



Appeal Decision

Hearing held on 4 September 2025

Site visit made on 4 September 2025

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 20th October 2025

Appeal Ref: APP/U2750/W/25/3368297

Land North of Prospect Farm, Sherburn in Elmet, Selby LS25 6FR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Redrow Homes (Yorkshire) Ltd and Persimmon Homes (Yorkshire) Ltd against the decision of North Yorkshire Council.
 - The application Ref is ZG2023/0774/FULM.
 - The development proposed is the erection of 106 residential dwellings and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 106 residential dwellings and associated works at Land North of Prospect Farm, Sherburn in Elmet, Selby LS25 6FR in accordance with the terms of the application, Ref ZG2023/0774/FULM, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Redrow Homes (Yorkshire) Ltd and Persimmon Homes (Yorkshire) Ltd against North Yorkshire Council. This is the subject of a separate decision.

Preliminary Matters

3. The name of the appellants on the Appeal Form is different to that specified on the Application Form. It has been confirmed in correspondence with the appellants' agent that they are the same companies, and the correct names are listed above.
4. Prior to the Hearing the appellant submitted a revised Landscape Masterplan¹. The only difference between this plan and the previous revision, is the inclusion of an additional pedestrian link to the land to the south of the appeal site. The Council had an opportunity to review the plan prior to the Hearing and confirmed it had no objection to the drawing being considered. Interested parties had an opportunity during and following the Hearing to review the revised plan and provide comments. The Procedural Guide² is clear that the appeal process should not be used to evolve a scheme. However, I am mindful of the Holborn Studios Ltd Judgment³. The proposed change to the scheme is minor and the Council and interested parties have had an opportunity to provide comments on it. Interested parties'

¹ Drawing No. P22-0969_EN_0005_H

² Procedural Guide: Planning appeals - England

³ Holborn Studios Ltd v The Council of The London Borough of Hackney [2017] EWHC 2823

substantive objections to the proposed change, will be addressed within my decision. As such, it would not be procedurally unfair for me to consider the revised Landscape Masterplan. Therefore, it forms part of my consideration of the appeal proposal.

5. At the Hearing the Town Council handed up a cover letter with a petition to further object to the proposal. The Council and appellant raised no concerns with me accepting these documents. Therefore, they form part of my considerations in the appeal.
6. Part of the proposed construction access is within the Green Belt. This part of the proposed access largely comprises the existing agricultural access. However, there would be a new section of road heading north from the existing access which would be of a temporary construction. These works could be defined as engineering operations. During the construction period there would be an increase in vehicular movements along the existing track and a small amount of additional development within the Green Belt. However, once the development is completed the additional development would be removed and the existing section of track would revert back to its current use. Therefore, the proposal would preserve the openness of the Green Belt. Consequently, it is not inappropriate development in the Green Belt, as identified within paragraph 154 of the National Planning Policy Framework (the Framework). This is not a matter of dispute between the Council and the appellant.

Main Issue

7. The main issue is the effect of the proposal on highway safety, with particular regard to providing and maintaining safe and suitable access for all users.

Reasons

8. The proposed development includes 3 access roads. One from Bartlett View which would be the only permanent access road to the proposed development, once it is completed. A second from Rochester Row which would be a temporary sales access road and during construction would be used by occupiers of some of the dwellings. This access road would convert to an access used by emergency vehicles only, once the development is completed. The final access would be taken from an existing agricultural track which leads from the A162. This access would be extended and would be used by construction vehicles only. Both Bartlett View and Rochester Row are residential cul-de-sacs and the accesses leading from them would cut through an area of landscaping. The access from Rochester Row would also cross a public footpath.
9. The proposed public footpath crossing would be raised, and pedestrians would be funnelled to the crossing point by fences either side. The crossing would have tactile paving, and pedestrians would have priority over vehicles. Some vegetation would need to be removed to ensure that there would be appropriate intervisibility between pedestrians and vehicle drivers. The crossing would be located along a section of the footpath which is uninterrupted by vehicular traffic for a long distance and is a popular route.
10. The temporary sales access would be used to access the sales office and up to 59 dwellings whilst construction is ongoing. Due to the scale of the development, the number of vehicle movements generated by the sales office would be modest.

Combined with the access to 59 dwellings, there would be a moderate number of vehicles using the temporary sales access. The proposed pedestrian crossing design accords with local and national standards and a vehicular crossing of a footpath is not an unusual feature in an urban environment.

11. Interested parties have raised concerns that people with hearing and visual impairments could be vulnerable when using the crossing. These concerns were, partly, reiterated within the independently assessed Road Safety Audit. In response, the appellant has proposed tactile paving to distinguish different parts of the crossing and lighting could be agreed at the detailed design stage. The design improvements would make the crossing safer and acceptable for all users, including those with hearing and/or visual impairments. The Local Highway Authority do not dispute this. Although the proposed access road would change the character of this part of the footpath, and the introduction of a crossing may increase the chance of an accident, there is no substantive evidence that the proposed crossing would be unsafe.
12. Following the completion of the development the temporary sales access would be converted to a road access for emergency vehicles only, and it would only be used if Bartlett View is obstructed. As such, it would be used very infrequently, if at all. Given the very limited number of potential crossings, the emergency access crossing would not be unsafe. Moreover, a single vehicle access with a separate access for emergency vehicles only would be appropriate for the number of dwellings proposed.
13. In proximity to Bartlett View is a public open space (POS) that accommodates a play area that is not enclosed by a fence. Next to the play area are football pitches which are used by local clubs. The proposal would lead to a significant increase in vehicles using Bartlett View. Nonetheless, there is sufficient separation between the road and the play area and planting in between directs people toward a single point for crossing the highway. The road has been designed to local and national highway safety standards and is suitable to accommodate increased traffic. The proposal would also not reduce the amount of parking available, and the proposal includes a policy compliant provision of off-street parking spaces. Given the design of the POS and the road, there would not be an unacceptable increase in risk to the safety of users of the road or open space from increased vehicle movements.
14. Several of the roads within the existing residential estate are narrow which includes Rochester Row which has a chicane and narrows close to its junction with Conference Court. Anecdotal evidence indicates that North Yorkshire Fire and Rescue Service would not use Rochester Row, in the event of an emergency, to access the proposed development and that refuse vehicles currently collect bins away from properties within Rochester Row due to issues gaining access. Notwithstanding this, vehicle tracking has been provided and demonstrates that access can be gained to the proposed development by a fire appliance, a refuse vehicle, and a water tanker. This includes a fire appliance accessing the proposed development via the emergency vehicle access. Interested parties have indicated that some construction vehicles may not be able to access the appeal site from Rochester Row. Restricting construction vehicles to use the construction access only could be controlled by a construction management plan.
15. Concerns have been raised about the intervisibility between road users at the junction between Rochester Row and Conference Court and other existing road

junctions close to the proposed accesses. There is no substantive evidence before me showing that the visibility of road users around existing junctions is insufficient. During my site visit I observed, that whilst limited in some areas, there is good visibility between road users at nearby junctions. Moreover, the independently assessed Road Safety Audit considered the whole of Rochester Row and did not raise a concern with the visibility around the Rochester Row and Conference Court junction.

16. Local school children use the public footpath and nearby roads to commute to schools in the area. However, the existing footpath does not provide an uninterrupted path between the appeal site and local schools, children already have to cross several roads. There is no substantive evidence that the proposed public footpath crossing would be unsafe for use by children. Moreover, both the appellants and interested parties have undertaken traffic counts in the local area. Based on the evidence before me, at peak hours the local road network would be able to accommodate the additional traffic generated by the proposed development, including during school pick up and drop off times.
17. Potential alternative accesses from Low Street, Milford Road and A162 have been put before me by interested parties. Moreover, a since abandoned emerging local plan allocated the appeal site for residential development with access taken from elsewhere. However, my assessment is based upon highway safety. The appellants' reason for pursuing these accesses and the potential for other suitable accesses does not alter the assessment on the safety of the proposed accesses. The development of the site including potential alternative accesses could be agreed as part of the emerging local plan process. However, paragraph 50 of the Framework is clear that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in specific limited circumstances. The proposal does not meet the exception specified in the Framework; therefore, an argument that the application is premature would not justify the refusal of permission.
18. Interested parties have raised concerns that the developers will seek to make the temporary access permanent in the future and that the proposed pedestrian links to the south could be converted to vehicular accesses which would further increase the traffic through the proposed road access. Nevertheless, the assessment is based upon the proposal which is before me and there is no substantive evidence that the developers will seek to make the access from Rochester Row permanent or seek to convert the proposed pedestrian links.
19. For the reasons given above, I conclude that the proposal would not have a harmful effect on highway safety, with particular regard to providing and maintaining safe and suitable access for all users. The proposal would comply with Policy ENV1 of the Selby District Local Plan, Part 1 – General Policies, February 2005 where it indicates that development will be permitted provided a good quality of development would be achieved, including the proposed means of access. The proposal would also be in accordance with paragraphs 115, 116 and 117 of the Framework. These paragraphs indicate that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impact on the road network would be severe, and it should be ensured that safe and suitable access can be achieved for all users, amongst other matters.

Other Matters

20. The proposal would lead to the loss of POS and due to the location, it is of high value to interested parties and provides both health and wellbeing benefits. However, the amount of POS to be removed would be modest and the proposal would include the provision of a significant amount of POS. This would be built next to and connect to the existing POS. Furthermore, once the development is completed the existing footpath through the POS would be very similar to it is now. The quantity and quality of the proposed POS, alongside its connectivity to the existing POS would mitigate the proposed loss. Therefore, the proposal would be in accordance with paragraph 104 of the Framework as it would result in the better provision of POS in terms of quality and quantity.
21. The removal of POS and agricultural land would lead to the loss of land which has biodiversity value, including the wildlife corridor. Nonetheless, the matter of biodiversity is not in dispute by the Council, and the proposal would provide a significant biodiversity net gain.
22. The appeal site is Safeguarded Land, LP Policy SL1 seeks to restrict development of Safeguarded Land which would prejudice long-term growth beyond 2006. The Policy advises that when land is released it will be carried out in a controlled and phased manner. In the intervening period, since 2006, there has been no review of the LP, and the emerging plan is at a very early stage of preparation. In this context and given the Council cannot demonstrate a five-year supply of deliverable housing land, it is reasonable for Safeguarded Land in accessible locations, such as the appeal site, to be brought forward for development. This is not disputed by the Council.
23. The Town Council has drawn my attention to other schemes⁴ where appeals were dismissed for residential development even when the Council could not demonstrate a five-year supply of deliverable housing land. These appeal schemes are not within North Yorkshire and are materially different to the appeal proposal. Consequently, those appeal decisions are not comparable and do not set a precedent to dismiss the appeal.
24. The parties have submitted a copy of an executed legal agreement made under Section 106 of the Town and Country Planning Act (as amended). The agreement secures the provision of a policy compliant amount of affordable housing, self/custom build housing, POS, a landscape buffer, and land next to Athelstan Community Primary School for use of the school. It also secures contributions toward primary and secondary education, monitoring of the Travel Plan, special educational needs and disabilities, local NHS provision, and waste and recycling facilities. These provisions and contributions are conditional on planning permission being granted. I am satisfied that these provisions and contributions, would ensure that local services would not be harmfully affected by the proposal.
25. As such, the obligation is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. Accordingly, the obligation meets the three tests specified within Regulation 122 of The Community Infrastructure Levy Regulations 2010.

⁴ Appeal Refs. APP/F2360/W/19/3234070, APP/U2805/W/18/3218880, and APP/C1570/W/19/3223694

26. The amount of vehicle movements along Bartlett View and Rochester Row and the relationship between the properties and the roads would be akin to many suburban roads. As such, the increase in vehicle movements would not harmfully affect the living conditions of occupiers of properties on these roads. Similarly, there is no substantive evidence that the increase in vehicle movements would have a harmful effect on air quality.
27. The appeal site is at a very low risk of surface water flooding, but parts of the site are within Flood Zone 2 and Flood Zone 3. Other than the temporary construction access, there would be no built development within these areas. Regardless, the appellant has provided a Sequential Test which confirms there are no sequentially preferable sites and there is no evidence before me to come to a different conclusion. It has also been confirmed that there is capacity for the proposed development within the existing foul drainage infrastructure.
28. As the appeal site is largely an undeveloped field, the proposed development would significantly alter its appearance. Nevertheless, the proposal would represent a continuation of suburban development and would appear similar to the existing development to the north and west. Accordingly, the proposal would partially round off residential development to the south of Sherburn in Elmet and would conserve the character and appearance of the area. Also, the appeal site is not in proximity to, and there is a significant amount of intervening development between it and the nearest heritage assets. As such, the proposed development would not be within the setting of any heritage assets, including the Church of All Saints. Furthermore, the proposal would secure a housing mix that reflects the latest Housing and Economic Development Needs Assessment.
29. Measures could be secured through a construction management plan to mitigate any harm to Sherburn Aero Club during construction. Once occupied, the relationship between the Aero Club and the proposed dwellings would be similar to the acceptable relationship with existing dwellings. As such, future occupiers' living conditions would not be harmfully affected by the operation of the Aero Club.
30. The planning system is primarily concerned with the public interest. The effect of the proposed development on house values is a matter of private interest. Similarly, interested parties concerns with the conduct of the Council's officers, the appellants and their agent, are matters between them and do not affect my assessment of the acceptability of the appeal proposal.

Conditions

31. The Council has indicated the conditions that it considers would be appropriate if I were to allow the appeal. The suggested conditions were discussed during the Hearing, and the appellant has agreed to the proposed pre-commencement conditions. I have considered the suggested conditions in light of the guidance within the Framework and the Planning Practice Guidance.
32. Conditions (1 and 2) specifying a time limit to implement the planning permission and approved plans are necessary in the interest of certainty. Conditions (3 and 21) requiring details of external materials and a detailed landscaping scheme to be agreed with the Council, are necessary to ensure that the proposed development conserves the character and appearance of the area. A condition (22) requiring a landscape management plan to be agreed with the Council is reasonable to ensure that the proposed landscaping scheme is appropriately implemented.

33. A condition (4) requiring the detailed design of the highways and sewers to be agreed with the Council is necessary to ensure that the proposed development would be appropriately serviced. Also, some of these elements are temporary and would not be covered by other legislation. Similarly, conditions (5, 6, 7, and 8) restricting occupation of the dwellings until the access has been laid out and surfaced, and visibility splays to be provided and remain clear of obstructions are necessary to ensure that the proposal can be safely accessed. A condition (9) specifying the trigger for works to the access and requiring a Stage 2 Road Safety Audit to be undertaken is also necessary to ensure that the proposed development could be safely accessed.
34. The provision of parking spaces prior to the occupation of a dwelling and restrictions on the conversion of garages are necessary (10 and 11) to ensure that there is sufficient space for parking in the interest of highway safety. Conditions (12 and 27) requiring a Travel Plan to be agreed with the Council, and the provision of cycle storage are necessary to promote sustainable transport modes.
35. Conditions (13 and 26) requiring a construction management plan and, if necessary, mitigation measures for piling and/or ground compaction works to be agreed with the Council are necessary to ensure that the development does not have a harmful effect on the living conditions of neighbouring occupiers. A condition (25) restricting construction hours is necessary for the same reason.
36. Conditions (14, and 15) requiring the proposal to be carried out in accordance with the Flood Risk Assessment and Drainage Strategy are necessary to ensure that the proposed development drains appropriately and flood risk is reduced.
37. A condition requiring a Written Scheme of Investigation (20) to be agreed with the Council is necessary to ensure that the proposal does not have a harmful effect on archaeological features.
38. Conditions (23 and 24) requiring the proposal to be carried out in accordance with the recommendations of the Preliminary Ecological Appraisal, and for an Ecological Management Plan to be agreed with the Council are necessary to ensure that the proposal does not have a harmful effect on protected species and to ensure a biodiversity net gain will be delivered.
39. A suite of conditions (16, 17, and 18) requiring a site investigation and risk assessment report to be agreed with the Council and, if contamination is found, the need for a remediation strategy and verification report to be agreed with the Council are necessary to ensure that the proposal does not contaminate local receptors. Likewise, a condition (19) requiring the approval of these measures for previously unidentified contamination, is necessary for the same reason.
40. A condition (28) requiring the construction of the emergency access following the occupation of the final dwelling is reasonable to ensure that the temporary sales access is removed once the development is completed.
41. I have not included a condition requiring the turning areas to be provided prior to the occupation of the development as the access and parking facilities would be provided so the development could be safely accessed. It would be unreasonable to restrict occupation of any part of the development prior to the provision of all of the proposed turning heads.

Conclusion

42. In reaching my decision I have had due regard to the Public Sector Equality Duty set out under the Equality Act 2010. The protected characteristics of age and/or disability may be relevant to some of the people using the footpath that would be crossed by the road access from Rochester Row. Similarly, some of the people who use the POS in proximity to Bartlet View may have the same protected characteristics.
43. The proposal would provide safe access for all users. As such, granting planning permission would not be contrary to the need to eliminate discrimination of people with protected characteristics, advancing equality of opportunity for those persons, and fostering good relations between them and others.
44. For the reasons given above, the appeal should be allowed and planning permission should be granted.

J Hobbs

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT:

Martin Carter – Barrister, King Chambers instructed by Johnson Mowatt Planning
Becky Richmond – Joint Managing Director, Johnson Mowatt Planning
Sam Ruthven – Principal Planner, Johnson Mowatt Planning
Steve Windass – Technical Director, Local Transport Projects

FOR THE LOCAL PLANNING AUTHORITY:

Emma Howson – Development Manager Team Manager, North Yorkshire Council
Linda Drake – Principal Planning Officer, North Yorkshire Council

INTERESTED PARTIES

Peter Baumann – Sherburn in Elmet Town Council
Alex Tant-Brown – Sherburn in Elmet Town Council
David Shanks – Local resident
John Irvin – Local resident
Heather Fessey – Local resident
Judith Davies – Local resident
Paul Gough – Local resident
Paul Jeffries – Local resident

HEARING DOCUMENTS

Sherburn in Elmet Town Council – “Support Our Case” cover letter and petition

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the drawings listed below:
 - Site Location Plan (Ref P22-0969-DE-001-0100-A)
 - Phase 4 Masterplan (Ref P22-0969-DE-001-0101-M)
 - Proposed Levels Plan (Ref SHB4-16-06-902 Rev B)
 - Occupation Phasing Plan (06.12.14 / CTP Rev A)
 - Phase 4 Local Play Masterplan (Ref P22-0969_DE_001_0115)
 - Phase 4 Existing and Proposed Open Space (Ref P22-0696-DE-001_0110-B)
 - Street Scenes A & B (Ref P22-0696-DE-001_0108-C)
 - Street Scenes C & D (Ref P22-0696-DE-001_0109-C)
 - Phase 4 Building Heights Plan (Ref P22-0696-DE-001_0106-C)
 - Phase 4 Adoption & Management Plan (Ref P22-0696-DE-001_0105-C)
 - Phase 4 Materials Plan (Ref P22-0696-DE-001_0104-C)
 - Phase 4 Parking Plan (Ref P22-0696-DE-001_0103-C)
 - Phase 4 Housing Tenure and Mix Plan (Ref P22-0696-DE-001_0102-C)
 - Persimmon Temporary Sales Access (Ref P22-0696-DE-001_094_A)
 - Landscape Masterplan (Ref P22-0969_EN_0005_H)
 - 10m Landscape Buffer Red Line Plan (Ref SIE-16-02-01)
 - Phase 4 Landscape Management Plan (Ref P22-0969-DE-001-0112_A)
 - Phase 4 Boundary Treatment Plan (Ref P22-0969-DE-001-0111-A)
 - Phase 4 Refuse Plan (Ref P22-0969-DE-001-0107-C)
 - Refuse Vehicle Swept Path Analysis (Ref LTP/2949/T1/01.04 Rev O)
 - Fire Tender Swept Path Analysis (Ref LTP/2949/T1/01.02 Rev G)
 - Yorkshire Water Pumping Station Swept Path Analysis (Ref LTP/2949/T1/01.03 Rev A)
 - Temporary Access from Rochester Row – Preliminary Design” (Ref LTP/2949/P1/01.01 REV C)
 - Danbury 3 Block Terrace Red Brick & Red Roof & Elevations (Ref P22-0969.0301_3 Rev A)
 - Tavy 4 Block - Red Brick & Grey Roof & Elevations (Ref P22-0969.0411 Rev A)
 - Tavy & Spey - Floor Plans (Ref P22-0969.0410 Rev A)
 - Tavy - Red Brick & Grey Roof & Elevations & Floor Plans (Ref P22-0969.0407 Rev A)
 - Haldon - Red Brick & Red Roof & Elevations (Ref P22-0969.0403 Rev A)
 - Haldon Terrace Floor Plans (Ref P22-0969.0402 Rev A)
 - Alnmouth Terrace – Red Brick and Grey Roof & Elevations (Ref P22-0969.0401_2 Rev A)
 - Alnmouth Terrace – Terrace Floor Plans (Ref P22-0969.0401_1 Rev A)
 - Alnmouth – Red Brick & Red Roof & Elevations & Floor Plans (Ref P22-0969.0400 Rev A)
 - Welwyn – House Type Floor Plans (Ref P22-0969.0324 Rev A)
 - Chester – Red Brick & Grey Roof & Elevations & Floor Plans (Ref P22-0969.0323_2 Rev A)

- Chester – Red Brick & Red with Render Elevations and Floorplans (Ref P22-0969.0323_1 Rev A)
- Shaftsbury Det – Red Brick & Red Roof with Render Elevations and Floorplans (Ref P22-0969.0322 Rev A)
- Oxford Lifestyle – Red Brick & Red Roof with Render Elevations and Floorplans (Ref P22-0969.0320_2 Rev A)
- Oxford Lifestyle – Red Brick & Grey Roof Elevations and Floorplans (Ref P22-0969.0320_1 Rev A)
- Marlow Det – Red Brick & Grey Roof with Render Elevations and Floor Plans (Ref P22-0969.0319 Rev A)
- Stratford Lifestyle - Red Brick & Grey Roof Elevations and Floorplans (Ref P22-0969.0318_2 Rev A)
- Stratford Lifestyle - Red Brick & Red Roof with Render Elevations and Floor Plans (Ref P22-0969.0318_1 Rev A)
- Shrewsbury - Red Brick & Red Roof with Render Elevations and Floor Plans (Ref P22-0969.0317_2 Rev A)
- Shrewsbury - Red Brick & Grey Roof & Elevations & Floor Plans (Ref P22-0969.0317_1 Rev A)
- Bakewell Semi - Red Brick & Grey Roof & Elevations & Floor Plan (Ref P22-0969.0316 Rev A)
- Marston - Buff Brick & Red Roof & Elevations & Floor Plans (Ref P22-0969.0315_3 Rev A)
- Marston - Red Brick & Grey Roof & Elevations & Floor Plans (Ref P22-0969.0315_2 Rev A)
- Marston - Red Brick & Red Roof & Elevations & Floor Plans (Ref P22-0969.0315_1 Rev A)
- Burnham Det -Buff Brick & Red Roof & Elevations (Ref P22-0969.0314_1 Rev A)
- Saunton Terrace - Buff Brick & Red Roof & Elevations (Ref P22-0969.0311 Rev A)
- Saunton Semi - Buff Brick & Grey Roof & Elevations (Ref P22-0969.0309_1 Rev A)
- Saunton Floor Plans (Ref P22-0969.0308 Rev A)
- Barnwood Red Brick & Red Roof & Elevations & Floor Plans (Ref P22-0969.0307_2 Rev A)
- Barnwood Buff Brick & Red Roof & Elevations & Floor Plans (Ref P22-0969.0307_1 Rev A)
- Kingley Red Brick & Red Roof & Elevations & Floor Plans (Ref P22-0969.0306_3 Rev A)
- Kingley Buff Brick & Grey Roof Elevations and Floor Plans (Ref P22-0969.0306_1 Rev A)
- Danbury - Silverdale Buff Brick & Red Roof Elevations (Ref P22-0969.0305 Rev A)
- Danbury - Silverdale Semi Floor Plans (Ref P22-0969.0304 Rev A)
- Galloway Semi – Buff Brick & Grey Roof Elevations and Floorplans (Ref P22-0969.0303_1 Rev A)
- Danbury – Chiltern Red Brick & Grey Roof Elevations and Floorplans (Ref P22-0969.0302_1 Rev A)
- Danbury 3 Block Terrace Floor Plans (Ref P22-0969.0301_1 Rev A)

- Galloway Semi – Buff Brick & Red Roof Elevations and Floorplans (Ref P22-0969.0303_2)
 - Barnwood Red Brick & Grey Roof Elevations and Floor Plans (Ref P22-0969.0307_3)
 - Saunton Terrace Floor Plans (Ref P22-0969.0310)
 - Burnham Det -Buff Brick & Grey Roof Elevations and Floor Plans (Ref P22-0969.0314_2)
 - Burnham Det -Red Brick & Grey Roof Elevations and Floor Plans (Ref P22-0969.0314_3)
 - Harrogate Lifestyle – Red Brick & Grey Roof Elevations and Floorplans (Ref P22-0969.0321)
 - Welwyn Det – Red Brick and Grey Roof with Render Elevations (Ref P22-0969.0325_1)
 - Welwyn Det – Red Brick and Grey Roof Elevations (Ref P22-0969.0325_2)
 - Henley Housetype Floor Plans (Ref P22-0969.0326)
 - Henley – Red Brick and Grey Roof Elevations (Ref P22-0969.0327)
 - Leamington Lifestyle, Red Brick and Red Roof with Render Elevations and Floorplans (Ref P22-0969.0328)
 - Winterfold Semi M4(3), Red Brick and Grey Roof Elevations and Floorplans (Ref P22-0969.0329)
 - Winterfold M4(3), Red Brick and Grey Roof Elevations and Floorplans (Ref P22-0969.0330)
 - Winterfold Elevations and Floor Plan (Ref P22-0969.0406)
 - Saunton Plans (Ref P22-0969.0309-2)
 - Saunton Elevations (Ref P22-0969.0309-2)
 - Barnwood Elevations and Floor Plans (Ref P22-0969.0307-4)
 - Calder Semi M4(3), Red Brick and Grey Roof Elevations and Floorplans (Ref P22-0969.0412)
 - Braunton Semi, Floor Plans (Ref PP22-0969.0413_1)
 - Braunton Semi, Red Brick and Grey Roof Elevations (Ref P22-0969.0413_2)
 - Rendlesham Semi, Buff Brick and Grey Roof Elevations and Floor Plans (Ref P22-0969.0414)
- 3) Before any work proceeds above slab level, details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. A sample panel shall be erected on site showing the external wall and roofing materials and shall be made available for inspection by the Local Planning Authority upon request. The sample panel shall be retained until construction is completed. The approved development shall be carried out in accordance with the approved details and retained thereafter.
- 4) No ground works or depositing of materials in connection with the construction of any road or any structure or apparatus which will lie beneath the road, except for investigative and enabling works, shall take place until full detailed engineering drawings of all aspects of roads and sewers, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The approved development shall be carried out in accordance with the approved details and retained thereafter.
- 5) No dwelling shall be occupied 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 any programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

- 6) No dwelling shall be occupied until the access from Bartlett View has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:
- the crossing of the highway verge and footway must be constructed in accordance with North Yorkshire Councils Standard Detail;
 - that part of the access extending 10m metres into the site from the carriageway of the existing highway must be at a gradient not exceeding 1 in 30; and
 - the final surfacing of any private access within 3 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.

The development shall be carried out in accordance with the approved details and retained thereafter.

- 7) There must be no access or egress by any vehicles between the highway and the appeal site at Bartlett View and Rochester Row until splays are provided giving clear visibility of 43 metres measured along both channel lines of the road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 8) There must be no access or egress by any vehicles between the highway and the appeal site until visibility splays providing clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway have been provided. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 9) The below highway measures shall be completed in accordance with the specified triggers:
- Raised table along with associated tactiles and fencing at Rochester Row prior to use of the sales access.
 - Footway connection from the proposed development to Rochester Row to remain following removal of the sales access prior to practical completion.
 - Footway linking the proposed development to Bartlett View prior to occupation the development.

An independent Stage 2 Road Safety Audit commissioned in accordance with North Yorkshire Council and carried out in accordance with GG119 - Road Safety Audits, or any superseding regulations, shall be submitted to the Local Planning Authority and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site, except for investigative and enabling works.

Prior to the commencement of these works, a programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority. These items of highway works shall be completed in accordance with the approved engineering details and programme.

- 10) No dwelling shall be occupied until the parking for that dwelling has been constructed in accordance with the approved details. These facilities shall be retained in perpetuity.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Order, the garage(s) shall not be converted into domestic accommodation.
- 12) Prior to the occupation of the development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein.
- 13) No development of any phase of the development shall take place until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout the construction of that phase of the development.
- 14) The drainage scheme for the development shall be carried out in accordance with the details shown on the submitted Flood Risk Assessment and Drainage Strategy 0507/31//FRA (Revision 6) dated 11/07/2023 prepared by Egorum Limited.
- 15) The flood risk mitigation measures shall be carried out in accordance with the submitted flood risk assessment by Egorum Limited, referenced 0507/31//FRA and dated 11 July 2023. These approved measures shall be fully implemented prior to occupation of the development and subsequently in accordance with the scheme's phasing arrangements. The measures detailed above shall be retained and maintained thereafter.
- 16) No development shall commence until a site investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors.
- 17) Where remediation works are shown to be necessary, no development shall commence until a detailed remediation strategy has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works.
- 18) Where remediation works are shown to be necessary, they shall be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report shall be submitted to and approved by the Local Planning Authority, prior to occupation of the first dwelling.
- 19) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported

immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, the development or relevant phase of development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

- 20) No development shall commence until a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved Written Scheme of Investigation. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been agreed.
- 21) Within three months of the commencement of development a detailed landscaping scheme (in accordance with the approved Landscape Masterplan (Ref P22-0969_EN_0005_H), 10m Landscape Buffer Red Line Plan (Ref SIE-16-02-01) and Phase 4 Landscape Management Plan (Ref P22-0969-DE-001-0112_A) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the species, stock size, density/spacing, and position of trees, shrubs and other plants; and seed mixes, sowing rates and mowing regimes. It will also include details of ground preparation and tree planting details, including means of support and protection, and watering. The proposed tree planting shall be compatible with existing and proposed utilities. This scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species. This also applies to any existing plants that are shown to be retained within the approved landscape scheme.
- 22) The development shall not be occupied until a landscape management plan including long term design objectives, management responsibilities, and maintenance schedules for all communal landscape areas has been submitted to and approved in writing by the Local Planning Authority. The management plan shall include measures for 10 years maintenance following the first 5 years from establishment. The development shall be carried out in accordance with the approved details.
- 23) The approved development shall be carried out in accordance with the submitted Preliminary Ecological Appraisal. The scheme shall be implemented and retained thereafter.
- 24) No development shall commence until an Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall confirm how the new and retained habitats will be established, managed and monitored for a minimum of 30 years and incorporate the recommendations in Section 5 of the Preliminary Ecological Appraisal. The agreed scheme shall be implemented in accordance with the approved details and retained thereafter.

- 25) No work relating to the development hereby approved, shall take place other than between the hours of 08:00 and 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank or National Holidays.
- 26) Should any of the proposed foundations be piled and/or any ground compaction works be required, no development shall commence on that part of the development until a schedule of works to identify those plots affected and setting out mitigation measures to protect residents from noise, dust and vibration has been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.
- 27) The cycle storage as shown on Phase 4 Masterplan (Ref P22-0969-DE-001-0101-M) shall be installed in strict accordance with the approved details and prior to the occupation of the dwelling to which they relate.
- 28) Within a period of three months of the occupation of the 106th dwelling, the emergency access, as shown on Phase 4 Masterplan (Ref P22-0969-DE-001-0101-M), shall be constructed and retained thereafter.

Richborough



Costs Decision

Hearing held on 4 September 2025

Site visit made on 4 September 2025

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 20th October 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3368297

Land North of Prospect Farm, Sherburn in Elmet, Selby LS25 6FR

- 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 Redrow Homes (Yorkshire) Ltd and Persimmon Homes (Yorkshire) Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for 106 residential dwellings and associated works.
-

Decision

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

The submissions for Redrow Homes (Yorkshire) Ltd and Persimmon Homes (Yorkshire) Ltd

2. The costs application was submitted in writing. The following additional points were made orally:
 - Overarching point is that the Council has not substantiated its reasons for refusal. The Hearing Statement and oral evidence has done nothing to fill the gaps. No objective or technical evidence has been provided to support the reasons for refusal.
 - It is not appropriate to point to interested parties; their concerns do not amount to a reason for refusal. Refusal of planning permission should not be seen as a gateway for interested parties to have a discussion in front of an Inspector.
 - When specifically asked by the Inspector do they have any further comments, the Council responded, “nothing further to add”.
 - Only Section 5 of the rebuttal attempts to deal with the substance of the application for costs.
 - Within its rebuttal the Council accept the burden is on them to make their own case.
 - In relation to paragraph 5.2 of the Council’s Rebuttal, it is accepted that officers worked with the appellants to resolve issues, there is no claim that the officers delayed determination.
 - Within paragraph 4.6 of the Rebuttal the Council set out the member’s position, this is not the same as substantiating it. The claim that they have expanded on it is misconceived. The Council has sought to defend the reasons for refusal but not substantiated them.
 - The Council infer there has been no wasted expense.

The response by North Yorkshire Council

3. The response was made in writing. The following additional points were made orally:

- The Council worked with the applicants to produce a reasonable scheme.
- Officers have put together a robust response.
- The Local Highway Authority do not object
- Genuine concerns were put forward by the committee members.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG)¹ 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.
5. It is entirely legitimate for Elected Council Members to make a decision which is contrary to the recommendation of the Council's officers. The PPG² advises that members must only take into account material planning considerations when determining an application and that local opposition is not in itself a ground for refusing planning permission, unless it is founded upon valid material planning reasons. In this instance Members have decided to refuse planning permission for two reasons, both of which relate to highway safety. This is despite there being no objection from the Local Highway Authority.
6. Moreover, independently assessed Road Safety Audits concluded that the proposed accesses were safe subject to improvements, which the applicants have agreed to. Neither when making their decision, nor when defending the appeal has the Council explained why the technical advice was not material or should be discounted. Instead, the Council has provided vague and generalised assertions about the effect of the proposal without their own substantive technical evidence.
7. It is not disputed that the Council's officers worked proactively with the applicants to resolve any concerns during the determination of the planning application. But this does not address the fact that planning permission was refused for unsubstantiated reasons on highway safety. Therefore, this would amount to unreasonable behaviour by the Council as the appellant has committed resources to ensuring that the proposal would be acceptable and as set out in the formal decision there would be no harm to highway safety.
8. Ultimately, the Council has prevented development which should have clearly been permitted, having regard to the development plan, national policy, and material considerations; failed to substantiate the reasons for refusal; and made vague and generalise assertions about a proposal's impact, which are unsupported by any objective analysis. These are all examples of unreasonable behaviour which may give rise to a substantive award against a local planning authority within the PPG³.
9. In conclusion, the applicants have incurred an unnecessary expense, in preparing and submitting the appeal, as a direct result of the Council's unreasonable behaviour. Therefore, a full award of costs is justified and should be granted.

¹ Planning Practice Guidance, Appeals, Paragraph: 028 Reference ID: 16-028-20140306

² Planning Practice Guidance, Determining a planning application, Paragraph: 016, Reference ID: 21b-016-20140306

³ Planning Practice Guidance, Appeals, Paragraph: 049 Reference ID: 16-049-20140306

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Yorkshire Council shall pay to Redrow Homes (Yorkshire) Ltd and Persimmon Homes (Yorkshire) 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.

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.

J Hobbs

INSPECTOR

Richborough