



Appeal Decision

Site visit made on 17 September 2024

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2024

Appeal Ref: APP/U2750/W/24/3345754

Land to the east of Acorn House, Wetherby Road, Little Ribston

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Forbes; Mrs Moscicki; Mr Frizelle against the decision of North Yorkshire Council.
 - The application reference is ZC23/02972/OUT.
 - The development proposed is three self build houses with all matters reserved except access from the public highway.
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Decision

1. The appeal is allowed and planning permission is granted for three self build houses with all matters reserved except access from the public highway at land to the east of Acorn House, Wetherby Road, Little Ribston in accordance with the terms of the application, reference ZC23/02972/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline. The application form and the appellants' evidence identify that details of access from the public highway were sought, with appearance, landscaping, layout, and scale reserved for future consideration. The description of development on the Council's decision notice is the same as the application form, as described in the banner heading above. The DMPO¹ defines what each of the reserved matters means. Access means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. The application includes details of the point of access onto the highway, but no detail is provided on circulation routes within the site. I have determined the appeal on this basis, treating supporting plans as illustrative other than those relating to the point of access.

Main Issues

3. The main issues are:
 - whether the proposal would be in a suitable location for housing having regard to the development strategy for the area;
 - the effect of the proposal on the character and appearance of the area; and

¹ Town and Country Planning (Development Management Procedure) (England) Order 2015

- whether appropriate provision has been made for the delivery of self-build and custom housing.

Reasons

Development Strategy

4. Policy GS2 of the 2020 adopted Harrogate District Local Plan 2014 – 2035 (the Local Plan) sets out the development strategy for the area. This is based on meeting the need for new homes and jobs as far as possible by focusing growth within the district's main settlements, settlements on the key public transport corridors and a new settlement within the Green Hammerton/Cattal area. Policy GS2 defines a settlement hierarchy to assist with this, which also includes the approach to development in villages. Policy GS3 of the Local Plan defines development limits for the places named in the settlement hierarchy.
5. The appeal site lies outside the development limit of Little Ribston, a defined Smaller Village in Policy GS2. The supporting text to Policy GS3 confirms that any land and buildings outside the defined development limit will generally be considered countryside. Policy GS3 states that outside development limits, proposals for new development will only be supported where expressly permitted by other policies of the Local Plan, a neighbourhood plan or national planning policy.
6. The appellants have identified the support for self-build and custom housing (SBCH) given in Policy HS3 of the Local Plan and the National Planning Policy Framework (the Framework). Policy HS3 requires developers of strategic sites of 500 dwellings or more to supply at least 5% of dwelling plots for sale to self-builders. The supporting text states that a proportion of self builds will come forward on small sites and single plots on infill sites and sites on the edges of settlements. However, while supporting text is relevant to the interpretation of the policy to which it relates, it is not itself a policy and does not have the force of one. Consequently, in my judgement, Policy HS3 would not represent a policy that expressly permits the proposed development.
7. The main parties have not drawn attention to any other policies in the Local Plan or national planning policy which would, in my view, expressly permit the proposed development at the site. A neighbourhood plan has not been identified as covering the area. The proposed development would therefore conflict with Policies GS2 and GS3 of the Local Plan in terms of its location.
8. The site adjoins the two relatively recently constructed dwellings at Acorn House and Oak House. Development on the north side of the road extends further to the east. The appellants contend that the proposal would therefore balance up the built form and extend the village to a more logical boundary delineated by Hazel Cottage north of the road and the mature hedgerow on the site's eastern boundary. The appellants also highlight development which has been permitted outside of the defined development limit, although there is no evidence to indicate what considerations may have been relevant to the decision to grant planning permission for these schemes. These matters do not alter the non-compliance of the proposal with the approach to development established in the Local Plan.
9. As a Smaller Village, Little Ribston is within the lowest tier of the settlement hierarchy, other than those villages that are not specifically named and which

are considered to be part of the wider countryside. Smaller Villages are identified as offering recreational facilities and at least one meeting place. Little Ribston has a church, a village hall and bus stops.

10. The submitted evidence identifies that the bus service is limited to four buses a day in each direction with no services in the evenings or on Sundays. This would provide some, albeit restricted, choice in transport options to Harrogate and Wetherby and locations on the route for limited parts of the day, being mindful that opportunities to maximise sustainable transport solutions vary between urban and rural areas. It would be theoretically possible to walk or cycle to Spofforth and Kirk Deighton which are Service and Smaller Villages respectively. However, the distance, the unlit nature of the roads and lack of footpath would be disincentives to travelling on foot or by bicycle, especially during darker winter months or in inclement weather. Given this context, I acknowledge the Council's view that future occupiers of the dwellings would likely be reliant on the private motor vehicle to access many services and facilities.
11. Nonetheless, Policy GS2 allows for small scale infill development on non-allocated (windfall) sites within the Smaller Villages. The policy is therefore accepting of some development within Little Ribston notwithstanding the limited services and facilities. The site is close to the facilities in the village and is nearer to them than several dwellings that are within the development limit.
12. Consequently, while the location of the site does not sit well with the development limit, in terms of functional connectivity, I am not persuaded that the proposal would promote an unsustainable pattern of growth and travel. This is due to the approach to development in the Smaller Villages which allows for some limited development, the proximity of the site to the limited services and facilities in Little Ribston, and given the context of the supporting text to Policy GS2 where it explains the approach to development within villages. The supporting text states that there are many villages and hamlets spread across the district and allowing development in all of these would not result in a sustainable pattern of growth as many offer little in the way of local services and facilities, can be in more isolated locations and/or may comprise little more than a cluster of houses.
13. The Council has drawn attention to two appeal decisions² at Flaxby for self-build dwellings where the Inspectors concluded that due to the lack of local services and consequent reliance on private motor vehicles, the proposals would not represent sustainable patterns of growth. Flaxby is not a named settlement within the settlement hierarchy in Policy GS2, whereas Little Ribston is. While Flaxby and Little Ribston may both have limited services and facilities, the approach to development within them is different. While consistency in the planning process is important and comparable cases should be decided in a comparable way, I do not find that these cases are so alike that my conclusions on the appeal proposal should be bound by the findings on them.
14. Nevertheless, there would be conflict with Policies GS2 and GS3, which seek to focus new development within the defined development limits. Due to this conflict, I conclude that the proposal would not be in a suitable location for housing having regard to the development strategy for the area.

² Appeal references APP/E2734/W/22/3293545 and APP/E2734/W/22/3307127

Character and Appearance

15. The site lies within Area 56 (Plumpton and South Knaresborough Arable Land) character area as defined in the 2004 Harrogate Landscape Character Assessment. Key characteristics are identified as a gently undulating, open landform with scattered blocks of woodland and dispersed views. A number of these characteristics are apparent in the landscape in which the site is set.
16. My attention has been drawn to a previous appeal decision³ for two houses on part of the site. The Inspector for that appeal found that the site, as part of an open field, makes a small but positive contribution to the character of the settlement edge and approach into the settlement.
17. The site is still on the edge of the built form of the village and retains its open, undeveloped character. Although the site is adjacent to dwellings on one side and there are dwellings opposite, its settlement edge location means that it has a visual relationship with the surrounding open countryside. The site therefore contributes positively to the pastoral setting of the village.
18. Although there is some backland development present, the pattern of development within Little Ribston is generally linear in nature with houses fronting onto the road through the village. While siting is reserved for future consideration, there is no clear evidence before me to demonstrate that the proposed dwellings could not be sited so as to have a similar building line to other properties and continue the linear pattern of development. The proposed development would not therefore have a detrimental impact on the general form of the village.
19. Views of the proposed dwellings from within much of the village would be limited due to intervening buildings. From vantage points to the south west, such as the end of Crimple Avenue and along the road to Spofforth, the proposed dwellings would be seen as a continuation of the linear pattern of development, sitting in between the existing dwellings on the edge of the village and the tall trees and building at the entrance to Ribston Hall.
20. From the east and south east, the proposed dwellings would be seen against the backdrop of the existing buildings on the edge of the village. This includes the houses opposite and the two-storey gable of Acorn House which is visible in views on the approach to the village although its prominence is reduced by the screening effect of the hedgerow along the eastern boundary of the appeal site. The photographs in the appellants' Landscape and Visual Technical Note⁴ illustrate that this screening would remain even during winter months. There appears to be no reason why this hedgerow, which forms a clear and pronounced feature on the approach to the village, could not be retained and supplemented to soften the appearance of the proposed development.
21. Overall, therefore, the landscape and visual effects of the proposal on the wider area would be limited. Nevertheless, the development of three houses would bring about a marked change to the character and appearance of the site itself through the introduction of built form onto an undeveloped and open site. The character of the land would be urbanised and there would be encroachment into an area of countryside, which would diminish the open and rural landscape on this edge of the village. Consequently, I conclude that there

³ Appeal reference APP/E2734/W/20/3251289

⁴ Prepared by DRaW (UK) Ltd, document reference No 41-33-TN1, 27 February 2024

would be some modest localised harm to the character and appearance of the area.

22. The proposal would therefore conflict with Policies HP3 and NE4 of the Local Plan. Amongst other matters, these policies require development to protect, enhance or reinforce those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments, and resist development which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement. There would also be some conflict with paragraph 180 of the Framework where it states that decisions should recognise the intrinsic character and beauty of the countryside.

Self-Build and Custom Housing

23. The appellants' case is based on the proposal providing three self-build dwellings. This was not the case with the scheme that was the subject of the previous appeal on part of the site.
24. The appellants identify that they are on the register that the Council is required to keep of those seeking to acquire serviced plots in the area for their own SBCH under the requirements of the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act). The Act also requires Councils to give enough suitable development permissions to meet the identified demand. Paragraph 70 of the Framework is supportive of this type of housing to promote the development of a good mix of sites. As set out above, Policy HS3 of the Local Plan makes provision for SBCH to be delivered on strategic sites of 500 dwellings or more.
25. Very limited information on the demand for and supply of SBCH has been submitted in evidence. However, there is no dispute between the main parties that there is a shortfall in supply. Based on the submitted evidence, the shortfall is growing, with the Council stating that it is likely to increase to around 89 dwellings by October 2023. The proposal would therefore make a small, but valuable contribution to meeting demand, if it can be secured as such.
26. The appeal proposal is accompanied by a completed and signed Unilateral Undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). This would ensure that the proposal would be a form of development that accords with the legal definition of SBCH as defined in the Act. The UU also sets out requirements for the first occupiers of the dwellings. In my judgement, the UU would ensure the provision of SBCH. Accordingly, it would meet the tests in the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the Framework.
27. I therefore conclude that appropriate provision would be made for the delivery of SBCH.

Other Matters

28. The Council can demonstrate more than a five-year supply of deliverable housing sites, a matter not disputed by the appellants. Nonetheless, the proposal would make a small contribution to boosting the supply of homes. There would also be some limited social and economic benefits such as

construction employment and additional residents supporting local services and facilities. These considerations weigh positively for the proposal.

29. The Grade II registered Historic Park and Garden of Ribston Hall lies near to the site. When viewed from the site it appears as open grassland with several scattered trees. There is very limited evidence before me about its significance. However, from my site visit observations, in my view its significance is in part derived from its historic and aesthetic value as a parkland setting for Ribston Hall and the evidence it provides of how such areas developed over a considerable period of time. The proposal would bring built development closer to the designated heritage asset. However, the site is separated from it by an open field and other dwellings. This together with the limited scale of the proposal means that there would be no harm to the significance of the designated heritage asset.
30. The Council has referred to the dwelling at Hazel Cottage as likely to be a non-designated heritage asset, the significance of which is in part derived from its historical associations with the area's farming industry and the evidence it provides of the architectural style and building techniques of the time. Due to the nature of the proposal and the separation distance from Hazel Cottage, its significance would not be harmed.

Planning Balance and Conclusion

31. I have concluded that the proposal would conflict with the development plan taken as a whole. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework states that the planning system should be genuinely plan-led.
32. However, the submitted evidence indicates that there is an increasing shortfall in the supply of SBCH plots within the former district area. There is nothing in evidence about how this mounting shortfall will be met in the future, such as sites that will be coming forward for development of this particular type of housing. As set out above, the proposal would make a small, though valuable contribution to meeting demand. I give this substantial positive weight.
33. For the reasons given, the harm to the character and appearance of the area would be modest. The conflict with the development strategy for the area is moderated by the site's proximity to the development limit.
34. As a result, given the circumstances in this particular case and based on the evidence that is before me, I conclude that the contribution that the proposal would make to the supply of SBCH is a matter that is sufficiently weighty, as a material planning consideration, to outweigh the identified conflict with the development plan. Accordingly, I conclude that the appeal should be allowed.

Conditions

35. I have considered the conditions suggested by the Council. I have amended the wording of certain conditions having regard to the six tests set out in the Framework without altering their fundamental aims.
36. In the interests of certainty, the relevant conditions concerning the timescales for the submission of the reserved matters and the commencement of development, the definition of the reserved matters, and the approved plans

are necessary. Similarly, it is necessary to impose a condition which clarifies what should be submitted at reserved matters stage. This includes pedestrian, vehicle and cycle routes and vehicle and cycle parking/storage and manoeuvring arrangements to ensure adequate on site circulation routes; carbon reductions and passive design measures to ensure a sustainable development; meeting the relevant space standards to ensure acceptable living conditions for future occupiers; and landscaping requirements in the interests of the character and appearance of the area.

37. Several conditions are necessary in the interests of biodiversity. This includes a pre-start check for badger activity to confirm their continued absence, and the protection of hedgerows during construction. Conditions are necessary for the construction phase to restrict the time periods for removing vegetation, to secure a low-level lighting scheme, and to require the covering of any trenches. Requirements for hedgerow planting, bat and swift bricks and a scheme for external lighting are also necessary.
38. In the interests of highway safety, conditions are necessary to secure the provision of appropriate visibility splays and the site access. A condition requiring the replanting of any soft landscaping that fails is necessary in the interests of the character and appearance of the area. To safeguard the living conditions of nearby residents, a condition controlling the hours of operation during the construction phase is necessary. To ensure appropriate access to telecommunications in line with Policy TI5 of the Local Plan, a condition is necessary to secure broadband access.
39. The Council has suggested a condition requiring the development to be carried out in accordance with the submitted drainage strategy plan. This plan is based on a particular size and location of impermeable footprint. However, scale and layout are reserved for future consideration and so the appellants would not be held to this footprint. I will however impose conditions requiring the submission of details for surface and foul water drainage. These details are required prior to commencement of development as a later trigger for the submission would limit the scope of measures which could be used.
40. The Council has suggested a condition requiring the provision of electric vehicle charging facilities. The Building Regulations now include a requirement for every new residential building with associated parking within the site boundary to have access to electric vehicle charge points. The Planning Practice Guidance sets out that conditions requiring compliance with other regulatory requirements such as Building Regulations will not meet the test of necessity and may not be relevant to planning. I have not therefore imposed this condition.

F Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following plans: Site Location Plan - S03; the access shown on Site Plot Plan – SK100 rev I.
- 2) Details of the appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 3) Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission. The development hereby permitted shall be begun on or before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 4) The application(s) for the approval reserved matter required by condition 3 shall, as appropriate to the matters applied for, include:
 - a) pedestrian, vehicular and cycle routes, vehicular and cycle parking/storage and vehicular manoeuvring arrangements.
 - b) a development that reduces carbon dioxide emissions through the following sequence of priorities, as set out in the energy hierarchy:
 - i. energy reduction; then
 - ii. energy efficiency; then
 - iii. renewable energy; then
 - iv. low carbon energy; then
 - v. conventional energy.
 - c) a development incorporating passive design measures that reduce the need for artificial lighting and heating, cooling and ventilation system through siting, design, layout and building orientation.
 - d) meeting the relevant Nationally Described Space Standard.
 - e) a detailed scheme for landscaping, including the planting of trees and or shrubs; such scheme shall specify types and species, a programme of planting and the timing of implementation of the scheme, including any earthworks required.
- 5) Prior to development commencing, a pre-start check for badger activity shall take place throughout the development area, and in habitats present within a 30 m buffer zone of the site. Should the findings of the pre-commencement badger survey prove positive, no development shall take place until a badger mitigation plan has been submitted to and approved in writing by the Local Planning Authority. The construction of the development hereby permitted shall take place in accordance with the approved plan.
- 6) Prior to development commencing, hedgerows that are to be retained must be protected using Heras or equivalent fencing around their Root Protection Areas,

in accordance with British Standard documentations BS 5837:2012 – ‘Trees in relation to design, demolition and construction’ (or in an equivalent British Standard if replaced). Such fencing shall be retained during the construction of the development hereby permitted.

- 7) Prior to development commencing, details of the surface water drainage system and a maintenance schedule, which shall include a restricted discharge rate consistent with that shown on plan 23169-DR-C-0100 (revision P2) dated 11/05/2023 prepared by Dart Engineers Ltd, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be first occupied until the surface water drainage has been provided in accordance with the approved scheme which shall be retained and managed as such thereafter.
- 8) Prior to development commencing, details of the foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be first occupied until the foul water drainage has been provided in accordance with the approved scheme.
- 9) There shall be no access or egress by any vehicles between the highway and the site until splays are provided giving the visibility as set out in drawing no. 2305601 within the Highways Statement prepared by VIA Solutions, dated July 2023. 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 shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 10) During the construction of the development hereby permitted, no work or ancillary operations, including deliveries to and dispatch from the site which are audible beyond the boundary of the site shall take place on site other than between the hours of 08:00-18:00 Monday to Friday and between 08:00-13:00 on Saturdays except in case of emergency. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.
- 11) During the construction of the development hereby permitted, any removal of hedgerows, trees or shrubs shall be undertaken outside of the main bird breeding season (March – August, inclusive) unless a pre-commencement check by a competent ecologist determines that no actively nesting birds are present.
- 12) During the construction of the development hereby permitted, a low-level lighting scheme shall be implemented to avoid light spill onto the boundary hedgerows.
- 13) During construction of the development hereby permitted, any trenches or voids must be dug and filled within the same working day unless an adequate means of escape for wildlife is provided and/or the trench securely covered overnight.
- 14) No dwelling hereby permitted shall be first occupied until the southern boundary of the development site has been planted with a new double-rowed native hedgerow; and an integrated bat brick and an integrated swift brick has been incorporated at height and away from artificial sources of light.

- 15) No dwelling hereby permitted shall be first occupied until any external lighting provided accords with a scheme of external lighting that has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for low-level lighting to avoid light spill onto the boundary hedgerows. The approved scheme shall be complied with at all times thereafter.
- 16) No dwelling hereby permitted shall be first occupied until access to a download connection of at least 30Mbps and provision for the delivery of Fibre to the Premises broadband at a future date has been facilitated.
- 17) No dwelling hereby permitted shall be first occupied until the access to the site in the location shown on plan SK100 Rev I 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 (or in an equivalent if replaced), and the following requirements:
- i) Be formed with 4 metres radius kerbs, with the radius on the west side be totally contained within the ownership of the applicants, to give a minimum carriageway width of 5.5 metres,
 - ii) That part of the access road extending 4 metres into the site must be constructed in accordance with the Section Through Kerb in Standard Detail number E20 of the Local Highway Authority.
 - iii) That part of the access extending 6 metres into the site from the carriageway of the existing highway must be at a gradient not exceeding one in thirty.
 - iv) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed in accordance with the details that have first been submitted to and approved in writing by the Local Planning Authority. The preventive measures shall be maintained thereafter to prevent such discharges.
 - v) Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
 - vi) The final surfacing of any private access within 6 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.
 - vii) Measures to enable vehicles to enter and leave the site in a forward gear.
 - viii) Any existing crossing points no longer needed shall be made up for the width of the public highway.
- 18) In the event of failure of any trees or shrubs planted in accordance with any scheme approved by the Local Planning Authority to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species in such number as may be approved in writing by the Local Planning Authority.