



Appeal Decision

Inquiry held on 9-11 and 16 January 2024

Site visit made on 17 January 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7th February 2024

Appeal Ref: APP/U2750/W/23/3327616

Land off Barff Lane, Brayton, Selby, North Yorkshire YO8 9GR

- 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 the Middlebrook Family, Stanley Middlebrook Trust and Gladman Developments Limited against the decision of North Yorkshire Council.
- The application Ref 2022/1410/OUTM, dated 29 November 2022, was refused by notice dated 15 May 2023.
- The development proposed is the erection of up to 95 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point from Barff Lane.

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 95 dwellings, including affordable housing, public open space, landscaping, sustainable urban drainage system and vehicular access point from Barff Lane at Land off Barff Lane, Brayton, Selby, North Yorkshire YO8 9GR, in accordance with the terms of the application, Ref 2022/1410/OUTM, dated 29 November 2022, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. A framework plan was however also submitted, showing the way that the site would be generally subdivided and laid out. This plan assists interpretation of the submitted Section 106 Agreement (S106), and the main parties have agreed that it should form the subject of a condition. Accordingly, it has informed my assessment below.
3. The Council is working on a new Local Plan (the emerging Plan). Whilst this has previously reached Regulation 19 stage, the Council intends to rerun the consultation following administrative change. Given the stage reached I can attach limited weight to the emerging Plan's policies. Insofar as it remains relevant, I shall however refer to it in my assessment below.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the development having regard to its effect on: (a) the delivery of planned growth, and (b) the character and appearance of the area; and

- the effect of the development on Brayton Barff Site of Importance for Nature Conservation (SINC).

Reasons

Location

(a) Planned growth

5. Policy SP2 of The Selby District Core Strategy 2013 (the Core Strategy) sets out the Council's spatial development strategy. This directs development to settlements based on their position within a hierarchy, and to locations within defined development limits, outside of which development is restricted. This is further elaborated within Policy SP5 of the Core Strategy which provides a table of housing figures and a proportional split between different settlements and tiers within the hierarchy. Within this context Brayton is identified as a Designated Service Village (DSV). Though the supporting text of Policy SP2 states that DSVs are suited to 'limited further growth', Brayton is one of 3 DSVs identified as particularly sustainably located, within which growth will complement that in Selby. The latter is the Principal Town within the hierarchy.
6. The site lies outside the development limit of Brayton, within the open countryside. In this regard the type and location of development proposed would conflict with Policy SP2.
7. The development limit was however defined in 2005, and a footnote to Policy SP2 envisaged a review. This would have been required to accommodate the growth outlined within Policy SP5, and in conjunction with the production of a 'Site Allocations Local Plan'. Neither was completed. Consequently, aside from old allocations made by the Selby District Local Plan 2005 (the Local Plan), the Council has been increasingly reliant upon windfall development. There has also been an accompanying acceptance that much of this must be delivered on sites outside defined development limits.
8. The results are visible on the west side of Brayton, where, to the east of the site, there is now no direct relationship between the designated development limit and the edge of the built-up area. Within this location the development limit has indeed ceased to provide any coherent or meaningful distinction between the built-up area of Brayton and the open countryside. Thus, whilst the site's designation as open countryside under Policy SP2 continues to reflect reality, the development limit itself does not. As such, I attach very little weight to the appeal scheme's conflict with Policy SP2.
9. Insofar as one of the original purposes of the development limit was to assist in protecting the countryside from encroachment, the scheme's effects otherwise stand to be assessed against the more general provisions of Policy SP18 of the Core Strategy. I shall return to this in my consideration of character and appearance below.
10. Policy SP5 sets out minimum indicative housing figures. These too are now out of date given both the age of the Core Strategy and a shift to the standard method of calculating housing need. The hierarchy outlined within Policy SP2 itself remains soundly based on an understanding of the role and function of different settlements within the former District. Little change in this hierarchy is indicated within the emerging Plan. But though the proportional split outlined within Policy SP5 obviously reflects the hierarchy, it cannot be used as anything

more than a broad yardstick given that the outdated figures within Policy SP5 form an interrelated set.

11. Policy SP2 provides no distinction between the 18 settlements classified as DSVs, despite recognition of differences in their level of sustainability and relationship with Selby, as noted above. This appears reflected in the amount of growth which has occurred in Brayton during the plan period. The proposed development would add to this growth. However, there is no suggestion from the Council that this would affect the function of Brayton or its role within the hierarchy, or that local services and facilities are in any way incapable of supporting such growth. I see no reason to reach a different view. Indeed, subject of obligations within the S106 the development could be absorbed without any adverse effect.
12. As such, if the development would result in some mild deviation from the proportional split envisaged by Policy SP5, this would not result in any obvious harm. Even if a deviation was held to be of some significance it might only be temporary. This is because it cannot be expected that growth beyond the minimum figures outlined within Policy SP5 would be delivered across the settlement hierarchy at an even rate.
13. The Council has highlighted the fact that the housing need calculated using the standard method results in an annual requirement lower than is set out with Policy SP5. However, this makes no difference to my findings above.
14. In summary, for the above reasons the appeal scheme would not undermine the spatial development strategy as outlined within Policies SP2 and SP5, or therefore the delivery of planned growth. Insofar as limited conflict would arise with Policy SP2 in relation to the development limit, I attach very little weight to this conflict. I shall return to this in concluding on the issue below.

(c) Character and appearance

15. The roughly rectangular field which comprises the majority of the site lies immediately north of Barff Lane. Its east side is starkly defined by the close boarded fence of an adjacent housing development, whilst its south side is unenclosed. The overgrown embankment of a dismantled railway line runs along the north side of the site, whilst a gappy hedgerow encloses the west. Individually, the site presents an unremarkable and somewhat degraded character, but one which is obviously distinct from that of the adjacent built-up area of Brayton.
16. The built-up area of Brayton is defined by a generally straight north-south edge to either side of Barff Lane. The straightness of this edge, together with the layout, density and landscaping of the recent housing developments to which it relates provide a distinct point of entry and exit to the settlement, but an abrupt transition in character. Further to the north and south the edge cuts away sharply, accentuating what has been described as a distinctive 'indentation' of the settlement edge. The overall irregularity this provides on the west side of Brayton is particularly apparent from Mill Lane and from the public right of way across farmland to the north of the site linking Brayton with Thorpe Willoughby (the PROW). This limits the extent to which the built-up area is currently perceived as 'compact'.

17. The proposed development would extend linearly beyond the existing straight edge of the built-up area. This would however occur at much the same depth as existing development on the north side of Barff Lane immediately to the east. In common with the latter, the north side of the proposed development would be defined and enclosed by the former line of the dismantled railway. This would in turn accentuate the existing indentation of the settlement edge, as perceived from the PROW. From vantage points along the PROW the visual presence of development would be increased despite screening, particularly when walking westward. But the effect would be brief, and a clear sense of transition from an urban to a rural landscape would remain. So too would the appreciable gap of open agricultural land which separates Brayton from Thorpe Willoughby.
18. The westward projection of the development would appear more noticeable and somewhat less well integrated with the existing built-up area when viewed from the south. This would be due to the openness of land on the opposite side of the road, and a lack of alignment with the existing straight settlement edge to the south. The latter would be pronounced even within the context of overall irregularity. Any potentially adverse effects could however be satisfactorily addressed by careful layout and landscaping. The suggested buffering and enclosure of the development using trees and hedges would appear appropriate within context and would provide a soft transition between the built-up area and its open setting. This could in turn help to address the insensitive physical and visual character of the existing settlement edge. In this regard I have been provided with no reason to believe that the edge would see any improvement in the absence of the development.
19. A distinctive wooded hill known as Brayton Barff lies towards the southwest of the site. The hill is visible across a wide area due to the prevailing flatness of the surrounding landscape. Within this context its visual character and distinctiveness is perceived and accentuated with reference to the open agricultural fields which partly surround it. The site forms one of these fields.
20. Given the geographical extent of the setting, the quality of views towards Brayton Barff from within it inevitably varies. The most notable views are those within which the visual continuity of the agricultural landscape surrounding Brayton Barff is not obstructed or broken by intervening features. These are qualities apparent in public views from Mill Lane, from Barff Lane, and from sections of the PROW further to the northwest of the site. However, they do not distinguish the views available from within or across the site, or from the section of the PROW immediately to the north. This is due to the intervening presence of Barff Lane and the vegetated embankment of the dismantled railway. In the absence of any right of public access to the site, views from within it are otherwise private, as are views across the site from adjacent dwellings. As a component of the broader landscape setting of Brayton Barff, the role played by the site is therefore of less value than that of other land.
21. This broadly reflects the findings of the 2019 *Selby District Local Landscape Designation Review*, which forms the basis for the emerging Plan's proposed Hambleton Hough and Brayton Barff Locally Important Landscape Area (LILA). The LILA would see 2 geographically limited existing designations merged and expanded, taking in the most important parts of the setting of Brayton Barff. This would exclude the site and land immediately to the north.

22. The development would not have any adverse effect on the ability to appreciate the character of Brayton Barff within the unobstructed public views noted above. The development would partly obstruct visibility of Brayton Barff from the PROW. However, the fact that views are already largely obstructed by the vegetated embankment of the dismantled railway, and that views of much higher quality exist a short distance to the west, means that this would not cause any unacceptable harm.
23. The development would be visible within limited views from the permissive path around the perimeter of Brayton Barff itself. Again, views from the path extend across a broad area and are variable in terms of their quality and coverage. Whilst the titanic form of Drax Power Station is a striking component of views from the east side of Brayton Barff, the built-up area of Brayton also has a strongly established presence. This is again accentuated by the absence of any meaningful planting along the existing settlement edge. The open fields south of Barff Lane would continue to provide the foreground in any view of the proposed development, and as considered above, careful landscaping of the development would help to soften both its appearance and that of the existing built-up area of Brayton. As such the appeal scheme would not have any unacceptable effect on the ability of visitors to Brayton Barff to appreciate its position within the landscape, or the relative tranquillity and wildness of its woodland.
24. In summary the development would not cause any unacceptable harm to the character and appearance of the area. As such no conflict would arise with Policy SP18 of the Core Strategy insofar as this seeks to safeguard the natural environment including the landscape character and setting of areas of acknowledged importance.

(d) *Conclusion*

25. For the reasons set out above I conclude that notwithstanding limited conflict with Policy SP2 of the Core Strategy, the site is an appropriate location for the proposed development having regard to its effects on the delivery of planned growth, and the character and appearance of the area. In these regards, my findings above indicate the acceptability of the location considered against the development plan taken as a whole.

Brayton Barff SINC

26. The majority of Brayton Barff is in the private ownership of Yorkshire Water, with the remainder owned by the Council. It is largely covered by mixed deciduous woodland, most of which is designated as ancient, and within which there are a number of veteran trees. This in turn forms the basis for Brayton Barff's local designation as a SINC.
27. Brayton Barff is advertised by YW as a place to visit, and its topography, woodland cover and seasonal show of bluebells adds to its attractiveness. This is amplified in context by the predominately open and flat landscape setting. Given that the site lies a reasonably short distance from Brayton Barff, and given their linkage by road and footpath, it is likely that active future occupants of the development would visit. Setting aside all other possible variables, a slight overall increase in visitor numbers might therefore be anticipated, thus giving rise to a slightly increased level of visitor impact.

28. The National Planning Policy Framework (the Framework) identifies ancient woodland as an irreplaceable habitat. It further states that development resulting in loss or deterioration should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
29. Any single visit to an ancient woodland by a member of the public for recreational purposes would give rise to some form of impact. That impact might be adverse. There is however no stated position in national policy or guidance that the public should be prohibited from accessing ancient woodland on that basis. Indeed, the Forestry Commission's 2010 practice guide, *Managing Ancient and Native Woodland in England* (the Practice Guide), highlights the value of ancient woodland for recreation, and encourages the provision of permissive access. The Planning Practice Guidance (PPG) likewise identifies recreational opportunities in relation to green infrastructure, including woodland.
30. Insofar as the Standing Advice published by the Forestry Commission and Natural England includes impacts arising from public access amongst the ways in which deterioration can occur, the Practice Guide explains that almost all recreational activities can be a problem if carried out intensively. There is however no established threshold at which deterioration of ancient woodland can be held to occur. In relation to existing woodland condition, the PPG further indicates that this can usually be improved with good management. Balancing recreational use with conservation is clearly an important role of management, which is in this case the responsibility of the landowners.
31. Given the above, public access to ancient woodland for recreational purposes cannot be considered possible in principle without some form of impact which logically falls short of 'deterioration'. Were this not the case then a simplistic linkage of impact with deterioration would form a basis to refuse any development which might lead to an additional visit. Establishing when deterioration might be said to occur therefore ultimately requires an evidence-based understanding of the processes at work, as too an appreciation of the role played by management.
32. The available visitor survey data for Brayton Barff is both limited and incomplete. The woodland does however closely abut the built-up area of Thorpe Willoughby, is directly linked to Brayton by footpaths, and a car park allows for visits from within the broader area. The latter appeared well used during my visit, even in near freezing conditions. As such, and given the character of Brayton Barff, I have no reason to question claims that it receives a high number of visits.
33. The woodland can be freely accessed through use of a public right of way and a permissive surfaced path. Other informal paths through the woodland also exist, and access to them is not restricted. The fact that many of the paths are shown on Ordnance Survey mapping implies that they are well established. As is typical of any path with an unmodified earth surface, these informal routes will have experienced inevitable surface erosion and likely compaction, as will other spaces accessed within the woodland. Some possible trampling and nutrient enrichment by dog waste is also likely. However, the specific extent and degree of any harm caused, over what period, how this relates to visitor numbers, behaviour, and the attributes of the woodland, and what role

management does or could play, is unclear. Indeed, I have been presented with little more than anecdotal evidence relating to these matters.

34. The Council's view that the ancient woodland at Brayton Barff is incapable of absorbing any net increase in visits without deterioration is presented simply as 'common sense'. But it is not raised within either the existing development plan or the emerging Local Plan, including its draft allocations for Brayton which could also yield additional visits. Nor does it appear to have impeded the approval of other developments within the immediate vicinity, including those directly adjacent to the site.
35. The appellants' own assessment adds little given that it provides no more than a generic list of potential visitor impacts. Its finding that some additional impact would arise if visitor numbers increased simply states the obvious, much as discussed above. As such, the appellants' assessment does not serve to substantiate the Council's position. Nor can the appellant be reasonably expected to compensate for the Council's lack of evidence by providing that evidence themselves.
36. The appellants' proposed provision of directly accessible circular walking routes across adjoining land, and linking the development to existing public rights of way, would in any case provide alternative scope for outdoor recreation. Given the reportedly limited availability of walking routes within the surrounding area, the benefits of this would be likely to extend beyond future occupants of the development, to existing residents within adjacent parts of Brayton. Whether or not some of the latter informally access the site and adjacent fields at present, the provision of permissive access and a properly formed path would be attractive to a broader population.
37. In summary, based on the limited evidence set before me, past unrestricted access to Brayton Barff has led to inevitable visitor impacts which may have caused some degree of harm. Whilst these impacts do not appear to be fully understood, it is likely that both they and the existing condition of the woodland could be addressed by improved management. Given the popularity of the location for recreational use a slight net increase in visitor numbers could potentially result from the development, and all such visits would have an impact. The likelihood of this would however be reduced by the provision of alternative walking routes, and I have been provided with no reason to believe that any residual increase in visits would result in deterioration.
38. Based on my findings above, and insofar as it would help to meet one objective set out within Policy SP19 of the Core Strategy, the obligations within the S106 relating to provision of 'permitted paths' pass the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework (the tests).
39. However, an obligation within the S106 securing a financial contribution towards funding of wide-ranging management measures at Brayton Barff, does not. Though the measures might well be useful, there is no basis within adopted policy or guidance for me to assess the proportionality of the proposed contribution, and no management strategy which would provide a context for application of the specified measures has been set before me. My findings above furthermore indicate a current lack of evidence justifying a need for such a contribution. As the obligation does not pass the tests, it cannot be taken into

account. This does not alter my overall view of the acceptability of the development.

40. For the reasons set out above I conclude that the development would not have an unacceptable effect on Brayton Barff SINC. The development would not therefore conflict with Policy SP18 of the Core Strategy which amongst other things seeks to safeguard national and locally protected sites for nature conservation, including SINC, from inappropriate development; or saved Policy ENV1 of the Local Plan which seeks to secure a good quality of development, taking into account effects upon wildlife habitats. Insofar as the Council again cited conflict with Policy SP2 of the Core Strategy in relation to this matter, it has little direct relevance.

Other matters

41. Planning permission was partly refused on the basis that the development would entail the loss of best and most versatile agricultural land (BMVL). The existing status of the site is however uncertain as it is broadly classified as 'Grade 3', whereas only Grade 3a land qualifies as BMVL. The Council has otherwise withdrawn its assertion of conflict with Policy SP18 of the Core Strategy given the amount of BMVL available locally, and the requirement for its use to deliver future development. Whilst I recognise the broader benefits of BMVL, most particularly where its presence is proven, I see no reason to take a different view. The minor harm that would potentially result from the loss of a small amount of BMVL, which would be clearly outweighed by the broader social and economic benefits of housing provision, does not alter my view of the acceptability of the development.
42. Interested parties have raised concern that a loss of open green space would have adverse effects on mental health, including in relation to persons who are neurodivergent. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have had due regard under Section 149 of the EA 2010 of the requirement to take steps to meet the needs of persons who share a protected characteristic. As outlined above, the site largely consists of open green space, but the public currently has no right of access. The development would on the other hand involve provision of publicly accessible open space within the site, and the provision of permissive paths would improve the quality and level of public access to other open green spaces within the immediate area. The net effects would therefore be overwhelmingly positive. The site forms a component of the outlook from a small number of dwellings within the housing estate abutting the site to the east. Though the loss of a private view is not generally a consideration capable of attracting weight, change might nonetheless be disruptive. In this regard the Framework Plan shows scope for landscaping along the eastern edge of the site, thus providing some potential improvement in immediate outlook. A construction method statement would additionally help to ensure that scope for disturbance during the construction process was minimised. Change would itself occur gradually given the time likely to be taken to develop the site. For this and the above reasons I am satisfied that the development would not give rise to any unacceptable adverse impact on persons who share a protected characteristic, or in relation to the mental health of the local population more generally.

43. Interested parties have raised various additional concerns not shared by the Council. These include flooding, drainage, loss of privacy, harm to ecology, pressure on local services, and the potential for adverse effects on use of the highways. Whilst there would be no obvious scope for unacceptable loss of privacy, other identified matters can be satisfactorily addressed by condition, by mitigatory measures secured within the S106, and through the reserved matters.
44. The S106 contains a range of obligations in addition to those considered above. These secure the provision of affordable housing, including first homes, in accordance with Policy SP9 of the Core Strategy and national policy; the provision of on-site open space and play facilities in accordance with Policy RT2 of the Core Strategy and the Developer Contributions Supplementary Planning Document 2007 (the SPD); the payment of a contribution towards local healthcare provision calculated in line with national formulae; the payment of a contribution towards the provision of bins in line with the SPD; contributions towards a Traffic Regulation Order reducing the speed limit on Barff Lane, the provision of a bus shelter, and improvement of cycle links, all in accordance with saved Policy T1 of the Local Plan and Policy SP15 of the Core Strategy; and the payment of a monitoring fee, as provided for by the PPG. I am satisfied that the above obligations pass the tests.
45. At appeal the adequacy of the Council's demonstrable supply of deliverable housing sites was challenged by the appellants, and it was additionally asserted that the policies most important for determining the application were out of date. The matter was subject of evidence and discussion at the Inquiry, and to the extent that it is relevant, I have considered the outdatedness of development plan policies above. Given that I have already found that the appeal scheme would comply with the development plan taken as a whole, further consideration of the above matters is unnecessary.

Conditions

46. A range of conditions have been proposed and were subject of discussion at the Inquiry. Having further regard to the PPG, I have reworded and rationalised the content of the conditions as necessary, and as set out below.
47. Conditions (1) – (4) are standard conditions identifying the reserved matters; the timescale for submission of details and commencement of the development; and identifying of the approved access plan for sake of certainty.
48. Condition (5) accommodates a number of proposed conditions relating to on-site ecological mitigation, enhancement and management. The condition is required to ensure that effects in relation to on-site biodiversity, and species using the site are acceptable.
49. Condition (6) secures provision of a detailed Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement in line with the recommendations of the appellants' Arboricultural Impact Assessment Report, thus helping to safeguard existing trees.
50. Condition (7) accommodates a number of proposed conditions relating to drainage and is required in order to ensure that the development is properly drained.

51. Condition (8) is imposed to ensure that details submitted in relation to the reserved matters of landscaping and layout are generally governed by the submitted framework plan.
52. Condition (9) is imposed to ensure that recommendations within the submitted noise report are incorporated within the scheme layout, and to secure standards of construction that will protect future occupants from road noise.
53. Condition (10) secures measures to addresses an identified risk of contamination, whilst Condition (11) covers the possibility of unforeseen risks. Each is imposed in the interests of health and safety. Condition (10) is required pre-commencement given that risks will arise from the outset.
54. Condition (12) secures a scheme of further investigation of on-site archaeology, the presence of which was confirmed by a geophysical survey. A pre-commencement condition is required given that the deposits would most likely be destroyed by construction.
55. Condition (13) secures a construction method statement which is required in the interests of neighbour amenity and highway safety. A pre-commencement condition is again required as adverse effects could arise from the outset.
56. Condition (14) accommodates a number of suggested conditions relating to highways delivery and technical matters and is required to ensure appropriate construction and highway safety.
57. Condition (15) secures provision of a Travel Plan in the interests of promoting sustainable travel.
58. Condition (16) secures the delivery of off-site highways works not otherwise secured by the S106, which are required in the interests of highways safety.
59. Though a condition seeking to secure a hedgerow on other land in the same ownership was proposed, the condition risks being unenforceable should ownership change. The hedge formed a component of the permitted paths scheme as originally proposed, but it is not detailed in the S106. I am however satisfied that it is not an essential component of that scheme.

Conclusion

60. Exercising due regard under section 149 of the EA 2010, I conclude that for the reasons set out above the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) Details of 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 takes place 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 3 years from the date of this permission.

- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Insofar as it details the site access, the development hereby permitted shall be carried out in accordance with the following approved plan:
3662-F01 Rev J.
- 5) Prior to or in conjunction with the first reserved matters application a Biodiversity Mitigation and Enhancement Strategy (BMES) shall be submitted to and approved in writing by the Local Planning Authority. The BMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be informed by the Ecological Impact Assessment ref. CSA/6114/06 Rev.B, and shall additionally include:
 - a) an updated Biodiversity Net Gain Assessment;
 - b) a bat-friendly lighting strategy addressing both the construction and occupation phases of the development; and
 - c) a management plan.The development shall be carried out and thereafter managed in accordance with the approved BMES.
- 6) Prior to or in conjunction with the first reserved matters application a detailed Arboricultural Impact Assessment (AIA) produced in accordance with BS 5837:2012 ('Trees in relation to design, demolition and construction'), or any superseding British Standard, including a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS), shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AIA, TPP and AMS.
- 7) Prior to or in conjunction with the first reserved matters application, a site drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall be informed by the submitted Flood Risk Assessment and Outline Surface Water Drainage Strategy ref. 680553-R1(01)-FRA, and shall include:
 - a) details of how surface water and silt run-off from the site will be managed during construction;
 - b) a plan indicating how exceedance flows will be safely managed; and
 - c) details of arrangements for the adoption and maintenance of the surface water drainage system.The approved scheme shall then be implemented prior to the first occupation of the dwellings hereby permitted.
- 8) Details submitted in relation to the reserved matters of layout and landscaping shall be governed by the Development Framework Plan ref. CSA/6114/107 Rev.F.
- 9) Details submitted in relation to the reserved matter of layout shall be informed by the recommendations of the submitted Noise Assessment Report. They shall be additionally accompanied by a revised specification of the constructional measures necessary to safeguard future occupants of the development from external road noise for approval in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved specification.

- 10) The development hereby permitted shall not commence until a scheme that addresses the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- a) A revised preliminary risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) The results of the site investigation and detailed risk assessment, and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall then be implemented as approved.

- 11) Any previously unidentified contamination that is found during construction of the development hereby permitted shall be immediately reported 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 development is resumed or continued.
- 12) Prior to the commencement of the development hereby permitted an archaeological Written Scheme of Investigation (WSI) shall be submitted to and approved by the Local Planning Authority. The WSI shall be informed by the submitted Heritage Desk-Based Assessment and Geophysical Survey, shall include an assessment of significance and research questions, and shall detail:
- a) a programme and methodology of further site investigation and recording;
 - b) a programme of post-investigation assessment;
 - c) the provision made for analysis of the site investigation and recording;
 - d) the provision made for publication and dissemination of the analysis and records of the site investigation;
 - e) the provision made for archive deposition of the analysis and records of the site investigation; and
 - f) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

The development shall then be undertaken in accordance with the approved WSI, and shall not be fully occupied until the post-investigation assessment has been completed, and provision has been made for analysis, publication and dissemination of results, and for archive deposition.

- 13) Prior to the commencement of the development hereby permitted a Construction Method Statement (CMS) shall be submitted to and approved in

writing by the Local Planning Authority. The CMS shall be fully compatible with the BMES approved in relation to Condition 5 and the TPP and AMS approved in relation to Condition 6, and drainage measures approved in relation to Condition 7(a), and shall include details of:

- a) any temporary construction access to the site;
 - b) parking of vehicles for site operatives and visitors;
 - c) areas for loading, unloading and storage of plant and materials;
 - d) details of hoardings/security fencing;
 - e) measures to control the emission of water, dust and dirt;
 - f) measures to minimise light, noise and vibration nuisance;
 - g) waste management measures;
 - h) hours of work, including deliveries;
 - i) management of arrivals and departures including HGV routing; and
 - j) contact details of the person responsible for overseeing the CMS.
- Construction of the development shall then proceed in accordance with the approved CMS.

- 14) Prior to the commencement of the development hereby permitted, a programme detailing the delivery of highway infrastructure within the site shall be submitted to and approved in writing by the Local Planning Authority. The programme shall include:

- a) the phasing/timetabling of works;
- b) engineering drawings showing construction details of roads, footways, and any structures which will affect or form part of the highway;
- c) the provision of pedestrian visibility splays measuring 2.0 metres x 2.0 metres down each side of the site access and the back edge of the footway; and
- d) provision made for roads and footways to be constructed to binder course macadam level/paved (as applicable), kerbed, connected to the existing highway network and lit prior to any related dwellings being occupied.

The development shall then be carried out in accordance with the approved programme, and the pedestrian visibility splays shall thereafter be retained and kept free from obstruction.

- 15) Prior to the first occupation of the development hereby permitted, a Travel Plan based on the principles set out in the submitted Travel Plan Framework dated May 2023 shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall then be implemented as approved.
- 16) No part of the development hereby permitted shall be occupied until the off-site highways works detailed on approved plan 3662-F01 Rev J have been implemented in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

APPEARANCES

For the Appellants

Christian Hawley

Counsel for the appellants, No.5 Chambers

He called:

Silke Gruner

(Character and appearance) Icen

John Mackenzie

(Planning) Gladman Developments Limited

Aidan Marsh

(Ecology) CSA

Ben Pycroft

(Housing supply) Emery Planning

For the Local Planning Authority

Ian Ponter

Counsel for the Local Planning Authority

He called:

Julia Casterton

(Ecology) North Yorkshire Council

Helen Golightly

(Character and appearance) North Yorkshire Council

Richard Wood

(Planning/Housing supply) Richard Wood Associates Limited

Additional contributions from:

Linda Drake

(Planning) North Yorkshire Council

Glenn Sharpe

(Legal) North Yorkshire Council

Interested Parties

Paul Acass

Local resident

Derek Cooper

Friends of Brayton Barff

Mark Crane

Local Councillor

Joan Dockery

Local resident

Stacy Gouldson (with son)

Local resident

Jennifer Hubbard

Local resident

Gale Levko

Local resident

Emma Piggot

Local resident

Edward Roberts

Local resident

INQUIRY DOCUMENTS

ID1 The Appellants' Opening Statement

- ID2 The Local Planning Authority's Opening Statement
- ID3 Letter to PINS from Hallam Land Management
- ID4 CIL Compliance Schedule
- ID5 Disputed Sites Table
- ID6 Brayton Barff Mitigation Costings
- ID7 Draft Planning Conditions
- ID8 4 Year Housing Land Supply Calculations
- ID9 Email from Persimmon
- ID10 The Local Planning Authority's Closing Statement
- ID11 Housing Land Supply Addendum to the Local Planning Authority's Closing Statement
- ID12 The Appellants' Closing Statement

Richborough