and would fail to provide a satisfactory transition between these areas. I am also concerned that the housing proposed would be of very limited design quality. I consider that the proposal, as submitted, would represent poor design.
27. The failure of the proposal to accord with the development plan in terms of its impact on the green wedge must be acknowledged. The *Framework* is however a material consideration and may, in certain circumstances, carry sufficient weight to justify a decision other than in accordance with the development plan. In this case, I find the benefits of additional housing, given the housing position, to be sufficient to outweigh the harm that would result from the closing of the gap between settlements and the reduction in openness of the green wedge, given the very particular characteristics of this enclosed site.
28. However, I find the design shortcomings and the harm that would result to the character and appearance of the immediate area to weigh significantly against this proposal. Furthermore, the *Framework* is clear that permission should be refused for development of poor design. Even if I were to afford little or no weight to the proposed alignment of the green wedge boundary, I consider that the harm that would result to the character and appearance of this area would be sufficient to significantly and demonstrably outweigh the benefits that have been identified. I therefore dismiss the appeal.

*Peter Eggleton*

**INSPECTOR**