



Appeal Decision

Hearing held on 27 November 2024

Site visits made on 26 & 28 November 2024

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/U2750/W/24/3347885

Land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Hallam Land Management Ltd, Messrs T & M Hey and Mrs D Hey against North Yorkshire Council.
 - The application Ref is 2022/0665/OUTM.
 - The development proposed is the development of up to 156 dwellings and associated landscaping and infrastructure works.
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Decision

1. The appeal is allowed and planning permission is granted for the development of up to 156 dwellings and associated landscaping and infrastructure works at land at Manor Farm, Chapel Street, Hambleton, Selby YO8 9JG in accordance with the terms of the application, Ref 2022/0665/OUTM, subject to the conditions in the attached schedule.

Preliminary Matters

2. As originally submitted the proposal was to be for '*circa 156 dwellings*'. However, the description was changed while the application was being considered to that given above, to confirm that 156 dwellings would be the maximum.
3. This is an outline scheme with all matters but access reserved for later consideration. I have therefore treated any details relating to landscaping, layout, scale and appearance as illustrative but informative. Moreover, at this stage the principal access to the site only is being considered. However, access within the site will be determined at a later stage and, as they are influenced by the scheme's internal layout, details of the pedestrian and emergency accesses to Mill Lane will be considered through conditions.
4. Government guidance and policy are found in the *National Planning Policy Framework* (the Framework), and the version dating from December 2023 was in place when the appeal submissions were prepared and the Hearing held. On 12 December 2024 a revised version of the Framework was issued, which superseded the one from 2023, and it is against this 2024 version that I have considered the appeal.
5. At the time of the Hearing the Council had an emerging local plan called the *Selby Local Plan* (the eLP), which it was proposing to take forward to

examination. However, following the publication of the revised Framework, the relevant Council Committees have resolved that work be halted on the eLP. In the light of this, it can be afforded no appreciable weight in the decision-making process, as there is now great uncertainty as to whether the policies and allocations it contains will ever be part of the adopted development plan.

Main Issues

6. The main issues in this case are
 - a) whether the development is acceptable in principle;
 - b) its effect on the supply of agricultural land;
 - c) its effect on the character and appearance of the area and heritage matters;
 - d) whether this is a sustainable location;
 - e) the impact on highway safety;
 - f) the delivery of affordable housing,and, if any harm would be caused by any or all of the above,
 - g) whether material considerations indicate a decision otherwise than in accordance with the development plan.
7. Of issues a) to f) only the last was raised as a point of contention by North Yorkshire Council (the Council), with the remainder arising through submissions from the Parish Council and local residents.

Reasons

The principle of the development

8. The Development Limits of Hambleton are defined in the *Selby District Local Plan* (the Local Plan), which was adopted in 2005 and is still in force. They mean that almost all of the appeal site lies adjacent to but outside of those limits, with only the access and the illustrative site for one dwelling shown as being within them.
9. Policy SP2A in the *Selby District Core Strategy* (adopted in 2013) (the Core Strategy) outlines the principles on which the location of further development will be based. Sub-section (b) of this policy says limited amounts of residential development may be absorbed inside Designated Service Villages, of which Hambleton is one. As nearly all of the site though is not '*inside*' the village (as defined by the Development Limits) this provision is not applicable. Instead, Core Strategy Policy SP2A(c) addresses development in the countryside (outside of Development Limits), and says it shall be restricted to a number of specified types. None of these apply to this scheme, so it would not be in accordance with that policy.
10. Core Strategy Policy SP5 aims to deliver 1000 houses '*in*' the 18 Designated Service Villages. However, this delivery was to be directed by a Site Allocations document that never came forward. Assuming this policy is

seeking to direct housing within the Development Limits or onto allocated sites, again this scheme does not fall under its terms.

11. Accordingly, I conclude that by being substantially outside of the Development Limits this scheme would be in conflict with Core Strategy Policy SP2.

The effect on agricultural land

12. Core Strategy Policy SP18 seeks to steer development to areas of least agricultural quality. The Framework then says there should be recognition of the economic and other benefits of best and most versatile farmland, which it defines as farmland in grades 1, 2 and 3a of the Agricultural Land Classification (ALC).
13. The site at the moment comprises 2 large arable fields, with a complex of farm buildings in its north-western corner and meadow to the north. While it is agreed the site is within grade 3 of the ALC, it has not been confirmed whether it is of grade 3a or grade 3b standard.
14. If it falls in grade 3b, the details submitted seem to imply there are few areas in the District that are of a lesser quality, and so there would be no conflict with either Core Strategy Policy SP18 or the Framework. However, if it is in grade 3a there could well be grade 3b land elsewhere in the District and so a conflict would exist with Core Strategy Policy SP18. Moreover, taking it out of agricultural production means it could well be contrary to the Framework.
15. Accordingly, in the absence of any confirmation of the precise grade of this agricultural land, I conclude it has not been shown there would not be a conflict with Core Strategy Policy SP18 or the Framework.

Character and appearance

16. Core Strategy Policies SP18 and SP19 seek development that would protect the natural and historic environment and have regard to local character, including the open countryside. Local Plan Policy ENV1 highlights the need to consider the development in the light of features important to the character of the area.
17. The 2 fields that form the bulk of the site sit side-by-side, separated by a hedge, and run northwards from the site's southern boundary with Mill Lane. The complex of agricultural buildings at their northern end stand in a yard with equipment and apparatus associated with such a use, and they range from being relatively old and brick-built, to being large modern utilitarian structures. There is also the meadow, separated from the fields by broken planting, while the area subject of the appeal is substantially bounded by hedging of varying quality. As such, the site itself has a rural appearance that reflects that of the fields to the south.
18. While clearly the landscape around Hambleton is treasured by village residents and others, it is not a 'valued' one under the terms of the Framework. Furthermore, it is not currently an area of tranquillity. There is a Locally Important Landscape Area (a LILA) around Hambleton Hough to the south-east. In the eLP the intention was to expand that up to the south side of Mill Lane, across the road from the development, but even if that were to occur it still would not extend into the appeal site.

19. Building a housing estate on what is now open fields and ancillary land in the countryside would be changing the rural nature of the site itself, and would be expanding the built form of the village, taking it outside of its existing visual edge that runs along the site's west side. In this regard there would be some conflict with the policies cited above. I am aware though that in localised views from Mill Lane to the south or from Gateforth Lane to the east, the site, although clearly agricultural, is seen very much in the context of the modern housing to the west, and this reduces any sense of encroachment into the countryside.
20. The Development Limits of the village come up to Mill Lane on the west side of the site and nearly to the lane to its east, but in between those they appear to run into the settlement. As a result, an area of countryside, as defined by the Development Limits, extends well into Hambleton, and this area, which comprises mainly the appeal site but includes a smaller field as well, is substantially surrounded on 3 sides by built form. Furthermore, Mill Lane and Westcroft Lane form a strong boundary along the southern side of the village. Therefore, while the scheme would constitute an expansion of the settlement into what the development plan defines as the countryside round Hambleton, when seen in the context of the wider landscape it would not be perceived as an undue expansion, or as reducing any gap to a neighbouring village. Rather, in my judgement it would be a logical extension to the existing built form.
21. Hambleton Hough, a little to the south, is one of 2 pronounced hills (along with Brayton Barff) in this otherwise relatively flat landscape. There is public access to the summit and, from there, there are extensive and exhilarating views over the surroundings. In those, Hambleton forms part of the patchwork of settlements and agricultural land that can be seen. It is apparent in the foreground as a relatively linear village near to, but separate from, both Hambleton Hough and the designated LILA.
22. Although the scheme would bring the village slightly closer to this hill and the current extent of the LILA, it would still be clearly and distinctly separate from both of them. Increasing the LILA in the manner proposed in the eLP would mean that designation would be nearer to the site than at present, but this would not result in a material change in the contribution the village makes to the landscape when seen from Hambleton Hough. I am unaware of the reasons behind the extension of the LILA, but I consider any benefit it had concerning Hambleton Hough and its setting would not be harmed by the development before me. Indeed, whilst houses to the west of the site back onto Mill Lane with their rear elevations close to the road, opportunity exists for the proposal to be an outward-facing scheme, with houses set a minimum of 20m back from the carriageway edge to maintain a softer boundary on this side.
23. In the eLP it was proposed to allocate this site for housing, with an indicative capacity of 128 dwellings, some 28 less than the maximum now proposed. However, I have little to show how the figure of 128 units was established. I accept too that, while the road layout on the illustrative plan accompanying this submission before me allows views to Hambleton Hough, the housing is sited with a certain monotony. The precise layout though is to be considered formally at Reserved Matters stage, and on the information presented I have no basis to find 156 dwellings could not be suitably accommodated.

24. The scheme would necessitate the loss of many of the agricultural buildings now on site. In views from Mill Lane and from Hambleton Hough it is mainly the larger, modern utilitarian ones that are apparent. I consider these are not particularly attractive due to their scale, their materials, and their functional design. However, as buildings clearly associated with agriculture they are a visually accepted part of the countryside. They also illustrate the village's agricultural origins, although other buildings dotted throughout the village, often more prominently and with more heritage significance, do likewise. On balance I therefore consider their loss has a neutral effect in my assessment of this issue.
25. Turning to the effect on Chapel Street, at its northern end it has 2 arms that connect with the main road through the village (the A63), with some older agricultural/commercial buildings on the central triangular island and to the west. Travelling towards the appeal site it is then bounded by relatively simple houses and cottages of various designs that reflect the age and evolution of Hambleton, with the chapel and associated Sunday school opposite the proposed access and the older Garth House beyond. Moreover, the front boundaries of these properties tend to comprise walling, often with hedging above, though the height and style of the walls varies. Despite this variety, they nonetheless accord with the character of the buildings behind. On the east side, passing the appeal site, there is a long stone wall, again often with a hedge projecting above, that runs right round to Garth House though is punctured intermittently by various driveway openings. The length and uniformity of this wall brings a certain unity to the streetscape.
26. To the south of the intended site access and beyond Garth House, the character of Chapel Street changes. With the exception of isolated examples such as Mulberry Cottage, the road becomes dominated by modern suburban housing.
27. Overall, although not a conservation area, from Garth House northwards Chapel Street reflects the village's age, and its organic growth over the centuries as a small rural settlement.
28. The scheme proposes forming the principal access to the site through this long stone wall on the east side of the road. As part of these works, sections of the wall to either side of the access would be taken down and rebuilt a little further back from the carriageway in order to widen the pavement and allow sight splays, while the existing access further south would be infilled with a sympathetic length of walling. The existing planting now behind the wall where the access is to go would be removed to facilitate the road, while the illustrative plan shows one dwelling could be built there. Otherwise, the housing development would not be prominent from Chapel Street, as it would be set well back.
29. These works would inevitably involve some change in the appearance of the streetscape. However, if the existing entrance were to be closed up and the wall rebuilt sympathetically (matters that could be controlled by condition), this change need not be harmful, but would be in keeping with the evolving nature of the road.
30. The only designated heritage asset nearby is the Grade II listed Garth House. Dating from the early- to mid-18th Century, this is a 2-storey dwelling, which was probably a farmhouse originally, and has attractive detailing in its

brickwork and windows. Although subsequently extended, these alterations do not diminish the pleasing nature of its front elevation in particular, which contribute to its special architectural and historic interest. Accordingly, its significance is partly architectural, in the detailing and proportion it displays, and partly historic, as it reflects the agricultural past of the site.

31. From the north its frontage is visible for a length of Chapel Street, as it stands near to the outside of a bend, though in my opinion it only becomes a dominant element of the streetscape when approaching the Sunday School building. In these views though I accept it has a striking presence. However, to a certain extent works in its setting have already compromised its historic significance, as it now has new housing on Chapel Close and Rosewood Vale to one side and partly behind, while a new house sits between Garth House and the site's existing access. Furthermore, as stated above, having passed Garth House Chapel Street then has the character of a modern housing area. As such, its connection to agricultural land is now very much diminished.
32. The Framework says heritage assets are an irreplaceable resource. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset, including to its setting, requiring clear and convincing justification.
33. At the rear of Garth House, some of the old range of farm buildings on the appeal site that run along much of this dwelling's boundary would be restored and retained. This would maintain the enclosure that currently exists and minimise the introduction of the modern suburban elements of the development into the rear garden area of that listed building.
34. When looking from Chapel Street, the closest parts of the scheme to the frontage of Garth House would be the infilling of the existing access to the site, and the landscaping of the area behind. As stated above, the wall would also be demolished and rebuilt further from the carriageway to either side of the new access, while any house built to the north of the access could be set back. These works though would be a suitable distance from the listed building, and would be rebuilt in sympathetic detailing. Therefore, as Garth House now stands in what is, to a great extent, a suburban context, harm would not be caused to its significance.
35. In assessing this matter I am aware it was said Garth House would be positioned between 2 roads, namely Chapel Close/Rosewood Vale on one side, and the access to the appeal site on the other. However, given the distance to the proposal's entrance, noting the intervening dwelling, and taking account of the screening effects of the retained range of buildings, to my mind that is not how the property would be perceived.
36. I am not satisfied that a condition requiring archaeological investigation is justified on this site.
37. Accordingly, I conclude the works would not harm the significance of the listed building, or fail to have regard to the desirability of preserving its special architectural or historic interest. As such, in this regard it would not conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, or the Framework.

38. However, I also conclude that some harm to the character or appearance of the countryside would result from building on these fields, though this would be limited by the manner in which the site is generally surrounded on 3 sides by built form. Nonetheless, in this regard there would be some conflict with Core Strategy Policies SP18 and SP19, Local Plan Policy ENV1, and the Framework, though beyond this I have found no harm to the wider landscape.

Sustainability

39. The Framework says significant development should be focussed on locations that limit the need to travel and offer a genuine choice of transport modes. Priority should therefore be first given to pedestrian and cycle movements and second – so far as possible – to facilitating access to high quality public transport. Overall, when applying this Government guidance, to my mind it does not mean new houses should be limited to places where all the needs of their residents could be met entirely by a choice of transport modes other than by private motorised vehicles, as there would be few if any undeveloped sites with such a level of accessibility in the District. Rather, the guidance is qualified to a certain degree, and there is an acceptance of sites being developed even though future occupiers would be reliant, to some extent, on the private car. This is acknowledged by the Framework recognising that opportunities to maximise sustainable transport solutions will vary between rural and urban areas.
40. By identifying Hambleton as one of the District's Designated Service Villages, the supporting text to Core Strategy Policy SP2 says it has '*a good range of local services*' and so can accommodate further '*limited*' growth. Indeed, only the settlements of Selby, Sherburn in Elmet and Tadcaster are deemed hierarchically superior to the Designated Service Villages, although 3 of these Designated Service Villages are highlighted as '*particularly sustainable*'. I recognise that by being outside of the Development Limits it could be argued that the hierarchy in Core Strategy Policy SP2 is not applicable. However, the policy approach gives an indication of the relative service strength of Hambleton, while the accessibility to these services is not necessarily defined by a site's position relative to Development Limits. In these regards, the policy is therefore relevant.
41. This position is reflected in the eLP, which identified Hambleton as a Tier 1 village, again below only Selby, Sherburn in Elmet and Tadcaster. Whilst work on that plan is halting, it nonetheless implies that, in the Council's opinion at least, the relative status of the village has not changed.
42. The '*limited*' growth to which Core Strategy Policy SP2A(b) refers has no definition. Although local residents consider that, when taken with other recently approved development, the scheme is disproportionate in relation to the village, the Council, in interpreting its own policy, has not said it cannot be considered as '*limited*'. Given this, and having regard to the evidence before me, this is a view I share.
43. Hambleton has a convenience store, a primary school, 2 public houses, a village hall and places of worship. Despite it being outside of the Development Limits, from the appeal site these services are reasonably accessible on foot. They are not extensive though. My attention was drawn to no health provision in the village, education above primary school level is not available, the shop, although maybe offering day-to-day top-up goods, does not cater for more

extensive retail needs, the faith options are limited and there are few opportunities for employment or entertainment.

44. Inevitably, for these, residents would need to travel further afield to larger settlements around. Given the distances involved, the nature of the roads and the limited pavements, many residents would be unable to cycle or walk to them. For others it may be possible, but the speed of traffic, the poor lighting and the nature of the pavements would make them reluctant to embark on such journeys. Indeed, even if they did so on pleasant days or when their journey was not demanding, it is unlikely they would cycle or walk those routes in inclement weather, when dark, when having a tight timescale to meet or, for example, when wanting to do a large shopping trip. Overall, few if any would regularly make these trips on foot or on a bicycle.
45. Whilst there is a bus service, this is limited with, broadly speaking, a bus in each direction every 2 hours or so through the working day, and no mid/late evening or Sunday service. As such, it offers limited opportunity to overcome the village's deficiencies in relation to these matters.
46. Given the nature of the District though, precluding sizeable housing from a settlement with this level of service provision or even slightly greater, could well result in an undue focussing of housing onto Selby, Sherburn in Elmet and Tadcaster, which is something the development plan appears to seek to avoid through Core Strategy Policy SP2A. Although the Parish Council said that Hambleton had had '*more than its fair share*' of new housing, in the absence of a policy context to say otherwise it is not for me to assess the merits of a distribution across the District, but rather to consider whether this scheme would be acceptable on this village.
47. Moreover, the appellants have sought to upgrade the attractiveness of alternative transport modes through contributions to the bus service and the cycle way in the agreement under Section 106 of the Act (the S106 Agreement). The bus contributions would constitute about 40% of the sum necessary (at today's prices) to allow more services to run in the evenings and on Sundays over the next few years. Such improvements would increase the likelihood of public transport being used. I therefore consider the contributions to be reasonable and necessary, and so would comply with Regulation 122 in the *Community Infrastructure Levy Regulations 2010* (the Regulations).
48. A cycle contribution would be put towards improving cycle links between the village and Selby, by creating a dedicated, lit, cycleway. I was told this cycleway was still at a relatively early stage, as there was some detailed design work to do, and third party land to be obtained by compulsory purchase powers, but it was hoped to start construction in the next 3-4 years. Balanced against this, I recognise that such schemes take a long time to evolve and if its delivery was imminent it would probably be adequately funded already. I accept that it is most unlikely the cycleway would be in place before the first occupation of this development. I am satisfied though that the scheme is sufficiently advanced to mean that, even if there is some slippage in the timetable I have been given, there is a reasonable prospect the cycleway will be in place soon after, and so would be available for future residents to use in the years ahead. On balance, I therefore accept that the stated contributions would also accord with the Regulations.

49. The S106 Agreement delivers a Travel Plan with its monitoring as well. That again can only be an encouragement for future residents to embark on sustainable travel, and so, once more, accords with the Regulations.
50. Drawing all the above together, I find that Hambleton offers a basic range of facilities and services that would, to a greater or lesser extent, partially meet the day-to-day needs of the future residents, and would be reasonably considered as walkable from the scheme. Furthermore, '*further limited growth*' is accepted in this village, whilst the appellants are making contributions that would, in time, encourage using modes of transport other than the car that would be a benefit to the wider community. The scheme would nonetheless result in a reliance on private motorised transport to a degree as residents travelled further afield to access what was not provided locally. On balance though, given the policy context, what is offered in the village, and its relative status in relation to other settlements in the District, I conclude the site has not been shown to be deemed an unsustainable location, and in this regard the development would not conflict with Policy SP2 in the Core Strategy, or with Core Strategy Policies SP15 and SP19, which aim to facilitate sustainable access modes.

Highway safety

51. Chapel Street is relatively straight and wide at this point, and so, once the boundary wall has been realigned, visibility for drivers leaving the site would be satisfactory. I have no reason to consider that the introduction of this access would compromise the safety of children walking along Chapel Street as they are going to or coming from the school bus, as crossing estate roads such as this is not an inherently dangerous activity, and indeed is one they would quite probably have to do anyway elsewhere in their journey to or from their home.
52. When visiting the site I saw a number of cars parked at the kerbside in connection with a children's group at the chapel, and I understand such parking often occurs for people attending events and services there. The opportunity for this would be affected to some degree by the new access. However, it could occur elsewhere along the kerbside, and Chapel Street is not heavily trafficked. Consequently, I consider that, even with the additional flows associated with this scheme, any effects on the use of the road for parking would not be unacceptable. It was suggested that, through a condition, parking spaces for the chapel users could be secured on the site in front of the agricultural buildings the appellants are proposing to retain. I have no details of this though and am not satisfied that this would not fetter, to some degree, any future uses for those buildings. In any event, given the nature of Chapel Street and its capacity for kerbside parking, it is not something that I consider is necessary to make the scheme acceptable.
53. Through the conditions there would be opportunity to ensure the emergency access to Mill Lane had adequate visibility. Although the national speed limit applies to that road, given its character I consider it unlikely that much traffic would be travelling at or near 60mph.
54. A wider concern was raised by local residents about the congested and busy nature of the road network in general and the A63 in particular, and the additional pressures that would arise because of the scheme. I accept that the A63 is busy through the village, with roughly 1100-1200 vehicle movements

during peak times. This scheme would inevitably add to those, but I have no evidence to show the residual cumulative impacts on the road network would be severe.

55. More particularly though it was said that joining the A63 from Chapel Street, and especially turning right towards Selby, was difficult because of the heavy traffic. It was contended that, as a result, drivers would then use Mill Lane instead, and either go along Gateforth Lane or continue along Field Lane, with the latter lacking pavements and streetlights and so compromising the safety of pedestrians, cyclists and horse riders. However, I have no decisive evidence to demonstrate that the Chapel Street junction with the A63 was dangerous. I am also not persuaded that any displaced flows onto Mill Lane, Gateforth Lane, Field Lane or the other roads on this side of the A63 would be so great as to be harmful. I note that, although popular with walkers going to Hambleton Hough and maybe children and parents going to school, Mill Lane has a pavement. Whilst this may be narrowed by the hedge, that is a matter of maintenance and does not offer me a basis to find this pavement is unsafe. Moreover, I have no reason to consider Field Lane and the lanes beyond are used to a significant extent by pedestrians, cyclists or horse riders, or that this scheme would have a material effect on traffic passing along them. In any event those roads are typical of the countryside, and, irrespective of the proposal, all the various users have to take into account the presence of each other.
56. Accordingly I conclude the development would not adversely affect highway safety, and so would not conflict with Local Plan Policies T1 and T2, and the Framework, which all seek to protect highway safety and avoid severe cumulative impacts on the road network.

Affordable housing

57. Policy SP9 in the Core Strategy says

the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings. ... The actual amount of affordable housing ... to be provided is a matter for negotiation at the time of a planning application.

This figure of 40% seems to have been based on an assessment that pre-dates the Core Strategy, and appears to be from around 2009.

58. However, in 2022 evidence was prepared on behalf of the Council by Aspinall Verdi consultants (the Aspinall Verdi report) to inform Policy HG7 in the eLP, and this says it considers a greenfield delivery of 10% affordable housing to be viable in this area of Hambleton (what it calls a 'low value' area), though elsewhere in the District, in 'high value' areas, 20% could be secured. It was said that the discrepancy between Core Strategy Policy SP9 on the one hand and the Aspinall Verdi report on the other was because the latter took into account costs specific to the eLP. However, it has not been shown these differing costs have had a material effect on the figures in this case.
59. Core Strategy Policy SP9 could be read as requiring developers to provide 40% affordable housing unless they can show a lesser amount is justified. However, given the recentness of the evidence in the Aspinall Verdi report

when compared to that informing the Core Strategy, I consider this report constitutes a material consideration to which I should attach significant weight in my assessment of affordable housing delivery, as it better reflects the current situation. Having said that, Core Strategy Policy SP9 seeks '*up to a maximum*' of 40% affordable housing, so acknowledging a lesser amount could be acceptable. As such, if viability evidence was forthcoming to show accord with the Aspinall Verdi report, the resultant level of delivery would not be contrary to Core Strategy Policy SP9.

60. The appellants have submitted a viability appraisal and, based on that and with roughly an 18% profit, they say a delivery of 10% affordable housing is viable. This appraisal was tested on behalf of the Council, and, while that testing agreed that 40% was unviable, it deemed 30% delivery was possible. At the Hearing it was confirmed that the reason for the discrepancies lay mainly in the assumed Gross Development Value (the GDV) and, to a lesser degree, in the stated abnormal costs¹.
61. As a starting point, such appraisals and testings, although professionally undertaken, nonetheless involve subjective judgements being made. They are clearly not an exact science, and merely because 2 professionals come to different views, it does not follow that either is necessarily wrong. Moreover, I am aware that the figure of 10% proposed by the appellants is in line with the findings of the relatively recent Aspinall Verdi report. Indeed, in the summaries in that report I saw no encouragement to use 10% as the point where negotiations for a higher figure begin, and indeed such an approach would remove any certainty or confidence from the process.
62. The Council also pointed out that, although the Aspinall Verdi report places the site in a 'low value' area, it was close to a 'high value' one, thereby implying regard should somehow be given to its proximity to the latter. Again though I saw nothing in the parts of that report before me to indicate that such a fluid approach should be applied near to the borders of these different areas. In any event, the 30% figure offered on behalf of the Council is appreciably in excess of what the Aspinall Verdi report advises for even the 'high value' areas.
63. Turning to the GDV, the appellants arrived at their figure by looking at sales prices of 2 or 3 years ago from a similar new estate in Hambleton, and then used recognised indexing to make them comparable to today's prices. The Council's testing, in contrast, has used up-to-date sales prices, albeit from other towns and villages in the area. This was partly because the Hambleton prices were not as recent, but also because it was said the gardens on the new estate in the village were smaller than now proposed, and the open space was not as accessible, and these factors would affect the relative house prices.
64. I am aware though that the other settlements used by the Council will inevitably have different 'push' and 'pull' factors for potential purchasers when compared to Hambleton. For example, they might be under the influences of other larger settlements, have better or worse access to the motorway network, offer a greater or smaller number of services, or have a housing stock of a different mix, with more or less newer housing. All these things

¹ The Council also said the appellants' assumption of 20% profit was too high. This was the assumption within the appellants' appraisal, but with that the appraisal showed the scheme not to be viable at 10% delivery. At the Hearing the appellants confirmed that reducing the profit to around 18% would mean viability could be achieved.

could influence the prices people were willing to pay for properties. Furthermore, although I have only illustrative details of the layout for the development before me, and little knowledge of the garden areas and open space provision for the new estate in the village, from what I could see I do not anticipate any material differences in these regards between the 2. To my mind I am therefore persuaded that, on balance, the appellant's preference for relying on Hambleton, albeit with necessary adjustments to price, is a more favourable one in this instance.

65. With regard to the abnormal expenses, although the site is broadly flat I noted the difference in land levels between the 2 fields that would need appropriate earth movements, and I also accept the appellants' comments concerning the need to dispose of the soil.
66. Overall, whilst I have noted the assumptions and approaches made and taken on behalf of the Council in testing the appellants' appraisal, they are not sufficient to show that, having regard to abnormal costs, economic viability and other requirements, I should not accept the appellants' assertion that only 10% affordable housing delivery on this site is justified.
67. The commitment to deliver this amount of affordable housing was included in the S106 Agreement. Given the policy context and my reasoning above, I consider this satisfies the requirements of the Regulations.
68. The Council raised the possibility of revisiting the affordable housing delivery levels as part of the reserved matters, when precise housing styles and sizes were known. Such an approach though means there was no need to have undertaken such work at this stage. Moreover, to my mind the delivery rates are matters better resolved when outline permission is sought, to bring a degree of certainty to the developer as they move forward. As such, revisiting this issue is not something I have pursued.
69. Accordingly, I conclude that the delivery of 10% affordable housing has been supported having regard to abnormal costs, economic viability and other requirements, and so is in accordance with Policy SP9 in the Core Strategy.

Other matters

70. As well as the matters discussed above, in the S106 Agreement it is proposed to make education contributions to allow the village school to accommodate the scheme's children. Despite comments to the contrary from local residents, I have no firm reason to find this could not be achieved. Further education contributions are also provided to deliver facilities at secondary schools serving the development and also towards the Special Schools and early years provision. Moneys are to be given too for capital improvements at the local surgeries as well as to the Council to monitor the Travel Plans and First Homes provision, and to contribute to waste and recycling. Moreover, the S106 Agreement secures the open space and the delivery of self/custom-build housing.
71. Given the policy context and the evidence before me, I consider these comply with the Regulations.

Other material considerations and planning balance

72. I have therefore found harm would be caused by the scheme being outside the defined Development Limits, by its effect on the character and appearance of the area, as well as, possibly, by the loss of best and most versatile farmland. Each of these gives rise to development plan conflict. As stated above though, the weight afforded to the policy conflict concerning the scheme's effect on the character and appearance of the area is limited, as being substantially surrounded on 3 sides any sense of encroachment into the wider countryside would be restricted. In considering the policy conflict resulting from the possible loss of best and most versatile land, I am aware it concerns a relatively small area and so any adverse effects in this regard would not be great. Despite these comments though, I nonetheless accept a policy conflict exists for each of these 3 issues.
73. However, section 38(6) of the *Planning and Compulsory Purchase Act 2004* refers to a balance, saying development should be in accordance with the development plan unless material considerations indicate otherwise (my emphasis). Therefore, whilst the primacy of the development plan remains and its status is unaffected, clearly there is the possibility of instances arising where a scheme is allowed despite development plan conflict. To assess that requires a judgement by the decision-maker based on the relative weights they afford to material considerations.
74. The appellants have offered a number of material considerations that they consider weigh in favour of their scheme. First and foremost is the Framework's emphasis on significantly boosting the supply of houses, which is given without reference to the level of housing provision that a District may, in fact, be able to offer. Clearly this case would deliver an appreciable number of additional homes and so would positively assist in that regard.
75. Furthermore, reference was drawn to paragraph 11d) of the Framework. In relation to this scheme, this states that where the policies which are most important for determining the proposal are out-of-date (including situations where the local planning authority cannot demonstrate a necessary housing land supply) permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (paragraph 11d)(ii)).
76. Turning first to the most important policies, the Council accepted that Core Strategy Policy SP5 was out-of-date as the site allocations document on which it so heavily relied had never materialised, and this is a view with which I agree. Furthermore, the weight I afford to a conflict with Core Strategy Policy SP2A(c) is diminished as it does not include the more nuanced approach to the consideration of development that is found in the Framework.
77. Moving on to the housing land supply position, when the submissions were made, and indeed when the Hearing was held, the version of the Framework in place then said, because of the stage the eLP had reached, the Council needed to demonstrate it had a 4-year housing land supply. This the Council considered it could achieve, as it contended it had a housing land supply of some 4.9 years using the methodology in place at the time. Consequently, Framework paragraph 11d)(ii) was not then engaged. However, the 2024 version of the Framework rescinded the circumstance where only a 4-year supply was required, and so a 5-year housing land supply is currently needed.

Moreover, when assessed against the revised approach now found in Government policy and guidance, the Council accepts it has a shortfall in deliverable housing sites of some 2.4 years (with a supply of about 2.6 years). I consider this shortfall to be appreciable. As a result, Framework paragraph 11d)(ii) is engaged.

78. In the light of this shortfall the Council acknowledges that there is an immediate need for additional general market housing and its delivery is of significant benefit in the planning balance. This is a view I share. To my mind the provision of up to 156 houses is a significant benefit in the face of this shortfall, and is something to which great weight should be attached.
79. Further benefits of the scheme are the delivery of affordable and self-build housing. Once more, the Council accepts an immediate need for additional affordable housing, and its delivery is a significant benefit in the planning balance. I concur and afford significant weight to it and to the delivery of self-build housing. The contribution to public transport will benefit the wider community and so again is a matter to which significant weight is given. There will also no doubt be economic benefits both during the construction phase and once the houses are occupied, and these are afforded moderate weight.
80. I therefore find that, on balance, the adverse impacts of the scheme identified above would not significantly and demonstrably outweigh the benefits that arise from the delivery of additional housing in the face of an appreciable shortfall and from the other material considerations listed. As such, whilst I acknowledge development plan conflict, material considerations indicate the decision should be otherwise than in accordance with the development plan.

Conditions

81. For the avoidance of doubt, conditions should be imposed concerning the commencement of the permission and the submission of Reserved Matters. For this reason the scheme should be in accordance with the access details shown on the submitted drawings, and also reflect the parameters plan.
82. In order to avoid adverse effects during the construction phase in relation to highways matters, neighbouring living conditions and the general environment, the working method, including a noise assessment and regard to vibration, needs to be agreed before works commence. Given such assessments, it is unnecessary to stipulate noise levels at neighbouring properties at this stage. Phasing plans (if necessary) should also be agreed.
83. Having regard to highway safety, the new access needs to be formed, with sight splays, before other works are undertaken and the old access stopped up soon after. Details should also be agreed of the proposed emergency and pedestrian accesses to Mill Lane, with details of how the use of the former would be restricted to emergencies only. Then, apart from that Mill Lane access and any access approved for construction, access should be solely from Chapel Street. Internal circulation roads and paths should also be provided to serve the new houses.
84. Mindful of the character and appearance of the area the walling along Chapel Street should be rebuilt, and remediation works for the range of buildings to

be retained should be approved so as to ensure their survival. Housing should also be set back a minimum of 20m from Mill Lane to maintain a soft frontage.

85. The design, delivery and management of foul and surface water drainage and also the SuDS scheme should be secured. In the case of the SuDS scheme, it is also necessary to secure a maximum discharge rate. However, whilst these matters are tackled under suggested conditions 19-24 and suggested condition 26, I consider they can be simplified. Finally, housing to wheelchair user standard should be provided and an assessment of potential contamination should be made. If unexpected contamination comes to light during construction, that can be addressed under other legislation.
86. Turning to the other suggested conditions, the housing mix would be apparent at Reserved Matters stage, and so does not need separate controls. Water draining onto the highway can be addressed when considering the road construction more generally. I also see no reason why all the dwellings hereby approved need be safeguarded from existing sources of environmental noise beyond the levels of protection delivered by other legislation, while the need for health impact screening has not been demonstrated. Finally, once remediation works to the range of existing farm buildings have been secured, their future use is a matter that can be addressed at a later date.
87. Conditions were also suggested concerning tree protection, design, parking, internal site circulation, the removal of 'permitted development' rights, levels, foundations, materials, landscaping, ecology and public open space delivery. Whilst these may well need to be controlled by condition, if that is to occur I consider it should take place under the Reserved Matters.

Conclusion

88. Accordingly, for the reasons given above I conclude the appeal should be allowed.

JP Sargent

INSPECTOR

Conditions Schedule

- 1) Details of the appearance, landscaping, layout, and scale (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) Unless otherwise amended under the conditions below, the development shall be in accordance with Drawings 31022 100-P-001A and 31022 100-P-002A, and shall reflect the form of development shown on Parameters Plan Rev A (dated July 2024).
- 5) No development hereby permitted shall take place until details of the following, in respect of the construction phase, together with a timetable for their implementation and retention, have been submitted to and approved in writing by the local planning authority:
 - a) The points of access to be used.
 - b) The area for loading/unloading plant and materials.
 - c) The area for storing plant and materials.
 - d) Any security hoarding around or within the site.
 - e) Wheel washing facilities.
 - f) Measures for controlling the emissions of dust.
 - g) Measures for controlling the effects of vibration and noise disturbance on neighbouring residents.
 - h) The positioning of any gates to the site.
 - i) External lighting.
 - j) The hours of working.

The development shall then be implemented in accordance with the approved details and timetable.

- 6) If the development is to be implemented in a phased manner, details submitted with the Reserved Matters shall include a phasing plan. Once approved, the development shall then be implemented in accordance with the approved phasing plan.
- 7) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority to demonstrate that 3% of dwellings will be built to Building Regulations M4(3) 'wheelchair user' standard. The development shall then be implemented in accordance with those approved details.
- 8) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of the construction of all roads and footways in the development, along with a timetable for

their implementation. All roads and footways shall then be constructed in accordance with the approved details and timetable.

- 9) Accompanying the Reserved Matters, details shall be submitted to and approved in writing by the local planning authority of 2 access points (one emergency vehicular access, and one pedestrian access) between the site and Mill Lane. In the case of the emergency vehicular access, this shall include details and measures to restrict its use to emergencies only, along with a timetable for the implementation of those details and measures and a scheme for their intended management. The details and measures relating to the emergency vehicular access shall then be installed in accordance with the approved timetable and the emergency vehicular access shall thereafter be retained and managed in accordance with the approved management scheme.
- 10) Before the construction of any other works on site subject of this permission, the access off Chapel Street shown on the approved drawings shall be formed to a standard that has first been submitted to and approved in writing by the local planning authority. With the exception of any construction access identified in Condition 5 and the use of the emergency vehicular access referred to in Condition 9 for emergencies, sole vehicular access to and from the site shall thereafter be through this access.
- 11) Notwithstanding the specific details shown on the approved drawings, prior to the commencement of development details of the footway widening works, the manner in which the stone wall along Chapel Street is to be relocated using existing materials, and the intended method of closing the existing access to the site, shall be submitted to and approved in writing by the local planning authority. The relocation of the stonewall using existing materials, the footway widening works and the closing of the existing access, shall be completed in accordance with the approved details within 3 months of the installation of the new access under the terms of Condition 10 above.
- 12) Prior to the first use of the access to the site off Chapel Street, it shall be provided with sight splays of 43m by 2.4m, which shall contain no obstruction greater in height than 0.6m when measured from the carriageway of the site access, and those sight splays shall thereafter be retained.
- 13) No dwelling hereby approved shall be occupied until the carriageway between it and the adopted highway, and any footpath from which it gains access, have been constructed at least to basecourse macadam level and/or block paved and kerbed, and connected to the adopted highway with operational streetlights.
- 14) With or before the submission of Reserved Matters, details of the foul water drainage scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the foul water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.
- 15) With or before the submission of Reserved Matters, details of the surface water drainage scheme for the development shall be submitted to the

local planning authority, along with a timetable for its implementation and details of its management post-construction. Once approved in writing, the surface water drainage scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.

- 16) With or before the submission of Reserved Matters, details of the SuDS scheme for the development shall be submitted to the local planning authority, along with a timetable for its implementation and details of its management post-construction. Among other things, these details shall show how the means of discharging to the public sewer shall be at a rate not exceeding 4.75 litres per second. Once approved in writing, the SuDS scheme shall be installed in accordance with the approved details and timetable and thereafter retained, and managed in the approved manner.
- 17) With or before the submission of Reserved Matters a condition survey of the buildings on-site to be retained, along with any necessary remediation works and a timetable for undertaking those works, shall be submitted to the local planning authority. Once approved in writing, the approved necessary remediation works shall thereafter be undertaken in accordance with the approved timetable.
- 18) With or before the submission of Reserved Matters a site investigation and risk assessment concerning the extent of any land contamination shall be submitted to the local planning authority. If any contamination is present this assessment shall identify the risk it poses, any remediation measures necessary, and a timetable for the implementation of those measures. Once approved in writing those measures shall be implemented in accordance with the approved details and timetable, and within 3 months of their completion a verification report shall be submitted to the local planning authority to confirm these measures have been implemented.
- 19) No part of the main building of any dwelling or flat hereby approved (but for the avoidance of doubt not including any detached outbuilding) shall extend to within 20m of the carriageway to Mill Lane.

APPEARANCES

FOR THE APPELLANTS:

M Carter	Barrister
P Irwin	Highways consultant
M Johnson	Planning agent
B Richmond	Planning agent

FOR THE LOCAL PLANNING AUTHORITY:

V Day	Senior Highways Engineer
M Evans	Principal Planning Officer
G Sharpe	Senior Solicitor
G Tyreman	Surveyor
R Welsh	Principal Policy Officer

INTERESTED PARTIES:

M Ferris	Chair, Hambleton Parish Council
J Janik	Local resident
K Murray	Local resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

FOR THE APPELLANTS

APP1: 15 Viewpoint photographs

APP2: Drawing 100-P-001 A

APP3: Drawing 100-P-002 A

APP4: Comments on Council's suggested conditions

APP5: Email to the Council suggesting a condition concerning access
(dated 29 November 2024)

APP6: Signed section 106 Agreement (dated 2 December 2024)

APP7: Comments on Inspector's suggested conditions (dated 11 December 2024)

APP8: Email to the Planning Inspectorate, with attachments, concerning the effects
of the new Framework on the case (dated 10 January 2025)

APP9: Email to the Planning Inspectorate responding to Documents LPA5 & LPA6,
along with a Statement of Common Ground concerning appeal
APP/U2750/W/24/3347833 (dated 24 January 2025)

FOR THE LOCAL PLANNING AUTHORITY:

LPA1: Local Plan Policy T7

LPA2: Letter from arriva date 7 May 2024

LPA3: Email accepting appellants' suggested condition of 29 November
(dated 2 December 2024)

LPA4: Comments on Inspector's suggested conditions (dated 11 December 2024)

LPA5: Email to the Planning Inspectorate, with an attachment, concerning the
effects of the new Framework on the case (dated 10 January 2025).

LPA6: Email to the Planning Inspectorate concerning the housing supply for the
former Selby area (dated 10 January 2025)

LPA7: Email to the Planning Inspectorate confirming the status of the eLP
(dated 21 January 2025)

LPA8: Email to the Planning Inspectorate responding to Document APP9
(dated 24 January 2025)

FOR LOCAL RESIDENTS:

LR1: Suggested matters to view on site visit from J Janik