



Appeal Decision

Site visit made on 24 October 2023

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/V2723/W/23/3317682

Land East of Bolton Road, Scorton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr & Mrs Booth & Wharfedale Homes against the decision of Richmondshire District Council.
- The application Ref 20/00770/OUT, dated 14 October 2020, was refused by notice dated 6 February 2023.
- The development proposed is outline application for residential development.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development at land east of Bolton Road, Scorton in accordance with the terms of the application, Ref 20/00770/OUT, dated 14 October 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr & Mrs Booth & Wharfedale Homes against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Richmondshire District Council has merged with several councils to form North Yorkshire Council. The development plans for the merged local planning authorities will remain in place for the area within the new authority until such time as they are revoked or replaced. I have determined the appeal on this basis.
4. The application was submitted in outline with approval of access sought. Detailed matters relating to layout, appearance, landscaping and scale are reserved for future consideration. I have determined the appeal on this basis, treating supporting plans as illustrative.
5. I have received a signed copy of a legal agreement under section 106 of the Town and Country Planning Act 1990 (s106 Agreement). This was completed following the Council's decision on the application.

Main Issues

6. The main issues are:
 - whether the proposed level of housing growth is appropriate with regard to the spatial strategy for the area;

- whether the appeal site would be an acceptable location for housing having regard to the effect on the character and appearance of the area and the accessibility to services and facilities; and
- the effect of the proposal on the safe use of the highway for vehicles and pedestrians.

Reasons

Housing Growth

7. Policy SP2 of the 2014 adopted Richmondshire Local Plan 2012 – 2028 (the Local Plan) sets out the settlement hierarchy for the area. Scorton, along with Brompton on Swale and Catterick Village are the Primary Service Villages in the Central Richmondshire Sub Area. Through Policy SP4 of the Local Plan the Primary Service Villages in this sub area are expected to accommodate 240 dwellings over the Local Plan period to 2028.
8. Both main parties have provided information on housing commitments within the Central Richmondshire Sub Area and Scorton specifically. The Council's evidence identifies that since the Local Plan was adopted, planning permission has been granted for 111 dwellings within or adjacent to Scorton, which is not specifically contested by the appellants. A further permission was granted in October 2023 for five dwellings¹. The Council's view is that this equates to more dwellings than the minimum that the Local Plan is seeking to deliver in Scorton, based on the presumption that the figure of 240 dwellings for the Primary Service Villages is split evenly between the three settlements. However, my attention has not been drawn to any requirement in the Local Plan for the housing figure to be apportioned evenly between the three Primary Service Villages.
9. The Council has provided information on permissions granted in the other two Primary Service Villages². This equates to 47 dwellings in Catterick Village and 245 in Brompton on Swale. On this basis, the Council's position is that, whilst not all of these dwellings may be completed by the end of the Local Plan period, it is very likely that a minimum of 240 will be achieved.
10. The appellants dispute the Council's figures. Their view is that the figures should be 38 dwellings for Catterick Village and 13 for Brompton on Swale, giving a total commitment in the three Primary Service Villages of 162. The appellants have discounted three of the identified sites because of the length of time that has elapsed since outline planning permission was granted and a lack of clear evidence that delivery is imminent. No further evidence is presented for one of these sites in Brompton on Swale at Robin Hood Farm, where outline permission was granted in 2017 for 32 dwellings. However, the Council's evidence highlights that there is a live variation of condition application for the site at land off Gatherley Road in Brompton on Swale (200 houses³) and a live reserved matters application for the site on land north west of Manor House in Catterick Village (9 houses).

¹ application reference 22/00730/FULL

² Appendix A of Council's statement of case and email from the Council dated 18 October 2023

³ Figure in table 2 of appendix A of the Council's Statement of Case amended from 92 to 200 in email from the Council dated 18 October 2023

11. The appellants have highlighted an appeal decision⁴ relating to a site in Barton where the Inspector's view was that the Local Plan's overall housing target is not a ceiling figure but is stated as being realistic and deliverable. The Inspector went on to state that the precise wording of the Local Plan policies does not expressly direct the decision-taker to resist development where the proposed level of housing delivery would be exceeded in one of the Plan's defined sub-area or settlement hierarchy geographies. Rather, the Plan states that a managed approach will be taken should further suitable, sustainable and deliverable housing sites come forward based on their individual merits.
12. I have no reason to take a different view on the interpretation of the policies. Consequently, even if I were to take the Council's higher figures, the fact that the housing figure for the Primary Service Villages may be exceeded would not of itself represent a reason to dismiss the appeal.
13. The supporting text to Policy SP2 of the Local Plan states that a key principle when looking at the scope for future development in the Primary Service Villages is the maintenance of existing or new services. Policy SP3 requires development to be proportionate to the existing settlement size and local service provision. Policy CP4 supports development that is of a scale and nature appropriate to secure the sustainability of settlements in the defined settlement hierarchy which is located adjacent to the defined development limits of the settlement, where deliverable opportunities do not exist within those limits.
14. Based on the Council's figures, if all sites with planning permission in Scorton are built, this would result in 116 dwellings. The appeal scheme would bring this total to 148. In my judgement, this number of dwellings would not be excessive given the role of Scorton in the settlement hierarchy, the level of services and facilities in the village and its proximity to the Principal Towns of Richmond and Catterick Garrison. The proposed development would not therefore prejudice the spatial strategy for the area.
15. Consequently, I conclude that the proposed level of housing growth is appropriate with regard to the spatial strategy for the area. As such, the proposal would accord with Policies SP4 and CP4 of the Local Plan, as summarised above.

Acceptable Location – Character and Appearance

16. The appeal site lies adjacent to the southern part of the village. It falls within an area defined in the 2011 North Yorkshire and York Characterisation Project report as 'Settled Vale Farmland'. Key characteristics are identified as including a patchwork of low lying, predominantly arable fields, often delineated by a network of mature hedgerows; distant visual containment provided by higher Landscape Character Types to the east and west; a strong sense of openness throughout much of the area; and a settlement pattern of villages and dispersed farmsteads between the larger towns.
17. The site comprises an arable field bounded by hedges and single and groups of mature hedgerow trees. It is set within a gently rolling landscape of small fields bounded by hedgerows and isolated trees interspersed with villages and

⁴ Reference APP/V2723/W/21/3287312

farmsteads. It therefore displays some of the key landscape characteristics of the area.

18. The application is supported by a Landscape and Visual Impact Appraisal⁵ (LVIA). This has used, as guidance, the 'Guidelines for Landscape and Visual Impact Assessment, Third Edition'⁶.
19. The site does not extend beyond the eastern boundary of the adjacent primary school, but it would extend built development further into the countryside to the south of the village. The LVIA concludes that there would be a slight significance of effect on the character of the area as the development would work within the limits of the field boundary and would be taking place in a landscape character area already affected by human activity. The LVIA considers that the main impact of the development of this site would be on users of Bolton Road looking eastwards towards the site, with the impact judged as minor adverse.
20. As set out in the LVIA, the main views of the site would be from Bolton Road which runs along the western boundary. The proposed development would not be readily discernible in the wider area due to the screening effect of intervening vegetation and the gently rolling topography which reduces views.
21. The character of this part of Bolton Road is one of a transition from a built-up area to open countryside. This is due to several factors. When travelling south out of the village, the bend in the road foreshortens views of the countryside beyond. In such views the built form on the west side of Bolton Road is apparent, as is the approach to the cemetery which has several small posts within the highway verge on the approach, and a small hard surfaced car park and lychgate opposite the site. While relatively unobtrusive, the posts, car park and lychgate give an impression of being more associated with the settlement rather than the open countryside. When approaching from the south, the primary school is visible in views.
22. The retention of the hedgerow along Bolton Road would help to reduce the visual effects of the proposed development from vantage points along the road. A sensitive layout for the dwellings and their gardens, a careful positioning of any areas of open space and additional landscaping within and around the boundary of the site would help to further reduce the landscape and visual effects and allow for a gentle transition between the built form and the countryside to be maintained.
23. The historic core of the village is around The Green. While there is built development centred around The Green, over time the village has developed outwards from this central core, including southwards along Bolton Road.
24. The proposal would extend built development closer to Bolton-on-Swale. The area between the two settlements is not specifically protected through a Local Plan policy or specific designation. Nevertheless, it forms a notable gap between the two villages. However, even though the proposal would extend the built form to the south of Scorton, a reasonable separation from Bolton-on-Swale would be maintained. In addition, the woodland just to the north of Bolton-on-Swale provides a notable buffer between the villages which helps to

⁵ Prepared by FDA Landscape Ltd, updated October 2020

⁶ Landscape Institute and the Institute of Environmental Management and Assessment, 2013

maintain a sense of separateness. Consequently, the proposal would not erode the separate identities of the two villages or their sense of place.

25. Overall, therefore, while the proposal would alter the nature of the site, this would not be detrimental to the character and appearance of the area, including the rural setting of the village. Accordingly, I conclude that the site would be an acceptable location for housing having regard to the effect on the character and appearance of the area. As such, the proposal would accord with the requirements of Policy CP4 of the Local Plan which states that development should not impact adversely on the character of the settlement or its setting, important open spaces and views and the character of the landscape amongst other considerations. It would also accord with the design objectives of the National Planning Policy Framework (the Framework).

Acceptable Location – Accessibility to Services and Facilities

26. Scorton has a range of services and facilities. Although the proposed development would be located on the southern edge of the village, the services and facilities would be within a comfortable walking distance. There is a reasonable width of footway between the site and the services and facilities, with street lighting along much of its length and the topography is generally flat.
27. The proposed development would therefore have reasonable connectivity to the local services and facilities including by modes other than the private motor vehicle. Accordingly, I conclude that the site would be an acceptable location for housing with regard to the accessibility to services and facilities. Consequently, the proposal would accord with Policy CP4 of the Local Plan which requires the location of development to be accessible and well related to existing facilities amongst other matters.

Highway Safety

28. The site would be accessed off the B6271 (Bolton Road) through a new access approximately 20 metres to the south of the existing lay-by outside the primary school. Pedestrian accessibility to the proposed development would be provided by two metre wide footways on both sides of the proposed site access road which would link to the existing footway along the eastern side of Bolton Road.
29. I observed the area in the vicinity of the site at school pick up time. During this time several cars were parked along the eastern side of Bolton Road to the south of the primary school for a relatively short period of time. The proposal includes an area on the north side of the proposed site access to be used as a 16 space car park for the school. There would be a footway between this area and the entrance to the primary school. The Transport Statement (TS) submitted with the application recognises that the proposed school parking area would not completely remove on-street parking during school drop off and pick up times, but it would reduce its extent. The appellants also propose a scheme of waiting restrictions around the proposed site access.
30. The TS confirms that the Highway Authority's required visibility splays can be achieved for the access. This would take into account driver visibility for pedestrians, including children. Although a matter for future consideration, the TS confirms that parking provision for the dwellings would be in accordance

with the Highway Authority's minimum parking standards, which also include a requirement for cycle facilities.

31. The Highway Authority has not raised any concerns about the capacity of the highway network to safely accommodate the additional traffic that would be generated by the proposed development. There is no clear evidence before me that would warrant a different conclusion.
32. The proposed development would introduce a new vehicle access near to the primary school and additional vehicle movements. However, given the context set out above, I conclude that the proposal would not have a detrimental effect on the safe use of the highway for vehicles and pedestrians. The proposal would therefore accord with the highway safety requirements of Policy CP3 of the Local Plan and paragraph 110 of the Framework.

Other Considerations

The Equalities Act 2010

33. The Equalities Act 2010 sets out the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. There is the potential for persons with protected characteristics to be affected by the proposal, particularly if parking restrictions in the vicinity of the primary school were to be introduced. I have given this very careful consideration. In my judgement, the proposal to provide 16 off-street parking spaces for the primary school in a location closer to the school than many of the on-street locations, and my conclusions on highway safety above, would ensure that the proposal would not prejudice anyone with protected characteristics.

S106 Agreement

34. The s106 Agreement includes a number of obligations to come into effect if planning permission is granted. I have considered these in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended), which are restated in paragraph 57 of the Framework.
35. The s106 Agreement would secure a financial contribution towards the expansion of the Bolton on Swale St Mary's Church of England Primary School and land for additional playing field space to address the additional demands on local education facilities arising from the proposed development. The s106 Agreement also includes provision for the car park for the primary school which is necessary in the interests of highway safety.
36. Local Plan Policy CP6 requires 40% affordable dwellings in Central Richmondshire. The s106 Agreement makes provision for this level of affordable housing. Policy CP11 of the Local Plan expects new development to include provision of sufficient quality recreational facilities. The Council identifies that a minimum of 1,200 square metres of public open space would be acceptable for the proposal. Given the nature of the proposed development, I see no reason to take a different view. The s106 Agreement makes provision for this amount of open space to be provided at the site which would include a locally equipped area for play and its management and maintenance.

37. All the requirements in the s106 Agreement would be necessary to make the development acceptable in planning terms.

Other Matters

38. Appropriate measures can be put in place to manage surface water and drainage to ensure that there would be no unacceptable increase in flood risk. The detailed design, including safety measures, would be subject to future consideration.
39. There is no clear evidence that air quality from vehicles using the proposed car park would have a harmful effect on health or quality of life. There is no evidence to suggest that the site is of a high ecological value, or that it would adversely affect the ecological value of Scorton Lakes, and the proposal includes provision for a biodiversity net gain.
40. As set out above, a financial contribution and land for playing field expansion would be given to the primary school relating to additional pupils that would arise from the proposal. No substantive evidence has been presented to demonstrate that other public services or infrastructure have insufficient capacity.
41. None of these other matters alter or outweigh my conclusion on the acceptability of the proposal.

Conditions

42. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework, and have amended the wording of certain conditions in that light (without altering their fundamental aims).
43. In the interests of certainty, the relevant conditions concerning the timescales for the commencement of development, the definition and submission of the reserved matters, and the approved plans are necessary. To confirm the terms of the outline planning permission, a condition is necessary to restrict the development to no more than 32 dwellings.
44. A number of conditions are required prior to commencement of development to ensure that the relevant details are acceptable and compliance with their requirements at a later time could result in unacceptable harm. In the interests of sustainable design and in line with Policy CP2 of the Local Plan, an energy statement is necessary. In line with Policy CP5, a condition requiring details of the housing mix is necessary. A condition requiring details of the construction phase is necessary to ensure that the impacts of construction on the living conditions of existing residents and highway safety are minimised. Details of surface and foul water drainage and percolation testing are necessary to address flood risk. In the interest of public health and safety, a scheme to address land contamination risks is necessary. To protect the archaeological significance of the site, a written scheme of investigation is necessary. A condition to secure appropriate biodiversity mitigation and enhancement of the site is necessary in order to meet the requirements of the Local Plan, the Framework and associated wildlife and habitat legislation.
45. In the interests of the character and appearance of the area, it is necessary to specify a broad location for the public open space and SUDS. To ensure

satisfactory drainage, a condition is necessary to require separate systems of foul and surface water drainage.

46. In the interests of highway safety and to ensure that the highway is constructed to an adoptable standard, conditions are necessary requiring engineering details of the roads; details of accesses, parking and turning arrangements; a timetable for the completion of roadworks; the provision of visibility splays; and details of offsite highways works. To ensure the continued compliance with the Council's parking standards and avoid reliance on on-street parking, a condition is necessary to require that garages are not altered to provide habitable space.

Conclusion

47. The proposal would accord with the development plan as a whole. There are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan - Y81:1094.01.
- 5) The permission hereby granted provides for a maximum of 32 dwellings to be developed on the site.
- 6) Development shall not commence until an energy statement, confirming how carbon savings are to be delivered with reference to the extent that this will exceed the minimum standards prevailing through Part L of the Building Regulations along with an explanation of why this is the maximum level that would be feasible and viable for this particular proposal, shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.
- 7) Development shall not commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the development must be undertaken in accordance with the approved Construction Management Plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
 - a) details of any temporary construction access to the site including measures for removal following completion of construction works;
 - b) details of what steps shall be taken to prevent the emission of dust and noise from the site;
 - c) wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
 - d) the parking of contractors' site operatives and visitor's vehicles clear of the highway;
 - e) areas for storage of plant and materials used in constructing the development clear of the highway;
 - f) measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;There shall be no HCVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority beforehand.
- 8) Development shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local

Planning Authority. The scheme shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SUDS Design Guidance (or any subsequent update or replacement for that document). The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. The works shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed.

- 9) Development shall not commence until percolation testing to determine soil infiltration rate are carried out in accordance with BRE 365 Soakaway Design (2003) and CIRIA Report 156 Infiltration drainage – manual of good practice (1996) and the results have been submitted to and approved in writing by the Local Planning Authority. The method of test must be relevant to proposed SUDS. Testing must be carried out at or as near as possible to the proposed soakaway location (no greater than 25m from proposed soakaway for uniform subsoil conditions. For non-uniform subsoil conditions testing must be carried out at the location of the soakaway). Testing must be carried out at the appropriate depth for proposed SUDS relative to existing ground levels. Three percolation tests shall be performed at each trial pit location to determine the infiltration rate. Where slower infiltration rates are experienced, testing must be carried out over a minimum period of 24 hours (longer if 25% effective depth is not reached). 25% effective depth must be reached. Extrapolated test data will not be accepted.
- 10) Development shall not commence until an assessment of the risks posed by contamination, carried out in line with the Environment Agency's land contamination risk management, shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority before any development occurs. The development shall not be first occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.
- 11) If contamination is found or suspected at any time during development that was not previously identified all works shall cease and the Local Planning Authority shall be notified in writing immediately. No further works (other than approved remediation measures) shall be undertaken, or the development occupied until an investigation and risk assessment carried out in accordance with the Environment Agency's land contamination risk management, has been submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority before any further development occurs. The development shall not be first occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.
- 12) Development shall not commence until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority in

writing. The scheme shall include an assessment of significance and research questions; and:

- the programme and methodology of site investigation and recording
- community involvement and/or outreach proposals
- the programme for post investigation assessment
- provision to be made for analysis of the site investigation and recording
- provision to be made for publication and dissemination of the analysis and records of the site investigation
- provision to be made for archive deposition of the analysis and records of the site investigation
- nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

The development shall not be first occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

13) Development shall not commence until details of the housing mix has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

14) Development shall not commence until a scheme for biodiversity mitigation and enhancement, including management proposals for the lifetime of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme must demonstrate a net gain in biodiversity unless it can be demonstrated that it is not possible to achieve. The scheme must be prepared in the context of the recommendations contained within the Biodiversity Net Gain Assessment, December 2022; and the Ecological Impact Assessment, October 2020, prepared by MAB Environment & Ecology Ltd. Thereafter, the site shall be developed and maintained in accordance with the approved management details.

15) Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road shall take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.

16) There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site in connection with the construction of the access road or buildings until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- vehicular, cycle, and pedestrian accesses

- vehicular and cycle parking
- vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear.

No part of the development shall be brought into use until the accesses, parking, manoeuvring and turning areas have been constructed in accordance with the approved details. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

17) There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site in connection with the construction of the access road or buildings until details of the following off site highway improvement works have been submitted to and approved in writing by the Local Planning Authority:

- a. The introduction of an appropriate system of Waiting Restrictions in and around the junction of the access road into the Development and the B6271.

Within 7 days of the creation of the approved access point onto Bolton Road, notification of the access creation shall be submitted to the Local Planning Authority in writing. The approved off-site highways improvement works shall be completed within 36 months of the creation of the approved access point, unless written confirmation is first obtained in writing by the Local Planning Authority that the approved off-site highways improvement works are not required and/or to agree an alternative timetable. Confirmation of whether the works are required may be submitted 24 months after the access creation, and this will relate to whether a safety hazard has been created in respect of parking.

18) The development shall not be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation. The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing by the Local Planning Authority before any part of the development is brought into use.

19) No dwelling must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

20) The site shall be developed with separate systems of drainage for foul and surface water on and off site. If sewage pumping is required, the peak pumped foul water discharge shall not exceed five litres per second.

21) No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

22) Areas of Public Open Space and SUDS shall be positioned along the southern boundary of the site.

- 23) There must be no access or egress by any vehicles between the highway and the site until splays are provided giving clear visibility of 90 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 24) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), any garage shall not be converted into habitable accommodation without the granting of an appropriate planning permission.

Richborough



Costs Decision

Site visit made on 24 October 2023

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Costs application in relation to Appeal Ref: APP/V2723/W/23/3317682 Land East of Bolton Road, Scorton

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr & Mrs Booth & Wharfedale Homes for a partial award of costs against Richmondshire District Council.
- The appeal was against the refusal of planning permission for an outline application for residential development.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Preliminary Matters

2. On 1 April 2023 North Yorkshire Council was created and is now the Local Planning Authority (LPA) for the area previously covered by Richmondshire District Council. The award is necessarily made against its replacement as LPA, North Yorkshire Council.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive.
4. In summary, the applicants argue that the Council has acted unreasonably by including a reason for refusal relating to highway safety without objective evidence to substantiate this.
5. Reason for refusal three relates to a concern about highway safety due to the conflict that would be caused by the proposed access adjacent to the primary school and the associated vehicle and pedestrian movements.
6. General assertions have been made about the safety of the proposed access due to its position close to the school entrance and the additional traffic movements that would result in unsafe arrangements for pedestrians including younger children. This appears to be mainly based on local knowledge and understanding of traffic issues in the area. Local knowledge can be an important consideration, but alleged harm still requires to be substantiated by clear evidence. The Highway Authority did not raise any concerns regarding the safety of road users or pedestrians based on the location of the proposed access and the vehicles movements likely to be generated and was satisfied that appropriate visibility splays could be achieved.

7. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should not have reasonably been refused for reasons relating to highway safety. Reason for refusal three therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the applicants have been faced with the unnecessary expense of addressing this matter.
8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the third reason for refusal relating to highway safety and a partial award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Yorkshire Council shall pay to Mr & Mrs Booth & Wharfedale Homes, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred relating to reason for refusal three relating to highway safety; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicants are now invited to submit to North Yorkshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

F Wilkinson

INSPECTOR