

# **APPEAL STATEMENT**

## **OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT FOR UP TO 50 DWELLINGS INCLUDING ACCESS.**

### **LAND TO SOUTH OF ELIZABETH CRESCENT, WHITEHAVEN**

#### **1.0 Introduction.**

This statement supports an appeal by Harras Park Estates against the non-determination of planning application 4/19/2233/001. The application was submitted on 26/06/2019 and registered valid on 04/07/2019. The current extension of time is to 18/06/2021 and there are no signs of determination within that timeframe. The application is almost 2 years old and the applicant feels the best course of action is now to appeal against non-determination.

Application 4/19/2233/001 was a re-submission of application 4/17/2296/001. In both the original application and the re-submission, the development proposed is a residential development of up to 50 dwellings and was submitted in outline, with only approval for access sought at this stage.

Application 4/17/2296/001 was recommended for approval by the LPA but was refused by the Planning Panel. The Refusal Notice was issued on 14/08/2017 and cited two reasons for refusal relative to highway safety and access matters.

The applicant then submitted an appeal against the Council's decision (APP/Z0923/W/18/3217111) which was dismissed on 09/04/2019. In determining the appeal, the Inspector cited one reason for refusal and that related to the junction of Rosemary Close with Victoria Road relative to Local Plan Policy ST1 and the Framework.

This appeal is directed towards the reason for dismissal of appeal APP/Z0923/W/18/3217111 but does consider other matters.

#### **2.0 Application 4/19/2233/001 - re-submission following the appeal decision.**

##### **Policy context.**

The decision of appeal APP/Z0923/W/18/3217111 is a material planning consideration.

When the re-submission 4/19/2233/001 was validated on 04/07/2019, the policy context was the same as that considered in application 4/17/2296/001 and appeal APP/Z0923/W/18/3217111.

This remained the case until November 2020 when the Council produced a Five-Year Housing Land Supply Statement which indicated they had a 6.35-year supply of deliverable housing sites. This was in comparison to May 2017 when the Council conceded it could not demonstrate a 5-year supply of deliverable housing sites and concluded it had a maximum supply of 2 years and 3 months.

The lack of a 5-year supply of deliverable housing sites was obviously taken into consideration as part of 4/17/2296/001 and appeal APP/Z0923/W/18/3217111.

At the time of writing, it is now 8 months since the Five-Year Housing Land Supply Statement was issued. The matter of a 5-year supply of deliverable housing sites is obviously a very fluid situation which changes regularly depending on consents being issued and approved sites being implemented/ completed so it is unclear what the current position is.

Despite the indication the Council has a 5-year supply of deliverable housing sites, it remains the case that Local Plan is still out of date.

The Council are currently still progressing through their Preferred Options process. The applicant continues to promote the site through the Preferred Options process and is aware that the anticipated programme is to present a report to Full Council in Autumn 2021 which will then be followed by another 6–8-week public consultation process. Thereafter there will be further procedures to complete meaning the Council are some ways from having an adopted Local Plan in place.

The applicant wishes to draw the Inspector's attention to a recent approval for a site for 11 dwellings opposite Trumpet Terrace, Cleator Moor (4/20/2043/001); approved on 18/03/2021. The case officer recommended approval and stated the following in the planning panel report (direct extrapolation).

*'The proposal is contrary to draft Policy DS3PO as the site is outside an identified settlement boundary and the Council can demonstrate a 5-year supply. However, as the Plan is at an early stage and there are outstanding objections to the relevant policies it can be given little weight at present'.*

The Framework includes a presumption in favour of sustainable development in paragraph 11. Criteria d) of paragraph 11 is relevant as parts of Policy ST2 relating to settlement boundaries are out of date and therefore the tilted balance is engaged. It is considered that based on previous assessment that criteria di) and dii) are not triggered and therefore criteria d) can be applied and outline planning permission could be granted.

In terms of settlement hierarchy, Cleator Moor is classed as a Local Service Centre whereas the appeal site is well related to the built form of Whitehaven which is the principal settlement of the Borough. It is therefore considered that the principles applied to the Council supporting/ approving 4/20/2043/001 can be applied to the appeal site.

### **3.0 Highway matters:**

As stated in the Introduction, the re-submission 4/19/2233/001 sought to address the single issue raised by the Inspector in appeal APP/Z0923/W/18/3217111.

The single issue related to the junction of Rosemary Close with Victoria Road. The Inspector considered that it had not been demonstrated that the junction with Victoria Road would continue to operate safely were the proposed development to proceed. The Inspector concluded by stating that the proposed development would cause harm to highway safety in the vicinity of the appeal site, contrary to the requirements of Policy ST1 and the Framework.

Prior to submitting 4/19/2233/001, the applicant re-engaged their highway consultants to address the concerns of the appeal Inspector. A digital topographical survey of the relevant parts of Victoria Road and the junction with Rosemary Close was undertaken from which a detailed junction improvement scheme was designed. The junction improvement scheme was submitted as part of 4/19/2233/001.

During the course of the application, the Highway Authority raised various queries to the proposed junction improvement scheme all of which were addressed. This eventually culminated in the Highway Authority confirming their acceptance of the proposed junction improvements in a letter dated 13/07/2020.

At this point the applicant considered that they had successfully addressed the previous reason for refusal and that the proposed development now aligned with Policy ST1. The expectation was that the application could be supported by the Council and re-presented to the Planning Panel for determination.

#### **4.0 Other matters.**

Following the issue of the Highway Authority letter confirming acceptance of the junction improvement scheme on 13/07/20, the LLFA issued a separate letter regarding surface water. The letter raised numerous queries some of which were relevant to an outline application and some of which were not.

A response to their letter was issued by email on 20/10/2020 and was accompanied by two supporting documents. The first being an email thread in direct response to their queries and the second being the updated FRA and Drainage Strategy (Issue 5); first issued to the LPA in March 2020.

It is fair to say that some of the LLFA queries were valid as certain parameters around which surface water schemes are designed had changed since point of submission. However, some of the LLFA queries were such that they cannot be addressed until detailed design stage.

It should be noted that there were no deemed issues with the FRA and Drainage Strategy submitted as part of 4/17/2296/001 and appeal APP/Z0923/W/18/3217111. In the case of 4/17/2296/001, the FRA and Drainage Strategy was supported by the Council, the Councils' flood and coastal drainage engineer and the LLFA. In the case of APP/Z0923/W/18/3217111, the Inspector does not raise any concerns regarding surface water which leads the applicant to conclude that the submitted FRA and Drainage Strategy was deemed acceptable to a point whereby the detailed design could be controlled by planning conditions.

In a similar manner to the LLFA, the Council's flood and coastal drainage engineer also raised some queries relative to the revised FRA and Drainage Strategy (issue 5) on 30/11/21. The applicant re-engaged and addressed the comments to arrive at an appropriate conclusion whereby it is expected no further concerns would be raised.

The matter of the LLFA comments which the applicant considers can only be dealt with at detailed design stage is now at an impasse and has led to the applicant's decision to appeal against non-determination.

The FRA and Drainage Strategy (Issue 5) is now supported by an Addendum Statement. The Addendum Statement has not been formally submitted as part of the planning process but now forms part of this appeal.

As part of any outline application, it is acknowledged that the onus is on the applicant to demonstrate there is an appropriate and acceptable surface water drainage strategy that can be reasonably implemented and without detriment to others.

It is the applicant's opinion that the relevant surface water queries have been addressed and planning conditions can be applied in the normal manner relating to detailed surface water design, surface water maintenance/ management and the provision of a Construction Environmental Management Plan.

### **5.0 Conclusion.**

The proposal represents an acceptable form of sustainable development. Despite the fact the Council produced a Five-Year Housing Land Supply Statement which indicated they had a 6.35-year supply of deliverable housing sites it remains the case that the Local Plan is out of date and an up-to-date Local Plan is not imminent.

In determining appeal APP/Z0923/W/18/3217111, the Inspector cited one reason for refusal and that related to the junction of Rosemary Close with Victoria Road relative to Local Plan Policy ST1 and the Framework. This issue has been successfully addressed by virtue of the Highway Authority letter issued on 13/07/20.

The applicant considers matters relating to surface water have been successfully addressed. The updated FRA and Drainage Strategy (Issue 5) is such that it demonstrates there is an acceptable surface water strategy in place the detailed design of which can be controlled by appropriate planning conditions.