



Appeal Decision

Hearing held on 15 July 2025

Site visit made on 15 July 2025

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2025

Appeal Ref: APP/U2750/W/25/3362561

Land to the south of Riccal Drive, Helmsley, York YO62 5FF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Northminster Land Ltd against North Yorkshire Council.
 - The application Ref is 23/00001/MOUT.
 - The development proposed is Hybrid Planning Application comprising: 1) Outline planning application for residential planning permission for up to 50 dwellings with associated open space, all matters reserved; 2) Outline planning application for mixed use development for commercial, industrial and storage uses, all matters reserved. Total area 3.12ha.
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Decision

1. The appeal is allowed and planning permission is granted for Hybrid Planning Application comprising: 1) Outline planning application for residential planning permission for up to 50 dwellings with associated open space, all matters reserved; 2) Outline planning application for mixed use development for commercial, industrial and storage uses, all matters reserved. Total area 3.12ha at Land to the south of Riccal Drive, York YO62 5FF in accordance with the terms of the application, Ref 23/00001/MOUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Northminster Land Ltd against North Yorkshire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The application is submitted in outline form with all matters reserved for later consideration. Whilst plans have been submitted suggesting how development could be accommodated on the site, these have been provided for indicative purposes only.

Main Issue

4. The appeal is against a failure to determine the planning application. However, the Council has indicated that the application would have been refused on the basis of the effect of the proposed commercial, industrial and storage use development on highway safety. This is the main issue in the appeal.

Reasons

5. A plan led system provides certainty as to what kind of development will be permitted to come forward and where. This gives certainty not only to those who wish to bring forward land for development, but also to members of the public in terms of what development they can expect in their area. A development plan is subject to public consultation and to examination prior to its adoption. In this case, the entire extent of the appeal site consists of allocated land, split between land for employment use and land for housing. Immediately adjacent to the appeal site a further allocation of housing land has been built out. Planning permission has also been granted with regard to a further parcel of adjacent employment land.
6. As a consequence of the allocations, Riccal Drive was constructed with the intention that it will serve two employment sites and two housing sites. The requirement for Riccal Drive to serve the two employment sites explains why the width of the road and its general specifications exceed those which would normally be expected to serve only residential development. There is no objection from the Highway Authority (HA) to the appeal proposal and neither the technical highway reports provided by the appellant or the Road Safety Audit (RSA) provided on behalf of the Council identify any highway safety impacts that might warrant a decision being made at variance with the adopted development plan and the allocations therein. The HA also raise no concern as to the impact on the wider highway network.
7. The Bauman Lyons report (BLR) is referred to by interested parties. That report was commissioned by the Helmsley Town Council to inform the Helmsley Town Plan 2015 (TP), and more specifically to consider the land which ultimately formed the four allocated sites to the southeast edge of the town. It addresses the matter that employment and residential uses would share Riccal Drive and offers the recommendation that the mixed distributor road (including Riccal Drive) should have no direct residential driveway access to it. However, whilst the older dwellings do not take direct access from this road, many of the recently built dwellings have driveways onto Riccal Drive and therefore do not follow the BLR recommendation.
8. Notwithstanding this, the question to be answered is whether Riccal Drive, as it exists, is safe in highway terms to carry the traffic from the employment and residential development proposed. The available evidence and consultation responses must be considered in making this assessment. Nothing I heard at the hearing suggests that any of those documents or judgements are unsound in technical terms, and their conclusions are that there would not be highway safety harm. None raise concern as to any potential conflict between the positioning of existing driveways and traffic generated by the proposed development. Therefore, that the BLR recommendations have not been followed does not justify the refusal of planning permission on highway safety grounds.
9. The RSA identifies several matters relating to the existing highway along Riccal Drive. It has long been known that the existing section of Riccal Drive would ultimately serve employment uses and thus measures such as carriageway lining could have been incorporated into the road specification if required, as has been provided at the road junctions. There also does not appear to have been any requirement to carry out any works to the existing section of Riccal Drive in conjunction with the planning proposal on the other employment allocation.

Furthermore, Riccal Drive is a wide road which currently serves a considerable number of dwellings, alongside some non-residential use, and the available accident data does not suggest that there are any areas of concern in relation to its layout, legibility or general specification. I do not therefore consider that a case has been made that any of the matters set out in the RSA need addressing to make the appeal proposal acceptable in highway safety terms.

10. In conclusion, the proposal would not cause harm to highway safety either in terms of the impact along Riccal Drive or upon the wider highway network. As a result, the proposal accords with Policy SP20 of the Ryedale Plan Local Plan Strategy 2013 (LPS) where it requires that access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists.

Other Matters

11. Many of the matters raised by interested parties have in effect been front-loaded at the time that the sites were considered for allocation. This includes that there would be an impact on the character and appearance of the area and the landscape as a result of the proposed development and that there would be an increase in traffic passing along Riccal Drive and past the existing dwellings that are close to it. The latter would inevitably have some impact upon the living conditions of the occupiers of these dwellings when compared to the current situation, but only in a way that has already been anticipated. There is nothing substantive before me to suggest that the impact would lead to harm to living conditions to the extent that planning permission for development on the allocated sites should be withheld, and there is no concern raised by the Council on that ground.
12. In the context of the development plan allocations, I also do not consider it necessary to reconsider matters relating to the need for the proposed developments, their impact on existing infrastructure and services, the loss of agricultural land or the suitability of the site in terms of its location and matters such as sustainability. The TP was reviewed in 2022 and the Council deemed it to be fit for purpose at that point. As such it remains part of the adopted development plan for the area and the bringing forward of employment and residential uses is consistent with the overarching aims of the National Planning Policy Framework (the Framework). Furthermore, the Council does not suggest that the employment land and/or the houses proposed are not needed. Indeed, in terms of the latter, the Council cannot demonstrate a five year housing land supply, having just a 0.8 year supply.
13. There was no objection from consultees in relation to ecology and archaeological interests. There is an area of land along an adjacent watercourse which is in Flood Zone 3, but this area could be avoided in terms of the location of built development. My attention has also been drawn to instances of recent sewage spillage events in the Helmsley area. At the hearing, interested parties suggested that, if the appeal is successful, a restrictive planning condition should be imposed preventing occupation of the proposed dwellings until such time as capacity has been increased in the sewage system. However, Yorkshire Water have not advised that their position of no objection to the proposal has changed or requested such a condition.

14. Furthermore, given that both parts of the appeal site have been allocated in the development plan since 2015 for the uses which they are now proposed, there has been adequate time to make provisions to improve the necessary infrastructure outside of the planning regime. To penalise the appellant for this not taking place and for any inadequacies in the public sewerage system would, in this instance, be manifestly unreasonable and would clearly serve to stifle the plan led system which provides advanced warning of public infrastructure requirements in forthcoming years.

Planning Obligation

15. The parties have completed a Section 106 Agreement which includes three obligations to come into effect if planning permission is granted. I have considered these obligations against the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. The obligations relate to the following matters.
16. Affordable Housing: Policy H3 of the TP requires that up to 40% of all units proposed in a development should be affordable. The Agreement ensures that this policy requirement would be met and therefore this obligation passes the statutory tests.
17. Public Open Space Delivery, Management and Maintenance: this sets out an obligation to deliver a public open space scheme and to manage and maintain it. This would ensure that the policy requirements of Policy SP11 of the LPS and Policy H13 of the TP would be met, and therefore this obligation meets the statutory tests.
18. Employment Travel Plan Monitoring Contribution: the requirement for this contribution, which amounts to £5,000, is disputed by the appellant. It is apparent from discussion at the hearing that this relates to whether the threshold set out in local guidance is met, in terms of whether the proposal would result in more than 30 jobs being created. I am not persuaded by the appellant's argument that this should be taken on a unit-by-unit basis. Instead, it is reasonable to take the employment land as a whole, in which case more than 30 jobs would almost certainly be created. Therefore, an employment travel plan monitoring contribution is necessary and meets the statutory tests.

Conditions

19. The Council provided a list of conditions but the appellant disputes whether many are necessary and/or appropriately worded. There is a common thread throughout that the Council refer to phasing of the proposed development and the appellant disputes that this is necessary, primarily because the different uses (employment and residential) are subject to separate allocations in the TP. If it was intended or essential that they came forward on a phased basis the plan could have required this. I concur that there is no need to require phasing of the scheme, and that the employment and residential aspects could come forward independently of one another.
20. Conditions setting out what are the reserved matters, the time period to submit those reserved matters, the period for commencing development and the approved plans are needed to provide certainty. It is not necessary to require the reserved matters to be broadly in accordance with the detail shown on the

indicative capacity sketch submitted, as this includes a possible layout, and layout is a reserved matter. However, the conditioning of the indicative plan only with respect to the tying down of which parts of the appeal site are approved for employment land and residential land and that a buffer zone is provided is reasonable and necessary to provide certainty and to ensure that the development proceeds in line with the TP allocations and key principles set out therein.

21. It is not necessary to impose a condition limiting the maximum number of dwellings that could be constructed as that is in the description of development. Neither Policy SP4 nor Policy SP20 of the LPS provide justification for the minimum density of dwellings suggested to be secured by a condition. The housing mix would be evident through the reserved matter of layout and a condition requiring details of this to be agreed is therefore superfluous. Whilst live/work units are shown on the indicative plans, the development brief for site EMP2 suggests that the buffer zone could equally consist of office use or landscaping. Therefore, it is not certain that live/work units may come forward as the buffer solution and it is not necessary to impose the four suggested conditions relating to live/work units. Any conditions necessary could be imposed at reserved matters stage.
22. At the hearing the appellant explained that the floorspaces they have provided were offered on an indicative basis and were not intended as a binding maximum, given that the allocation refers only to an amount of employment development of 1.3 hectares and not to a specific floorspace. I do not consider it necessary to restrict the scope of the employment development to the precise floorspace figure as the Council suggest, as this would be unduly restrictive. However, in bringing reserved matters applications forward it would need to be borne in mind by whoever made the application(s) that the Design and Access Statement sets out a clear rationale for the quantum of employment floorspace that might be acceptable.
23. There is no justification for limiting the height of either the dwellings or the employment units at this point and these are assessments that can be made at reserved matters stage. Details of materials would form part of the submissions for the reserved matter of appearance and if the Council consider that the submission of a sample panel was a necessity they could request this during the determination process or impose a condition on the reserved matters approval. The Town and Country Planning (Development Management Procedure) (England) Order sets out that the reserved matter of landscaping includes boundary treatments, so a condition is not required on the outline permission. Likewise, a landscaping scheme condition is not required as landscaping is a reserved matter.
24. A condition requiring the submission of a Noise Impact Assessment with each reserved matters application for employment uses is needed to safeguard the residential amenities of nearby properties and a similar condition regarding the residential reserved matters is needed to ensure that indoor ambient noise levels are acceptable. I will impose the appellant's suggested condition as it refers to the more recent BS4142: 2014 which itself refers back to the World Health Organisation levels for indoor ambient noise levels.
25. The main parties disagree as to whether there should be a requirement to meet the indoor ambient noise levels with windows open, or if it should be permitted to meet them with windows closed and ventilation provided. At the hearing the appellant referred to a risk that the levels might not be achieved in some rooms with windows open given the proximity to the proposed employment uses.

However, BS4142: 2014 refers to scenarios where windows are open. As there are alternatives to open windows, I do not consider it to be reasonable or necessary to impose such a restrictive condition. I also do not consider that this undermines the objectives of Policy SP20 of the LPS in terms of providing the highest levels of amenity. There is no need to impose the Council's suggested condition relating to a noise mitigation scheme, as the required details are captured in the two conditions discussed above.

26. Discussion took place as to the Council's suggested condition relating to non-domestic dust, odour and fume assessment. I consider that this matter can be adequately addressed by an amended condition which encapsulates the concerns of the appellant that not all employment uses would create dust, odour or fumes and thus not require a mitigation scheme. A Construction Environmental Management Plan is needed to safeguard the living conditions of the occupiers of nearby properties during construction.
27. A condition relating to lighting on the employment land and areas of public open space is necessary to minimise light spill, in the interests of protecting the living conditions of the occupiers of nearby dwellings and ecological considerations. Whilst there was discussion at the hearing about the potential extension of the North York Moors National Park Dark Skies Policy into Helmsley, I have not been provided with any substantive evidence that this is a formally adopted planning policy. It would appear from what is adopted that both the dark skies core area and the buffer are some considerable distance away from Helmsley. Furthermore, the North York Moors National Park Authority did not reference the inclusion of this in their consultation response. Therefore, references to the dark skies policy are not reasonable. It is not necessary for the condition to specify that the lighting be retained, as this would prevent its removal. However, any further lighting would require approval under the terms of the condition.
28. It is not necessary to impose a condition relating to the hours of operation of the employment uses, as this can be addressed at reserved matters stage once the uses are known and any conditions considered for imposition at that point. I consider it reasonable to restrict the hours at which movements of Heavy Goods Vehicles can take place to the employment land, to protect the living conditions of nearby residents due to the fact that there would be a shared access road. A condition regarding noise during construction works is needed to protect living conditions. Conditions relating to percolation testing, drainage, drainage design and maintenance are needed to ensure that satisfactory foul and surface water drainage provision is put in place. There is a public sewer which crosses the site and it is reasonable to allow for an easement for maintenance. I have removed reference to landscape features as this is not required in the context of no building or obstruction being permitted.
29. A condition preventing the raising of ground levels adjacent to the Spittle Beck in Flood Zone 3 is needed in the interests of preventing flood risk. Details of road and footway layout and that adoptable roads and footways are put in place are required in the interests of highway safety. The Highway Authority requested a condition requiring that off-site highway works road markings and combined pedestrian and cyclist facilities be provided on Riccal Drive, but as the latter would not link to other existing facilities they concede that the latter requirements should not be pursued. I have addressed the matter of road markings earlier in this decision.

30. Details of access, turning and parking and a requirement to provide the parking spaces for the dwellings should be controlled by way of a condition in the interests of highway safety. Whilst the appellant does not consider that the requirement that these areas are retained for their intended purposes at all times is reasonable, these areas are needed to make the development acceptable in highway safety terms. It is therefore reasonable to secure their retention. Although a Framework Employment Travel Plan has been submitted, this acknowledges that it is a framework for the submission of the final travel plan. The form of this will only be known once occupiers come forward for individual sites. It is therefore reasonable and necessary to impose a condition relating to this matter. A construction management plan is required in the interests of highway safety.
31. The Phase I report sets out a number of recommendations including that a Phase II Ground Investigation Report, including a Ground Contamination Risk Assessment for Human Health, should be undertaken. I shall therefore impose a condition addressing that, along with any necessary remediation and validation, and also in terms of if any unexpected contamination is found. A condition requiring a biodiversity net gain is needed to comply with Policy SP14 of the LPS. The submission of an ecological impact assessment is needed in the interests of nature conservation. Details of ground levels and finished floor levels of the dwellings are needed to ensure that the development has an acceptable external appearance. The condition relating to the retention of trees, shrubs and hedges would not come into force until development commenced and, in any event, there are no such features shown on what would be the only approved plan. This matter could therefore be addressed at reserved matters stage.
32. A condition preventing the conversion of garages is unnecessarily pre-emptive at outline stage, as the dwellings may ultimately not have garages or the garages may not form part of their parking provision and thus it may not be justified to prevent those areas being lost for potential parking. The Planning Practice Guidance states that permitted development rights should only be removed in exceptional circumstances. As the plot sizes for each dwelling and their relationship to each other and existing dwellings have been reserved, it cannot be known if the removal of permitted development rights would be reasonable. Like many of the other conditions, this is a condition that could be imposed at reserved matters stage if the relevant tests are met.
33. A condition setting out the period of time to undertake the approved landscaping scheme should be imposed to ensure that this work is completed. Conditions relating to tree protection are needed to protect any retained trees that may be affected by the proposed development. A condition relating to the provision of a Neighbourhood Equipped Area for Play is needed to ensure that this provision is put in place and for the same reason a condition relating to electric vehicle charging points for the employment uses is needed. A condition tying down the use of the employment units is needed to provide certainty as to what is approved.

Conclusion

34. For the reasons given above, the appeal should be allowed.

Graham Wraight

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kathryn Jukes – Directions Planning Consultancy Ltd
Martin Crabtree – Bryan G Hall
Adam Bradley – Bryan G Hall
Chris Chittock – Dragonfly Environmental Consulting Ltd
Siobhan Goodman – Dragonfly Environmental Consulting Ltd
Paul Beeley – Topping Engineers Limited

FOR THE LOCAL PLANNING AUTHORITY:

Peter Jones – Development Manager
Alan Goforth – Principal Planning Officer
Ben Hymers – Environmental Health
Emily Mellalieu – Highways
Marie Brown – Highways

INTERESTED PARTIES:

Cllr Caroline Goodrick – North Yorkshire Council
Cllr Jabbour – North Yorkshire Council
Cllr Tony Johnson – Helmsley Town Council
Kevin Bradshaw
Mark Talbot
Jean Harrod
Mr Tait
Vanessa Cecil
Gail Ward Vallance
Lesley Patterson

Michael Skehan

Kevin McPartlin

Simon Thackray

Alice Evison

Nicholas Clarry

Steven Burgess

Dan Falchikov

Sharron Sumner

Anne Nightingale

Keith Clegg

Richborough

Schedule of Conditions

- 1) Details of the access, 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 three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the Location Plan, ref: (PL)01.
- 5) The arrangement of land uses shall be broadly in accordance with that shown on the Indicative Capacity Sketch ref. (PL) 03, Rev A. The layout shall provide for a central buffer between the employment land (employment development) and residential land (residential development) uses.
- 6) The development hereby permitted shall comprise no more than 1.3 hectares of employment land which shall comprise of a mix of commercial and business units falling within Use Class E (sub classes c-g) and General industrial and storage and distribution units (Use Classes B2 & B8). The commercial and business units falling within Use Class E shall not be used for any 'Main town centre uses' as defined by the National Planning Policy Framework (2024).
- 7) Every reserved matters application for employment development shall include a Noise Impact Assessment (NIA) for the development proposed in that application, for the approval of the Local Planning Authority. The NIA shall include details for noise during deliveries and times of deliveries. The NIA shall also contain details of all machinery, plant and equipment to be installed in or located on premises within that phase of the employment land development, which is audible outside of the premises. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the first use of the premises and shall be maintained thereafter for the lifetime of the development.
- 8) Every reserved matters application for residential development shall include a comprehensive Noise Mitigation Scheme (NMS), for the approval of the Local Planning Authority. The NMS shall include full details and specifications of proposed ventilation, to secure appropriate noise mitigation and ventilation within the dwellings. The scheme shall detail the means to achieve resistance to airborne sound with a view to achieving noise levels in all habitable rooms and outdoor amenity areas as recommended within BS8233:2014 Guidance on sound insulation and noise reduction for buildings. The scheme shall provide details of noise levels that are to be achieved in all habitable rooms and outdoor amenity areas. The development shall be undertaken in accordance with the approved scheme and thereafter maintained for the lifetime of the development.

- 9) Every reserved matters application for employment development shall include an assessment of whether the operation of the development will create dust and/or odour and/or fumes, for the approval of the Local Planning Authority. Where dust and/or odour and/or fumes will be created, a mitigation scheme shall be provided for approval which shall detail the measures that will be implemented to ensure that any adverse impacts associated with the development do not cause detriment to the amenity of existing and proposed residential and other sensitive uses. The development shall be undertaken in accordance with the approved scheme and thereafter maintained for the lifetime of the development.
- 10) Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site specific risk assessment of dust, noise and vibration impacts in line with the guidance provided by the Institute of Air Quality Management and include a package of mitigation measures commensurate with the risks identified in the assessment. All works on site shall be undertaken in accordance with the approved CEMP, unless otherwise agreed in writing by the Local Planning Authority.
- 11) Prior to installation of any external lighting/illumination associated with the units on the employment land and within the areas of public space, a scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall confirm the position, height and angle of lighting and provide data on the predicted lighting levels, including the vertical illuminance levels, at all sensitive premises due to the proposed scheme along with hours of operation. Unless otherwise agreed in writing by the Local Planning Authority, the lighting schemes shall be implemented in accordance with the approved details.
- 12) No Heavy Goods Vehicle (HGV) movements to or from the employment land shall take place between the hours of 22:00 and 07:00.
- 13) Any excavation, construction work or ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the hours of:
0800 -1800 hours Mondays to Fridays
0800 -1300 hours Saturdays
and at no time on Sundays and Bank (or Public) Holidays.
- 14) There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which shall have first been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to: i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority.
- 15) The development shall not commence until percolation testing to determine soil infiltration rate is carried out in accordance with BRE 365 Soakaway

Design (2003) and CIRIA Report 156 Infiltration drainage - manual of good practice (1996).

Method of test must be relevant to proposed SuDS. Testing must be carried out at or as near as possible to the proposed soakaway location (no greater than 25m from proposed soakaway for uniform subsoil conditions. For non-uniform subsoil conditions testing must be carried out at the location of the soakaway). Testing must be carried out at the appropriate depth for proposed SuDS (e.g. invert level, base level of soakaway etc.) relative to existing ground levels.

Three percolation tests are to be performed at each trial pit location to determine the infiltration rate, where possible. Where slower infiltration rates are experienced, testing must be carried out over a minimum period of 24 hours (longer if 25% effective depth is not reached). 25% effective depth must be reached. Extrapolated test data will not be accepted.

The results of the percolation testing shall be presented in a Ground Investigation report which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

- 16) Prior to the approval of the layout (reserved matter) for any part of the development hereby approved a drainage strategy detailing foul and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document). Principles of sustainable urban drainage shall be employed wherever possible and the site shall be developed with separate systems of drainage for foul and surface water on and off site, with the separate systems extending to points of discharge to be agreed. No part of the development shall be brought into use until the drainage works approved for that part has been completed.
- 17) No development shall take place until a suitable maintenance of any proposed SuDS drainage scheme arrangement has been demonstrated to the Local Planning Authority. Details with regard to the maintenance and management of the approved scheme to include; drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development. The development shall thereafter be undertaken in accordance with the approved scheme.
- 18) No building or other obstruction shall be located over or within 3 metres either side of the centre line of the public sewer i.e. a protected strip width of 6 metres that crosses the site. Furthermore, no construction works in the relevant area(s) of the site shall commence until measures to protect the public sewerage infrastructure that is laid within the site boundary have been implemented in full accordance with details that have first been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be

retained at all times. If the required stand-off or protection measures are to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that, prior to construction in the affected area, the approved works have been undertaken.

- 19) There shall be no development or ground raising adjacent to the Spittle Beck in Flood Zone 3 on the eastern perimeter of the site.
- 20) Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road shall take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in accordance with the approved engineering drawings.
- 21) No part of the development to which this permission relates shall 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.

- 22) There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - vehicular, cycle, and pedestrian accesses;
 - vehicular and cycle parking;
 - vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and;
 - loading and unloading arrangements.

No part of the development shall be brought into use until the vehicle access, parking, manoeuvring and turning areas for that part of the development 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.

- 23) No dwelling shall 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.
- 24) Prior to the first occupation of any building on the employment land, a Business Travel Plan shall be submitted to and approved in writing by the

Local Planning Authority for that building. The Business Travel Plan shall include:

- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within;
- specified timescales and a programme for delivery;
- a programme for the delivery of any proposed physical works;
- effective measures for the on-going monitoring and review of the travel plan;
- effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development of that building shall be carried out and operated in accordance with the approved Business Travel Plan. Those parts of the approved Business Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

- 25) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the development must be undertaken in accordance with the approved Construction Management Plan.

The Plan must include, but not be limited, to arrangements for the following:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. restriction on the use of Riccal Drive access for construction purposes;
3. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
7. details of the routes to be used by HGV construction traffic and highway condition survey on these routes;
8. protection of carriageway and footway users at all times during demolition and construction;
9. protection of contractors working adjacent to the highway;
10. details of site working hours;
11. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
12. an undertaking that there must be no burning of materials on site at any time during construction;

13. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
 14. details of external lighting equipment;
 15. details of ditches to be piped during the construction phases;
 16. a detailed method statement and programme for the building works; and
 17. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
- 26) Every reserved matters application for layout shall include a scheme of crime prevention measures, for the approval of the Local Planning Authority. The scheme shall provide rationale and mitigation that takes account of the observations, advice and recommendations contained within the Designing out Crime Report ref: 269:1:2023 MR, prepared by the Designing Out Crime Officer dated, 05.06.2023. The development shall be implemented in accordance with the approved details.
- 27) Development shall not commence on the residential land until an investigation and risk assessment is undertaken to determine if any contamination is present on the proposed residential development site and establish if there are any viable exposure pathways and whether there is an unacceptable risk to future end users of the site. The investigation and risk assessment should be undertaken by a competent person with the report findings submitted to and approved in writing by the Local Planning Authority. This shall include an appropriate survey of the nature and extent of any contamination affecting the site, and an assessment of the potential risks to human health, controlled waters, property and ecological systems. Reports shall be prepared in accordance with Contaminated Land Report 11 and BS 10175 (2013) Code of practice for the investigation of Potentially Contaminated Sites.
- 28) Where land affected by contamination is found which poses risks identified as unacceptable, no development or remediation shall take place within that phase of residential development until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the Local Planning Authority. The scheme must include proposed remediation objectives and remediation criteria, an appraisal of remedial options and proposal of the preferred option(s), all works to be undertaken, and a description and programme of the works to be undertaken including the verification plan.
- 29) Unless otherwise agreed in writing by the Local Planning Authority, the development of the identified phase of residential development shall not be occupied until the approved scheme of remediation has been completed for that phase, and a verification report demonstrating the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any additional monitoring or sampling, evidence that any imported soil is from a suitable source, and copies of relevant waste documentation for any contaminated material removed from the site.

- 30) In the event that contamination is found at any time when carrying out the approved development (employment and residential development), that was not previously identified, it must be reported immediately to the Local Planning Authority, and work within that identified phase must cease until an appropriate investigation and risk assessment is undertaken. Where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the Local Planning Authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.
- 31) Prior to the approval of any reserved matters applications relating to landscaping a report detailing the biodiversity value of the site and its value following the development hereby approved shall be submitted to the Local Planning Authority for approval in writing. The delivery of Biodiversity Net Gain shall be quantified using the government's Biodiversity Metric tool or any successor to show the balance of losses and gains. The report should demonstrate how the site will achieve a net biodiversity gain (non-mandatory). The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.
- 32) Prior to the approval of any reserved matters applications relating to layout and/or landscaping, an Ecological Impact Assessment shall be submitted to the Local Planning Authority for approval in writing. The assessment shall detail the ecological mitigation and enhancement measures and incorporate relevant recommendations made in Section 7 of the Preliminary Ecological Appraisal, produced by Envirotech NW Ltd, dated 07.12.2022. The development shall be implemented in accordance with the approved details.
- 33) Prior to the commencement of any above ground construction work for the dwellings hereby approved precise details of existing spot ground levels and the finished floor levels of each dwelling measured in relation to a fixed datum point shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 34) All planting, seeding or turfing set out in the details approved at reserved matters stage shall be completed prior to the first occupation of the development or such longer period as may be agreed in writing with the Local Planning Authority. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives its written consent to any variation.
- 35) No development shall take place until a full Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include numbering and detailing trees, confirm root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for

necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.

- 36) No development shall take place or any materials brought onto site until the specification for root protection area (RPA) fencing and ground protection measures 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 plans and for the entire area as specified in accordance with BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The fences and ground protection shall be retained until all development the subject of this permission is completed.
- 37) 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) and ground protection works required by the approved tree protection scheme (Condition 36 above) are in place. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority.
- 38) The first reserved matters application for the residential development shall provide a layout that includes a detailed scheme for the provision of public open space including informal amenity space and the provision of a Neighbourhood Equipped Area for Play (NEAP). The public open space scheme and play space shall be completed in accordance with the approved details and prior to the first occupation of the residential development and thereafter maintained throughout the lifetime of the development.
- 39) The reserved matters application(s) for the employment land development shall make provision for electric vehicle charging points. Thereafter the scheme shall be implemented as approved and the charging points shall thereafter be permanently retained in good working condition.
- 40) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order, the units within the employment land hereby approved shall be restricted to Use Classes E (sub classes c- g), B2 and B8 only and shall not be used for any other use class whatsoever including any other sub use class within Class E without express planning consent from the Local Planning Authority first being obtained.

-----End of Conditions-----



Costs Decision

Hearing held on 15 July 2025

Site visit made on 15 July 2025

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3362561

Land to the south of Riccal Drive, Helmsley, York YO62 5FF

- 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 Northminster Land Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for Hybrid Planning Application comprising: 1) Outline planning application for residential planning permission for up to 50 dwellings with associated open space, all matters reserved; 2) Outline planning application for mixed use development for commercial, industrial and storage uses, all matters reserved. Total area 3.12ha.
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Decision

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

Preliminary Matter

2. The costs application was made orally at the hearing. The application is transcribed in Appendix 1 at the end of this decision along with the response to it and the final comments made by the applicant.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. An outline application with all matters reserved is one of the most straightforward types of planning application that legislation allows for, as the matters of access, layout, appearance, scale and landscaping are reserved for later consideration. Furthermore, the appeal site consists solely of land which is allocated for development in the adopted development plan. The combination of the application type and the allocations means that there was only limited detail for the respondent to consider in making their determination. There was nothing unusual or complex in the matters that fell to be considered, and the allocations gave a clear steer that the type of developments proposed should be considered to be acceptable in principle and thus be permitted.
5. In those circumstances it is not tenable for the application to have remained undetermined over two years after it was accepted as being valid. Nor is it reasonable that the applicant had to proceed with an appeal against non-

determination to obtain a decision at that point. There is clear evidence in the applicant's appeal submissions that they tried to progress the application but, in any event, the respondent should have progressed the determination of the application expediently and far more quickly than transpired. That they did not do so represents unreasonable behaviour on procedural grounds and has led to wasted expense in terms of the applicant having to utilise the appeals process to receive a decision.

6. The respondent's decision to advise that they would have refused planning permission on highway safety grounds if they had determined the application meant that they needed to defend their position at the hearing. This course of action was taken contrary to the advice of their Planning Officers and with there being no objection from the Highway Authority. Their own Road Safety Audit, which in itself was submitted unreasonably late into the appeal process and only a few working days before the hearing, did not support their position on highway safety grounds. Unsurprisingly, a highway safety reason for refusal was not ultimately defensible in the face of an overwhelming body of evidence demonstrating that there would be no harm. As a whole this means that the respondent acted unreasonably and delayed a development which should clearly be permitted, having regard to its accordance with the development plan
7. For the reasons given above, unreasonable behaviour resulting in unnecessary and wasted expense has occurred on both procedural and substantive grounds. A full award of costs is therefore warranted.

Costs Order

8. 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 Northminster Land 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.
9. 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.

Graham Wraight

INSPECTOR

Appendix 1

Appellant's costs application

10. In terms of a background to the application there were substantial delays responding to information which led to substantial delays. This has led to substantial costs, legal agreement and consultants. These pre-date the road safety audit. The road safety audit was submitted way beyond the deadline which led to extra consultants being needed and had to go to additional expense because the deadline was missed. Have an allocated site with no highway objection and it is adopted highway. Not based on reports but Member's own opinions. Have had to spend time to deal with the matter when we thought it was not a matter. Failure to co-operate, missing of deadlines. Seek full costs, Officer recommendation was that permission would have been granted. Have been trying to discuss planning conditions.

Council's response

11. Application took some considerable time. Taking it backwards, there was a committee resolution to refuse, considered necessary to seek third party advice, took as long as it did, lack of agreement between parties, would have been a worse scenario than having no evidence. With regard to background, delays to consultee responses, would not be in a position to come back on that in fifteen minutes, would need to interrogate the position in terms of providing a rebuttal.

Appellant's final comment

12. Application timeline is set out in the Statement of Case.