



# Appeal Decision

Site visit made on 8 November 2024

by **D Nicholson** RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> November 2024

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**Appeal Ref: APP/U2750/W/24/3339198**

**Almsford Bank Stables, Leeds Road, Harrogate, North Yorkshire, HG2 8AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (T&CP Act) against a refusal to grant outline planning permission.
  - The appeal is made by Square Feet Limited and Antela Developments Limited against the decision of North Yorkshire Council.
  - The application Ref is 23/01082/OUTMAJ.
  - The development proposed is: Outline planning application with all matters reserved except means of access to (but not within) the site for the development of 17 residential dwellings (7 affordable and 10 self or custom build dwelling plots).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A planning obligation by agreement was submitted under section 106 of the T&CP Act. This covers affordable housing, a biodiversity enhancement and management plan, self-build and custom-build housing (SCBD), and contributions towards various open spaces and the village hall. This would deal with the Council's seventh reason for refusal and I have taken it into account.

## Main Issues

3. The main issues are the effects of the proposals on:
  - a. the principle of development on the site with particular regard to the Council's growth strategy and its supply of housing land for SBCH;
  - b. the character and appearance of the area with particular regard to the Crimple Valley Special Landscape Area (SLA);
  - c. the contribution that setting makes to the significance of the Grade II\* listed Crimple Valley Viaduct;
  - d. existing trees, including any protected by a Tree Preservation Order (TPO);
  - e. the amenity of the public right of way (PRoW) through the site;
  - f. highway safety, with particular regard to the junction of the proposed site access and the A61;
  - g. the weight to be given to the benefits in the overall planning balance.

## Reasons

### *Principle of development*

#### **Countryside policy**

4. The Harrogate District Local Plan (LP) was adopted in 2020. Policy GS1 identifies the housing provision to be made over the forthcoming period, including affordable housing. Policy GS2 focusses new homes within main settlements (including Harrogate) or those on key public transport corridors (including Harrogate to Leeds). Policy GS3 only supports proposals outside development limits where expressly permitted by other policies. Places not identified in the settlement hierarchy are considered to be part of the wider countryside. The Council can currently identify a 5 year housing land supply although there is a shortfall in affordable housing.
5. The appeal site is just outside the development limit for Harrogate and so housing development there would be contrary to LP Policies GS2 and GS3. This weighs against the scheme.
6. The Appellant has claimed that Special Landscape Areas adjoin 65% of Harrogate's settlement edge, with a further 15% as green belt. While this may reduce the Council's options for providing a housing land supply, it does not alter the conflict with adopted policy.

#### **Self-build and custom-build housing (SBCH)**

7. The proposals would provide 10 SBCH plots, as well as affordable housing at a level required by policy for this number of new dwellings. The adopted plan does not allocate sites for SBCH, only placing a requirement on large strategic sites. The Council acknowledged that it has a shortfall in the number of SBCH permissions relative to the demand for such plots. Paragraph 70b) of the National Planning Policy Framework (NPPF) expects local authority decisions to support SBCH.
8. The weight to be given to SBCH has been considered by Inspectors in a number of appeal decisions in the area for which I have been given copies. While there has been disagreement over the exact level of supply and demand in the area, there has been broad agreement between Inspectors that the benefits of SBCH should be given *substantial weight/substantial positive weight/substantial public benefit* as a material consideration. Having studied the evidence, I find no reason to reach a different conclusion in this appeal and this weighs heavily in its favour.

### *Character and appearance*

9. The Crimple Valley SLA covers much of the valley to the south of Harrogate, including areas either side of the Crimple Beck. The appeal site lies within the SLA, between the current settlement boundary and a footpath that runs parallel with, but above, the Beck. There are a number of existing buildings and hard standings near the access to the A61, partly in equestrian use. Beyond these is woodland and beyond that is open pasture.
10. The proposed plots are shown on an indicative layout. This suggests that the affordable housing would replace the existing buildings, followed by house plots

within the treed areas, and larger plots furthest from the road towards the Crimple Valley Viaduct. A single new road could connect them all.

11. On my extensive site visit, taking in views from the footpath and the train, I saw that development immediately adjacent to the access would have little impact on the SLA. This would also apply to the next group of affordable houses, which could be set within an area of trees, albeit with some losses. Beyond this, there could be 2 new plots set below an area of woodland mitigated to some extent by new planting. The road could then rise through the woodland, with the loss of trees, into the area of open pasture where 8 large plots could cover much of the remainder of the site.
12. While the suggested affordable housing locations would cause little harm to the character or appearance of the area, the latter part of the road and the 10 larger plots would be much more visible from the footpath. This would severely erode the quality of the landscape adjacent to it. From the train, I saw that the final 3 plots in particular could be especially prominent in the otherwise sweeping pasture of the valley. While much of the larger plots might be taken up by garden, I also noted from the train, when observing another development, the extent to which gardens by themselves can be prominent and intrusive features in the landscape.
13. I accept that some of the suggested plots have been sensitively positioned and that proposed planting could mitigate some of the effects on the landscape, but also find that the majority of plots are likely to be prominently located and that new planting could take a long time to take effect. I have noted the findings in the *Rossett Green Lane* appeal, but also that the Inspector there found it unlikely that the proposed development would be particularly prominent, whereas here I have drawn a different conclusion.
14. For these reasons, I find that if the scheme was developed along the lines indicated, it would have a significant harmful effect on the character and appearance of the SLA. No other layout has been suggested and I consider it unlikely that, if allowed, an alternative, less harmful scheme might come forward at reserved matters stage. The proposals would therefore conflict with LP policies HP3 *Local Distinctiveness* which, in having regard to this, expects account to be taken of the contribution of landscape; Policy NE4 *Landscape Character* which supports proposals that will protect, enhance or restore the landscape character of Harrogate district for its own intrinsic beauty, but also identifies the Crimple Valley as a SLA where proposals must avoid significant loss of key characteristics that contribute to its quality and the setting of Harrogate; and Policy NE5 which seeks to protect the benefits of green infrastructure features.

### *Heritage*

15. The Crimple Valley Viaduct dates from the expansion of the railways in the middle of the 19<sup>th</sup> century. It comprises 31 arches at a height of 110 feet above the valley and has been listed at Grade II\*. It runs to the east of the site from where there are excellent views to and from the viaduct. I saw from my visit that its significance lies largely in its magnificent feat of engineering as part of the development of the railways. Nevertheless, the way it crosses the sweep of the valley landscape, and has mellowed into it, adds an additional layer of special interest.

16. Given the level of intervisibility, the proposals for the far half of the site could be clearly visible, and more likely prominent, both in views towards the viaduct and from the train. This impact would harm the contribution that setting makes to the significance of the listed viaduct. I note that Historic England made no objection, but this is not unusual, even when relating to a Grade II\* structure.
17. With regard to NPPF§208, I find that the proposals would cause less than substantial harm which should be weighed against the public benefits, including the delivery of SCBD and affordable dwellings in the context of a shortfall. I will carry this out in my overall findings below before concluding against LP policy HP2: *Heritage Assets*, which requires proposals that would affect such assets to be determined in accordance with national planning policy.

#### *Trees*

18. The steeper sloping parts of the site, towards the entrance and centre, include wooded areas. A number of Oak trees and a wider area of woodland are subject to a TPO. Some trees are suffering from Ash Dieback, others are Dutch Elms. The indicative site plan aims to avoid trees, groups of trees and woodland of greatest value, such that the majority of woodland could be unaffected. Nonetheless, it shows a number of trees to be removed, particularly within the central area. None of these has been identified as ancient or veteran. Root protection areas have been shown for some of the larger trees, together with a detailed Tree Protection Plan.
19. While the detailed layout is reserved, I find it unlikely that the site could be developed satisfactorily for the proposed number of houses without the loss of some reasonably mature and healthy trees, including unspecified trees within an area of protected woodland. This would apply particularly along the route of the road and, while the scheme is in outline, including the internal road, no alternative route from the existing access has been suggested which could avoid this loss of trees.
20. While development could avoid root protection areas, there might be further harm if building works were to come close to the edge of root protection areas, particularly on sloping ground where roots might be shallow or asymmetrical. Mitigation in excess of 'two for one' is proposed but new trees would take time to grow, even if they could eventually result in a net increase in tree cover.
21. Overall, I find that the scheme would be likely to result in the loss of, and some harm to, protected trees, contrary to LP Policy NE7 which does not permit the loss of, or damage to ancient or 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 and there is no preferable alternative location. Insofar as the tree cover contributes to the landscape, there would also be conflict with policies HP3 and NE4 (see above) and this weighs against the proposals.

#### *Public right of way (PRoW)*

22. A PRoW runs through and beyond the site. This would be retained but diverted in part. Efforts have been made in the indicative layout to help retain the rural character and views of the viaduct from the PRoW. Be that as it may, and notwithstanding the suggested diversion, I saw that the scheme would be likely to alter views for the length of the site and beyond. These are currently views dominated by woodland and pasture. If the scheme were developed as

illustrated, there would be significant elements of these views that would be dominated by housing and domestic curtilages.

23. As above, I have found that the changes to housing would harm the quality of the landscape. In doing so it would be likely to alter the experience along this section of the PRow in a harmful way, reducing its amenity value. I acknowledge that the changes would be consistent with the experience of using rights of way within the SLA that run parallel with the settlement edge, but this does not lessen the harm that would be caused to the amenity value of this section of the PRow.
24. The proposals would be contrary to LP Policy HP5 which only permits development that would affect existing PRows where the amenity value will be protected, or satisfactory diverted routes that deliver a level of recreational and amenity value at least as good as the routes being replaced.

#### *Highway safety*

25. The A61 (Leeds Road) runs past the site as it leaves Harrogate. The existing (and proposed) access currently serves farmland and stables and is subject to a 50mph speed limit. Recorded speeds are mostly between 40 and 50mph. This section of road is quite steep and has been widened to provide an uphill overtaking lane. I saw that the road is generally busy, with the frequent need to wait before exiting the site, more so near to peak hours.
26. Access to all the proposed houses would be from the existing entrance off the A61. The scheme would be likely to result in a significant increase in the amount of vehicular traffic using the access, albeit still a relatively small number of trips. In previous applications for larger schemes on the same site, the Local Highway Authority raised no objections, subject to conditions. In response to the current application, the Council did give a reason for refusal, asserting that the visibility, intensification, additional vehicles waiting on the carriageway, and the interference with the free flow of traffic, would all lead to an increased risk to highway safety.
27. The Appellant has put forward a number of proposed mitigation measures, which I saw on site, and could be required by conditions (which could include the requirement for an Agreement under Section 278 of the Highways Act 1980). These could include:
- improved cycling measures;
  - new bus stops;
  - a central refuge island;
  - reducing the speed limit to 40mph;
  - removing a section of the overtaking land, and;
  - introducing a right turn lane.
28. Of these, the 40 mph limit may not be deliverable, might not be effective without traffic calming measures, and is not supported by the police. The loss of the overtaking lane might lead to increased congestion further out of town. Doubts were raised as to whether the cycle route would be safe and the bus stop might impeded visibility.
29. I saw that, while the visibility towards the town centre may not meet the standard for traffic travelling at 50mph, it was not unduly dangerous given that actual speeds are generally lower than the set limit. Although the access could

be more problematic for slow-moving vehicles, none of the 6 accident records over a recent 6-year period related to the use of the access for equestrian use.

30. Even if I disregard the suggested improvements to highway safety and sustainable travel options, I find that any increase in risk would not amount to severe, as set out under NPPF§115. Nevertheless, I find that the increase in the amount of vehicular traffic at an access onto a busy road would be likely to increase delays and, potentially, frustration leading to more risky driving behaviours, particularly at busy times. While the proposals should not be dismissed for this reason alone, this risk adds to the other harms I have found.

### **Planning balance**

31. For the reasons given above, I find that the proposals would conflict with LP policies on the countryside, local distinctiveness, landscape character, trees and PRowS. Additional harm to heritage and highway safety also weighs against the appeal. On the other hand, I give substantial weight to the benefits of new SBCH plots where there is an unmet need. Benefits would also include affordable housing and employment, while other benefits that would be secured through the s106 Agreement should properly be considered mitigation.
32. Individually, I conclude that the substantial weight to the benefits of new SBCH plots would outweigh any one, or perhaps two, of the policy conflicts, including that required by the heritage balance. Nevertheless, taken as a whole, I find that the conflict with countryside policy, and the harm to the Crimple Valley SLA, trees, the PRow, the setting of the Crimple viaduct and to highway safety would outweigh the benefits of new SBCH plots, affordable housing and additional employment.
33. Consequently, I conclude that the scheme would conflict with the development plan as a whole, that this would not be outweighed by material considerations, and that the appeal should be dismissed.

### **Conclusion**

34. For the reasons given above, and having regard to all other matters raised, the appeal should be dismissed.

*D Nicholson*

INSPECTOR