



Appeal Decision

Site visit made on 6 February 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2024

Appeal Ref: APP/U2750/W/23/3330845

Land at Church Farm, Knaresborough Road, Bishop Monkton HG3 3QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Kebbell Development Ltd against the decision of North Yorkshire Council.
 - The application Ref 21/01833/FULMAJ, dated 15 April 2021, was refused by notice dated 3 August 2023.
 - The development proposed is erection of 28no. residential dwelling and associated works.
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Decision

1. The appeal is allowed. Planning permission is granted for erection of 23no. residential dwellings including associated access, landscaping and drainage works at Land at Church Farm, Knaresborough Road, Bishop Monkton HG3 3QQ in accordance with the terms of the application Ref 21/01833/FULMAJ, dated 15 April 2021 and subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of the proposal in the formal decision above differs from that in the banner heading. The changed description, which appears to be in association with an evolution of the scheme from its initial submission is included on the Council decision notice and adopted on the appeal form of the appellant. I am satisfied that it adequately describes the proposal before me and this appears to have been agreed between the main parties.

Application for costs

3. An application for costs was made by Kebbell Development Ltd against North Yorkshire Council. This application is the subject of a separate Decision.

Main Issues

4. The first main issue is the effect of the loss of part of the hedge along Knaresborough Road on the setting of the Grade II Church of St John the Baptist (the Church). The second is the effect of the loss of that same part of hedge on the setting of the Bishop Monkton Conservation Area. The third main issue is whether the new dwellings would have any unacceptable impact on the local sewerage system including whether there has been any material change in circumstance since the adoption of the Harrogate District Local Plan (2020) (HLP).

Reasons

Setting - Church of St John the Baptist

5. The appeal site sits on the southern side of Bishop Monkton. Land levels fall downwards to the north of the site towards Bishop Monkton Beck (the Beck). Towards the northern end of the site, Knaresborough Road is set down beneath the appeal site. Beyond this, to the north-east sits the listed church within its own grounds. The church and its grounds sit within the Bishop Monkton Conservation Area, the main body of which containing the historic core of Bishop Monkton then extends north eastwards.
6. In considering whether to grant planning permission for development which affects a listed building or its setting I am required to have special regard to the desirability of preserving the setting of such buildings.
7. The church dates from the 19th Century built from coursed squared limestone including amongst other features a tower of three stages plus steeple. It forms an attractive and substantial building which has an imposing presence within this part of the village.
8. Given its location on the southern side of the village, the hedgerow which sits on the boundary of the appeal site closely to the south-west of the church forms a contributory feature to the pleasant and attractive semi-rural setting of the church. The evidence indicates that the semi-rural setting of the church has been a historic feature of the village which contributes positively to the setting and therefore significance of the Church.
9. The proposal would see the loss of a section of the existing established hedgerow on the south-western side of Knaresborough Road to accommodate a footway that could enter the appeal site further where the levels of the road and the appeal site are more closely aligned. Although new hedge planting is proposed, this would inevitably take a number of years to establish. The proposal would therefore harm the setting and therefore significance of the Church of St John the Baptist.
10. Policy HP2 of the HLP states that applicants should ensure that proposals affecting the setting of a heritage asset protect or enhance those features which contribute to its special architectural or historic interest. It also states that harm to elements which contribute to the significance of a designated heritage asset will be permitted only where this is clearly justified and outweighed by the public benefits of the proposal.
11. The harm would be less than substantial. Paragraph 208 of the Framework¹ along with Policy HP2 of the HLP require such harm to be weighed against any public benefits of the proposal.

Setting - Bishop Monkton Conservation Area

12. The significance of Bishop Monkton Conservation Area amongst other things sits with its attractive landscape setting. The Character Appraisal (CA)² at P.6 amongst other things when referencing significant field boundaries notes that hedgerows are distinctive features of the area, contributing positively to landscape character and interest.

¹ National Planning Policy Framework 2023.

² Bishop Monkton Conservation Area Character Appraisal October 2008 – Harrogate Borough Council.

13. The hedge on the southwestern side of Knaresborough Road, part of which would be removed, is identified as a significant field boundary/hedge at P17 of the CA. It is a long and established feature which frames this end of the Conservation Area contributing positively to the character and appearance of the Conservation Area.
14. The partial removal although even though replacement planting is planned would therefore harm the setting and therefore the significance of the Bishop Monkton Conservation Area.
15. The harm would be less than substantial. Paragraph 208 of the Framework along with Policy HP2 of the HLP require such harm to be weighed against any public benefits of the proposal.

Sewerage System

16. The site is allocated for housing within the HLP under Policy DM1. In terms of the drainage strategy for the development, foul water would be taken away from the site to connect with the existing foul network.
17. There is nothing within the evidence that confirms there has been any material change in circumstances with regard to the sewerage system since the site was identified for development within the HLP. Correspondence with Yorkshire Water (YW) during summer 2023 is brought to my attention in which YW acknowledge that the network is getting close to capacity. However, there is nothing to indicate that the situation was not similar at the time the development plan was adopted.
18. Whilst I have been provided with evidence of sewage escapes, YW have in turn indicated that some instances of escapes have been caused by blockages caused by the inappropriate use of the network. My attention has also been drawn to flooding events involving over spill from sewers within the village. However, these flood events may well have been associated with severe rainfall, considering the evidence before me and within that context it is not clear that any flows arising from this scheme would have any significant adverse impact when set in that context.
19. In any event, YW have not objected to the proposed development and consider that they would not expect a development of this size which includes provision for the sustainable management of surface water to add much pressure to the network. I afford their position substantial weight.
20. I note the extensive level of correspondence from interested parties, which I have considered, with regard to these matters. However, in the absence of firm and compelling evidence to the contrary, I can come to no other conclusion than that the proposal would have no unacceptable impact on the local sewerage system. There would therefore be no conflict with Policy NE2 of the HLP which amongst other things requires that all development should be demonstrably served by appropriate sewerage infrastructure and that there is sufficient sewage treatment capacity to ensure that there is no deterioration of water quality.

Other Matters

21. The vast majority of surface water associated with the proposal will be attenuated in an underground tank before being discharged at a restricted rate to the Bishop Monkton Beck. Surface water associated with the development would therefore be unlikely to worsen any existing flooding issues within Bishop Monkton above those which the evidence suggests the village does sometimes experience.
22. The evidence indicates that the planning obligation, which includes contributions relating to offsite open space provision and management, on site open space provision and Biodiversity Net Gain, a village hall contribution and affordable housing is necessary to make the development acceptable in planning terms. They are directly related to the development and fairly and reasonably related in scale and kind to the development. They therefore meet the tests within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and within the Framework.
23. There is nothing compelling to indicate that there would be any significant adverse impact on highway safety as a result of the proposal or any unacceptable impacts as a result of the highway alterations proposed including any verge loss and the traffic calming scheme.
24. There would be no unacceptable landscape or wildlife impacts as a result of the proposal, including that part which relates to the hedgerow and tree removal, whilst noting the differing positions over the status of the hedgerow adjacent to Knaresborough Road. The scale, form and design of the development would not be unacceptable within its setting.
25. There is nothing to indicate that the safety and security of local property would be adversely affected or that local water pressure would be significantly adversely affected. There is nothing to indicate that the proposal would increase flooding issues via runoff to an adjacent pond. I have not identified conflict with other policies relating to flood risk and water that have been brought to my attention. There is no firm evidence to indicate that the proposal would have any unacceptable impact on local water pressure.
26. With regard to ground stability, the Council indicate that the requirements of Policy NE9 of the HLP are satisfied with regard to this matter and there is no compelling evidence that would lead me to an alternative conclusion.
27. With regard to biodiversity, the evidence indicates an overall net gain. This and other evidence provided leads me to conclude that there would be no significant adverse impact on local biodiversity interests as a result of the proposal.
28. My attention has been drawn to an appeal decision reference APP/U1430/W/21/3283287 relating to a site in East Sussex. However, I have only been provided with 4 paragraphs from that decision in isolation and therefore my understanding of the scheme as a whole is limited. I cannot therefore be sure that I can draw direct comparisons between any requirements that may have been placed on that scheme compared to that before me. I therefore afford that matter limited weight.
29. The Council have not identified conflict with other HLP policies put before me and I have no reason to disagree.

Conditions

30. The standard time limit and plans conditions are necessary to define the consent. Conditions 4, 5, 17, 25, & 26 are necessary to ensure proper drainage of the site and reduce flood risk. Conditions 6, 7, 8, 15, 16, 18 & 19 are necessary in interests of highway safety. Condition 9 is necessary in the interests of living conditions of existing occupiers. Condition 10 necessary in interests of biodiversity of the site. Conditions 11, 12, 13, 14, 22, 24 & 27 are necessary in the interests of the character and appearance of the area. Condition 20 is necessary with regard to sustainability and the character and appearance of area. Conditions 23 & 28 are necessary to ensure safe development of the site.
31. Nothing has been provided to me which justifies the provision of a travel plan as a condition and the suggested condition in relation to that matter is not therefore included. A condition relating to electric car charging points within the development is not necessary as this is covered by the building regulations and requirements should not be duplicated.

Planning Balance and Conclusion

32. I have afforded the less than substantial harm to the setting of the designated heritage assets considerable importance and weight. Nonetheless, that harm is outweighed by the substantial economic and social benefits of delivering 23 dwellings, which would be enjoyed by many people over the years, a proportion of which would be affordable dwellings on a site which is allocated for residential development within the HLP.
33. There is nothing, including the provision of the Framework to indicate that the decision should be made otherwise than in accordance with the development plan. I have identified no conflict with the development plan and therefore the appeal is allowed.

T Burnham

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall not be carried out otherwise than in accordance with the submitted details set out below:

Location Plan – BMKH-PHS-XX-XX-DR-A-9001-S2 Rev P04

Proposed Site Plan – BMKH-PHS-XX-XX-DR-A-9003 Rev P27

Landscape Masterplan – JBAB-ZZ-CA-DR-L-3601-s4-P06

Planting Plan (1 of 4) – JBAB-ZZ-CA-DR-L-3601-S4-P01-Planting_Plan_01 – Rev 01

Planting Plan (2 of 4) – JBAB-ZZ-CA-DR-L-3603-S4-P01-Planting_Plan_02 – Rev 01

Planting Plan (3 of 4) – JBAB-ZZ-CA-DR-L-3604-S4-P01-Planting_Plan_03 – Rev 01

Planting Plan (4 of 4) – JBAB-ZZ-CA-DR-L-3605-S4-P01-Planting_Plan_04 – Rev 01

Boundary Treatment Plan – BMKH-PHS-XX-XX-DR-A-9002 Rev 09

Proposed Materials Layout – BMKH-PHS-XX-XX-DR-A-9005 Rev P10

Proposed EV Charge Point Locations – BMKH-PHS-XX-XX-DR-A-9008 Rev P05

Proposed Accessible/Adaptable Homes – BMKH-PHS-XX-XX-DR-A-9019 Rev P02

Public Space Management Plan – BMKH-PHS-XX-XX-DR-A-9020 Rev P01

Boundary Treatment Types – BMKH-PHS-XX-XX-DR-A-9012 Rev P01

Boundary Treatment Types Sheet 2 – BMKH-PHS-XX-XX-DR-A-9021 Rev P01

Sections Through Highway and Proposed Footpath – BM03-BGP-01-ZZ-DR-C-90-4-01107 Rev P01

External Works GA – BM03-BGP-01-ZZ-DR-C-90-4-01110 Rev P05

Proposed Traffic Calming – 100-SK-001 Rev D

House Type AHT1 – 2B4P – BMKH-PHS-XX-XX-DR-A-1024 Rev P04

House Type AHT1 – Pair – 2B4P – BMKH-PHS-XX-XX-DR-A-1030 Rev P01

House Type 11 – 3B5P – BMKH-PHS-XX-XX-DR-A-1011 Rev P06

House Type 11 – 3B5P Attached Garage – BMKH-PHS-XX-XX-DR-A-1028 Rev P02

House Type AHT12 – 4B6P – BMKH-PHS-XX-XX-DR-A-1021-S2 Rev P06

House Type AHT13 – 1B2P – BMKH-PHS-XX-XX-DR-A-1023 Rev P03

House Type 14 – 4B6P – No Garage – BMKH-PHS-XX-XX-DR-A-1029 Rev P02

House Type 14 – 4B6P – Attached Garage – BMKH-PHS-XX-XX-DR-A-1014 Rev P07

House Type AHT14 – 3B5P – BMKH-PHS-XX-XX-DR_A-1032 Rev P01

House Type 15 – 3B5P – BMKH-PHS-XX-XX-DR-A-1015 Rev P05

House Type 19 – 2B4P – BMKH-PHS-XX-XX-DR-A-1034 Rev P02

House Type AHT20 – 3B5P – BMKH-PHS-XX-XX-DR-A-1033 Rev P02

House Type 23 & 24 – BMKH-PHS-XX-XX-DR-A-1035 Rev P02

Garage Types – BMKH-PHS-XX-XX-DR-A-120 Rev P02

3. No development shall take place on the hatched area identified on Location Plan BMKH-PHS-XX-XX-DR-A-9001-S2 Rev P04.

4. The development shall be built in accordance with the following submitted designs:

Drainage Layout GA, Billingham George & Partners, Ref: BM03-BGP-01-ZZ-DR-C-52-01130, PO8, 11.04.202;

Impermeable Areas Plan, Billingham George & Partners, Ref: BM03-BGP-01-ZZ-DR-C-52-01101, PO5, 11.04.2023;

Flood Exceedance Plan, Billingham George & Partners, BM03-BGP-01-ZZ-DR-C-52-01102, PO5, 11.04.2023; and

Drainage Philosophy, Billingham George & Partners, Ref: 20T2198, Issue 006, 11/04/202).

The flowrate from the site shall be restricted to a maximum flowrate of 3.0 litres per second. A 30% allowance shall be included for climate change and an additional 10% allowance for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event. Principles of sustainable urban drainage shall be employed wherever possible.

5. No development shall commence until a detailed scheme for the maintenance and management of the attenuation tank has been submitted for the written approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details and the tank shall be maintained and managed in accordance with the agreed details for the lifetime of the development.
6. 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 must 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.
7. The following schemes of off-site highway mitigation measures, as indicated on Fore drawing 3255/100/SK001/D Proposed Traffic Calming, must be completed as indicated below:
- i) To provide a crossing point at the junction of St John Road & Knaresborough Road prior to occupation of the first property;
 - ii) To provide a chicane as shown in the scheme drawings at Knaresborough Road before the site entrance prior to occupation of the first property;
 - iii) To provide a footway from the development access to the play area opposite the site;
 - iv) To provide signage at the entrance of the village and along Knaresborough Road.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

8. There must 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 building(s) at Knaresborough Road until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) Vehicular, cycle, and pedestrian accesses;
 - ii) Vehicular and cycle parking;
 - iii) Vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and;
 - iv) Loading and unloading arrangements.

No part of the development must be brought into use until the vehicle access, parking, manoeuvring and turning areas at within the site 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.

9. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
 - i) Details of any temporary construction access to the site including measures for removal following completion of construction works;
 - ii) Restriction on the use of existing access on Knaresborough Road access for construction purposes;
 - iii) Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;

- iv) The parking of contractors' site operatives and visitor's vehicles;
 - v) Areas for storage of plant and materials used in constructing the development clear of the highway;
 - vi) Details of site working hours;
 - vii) Details of the measures to be taken for the protection of trees; and
 - viii) Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
10. A concise Construction Ecological Management Plan must be submitted for the written approval of the Local Planning Authority prior to the commencement of development. It must include (but not be limited to) measures for the avoidance of harm to protected and priority species (such as nesting birds, hedgehogs and toads) during the course of works, the provision of a sensitive lighting scheme and specifications (including locations) of integrated bat and swift bricks and access opportunities for hedgehogs. It should also include a copy of the GCN District Level Licence certificate from Natural England. The agreed CEcMP must be available on site, at all times during construction, for use by site managers and operatives. Work shall proceed only in accordance with the plan.
11. No operations shall commence on site in connection with the development hereby approved (including any demolition work, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the root protection area (RPA) works required by the approved tree protection scheme are in place.
12. Before any materials are brought onto the site or any development is commenced, the developer shall implement the agreed specification for root protection area (RPA) (as per Elliott Consultancy Impact Assessment dated March 2023) fencing in line with the requirements of British Standard BS 5837: 2012 Trees in Relation to Construction – Recommendations, or any subsequent amendments to that document, around the trees or shrubs or planting to be retained, as indicated on the approved plan and for the entire area as specified in accordance with BS 5837:2012. The developer shall maintain such fences until all development the subject of this permission is completed.
13. Notwithstanding the details on the drawings hereby approved, no works above slab level shall take place until an updated detailed scheme for landscaping, including the planting of trees and/or shrubs and the use of surface materials, shall be submitted to the Local Planning Authority. No development shall take place until the Local Planning Authority has approved such a scheme which shall specify materials, species, tree and plant sizes, number and planting densities, details of required crate systems specification and the timing of the implementation of the scheme, including any earthworks required. The landscaping of the site shall be carried out in accordance with the details hereby approved.
14. Before the first use of any materials in the external construction of the roof and walls of the development hereby approved, samples of those materials, including mortar sample and finish, shall have been made available for

inspection by, and the written approval of, the Local Planning Authority and the development shall be carried out in accordance with the approved details.

15. There must be no access or egress by any vehicles between the highway and the application site at Knaresborough Road until splays are provided giving clear visibility of 45 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.
16. There must be no access or egress by any vehicles between the highway and the application site at Knaresborough Road until visibility splays providing clear visibility of 2.0 metres x 2.0 metres measured down the side of the access and the back edge of the footway of the major road have been provided. 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.
17. No piped discharge of surface water from the application 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 submitted to and approved by the Local Planning Authority.
18. No part of the development to which this permission relates must 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 with 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 for the lifetime of the development.
20. Prior to occupation of the dwellings a scheme for the installation of solar panels to include details and timing of installation pre-occupation shall be submitted in writing for the written approval of the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.
21. Prior to occupation of any dwelling details shall be submitted in writing for the written approval of the Local Planning Authority to confirm that the solar panels have been installed in accordance with the approved details in condition 26 and certified in accordance with MCS standards (or any future such standards).
22. In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of

five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such number as may be approved by the Local Planning Authority.

23. The development must be carried out in accordance with the foundation design and mitigation included in the Ground Stability Assessment by Geo Investigate, reference G20280 dated April 2021.
24. Prior to the installation of any windows or doors, window and door design and section details shall be submitted for the written approval of the Local Planning Authority and the development shall be carried out in accordance with the approved details.
25. Notwithstanding details as approved by condition 4 (Drainage Layout GA BM03-BGP-01-ZZ-DR-C-52-01130 Rev P08), should any further alterations be considered necessary to levels on site, full details of existing and proposed site levels, finished floor levels and any changes to the surrounding landform must be submitted in writing to the Local Planning Authority and approved prior to any such changes taking place.
26. The ground levels must not be altered within Flood Zone 3 as shown on the Environment Agency Flood Map unless otherwise agreed in writing with the Local Planning Authority in conjunction with the Environment Agency.
27. The applicant is to retain, throughout the development process, including the proposed tree planting (as per the approved plans), the arboricultural consultant who is to forward a monthly progress report to the Local Planning Authority for approval. The progress report is required to demonstrate that the trees are being protected in accordance with the submitted detail, and any approved Method Statement or other documentation, during the course of the development. The retention of the arboricultural consultant will aid in the development process where it applies to trees in all forms e.g., no dig road, Root Protection Area enforcement and tree planting.
28. In the event that contamination not previously identified by the developer prior to the grant of this planning permission is encountered during the development, all groundworks in the affected area (save for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Groundworks in the affected area shall not recommence until either (a) a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been approved in writing by the Local Planning Authority.



Costs Decision

Site visit made on 6 February 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2024

Costs application in relation to Appeal Ref: APP/U2750/W/23/3330845 Land at Church Farm, Knaresborough Road, Bishop Monkton HG3 3QQ

- 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 Kebbell Development Ltd for a full/partial award of costs against North Yorkshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 28no. residential dwelling and associated works.
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Decision

1. The costs application is allowed in part and partial costs are awarded.

Reasons

2. The Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour on a substantive or procedural basis has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It is claimed that the Council have acted to delay development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. It is also suggested that the Council have failed to substantiate the reasons for refusal and have made vague and inaccurate assertions on the proposals impact.
4. I note that the site is identified for development within the Harrogate Local Plan (2020) (HLP). Whilst that is the case, it was perhaps not possible at that time to anticipate every detail of the resultant development scheme that would come forward on the site. I note that it appears some hedgerow loss was anticipated.
5. However, with regard to the first reason for refusal, the decision making of the committee on behalf of the Council appears clear on the basis of the evidence. Whilst it is not a position that I have agreed with, they were entitled, having considered the detailed scheme to come to that conclusion with respect of the impact of the proposal on the Church and Conservation Area whilst also weighing those against the public benefits of the scheme which are clearly identified within the evidence. I do not therefore find unreasonable behaviour with regard to that reason for refusal.
6. With regard to the second reason for refusal, there does not appear to be anything compelling within the evidence to indicate increased flooding and

sewerage escapes within the village since the adoption of the local plan to justify withholding planning permission on that ground. Even if there had been firmer grounds to oppose the development on that basis, the position of the committee with regard to the second reason for refusal is difficult to reconcile with the respective positions of Yorkshire Water and the Lead Local Flood Authority who have not objected to the development. Detailed and substantial grounds would have needed to be set out to reasonably come to an alternative conclusion. Such information was not included within the Council's statement of case with regard to this reason for refusal.

7. Therefore, the Council have behaved unreasonably with respect to the substance of the matter under appeal. There has been a failure to produce evidence to substantiate the second reason for refusal on appeal and vague and generalised assertions have been made about the impact of the proposal which are unsupported by any objective analysis.

Conclusion

8. Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to procedural matters relating to the process or substantive matters relating to the issues arising from the merits of the appeal. I find that the Council have behaved unreasonably with respect to the substance of the matter under appeal in relation to refusal reason 2.
9. I therefore find unreasonable behaviour that has resulted in unnecessary and wasted expense in the appeals process. A partial award of costs is subsequently justified with regards to costs associated with contesting refusal reason 2.

Costs Order

10. 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 Kebbell Development Ltd the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is 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.

T Burnham

INSPECTOR