



Appeal Decision

Hearing Held on 6 September 2023

Site visit made on 7 September 2023

by H Heward BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 February 2024

Appeal Ref: APP/E2734/W/23/3323742

Chapel Field, Marton Cum Grafton, Easting 441510 Northing 463198

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by J N Bentley Properties Ltd against the decision of North Yorkshire Council.
 - The application Ref 22/03219/FUL dated 17 August 2022, was refused by notice dated 8 December 2022.
 - The development proposed is two self-build residential dwellings (Use Class C3) with detached garages, associated access, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs by North Yorkshire Council against J N Bentley Properties Ltd is the subject of a separate Decision.

Procedural Matters

3. The proposal is in a conservation area, I have had special regard to sections 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. On lodging the appeal, the Appellant submitted plans which had not been before the Council when it determined the application. The [Procedural Guide: Planning appeals – England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/planning-appeals-england) advises that if an appeal is made the appeal process should not be used to evolve a scheme.
5. The amendments principally concerned the treatment of an area around a veteran tree, new hedgerows, the route of a path within the site alongside a lane, and a change to colour of window frames. There was no change to the description of development, means of access or the general form, quantum, and distribution of development.
6. Two residents were at the hearing. One was a signatory to the only letter of objection from occupiers of neighbouring properties at the application stage. At the hearing, the Council's witnesses included officers with responsibilities for conservation, arboriculture, landscape and ecology matters. Except for proposed ground levels, the officers were familiar with the amendments.

7. The drawings which the Council had determined included an Arboricultural Impact Assessment Plan A1AO1 Rev C which indicated that there would be no change of levels around the veteran tree whilst other drawings did not. The amended set of drawings helped resolve this anomaly. An update to revision Plan A1AO1 Revision D added minor amendments to the arboricultural plan.
8. Having regard to *Wheatcroft* and the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney (2018)*, which refined the “Wheatcroft principles”, I found that the amended plans amount to a series of minor amendments which would not result in a substantial difference or fundamental change. Accepting the plans would not deprive those who were entitled to be consulted on the application of the opportunity to make any representations that, given the nature and extent of the changes proposed, they may have wanted to make on the application as amended. I concluded that no one would be prejudiced and accepted the amended plans.
9. The National Planning Policy Framework (Framework) was updated the day before the hearing sat, on 5 September 2023. The paragraphs and advice upon which the parties rely had not changed. As agreed by all parties at the hearing, the Council submitted a revised schedule of proposed conditions on 14 September 2023 and the Appellant submitted a finalised Unilateral Undertaking (UU), dated 14 September 2023.
10. After the hearing closed the Framework was updated again on 19 December 2023, and on 3 January 2024 the Appellant advised that a veteran tree was blown over during a recent storm. The parties had an opportunity to comment on these changes, and their submissions have been taken into consideration.

Main Issues

11. A reason for refusal relates to policies of the Harrogate District Local Plan 2014-2035 (the Local Plan) for the provision and distribution of new homes. Marton Cum Grafton is identified as a Service Village under Policy GS2. The appeal site lies beyond the defined settlement limits. Policy GS3 seeks to limit development within settlement limits but also includes a provision that “*Outside settlement limits proposals for new development will only be supported where expressly permitted by other policies of this plan or a neighbourhood plan or national planning policy*”.
12. The description of development applied for includes “*two self-build residential dwellings*”. Section 1 (2) of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) (the Self-build Act) places a duty on authorities to have regard to each Self-build and Custom housebuilding register that relates to their area when carrying out their planning, housing, land disposal and regeneration functions and must give suitable development permission to enough suitable serviced plots of land to meet the demand for Self-build and custom housebuilding in their area.
13. One month after the application was refused the Council published *The Self-build and Custom Housebuilding Update Report – January 2023*. Paragraph 7.3 confirms a shortfall of 89 plots in Harrogate District. The report concludes that the Council, at the end of Base Period 7 (30 October 2022), had a shortfall in the delivery of plots as identified on the Council’s Self-build and Custom Housebuilding Register, and that weight must be given to the delivery of self or custom build plots.

14. At the Hearing, the Planning Officer confirmed that in these circumstances, and provided that all other aspects of the proposal were acceptable, the Council would agree that a Self-build scheme could be supported in principle under the provision in Policy GS3 described above. In their Statement of Case, the Council confirmed that should the proposal amount to Self-build or Custom housing then significant weight should be given to the delivery of custom and self-build plots. The Appellant agreed on this point at the Hearing. But the Council did not accept that the appeal proposal amounted to Self-build housing.
15. In post hearing correspondence, 30 January 2024, the Council stated that alterations in the Revised Framework 19 December 2023 do not materially alter the Officer's assessment.
16. The Council has a five-year housing land supply. However, I agree with the Appellant in so much as Policy GS3 development criteria A-D provide a useful guide by which the acceptability of other aspects of the proposal could be assessed if the development were found to meet the definition of Self-build housing.
17. The other reasons for refusal relate to effects upon the character and appearance of the Marton Cum Grafton Conservation Area (the CA), effects upon open countryside, effects upon trees protected by a Tree Preservation Order (TPO), the biodiversity of a buffer zone to a veteran tree and impacts upon Great Crested Newts.
18. Prior to the hearing the Appellant submitted a Natural England Great Crested Newt District Level Licencing Impact Assessment & Conservation Payment Certificate. At the Hearing, the Council's Ecologist advised that they were satisfied that this information overcame objections in respect of Great Crested Newts.
19. Therefore, the main issues in this case are: -
 - i. Whether the proposal would amount to Self-build or Custom Housing,
 - ii. Whether the proposed development would preserve or enhance the character and appearance of the CA, and
 - iii. The effect of the proposed development on trees protected by the TPO.

Reasons

Self-build or Custom Housing

20. The application for the two Self-build dwellings is made in full. The design for the dwelling on Plot 1 is for a traditional executive country house. The dwelling on Plot 2 is described as a contemporary barn like dwelling. Detailed plot and garden layouts are provided. Many details are specified, including the exterior cladding for Plot 2, the colour of window frames for Plot 1 and the wildflower mix for grass roofs. The amended floor plans do not specify internal layouts but the size and position of all window and external door openings are detailed.
21. The Government is actively seeking to increase the supply of Self-build housing. Paragraph 63 of the Framework recognises that different groups in the community should be assessed and reflected in planning policies for housing need. These groups should include (but are not limited to) people wishing to commission or build their own homes. Paragraph 70 states that

small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Amongst other things, to promote the development of a good mix of sites local planning authorities should b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and Self-build and Custom-build housing.

22. In post Hearing correspondence, 1 February 2024, the Appellant states that this adds an additional benefit from the contribution that this small site would deliver to meeting local housing requirements and a good mix of sites.
23. Framework Annex 2 defines Self-build and Custom-build housing as housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. The legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.
24. The Self-build Act does not distinguish between Self-build and custom-build. Section 1 (1) provides that in this Act self-build and custom housebuilding means the building or completion by — (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals. Section 1(A2) adds *"But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person."*
25. In post Hearing correspondence, the Appellant notes that as of 31st January 2024, Regulation 2(f)1 brings into force section 123 of the Levelling Up and Regeneration Act (LURA) 2023. Section 123 of the Act amends section 2A of the Self-build and Custom Housebuilding Act 2015 to ensure that only land permissioned explicitly for self-build and custom housebuilding will qualify towards a relevant authority's statutory duty to meet demand for self-build and custom housebuilding in the authority's area.
26. Advice on Gov.Uk¹ includes that Self-build and Custom housebuilding covers a wide spectrum, from projects where individuals are involved in building or managing the construction of their home from beginning to end, to projects where individuals commission their home, making key design and layout decisions, but the home is built ready for occupation ('turnkey'). In considering whether a home is a Self-build or Custom-build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. Off-plan housing purchased at the plan stage prior to construction and without input into the design and layout are not considered to meet the definition of Self-build and Custom housing.
27. Paragraph 5.32 of the Local Plan explains that Self-build is where someone directly plans the design and construction of their own home, finding and buying the plot of land and either physically undertaking the work themselves as a 'DIY' project or arranging for a contractor to build their own home for them. Paragraphs 5.34 and 5.35 add that Self-build may be based on where a person manages the design and construction and may undertake some of the building work or contract it to others. Homes built to a customer's specification

¹ Paragraph: 016 Reference ID: 57-016-20210208 Revision date: 08 02 2021

- by a developer based on a range of their designs do not represent a custom-build home.
28. The Appellant advises that they are not a developer or builder, and the plots would be sold on. They argue that purchasers would have full control over the finished layout and construction, and that the design of the scheme has only been specified in such detail to satisfy the Council's requirements for the planning application, and to overcome various concerns of the Council.
29. The Appellant may only be seeking to establish the principle of development to be able to market the plots to self-builders. Future self-builders could submit applications for amendments. But the question I must determine is whether the submitted scheme before me represents a proposal for Self-build housing.
30. From the submitted plans I find that most of the key design decisions have been made. The extent to which the plans are detailed and specified would leave the initial owners with little opportunity for an input into the design and layout. Even internal layouts would be restricted by the plot layouts, including specified engineering works, and the pre-defined position of windows and external door openings. In these ways I am not satisfied that the proposal would provide for initial owners to have a primary input into the final design, nor enough flexibility to customise the houses to suit their needs.
31. Obligations in the second schedule of the submitted UU include requirements that each dwelling be constructed as a Self-build or custom build dwelling as defined in the Self-Build Act and that the first occupation of each dwelling shall be by a person or persons who have had a primary input into the final design and layout. The Appellant opines that a UU is the surest way for a permission to commit itself to being custom or Self-build housebuilding and that the proposal goes beyond the Council's classification requirements.
32. Even if that is so, the UU before me would be tied to the planning permission for the submitted drawings, which I have found fail to meet the advice on Gov.UK. Therefore, there is ambiguity and uncertainty that the second schedule obligations in the UU could achieve the intended effect or be enforceable. The provisions in the UU do not overcome my conclusion that the proposal does not amount to Self-build housing.
33. I have had regard to the *Right to Build Task Force Custom and Self-Build Planning Guidance PG1: Defining self-build and custom housebuilding March 2021*. But it is not Government policy, and I attach little weight to it.
34. I conclude that the proposals do not amount to a proposal for Self-build or Custom-build housing.

The Character and Appearance of the CA

35. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) provides that with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
36. Paragraph 206 of the Framework establishes that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. The Framework Glossary defines significance for heritage policy

as 'the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

37. The Marton cum Grafton Conservation Area Appraisal, 2011 explains that the CA consists of two distinct settlements, describes the landform as hummocky and advises that a number of important views result from topography. Grafton Lane is particularly important to the CA because it passes through the land that separates the two settlements (section 7.19). The field comprises an area of undeveloped hummocky land, with a verdant, well wooded backdrop between the two settlements. The Appraisal also describes Limbar Lane as an important approach to the village where bends, hedgerows and trees reduce the views of the village buildings on the approach. The significance of the CA, as far as it relates to this appeal, is primarily associated with the undeveloped hummocky landform, and the verdant character and appearance of the open area between, and on the western side of, the two settlements.
38. The CA was extended in 2011 to take in a field on the west side of Grafton Lane, including the appeal site. The CA Appraisal notes that not all this area has intrinsic value. At the hearing, the Appellant's Heritage Witness agreed that the general area contributes to the significance of the CA but argued that the appeal site makes little contribution to the important sense of separation between the two settlements.
39. In Viewpoint 5 (VP5) of the Appellant's Landscape and Visual Appraisal (LVA) the appeal site appears largely indistinguishable from the rest of the undeveloped land between the two settlements. The alignment of Grafton Lane, topography and surrounding trees have the effect of drawing the eye towards an area of 'hummocky' ground within the open area and which forms part of the appeal site. It is seen against a well wooded backdrop of countryside beyond. The Appellant's Heritage Impact Assessment notes that the southern part of the site is on a prominent rise in the middle distance.
40. From a footpath between Grafton Lane and Limbar Bank Road (VP6) the appeal site appears as part of the undulating open area between the two settlements. I observed that when walking towards Grafton, topography and surrounding trees have the effect of drawing the eye towards an area of 'hummocky' ground of which the appeal site is part. In views from high ground at Grafton Hills part of the appeal site and the canopies of mature trees can be seen as a green backdrop beyond the grey slate roof of the former Wesleyan Chapel.
41. Historical mapping indicates that hedgerows on Limbar Lane were set back. The edge of the village has evolved and is an arbitrary boundary. VPs 1 and 2 are representative of close views today. From VP1 the appeal site affords a filtered view to the village beyond. From VP2 the hummocky landform of the appeal site can be appreciated. The LVA finds the latter to be a predominantly open rural view. I agree.
42. I conclude that the appeal site contributes positively to the character and appearance of the verdant and open character of land experienced as being between and separating the two villages on the western side. In this way it makes a positive contribution to the significance of the CA.

43. Ground works would cut into a noticeable hummock diminishing the rounded high point on the site and eroding the hummocky landform. The dwellings and retaining walls would appear engineered into the landscape. Albeit set behind hedgerows and trees, the works would be partially visible.
44. From VP6, the proposed development would be seen in the middle distance and occupy approximately two thirds of the view. I observed that little other built form is seen in this view. The top of the dwelling on Plot 2 would appear to rise out of the top of the hummocky landscape. Development would foreshorten the northern edge of the open land, diminishing the open land and gap between the settlements and extending built form out into the countryside on the west side of existing built form.
45. From Grafton Hills, the proposed development would be seen, to a greater or lesser extent, in several views. When seen it would diminish the appreciation of the verdant undeveloped open area and the gap between the two settlements. From VP5, it would extend built form further west. The remaining intervening undeveloped space would appear noticeably smaller and more enclosed.
46. The dwelling on Plot 2 would be seen on the highest ground, at greatest distance from existing built form and unrelated to the built form of the village. From VPs 4, 5 and 6, and even after mitigation, light coming from the first floor east facing windows would appear unrelated to existing built form, at odds with the undeveloped countryside and the dark verdant night-time backdrop to the village on the western side. Light spill from a glazed gable on Plot 1 would be mitigated by landform, trees, and new hedgerow planting.
47. I conclude that development would harm the character and appearance of the open area between, and on the western side of, the two settlements. In these ways it would fail to preserve the significance of the Marton cum Grafton CA contrary to the requirements of s72(1) of the 1990 Act.
48. The Heritage Impact Assessment concludes that the impact on the significance of the CA would be a small or very small level of less than substantial harm. I conclude that the level of less than substantial harm would be low.
49. Framework paragraph 205 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Accordingly, a low level of less than substantial harm attracts considerable importance and great weight against the proposals.
50. Paragraph 207 requires the less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
51. I found a lack of certainty that obligations in the Second Schedule of the UU could achieve the intended effect in respect of Self-build housing. They do not overcome a conclusion that the proposal does not amount to Self-build housing. Self-build housing attracts no weight as a public benefit.
52. A short permissive path within the red line would link to an existing walking route and is fairly and reasonably related to the scale of development. The

- path would segregate pedestrians from vehicles on a section of lane with a bend and limited visibility. However, it is not required by the Highway Authority nor requested by the Council's Planning or Footpath Officers. It is not necessary to make the development acceptable in planning terms. Permissive path provisions attract limited positive weight as a public benefit.
53. The UU third schedule covenants with the Council and Parish Council to transfer roughly three hectares of land to the Parish Council as public open space, together with a maintenance contribution. The land adjoins the appeal site, lies between the two settlements and contributes to the significance of the CA. It is outside of the settlement boundary, and I am not persuaded that it is necessary to gift the land to the Parish Council to protect it from future development. There is little evidence to substantiate a need for the land for village activities such as sports days, fairs and to help unify the two communities. There is inadequate evidence to say how the sum of £25,000 for the maintenance of the field and hedges has been arrived at. Evidence to confirm that the Parish Council would take the land and money is equivocal. North Yorkshire Council considers that the offer of land fails the tests set out in the CIL Regulations 2010. The gifting of this land and the contribution would not make the proposed development otherwise acceptable. These obligations attract no weight.
 54. Planting plans include native trees, native hedgerows, a green roof, and a wildlife corridor and would deliver biodiversity net gains of 4.25% of habitat units and 85.25% of hedgerow units. Amongst other things, the proposals would include a new native hedgerow to Limbar Lane and enable new wildlife and biodiversity corridors to establish. However, the Appellant's Biodiversity Net Gain Assessment concludes that the trading rules are not satisfied in terms of providing like-for-like habitats because existing bramble scrub habitat would not be replaced with an equivalent value habitat. The effects upon the biodiversity value of the irreplaceable veteran tree habitat were not measured. Notwithstanding the update on the veteran Ash, the positive weight that can be attached to biodiversity net gain is limited.
 55. I do not agree with, and attach no weight to, arguments that the design of the development is exceptional and a sympathetic contextual response.
 56. I find no evidence that the Local Plan strategy for the delivery of housing is to be measured village by village, nor that the allocations were quantitatively definitive. An argument that the proposal will make up a shortfall of two dwellings on allocated sites for housing in Marton attracts no weight.
 57. I conclude that limited positive weight for a permissive path and limited positive weight for biodiversity net gain, would not outweigh the considerable importance and great weight I attach to the less than substantial harm to the significance of the CA.
 58. The appeal proposal would fail requirements of Policies HP3, NE4 and HP2 that design should protect, enhance or reinforce those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments, respect the spatial qualities of the local area and views, [avoid] harm or detriment to the character of the local and wider landscape or the setting of a settlement, and ensure that proposals affecting a conservation area protect and, where appropriate, enhance those elements that have been

identified as making a positive contribution to the character and special architectural or historic interest of the area and its setting.

Trees Protected by a TPO

A Veteran Ash

59. One Ash tree, protected by the TPO features on an Ancient Tree inventory with the Woodland Trust and is a veteran tree. A veteran tree is irreplaceable habitat, and a precautionary approach is required. Natural England 'standing advice' for veteran trees is that that development proposals, including gardens, within a buffer zone of a veteran tree should not be approved.
60. The tree is in an open field situation. I observed that it was of reasonable scale, had an attractive form and seen in views to which it added interest and made a positive contribution. I noted that it has significant decay features and hollowing, but these contributed to the tree's amenity value.
61. At the hearing, the main parties agreed the extent of the Root Protection Area (RPA) that should be protected directly around the veteran tree to satisfy Natural England and Forestry Commission 'standing advice' that there should be a buffer zone at least fifteen times larger than the diameter of the tree to create a minimum Root Protection Area (RPA). Amended plans clarified that there would be no works within this area.
62. Even so, the veteran tree would be within the proposed curtilage of Plot 1, albeit in a segregated area described as a paddock and wildflower butterfly and bee meadow. There would be access and the buffer zone would be vulnerable to trampling and other activity. In this way the proposal would be contrary to Natural England's advice that development proposals, including gardens, within a buffer zone of a veteran tree should not be approved.
63. The submitted scheme would therefore be contrary to Framework paragraph 186 c) which advises that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons. It would also be contrary to Local Plan Policy NE3 which seeks to resist development resulting in the loss or deterioration of irreplaceable habitats, and Policy NE7, which, amongst other things, seeks to prevent damage to veteran trees, or trees that are subject to a TPO unless there is an overriding need for the development that outweighs the loss or harm.
64. However, on the 3 January 2024 the Appellant advised that the veteran tree was blown down during recent storms. The Council submitted a photograph showing the fallen tree. The Council advise that consideration would be required as to the potential for regenerative growth and the benefit of leaving the felled tree in situ as a biodiversity benefit.
65. The Appellant asserts that ash die-back disease is evident in the area, and that the Woodland Trust may not prefer the stump to be retained. If the stump were to retain its veteran tree status, the Appellant suggests that they would agree with the LPA if a replacement tree were required and, if so, a species and position.
66. The Appellant proposes an arboricultural assessment and report to seek agreement with the Council and the Woodland Trust. The appeal should not be

used to evolve the scheme, and decisions about the tree's remaining value, retention, removal or replacement are for determination under separate processes. The submitted scheme would run contrary to advice in respect of veteran trees.

Two Ash trees on Limbar Lane

67. The permissive footpath would infringe the RPA of two Ash trees subject to the TPO. They are quite substantial, located towards the front of the site and make a positive contribution to character and appearance on Limbar Lane.
68. The construction would be a no-dig technique. The incursion would be limited. Subject to additional evidence, the Council's Arboricultural Officer might support some crown works. Such works would be the subject of a separate application under other legislation and are not part of this appeal.
69. Most tree roots are in the top 600mm of soil. *BS 5387:2012 Trees in relation to design, demolition and construction*, paragraph 5.3.1 advises that the default position should be that structures are located outside the RPAs of trees to be retained. Where there is an overriding justification for construction within an RPA, technical solutions might be available that prevent damage to the trees. Construction practices could be managed, but damage can be caused even with no dig techniques. Damage to a small area of a mature tree's roots can compromise health, and it is common ground that the trees are already suffering from disease.
70. Notwithstanding that I have attached some limited positive weight to this path as a public benefit, I am not persuaded that an overriding need for it has been demonstrated. I conclude that the proposals would adversely affect two trees protected by a TPO, contrary to aims of Local Plan Policy NE7 to prevent damage to trees that are subject to a TPO unless there is an overriding need for the development that outweighs the loss or harm.

Other Matters

71. The Council and Appellant agreed that with the proposed landscaping, and separation distances this would not result in the potential for adverse impacts upon living conditions of occupiers of neighbouring dwellings. From my observations of topography, distance, and intervening vegetation I agree.

Conclusions

72. The proposals fail to satisfy advice on Gov.Uk that the initial owner of the homes should have a primary input into the final design and layout of their homes, and do not amount to a proposal for Self-build housing and the proposal is contrary to the Local Plan strategy for the provision and distribution of new homes under Local Plan Policies GS2 and GS3.
73. Development would diminish and harm the character and appearance of an open area and fail to preserve the significance of the Marton cum Grafton CA, contrary to the requirements of s72(1) of the 1990 Act.
74. Having regard to the Framework, even though the level of less than substantial harm to the character and appearance of the CA would be low it attracts considerable importance and great weight against the appeal proposals and would not be outweighed by limited positive public benefits from biodiversity

net gains and limited positive public benefits from provision of a permissive path.

75. The proposal runs contrary to requirements of Local Plan Policies HP3, NE4 and HP2 for the protection of characteristics that contribute to local distinctiveness, and which seek to ensure that proposals affecting a conservation area protect and, where appropriate, enhance those elements that have been identified as making a positive contribution to the character and special architectural or historic interest of the area and its setting.
76. The proposals would adversely affect two Ash trees protected by a TPO, contrary to aims of Local Plan Policy NE7 which, amongst other things, seeks to prevent damage to trees that are subject to a TPO unless there is an overriding need for the development that outweighs the loss or harm. The submitted scheme would also run contrary to advice in respect of veteran trees, however in the circumstances I attach no weight to this matter in my final conclusions.
77. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Helen Heward

INSPECTOR

DOCUMENTS ACCEPTED AT THE HEARING

Arboricultural Impact Assessment Plan A1A01 Revision D

APPEARANCES

FOR THE APPELLANT

Martin Bentley, JN Bentley Properties Ltd, the Appellant
Matthew Gregg MPlan (Hons) MRTPI, Associate Director Lichfields
Nick Bridgland MA; FSA; IHBC; MCIfA, Heritage Director Lichfields
Mark Smeeden BA DipHort DipLA MCIHort CMLI, Director, Smeeden Foreman.

FOR THE COUNCIL

Emma Walsh MA MRTPI, Senior Development Management Officer, North Yorkshire Council (NYC)
Emma Howson MRTPI Senior Development Management Officer, NYC
Dan McAndrew Principal ecologist NYC
Alan Gilleard Arboricultural Officer for NYC
Anne Sims BSc (Hons) MA (Conservation) MRTPI Principal conservation officer NYC
Helen Golightly BA Hons MRTPI CMLI Principal Landscape Architect NYC

INTERESTED PERSONS

David Thomson
Hugh Creasy