



Appeal Decision

Hearing held on 20 November 2025

Site visit made on 20 November 2025

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2025

Appeal Ref: APP/R4408/W/25/3370948

Land off Goldthorpe Road, Goldthorpe

- 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 Mr Walt Selby, W Redmile & Sons Ltd, against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref is 2022/0420.
 - The development proposed is the erection of 106 dwellings and provision of access, public open space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 106 dwellings and associated works including provision of access, public open space and landscaping at Land off Goldthorpe Road, Goldthorpe, in accordance with the terms of the application, Ref 2022/0420, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by W Redmile & Sons Ltd against Barnsley Metropolitan Borough Council (the Council). This application is the subject of a separate decision.

Preliminary Matters

3. The description of the development in the banner heading above was taken from the planning application form. However, the description in the decision section has been changed to reflect amended plans, submitted through the course of the planning application, which necessitate a change in the description of the development. The words 'amended plans' have been removed from the description as this is not an act of development.
4. In this instance, the amended drawings formed part of the scheme before the planning applications committee, which reduced the number of dwellings originally proposed from 109 to 106 dwellings. Consequently, the amended drawings were the subject of public consultation. In these circumstances, I am satisfied that my consideration of these amendments would cause no injustice to any party. For the avoidance of doubt, I have determined the appeal on the basis of the amended plans before the planning applications committee.
5. The appellant has provided amended plans as part of the appeal which show the removal of one dwellinghouse and the extension of the area of sustainable urban drainage.

6. The Inspectorate's Procedural Guide on Planning Appeals makes it clear that the appeal process should not be used to evolve a scheme. As such, I have not taken these amended plans into account in this instance.
7. This approach is supported by the Wheatcroft¹ and Holborn² principles where it is highlighted that a series of small, incremental, proposed amendments to a scheme could result in a substantial difference or a fundamental change. I am additionally concerned about potential procedural failings were I to accept new plans, particularly given the comments of consultees who may not be fully aware that the appeal proposal is of a different nature to that which was originally before the planning application committee. Thus, there may be a procedural unfairness to these, and other, parties.
8. A completed Planning Obligation by Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (as amended) (TCPA) was submitted on 1 December 2025. This made provision for biodiversity, education, off-site open space and sustainable travel.

Background and Main Issue

9. The appeal proposal was approved by the Council in July 2023, subject to the main parties entering into a planning obligation pursuant to Section 106 (S106) of the TCPA for, among other things, the provision of 10% affordable housing. The affordable housing was to be provided as six dwellings on site and five as a commuted sum. However, a completed S106 under the terms initially agreed was not finalised.
10. The appellant seeks the approval of the development, subject to a new planning obligation in the form of an amended S106. The new planning obligation carries over all of the terms of the original agreement (with some minor updates) save for the provision of affordable housing. The level of affordable housing now being offered is 0% rather than 10% of the total number of homes. The appellant has provided a Viability Appraisal Report³ in support of this change. The Viability Appraisal Report has been independently reviewed and agreed by a Council appointed specialist⁴. Because of this, there is common ground between the Council and appellant that the appeal scheme would be unviable with affordable housing. I have no reason to disagree.
11. The appeal scheme would adhere with Policy H7 of the Barnsley Local Plan 2019 (BLP), which, seeks an affordable housing contribution unless it can be demonstrated through a viability assessment that the required figure would render the scheme unviable. The National Planning Framework (the Framework), in paragraph 59, similarly references that the weight to be given to a viability assessment is a matter for the decision maker. Thus, a 0% contribution towards affordable housing would not be at odds with the development plan taken as a whole, or the Framework.
12. A Statement of Common Ground (SOCG) between the appellant and the Council was provided prior to the Hearing. The SOCG states that the main parties agree that the proposed development is unviable with any affordable housing contribution.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

³ Viability Appraisal Report, dated 10 April 2024, prepared by Appraisal and Development Services Ltd

⁴ Viability Assessment Letter, dated 1 April 2025, prepared by CPV Independent Viability Experts

The SOCG also confirms that the main parties are in agreement on matters relating to highways, design, ecology, drainage, archaeology, pollution control and a proposed list of conditions. The matters in dispute detailed in the SOCG are whether, in not providing affordable housing, the proposed development conflicts with Policy H6 of the BLP. The main parties also disagree on whether the amended plans submitted as part of the appeal represent a material change to the development. As detailed above I agree with the Council in regard to these plans and will not accept them.

13. Taking into account this background, the main issue is whether the proposed development would provide an appropriate housing mix with regard to affordable housing.

Reason

14. Prior to the hearing the main parties agreed that the Council cannot demonstrate a 5 year housing land supply, and a large portion of the appeal site is allocated for housing within the BLP. Aside from that overarching position, as detailed above, the main parties are in agreement that the scheme would not be financially viable if affordable housing is provided.
15. Policy H6 of the BLP sets out detailed consideration in relation to the housing mix and density of residential developments in order to meet the needs of all members of the community and ensure the efficient use of land. In respect of housing mix the policy states that:

‘Housing proposals will be expected to include a broad mix of house size, type and tenure to help create mixed and balanced communities.’
16. The proposed scheme would include 36 No two bed dwellings, 55 No three bed dwellings and 15 No four bed dwellings. The majority of dwellings would be two storeys with the exception of six of the three bed dwellings which would be bungalows. The Council raises no concerns that relate specifically to house size and type and has only identified harm in respect of the absence of affordable housing.
17. All of the dwellings would be for market housing, for private sale. As such, the proposed scheme would fail to meet the expectation in regard to a mix of tenures.
18. However, during the hearing both main parties agreed that the inclusion of ‘expected’ at the start of the policy text provides recognition that there is some flexibility to the stated housing mix. Although the Council stated that it would require a material consideration of significant weight to allow a movement away from that expectation.
19. The Council and appellant agreed at the hearing that since the adoption of the BLP there have been significant economic changes, including increases in inflation, interest rates on mortgages and construction costs. This has had a significant impact on the viability of the scheme. As mentioned above, the situation is so altered that the Council and appellant also agree the scheme can no longer provide affordable housing and remain viable.
20. Therefore, the current circumstances are such that there is a need for a planning obligation in different terms, to facilitate delivery. The altered terms of the planning obligation would be consistent with the development plan taken as a whole. The

consequence being that the change would not have a bearing on whether the scheme would be acceptable. Thus, the amended planning obligation is necessary, reasonable, supported by development plan policy and proportionate in the context of the prevailing circumstances. Therefore, it is desirable, essential and appropriate to consider a planning obligation in different terms, namely the provision of 0% affordable housing.

21. Overall, although the proposal would not provide the specific mix that is sought under Policy H6 of the BLP in regard to tenure, it remains that the policy allows for some flexibility, and in this instance there is suitable justification for the removal of the obligation to provide affordable housing in this instance.
22. Further if I were not to modify the planning obligations initially proposed, its retention would restrict the efficient use of land, as the evidence before me demonstrates that the provision of affordable dwellings would make the appeal scheme unviable. The Framework seeks to significantly boost the supply of homes. There would also be moderate economic and social benefits associated with the occupation of the dwellings.
23. Overall, although the development would conflict with the expectations detailed in Policy H6 of the BLP in part, however, the wording of the policy allows for a degree of flexibility. In this instance the viability of the appeal scheme is a material consideration of sufficient weight to justify the amendment of the obligation to provide affordable housing in this instance.
24. Planning Practice Guidance (PPG)⁵, refers to the weight to be given to a viability assessment being a matter for the decision maker, and acknowledges that negotiation can take place. It also identifies that circumstances relevant to such negotiations could include where a recession, or similar significant economic changes, have occurred since the plan was brought into force⁶. Based on the evidence before me the removal of contributions to affordable housing would therefore still comply with the provisions of the PPG.

Other Matters

25. I have carefully considered Councillor comments which include concerns in relation to a lack of local infrastructure such as doctor's surgeries and pedestrian routes around the site. Other public objections relate to the protection of trees and wildlife and the impact of traffic increases and parking problems. But there is nothing compelling to suggest any of those concerns should significantly weigh against the scheme bearing in mind the content of the officer committee recommendation made, consultee advice, and all potential forms of legal agreement and planning condition use applicable.
26. Separate to those points, there is likely to be some adverse noise and disruption amenity impacts arising from construction activity and construction traffic. But those periods would be temporary and short lived. The use of planning conditions would ensure this would be appropriately managed and otherwise acceptable in public safety terms. Therefore, I attribute such harm only limited weight.
27. I acknowledge Paragraph 8 of the Framework emphasises the social objective of sustainable development to support strong, vibrant, and healthy communities, by

⁵ Paragraph: 010 Reference ID: 23b-010-20190315, Revision date: 15 03 2019

⁶ Paragraph: 007 Reference ID: 10-007-20190509, Revision date: 09 05 2019

ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Moreover, Paragraph 61 confirms the Government's objective of significantly boosting the supply of homes.

28. The scheme would redevelop redundant previously developed land, to deliver crucial private housing. I give substantial weight to such benefits in line with the social and economic objectives of the Framework. The principle of reusing such land is inherently sustainable.
29. I note a representation was submitted in regard to ownership of land adjacent to the appeal site, this is a civil matter and not considered under the remit of a planning appeal.

Planning obligation (S106)

30. I find that the series of obligations defined in the S106 are all justified, necessary; directly related to the development; and fairly related in scale or kind. They all also accord with the terms of the Framework and PPG, combined.

Conditions

31. The Council and the appellant agreed a list of conditions which I have considered against the tests set out in the PPG and paragraph 57 of the Framework. Where appropriate, I have adjusted the wording to improve precision and enforceability.
32. I have attached conditions relating to the time limitations for the commencement of the development (1), compliance with the approved plans (2), details of proposed external materials (20), protection of trees (3) and details, as well as maintenance, of landscaping (4 and 5) in the interests of clarity and certainty and to protect the character and appearance of the area.
33. I have attached conditions requiring the submission of a Construction Method Statement (8), highway condition surveys (15), restriction of access gradients (31) and also details of: the construction and lighting of roads and pavements (14 and 21), pedestrian barriers (23), visibility splays (26 and 32), and the sales cabin and associated parking (16). These conditions are in the interests of highway safety and the residential amenity of the occupants of neighbouring properties.
34. Conditions requiring the investigation of contamination (9) and unstable land (11) within the site, and the control of the development in regard to these matters if discovered during construction (10 and 12), and the implementation of any necessary remediation (24) are required to ensure the safety and stability of the site.
35. In order to ensure the proposed development would meet the needs of future occupants and protect their amenity I have attached conditions relating to the provision of cycle parking facilities (27), installation of obscure glazing (37), compliance with the submitted Residential Travel Plan (33) and provision of internet (19).
36. In order to ensure satisfactory and sustainable drainage conditions requiring details of surface water drainage (13), disposal of sewage (25), compliance with the submitted Flood Risk Assessment Report (29) and protection of the public sewerage infrastructure (30) have been included.

37. Conditions 6 and 7 require the preparation and compliance with an archaeological written scheme of investigation in order to ensure any archaeological assets are investigated, recorded and protected.
38. Conditions requiring the submission of a Precautionary Working Method Statement (17), Construction Environmental Management Plan (18) and a Biodiversity Enhancement Management Plan (35); as well as details of internal and external lighting (22), compliance with the submitted Ecological Impact Assessment (28) and provision of additional biodiversity mitigation (34) have been included to conserve and enhance biodiversity.
39. Condition 36 restricts ancillary development in eight plots has been included in order to prevent the overdevelopment of plots in the interests of residential amenity.
40. I have omitted conditions that duplicate the requirement for the submission of details of the management of the construction of the development or individual aspects of the construction phase. I have also omitted a condition regarding the surfacing of roads in relation to the management of surface water, as this would also duplicate the requirements of other conditions. As the requirements of these conditions would duplicate other conditions, they are unnecessary and therefore would not meet the tests set out in the PPG and the Framework.

Planning Balance and Conclusion

41. Pursuant to Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, local planning authorities and other decision makers should first have regard to the development plan and then to any other material considerations.
42. If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
43. I have found that the appellant demonstrates full compliance with the adopted development plan for the area, taken as a whole bearing in mind all contentions made by the Council.
44. As the development accords with the development plan, subsequently it leads me to apply paragraph 11 (c) of the Framework which means that planning permission for the appeal scheme should be granted without delay.
45. But in any event, the magnitude of the combined benefits attributed to the development in the context of a 5 year housing land supply shortfall is considerable, relative to the limited short lived construction phase noise and disruption harm I have identified; or even if a notional marginal departure from adopted policy for affordable housing tenure, had been found to be the case.
46. The direct benefits arising from the development relative to all considerations give me sufficient reason to allow the appeal. There are no other considerations of sufficient weight counting against it to conclude otherwise.
47. For the reasons given above the appeal is allowed.

C Livingstone

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT

Roland Bolan
Walter Selby
Will Smith
Jason Bolger
Richard Bland

Director, Pland (Development Consultants) Ltd
Director, W Redmile & Sons Ltd
Managing Director, W Redmile & Sons Ltd
Director, Architectural Innovation Ltd
R.A.B Engineering Design Ltd

FOR THE LOCAL PLANNING AUTHORITY

Matthew Smith

Group Leader, Development Management

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 Completed planning obligation

Richborough

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 following drawings: Site Layout Plan Revision T, SD/DFSBT/02, SDSFDB/01, SD/PPW/01, SD/SF/01, SD/DF/01, Abney house type elevations, AS2/AB-01, AS2/BI-02 (first floor), AS2/BI-02 (ground floor), DB—EL-01 rev A, DB—FFP-01 rev A, DB—GFP-01 rev A, Cromford house type elevations, AS2/DO-03, AS2-DO-02, Doveridge house type elevations, Tree constraints Plan, AST/HO-01, 3B-D/CR-01 Revision E, 3B-S/CL-01, 3B-S/CL-02 rev A, 3B-S/CU/HO-01, 3B-S/CU/HO-03 REV A, 3B-S/HR-01, Birchover house types elevations, 3B-S/HR-02 rev A, 3B-S/TIP-02, 3B-S/TIP/01, Tideswell/Wardlow house types, elevations, Tissington house types, AS2/TS-04, AS2/TS-03 REV A, 3B-S/WAP-01, 3B-S/WAP-02, Location Plan- July 2022 and 466701003 REV B.
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 4) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding seasons following the first occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall take place until:
 - (i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority

- 7) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 6.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) No development shall take place until an assessment of the risks posed by any contamination (including gases and water quality) has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
- ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 10) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and

approved in writing by the local planning authority before the development is occupied.

- 11) No development shall take place until a site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability is identified during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall not take place until the site has been remediated in accordance with the approved report and measures.
- 12) If, during the course of development, any unexpected land instability issues are found which were not identified in the site investigation, development on that part of the site shall be suspended until additional measures for the remediation of the land have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 13) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 14) No development shall take place until full construction, engineering, drainage and street lighting details of the street proposed for highways adoption have been submitted to and approved in writing by the local planning authority. These details will be completed and implemented in full, according to specified timescales, unless otherwise agreed in writing by the Local Planning Authority.
- 15) No development shall take place until a survey of the condition of the adopted highway to be used by construction traffic has been submitted to and approved in writing by the local planning authority. The extent of the area

to be surveyed must be agreed by the local highways authority prior to the survey being undertaken. The survey must consist of:

- i) a plan to a scale of 1:1250 showing the location of all defects identified.
- ii) a written and photographic record of all defects with the corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey.

On completion of the development, a second condition survey of the adopted highway shall be carried out to identify defects attributable to the traffic associated with the development. It shall be submitted for the written approval of the local planning authority. Any necessary remedial works shall be completed at the developer's expense in accordance with a scheme to be agreed in writing by the local planning authority.

- 16) No development shall take place until details of the siting of the sales cabin, and parking for staff and customers visiting the site, have been submitted and approved in writing by the local planning authority, and such facilities shall be retained for the entire construction period.
- 17) No development shall take place (including vegetation/site clearance) until a Precautionary Working Method Statement (PWMS) for amphibians, bats (including details regarding the soft felling of trees with bat roost potential) and small mammals has been submitted to and approved in writing by the Local Planning Authority. The PWMS will be completed by a suitably qualified ecologist and the approved PWMS shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the Local Planning Authority.
- 18) Notwithstanding the submitted details, no development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:
 - i) risk assessment of potentially damaging construction activities;
 - ii) identification of 'biodiversity protection zones';
 - iii) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv) the location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
 - v) use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period;
 - vi) the times during construction when specialist ecologists need to be present on site to oversee works;
 - vii) responsible persons and lines of communication; and
 - viii) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person(s);

The CEMP-B shall be followed and implemented in full unless otherwise agreed in writing by the Local Planning Authority.

- 19) No development above ground level shall take place until details of measures to facilitate the provision of gigabit-capable full fibre broadband for the dwellings/development hereby permitted, including a timescale for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 20) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 21) No development above ground level shall take place until details of the standards to which the roads and footways serving the development are to be constructed have been submitted to and approved in writing by the local planning authority. No house shall be occupied until the roads have been constructed in accordance with the approved details.
- 22) No development above ground level shall take place until details of external/internal lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall be provided by a suitably qualified ecologist and clearly demonstrate that lighting will not adversely impact wildlife using key corridors, foraging and commuting features and roosting sites. The details shall include, but are not limited to, the following:
 - i) a drawing showing sensitive areas, dark corridors and buffer areas;
 - ii) technical description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate;
 - iii) a description of the luminosity of lights and their light colour;
 - iv) a drawing(s) showing the location and where appropriate the elevation, height and luminance of the light fixings;
 - v) methods to control lighting control (e.g. timer operation, Passive Infrared Sensors (PIR)); and
 - vi) lighting contour plans, both horizontal and vertical where appropriate, taking into account hard and soft landscaping.

All external/internal lighting shall be installed in accordance with the specifications and locations set out in the approved details. They shall be maintained thereafter in accordance with these details.

- 23) No development above ground level shall take place until details of any barriers to be placed on the pedestrian route into the housing estate at the north of the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall then proceed in accordance with the approved details.
- 24) Prior to the first occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm

- the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past mining activity.
- 25) Prior to the first occupation of the development works for the disposal of sewage shall be provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority and shall be retained as such thereafter.
 - 26) Prior to the first occupation of the development the visibility splays at internal junctions shall be provided in full accordance with the details indicated on the approved plans. The splays shall thereafter be maintained at all times free from any obstruction exceeding 1.05m in height and shall be retained as such thereafter.
 - 27) No dwelling shall be occupied until a scheme allocating space for bicycle storage for each dwelling has been submitted and approved in writing by the local planning authority, that space shall thereafter be kept available for the storage of bicycles.
 - 28) The development shall be completed in strict accordance with the recommendations in Sections 4 and 5 of the Ecological Impact Assessment (document reference 211045/EclA/REV3) and the BNG Metric Appendix 6 Goldthorpe Redmile BNG. All the recommendations shall be implemented in full according to the timescales laid out, unless otherwise agreed in writing by the local planning authority, and thereafter permanently maintained for the stated purposes of biodiversity conservation.
 - 29) The development shall be carried out in strict accordance with the details and mitigation measures within the submitted Flood Risk Assessment Report 46670-001 (issue 1) prepared by Eastwood & Partners, dated 3 March 2022 and shall be retained as such thereafter
 - 30) No building or other obstruction including landscape features 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, which 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 this is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved in writing by the planning authority.
 - 31) The gradient of individual vehicular accesses/driveways shall not exceed 1 in 12 as measured from the edge of the adjacent carriageway.
 - 32) Pedestrian visibility splays having dimensions of 2m x2m shall be safeguarded at driveway entrances/exits. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 0.6m to the rear of the footway/verge which would obstruct the visibility splay. The visibility splay shall be maintained free of obstruction at all times thereafter for the lifetime of the development.
 - 33) The Residential Travel Plan prepared by Sustainable Development and Delivery, DLP Planning Ltd, Sheffield (February 2022) (Travel Plan) shall be implemented in accordance with the measures set out therein. Within three months of the first occupation, evidence of the implementation of measures set out in the Travel Plan shall be prepared, submitted to, and agreed in

writing with the local planning authority, unless alternative timescales are agreed in writing.

- 34) The development shall be carried out in accordance with the following additional biodiversity mitigation and enhancement measures. The measures listed below shall be implemented in full, prior to first occupation of the site, and full details including photographic evidence provided to the local planning authority, unless otherwise agreed in writing by the local planning authority; the features shall thereafter be permanently retained.
- i) 100% of the dwellings on site to comprise integrated bat roosting boxes to be installed in suitable locations on the new buildings;
 - ii) 100% of the dwellings on site to comprise integrated swift bricks to be installed in suitable locations on the new buildings;
 - iii) 20% of the dwellings on site to comprise integrated bee bricks;
 - iv) Fencing on site will be sympathetic to allow the passage of small mammals, particularly hedgehog through the site. Holes should be cut in boundary fencing to allow this and holes marked to prevent occupiers from blocking the holes; and
 - v) The arisings from felled trees will be left in suitable locations in wooded areas on site to provide refuge habitat for hedgehog.
- 35) A Biodiversity Enhancement Management Plan (BEMP), completed by a suitably qualified ecologist will be submitted to the Local Planning Authority prior to the commencement of works on site. The BEMP will include the following:
- i) A recent landscape plan detailing the location of mitigation works and the size of each habitat/linear feature to be enhanced and/or created;
 - ii) Management aims and prescriptions detailing the methods required to create and/or enhance each habitat/linear feature at the required quality for a period of 30 years;
 - iii) A timetable of delivery for each habitat/linear feature created and/or enhanced;
 - iv) A schedule of ecological monitoring for a minimum 30 year period, identifying when key indicators of habitat/linear feature maturity should be achieved;
 - v) Details on the monitoring of habitats and linear features and the provision of a report, which shall be provided to the LPA on the 1st November of each year of monitoring (years one-three after creation, years five, ten and every ten years thereafter), which will assess the condition of all habitats and linear features created and/or enhanced and any necessary management or replacement/remediation measures required to deliver the Net Gain values set out in the BEMP;
 - vi) A schedule of actions to be undertaken in case signs of failing are identified; the schedules must include details of technique(s) to be used, equipment to be used, roles and relevant expertise of personnel and organisations involved and timing of actions including submission of monitoring report to the Council.
- 36) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no ancillary building

structures shall be constructed to the rear of the houses on plots 7, 16, 17, 36, 27, 28, 77 and 93.

- 37) Notwithstanding the details shown on the approved plans all dwellings of the Cromford house type (3B-D/CR-01) shall not be occupied until the side windows serving the ground floor dining rooms have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

***** END OF CONDITIONS*****

Richborough



Costs Decision

Hearing held on 20 November 2025

Site visit made on 20 November 2025

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2025

Costs application in relation to Appeal Ref: APP/R4408/W/25/3370948

Land off Goldthorpe Road, Goldthorpe.

- 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 W Redmile & Sons Ltd for a full award of costs against Barnsley Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for erection of 106 dwellings and associated works including provision of access, public open space and landscaping
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.
3. The PPG advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. The appellant submits that Barnsley Metropolitan Borough Council acted unreasonably insofar as: 1) it disregarded the viability evidence submitted by the applicant, the findings of which were independently verified; 2) failed to substantiate its opposition of the proposed scheme with evidence; 3) failed to consider the scheme against the development plan as a whole; 4) failed to consider its housing land supply position as part of its decision; 5) failed to provide a clear reason for refusal in referencing the PPG as a whole and not a specific part of this guidance. As a result, the appeal has caused unnecessary expense.
6. In light of the above the appellant seeks a full award of costs. The appellant also seeks the cost of both their and the Council's viability assessments. However,

paragraph 59 of the National Planning Policy Framework (the Framework) states that it is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment.

7. In its reason for refusal the Council stated that the development conflicted with the PPG but did not reference a specific part. As such, it failed to provide a clear reason for refusal in respect of the PPG, which amounts to unreasonable behaviour.
8. Both the Framework¹ and the PPG² state that the weight given to a viability assessment is a matter for the decision maker. In reaching their decision Members balanced the need for affordable housing in the area against the findings of the viability assessment, assigning weight accordingly as the decision maker. As such, I cannot agree the Council has acted unreasonably in this regard.
9. Although there had been examples of past appeals where the Council's housing land supply position was assessed, during the Hearing the Council confirmed that official published figures of the current housing land supply position were not available when members made their decision. I therefore cannot agree that members acted unreasonably in regard to the housing land supply position when they made their decision.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's failure to provide a clear reason for refusal only, and a partial award of costs is therefore warranted.

Costs Order

11. 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 Barnsley Metropolitan Borough Council shall pay to W Redmile & Sons Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in regard to its failure to provide a clear reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Barnsley Metropolitan Borough 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.

C Livingstone

INSPECTOR

¹ Paragraph 59

² Paragraph: 010 Reference ID: 23b-010-20190315, Revision date: 15 03 2019