



Appeal Decision

Site visit made on 27 December 2024

by **Zoe Raygen DipURP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Appeal Ref: APP/U2750/W/24/3350480

Land to the west of Croft Lane, Carlton Husthwaite, Thirsk, YO7 2BS

- 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 Richard Roberts Ltd against the decision of North Yorkshire Council.
 - The application Ref is ZB23/02482/OUT.
 - The development proposed is outline application for the erection of 4 no. self/custom build bungalows [Use Class C3] with all matters reserved except access.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of 4 no. self/custom build bungalows [Use Class C3] with all matters reserved except access at land to the west of Croft Lane, Carlton Husthwaite, Thirsk, YO7 2BS, in accordance with the terms of the application Ref ZB23/02482/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Richard Roberts Ltd against North Yorkshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The planning application the subject of this appeal was made in outline form with all matters except for access reserved for future consideration. I have therefore treated the submitted layout plan as indicative only and determined the appeal on the same basis.
4. During the Council's assessment of the planning application the description of the development was amended to include reference to the four plots being to accommodate self/custom build bungalows. This is reflected in the description above and the appeal has been considered on that basis.
5. As the appeal relates to a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

6. The main issues are:
 - Whether the appeal site is an appropriate location for housing having regard to the development plan;

- The effect of the proposal on the setting of the Carlton Husthwaite Conservation Area and the Old Hall a listed grade II* building;
- The effect of the proposal on the character and appearance of the area; and
- Whether the size and mix of the houses is appropriate.

Reasons

Location

7. Carlton Husthwaite is identified as a Small Village within Policy S3 of the Hambleton Local Plan regarding the spatial distribution of development within the Council's area. The focus of growth is on locations which benefit from and support a wide range of services and facilities and good transport connections within a hierarchy with Small Villages at the base of that hierarchy. Here, limited development would be supported to help address affordable housing requirements and where development can support social and economic sustainability.
8. The appeal site is adjacent to the built form of Carlton Husthwaite in the open countryside and therefore Policy HG5 of the Local Plan regarding windfall development supports development subject to a number of criteria some of which the Council allege conflict with, and which are also largely included in the different reasons for refusal. I will address each in turn, incorporating the other reasons for refusal where appropriate.

Criterion A Sequential approach

9. The Council considers that the proposal complies with criterion A which requires that it be demonstrated that there is no suitable and viable previously developed land available within the built form of the village.
10. Interested parties refer to previously developed land in the village and the appellant cites two sites in the village and discounts them on viability and suitability grounds, to which the Council raises no dispute. There is no substantive evidence before me to reach a different conclusion. The proposal would therefore meet criterion A.

Criterion B housing mix

11. Criterion B requires that development be of a housing mix in terms of size, type and tenure in accordance with the Council's Housing and Economic Development Needs Assessment (HEDNA) and Strategic Housing Market Assessment (SHMA).
12. The indicative layout shows four relatively large bungalows can be accommodated on site. The supporting design and access statement describes them as 1 no. 2-bed bungalow providing approximately 100sqm of accommodation, 2 no. 3-bed bungalows providing approximately 117sqm of accommodation and 1 no. 4-bed bungalow providing approximately 137sqm of accommodation.
13. The Council's Housing Supplementary Planning Document (2022), based on the requirements of the HEDNA and the SHMA states that the target ranges for new developments should be that most dwellings be 2 and 3 bedrooms, with each making up 40-45% of every housing development. 5-10% of the dwellings are required to be 1 bed roomed and 0-10% 4+ bed roomed, and states at paragraph 3.7 the Council is keen for developers to include 2 bed roomed bungalows.

Paragraph 3.4 states that the Council's preference is for one bedroomed properties to be made up of smaller apartments in blocks of a maximum of four dwellings, which would not be appropriate here.

14. In this instance 75% of the dwellings would be 2 and 3 bedroomed and 25% would be 4 bedroomed with no one bedroomed. While not strictly in accordance with the desired housing mix, the SPD states these are target ranges only and it would provide a high percentage of two and three bedroom bungalows which is the focus of the policy requirement. I am content therefore that the housing mix would be acceptable based on the indicative plan. Even though it is indicative only there is nothing to suggest, given that the layout and appearance of the housing would be secured in a future reserved matters application to be determined by the Council, that four properties could not be accommodated to achieve a satisfactory housing mix.
15. This is the only indication that the Council has of affordability bearing in mind that policy states that development can help address affordable housing requirements. However, there is no suggestion here, via a legal agreement or any other means, that the properties would be truly affordable as anticipated by the National Planning Policy Framework (the Framework), even if self-build. Furthermore, even though the bungalows would be larger than the minimum sizes suggested in the Nationally Described Space Standards, footprint is not always an accurate assessment of affordability.
16. The appellant draws my attention to a number of recent planning permissions that have been granted by the Council for a similar mix of houses. Given my findings above these have not been determinative.
17. For the reasons above therefore, based on the evidence before me, I conclude that an appropriate housing mix could be achieved which would meet the requirements of Criterion B of Policy HG5 of the Local Plan.

Criterion C Incremental growth

18. Carlton Husthwaite is a Small Village with limited facilities restricted to a village hall and a public house with a sporadic bus service. As a result, occupants are likely to be reliant on the car to access day to day services. However, policies S3 and HG5 of the Local Plan specifically allow for windfall and limited development adjacent to Small Villages such as this, while acknowledging the hierarchy of development within the spatial strategy and the limited services and facilities available. Policy S3 supports housing that can support social and economic sustainability broadly in line with the Framework's requirement to enhance or maintain the vitality of rural communities.
19. The Council suggests that Carlton Husthwaite has 72 residential properties, and planning permission for two dwellings has been granted with one built since 2015. This has caused an approximate 3% increase in the size of the village since 2015. In that context, the proposal would equate to an 8% increase in housing numbers since 2015 which the Council considers would not be incremental growth of a village of the size role and function of Carlton Husthwaite. Since that time planning permission has been granted for one more new dwelling.
20. These figures are not disputed in the appellant's statement of case. The appellant also draws my attention to comparative development in Low Warsall, Hornby and

Thrintoft, also Small Villages, which have received planning permission for more dwellings than at Carlton Husthwaite, even though they are considered to be less sustainable, using a reassessed measure of sustainability to 2024.

21. Irrespective of the measure of sustainability, all are Small Villages, and while I have planning reports for each development, every development will be different including in respect of its composition, number of dwellings and location within or adjacent to the villages. Consequently, the harms and benefits will also be different and not comparable.
22. While the appeal proposal is for 4 dwellings, that is not a considerable number given the small level of growth in the village in the last ten years and the overall number of dwellings in the village. Hence, it would result in a gradual evolution of the village and could be considered as incremental growth over that time that would contribute to social and economic sustainability of the village, particularly given that the houses would be self/custom build which is specifically mentioned in the justification for policy HG5.
23. Consequently, given that I have found that the proposal would not conflict with criteria B and C of policy HG5, then there would also be no conflict with policies S3 (d) and HG2 of the Local Plan and the SPD. These require that development supports social and economic sustainability in small villages and the provision of an appropriate mix of dwellings in terms of size, type and tenure.

Criterion D loss of open space & Criterion E character and appearance

24. Although there is some overlap of these criteria, I cannot agree with the appellant that Criterion D, which relates to the loss of open space that is important to the historic form and layout of the village, does not apply. Given the proximity of the appeal site to the Carlton Husthwaite Conservation Area, although it is open countryside, it also contributes to the historic form of the village. Not all open countryside would do so, hence the need for two separate criteria.
25. The appeal site is located to the north of the small village of Carlton Husthwaite and currently is in arable use, forming an open field on the edge of the settlement. It is bound by a hedgerow to Croft Lane with housing on the opposite side of the lane, together with housing fronting onto Butt Lane to the south. Hence it has an overwhelming rural character providing a countryside setting, and marking the entrance, to the village.
26. Carlton Husthwaite shows signs of being planned in the past and the Carlton Husthwaite Conservation Area (the CA) covers the linear historic core formed from buildings fronting onto the main street with garths and tofts behind them opening onto the fields to the north and Back Lane to the south, typical of a Medieval settlement. Building materials are predominantly brick with clay pantile roof giving a degree of uniformity to the historic buildings. This is enhanced through the consistent use of red brick walls demarking the front boundaries of properties onto the main street, with houses set back in well stocked gardens. Furthermore, a high proportion of the dwellings have classical symmetrical features including large sash windows reinforcing the uniformity of the built form.
27. The field in which the appeal site sits has been identified as being in agricultural use since Medieval times. Therefore, its location and use contributes to the rural understanding and origins of the CA as part of the setting in which it is

experienced contributing to its significance as a historic village in the open countryside to which its buildings, form and layout all contribute.

28. The CA contains a number of listed buildings, reinforcing its historical and architectural significance. That closest to the appeal site is the Old Hall a Grade II* listed building. It is a late seventeenth century Manor House built of red brick with pantile roof, it is striking in having a double depth plan with double gabled roof. Its significance is derived from its surviving architectural quality as well as its historical status within the village of the Manor House.
29. The Old Hall sits within a large plot behind a characteristic red brick wall on the corner of Butt Lane and Croft Lane. The distinctive double gable is visible within Butt Lane, but much less so on the approach into the village along Croft Lane. In particular, from the appeal site, it is only partly visible from the immediate south of the site due to its location some distance away and intervening buildings and vegetation. Nevertheless, the appeal site in its current agricultural use, even with the loss of historic field boundaries, would largely reflect the original setting of the Old Hall from its 17th century origins contributing to an understanding of its status and position in the village, albeit in a limited way.
30. The proposal to erect four bungalows on the appeal site would erode the agricultural and rural origins of the site, introducing built form together with associated residential paraphernalia. As a result, its contribution to the understanding of both the CA and the Old Hall would be diminished harming the significance of both assets in a small way.
31. While the proposal would erode the rural character of this part of the village, the proposed bungalows would extend no further north than those on the eastern side of Croft Lane, these being largely unremarkable modern buildings, particularly those on Croft Close. Furthermore, they would extend no further than those fronting Butt Lane to the south. Consequently, they would be viewed from further afield, including Spring Lane, in the context of existing built form rather than an isolated incursion into the countryside.
32. Their assimilation into the existing built form would be assisted by them being single storey only reflecting development elsewhere in the village outside of the CA. This would also aid with views from the CA towards the appeal site, where the contribution of the potential set back in the site, together with frontage landscaping and boundary treatment would ensure that the proposal would neither be obtrusive nor conspicuous in the streetscene. While they have not been determinative in themselves, the appellant's CGI reconstruction reinforces my view that the proposal would be acceptably integrated into the settlement and harm would be minimised.
33. The proposal would lead to the loss of part of the hedge along Croft Lane to facilitate the proposed access. However, the majority would be maintained, and the bungalows would be set back so that with an appropriate landscaping scheme, the green nature of the frontage would be retained and would be similar to that on the opposite side of the road which includes multiple access points for the individual dwellings.
34. As the proposal has been made in outline form, the details of the layout and appearance of the dwellings is not for consideration at this stage. However, there is nothing to suggest that designs could not be achieved that would contribute to

and integrate with the local vernacular. I appreciate that as the proposal is for self/custom build housing then seeking uniformity and overall quality may be more difficult. However, the use of a design code for the site as a whole, which could be the subject of a suitably worded condition, would satisfactorily address this issue.

35. Consequently, while there would be some harm to the rural character and appearance of Croft Lane, for all the above reasons it would be limited and minor.
36. For the reasons above, I conclude that the proposal would cause some harm to the character and appearance of the area and would cause harm to the setting and significance of heritage assets due to the loss of open space important to the historic form and layout of the village, and the minor harm to the character and appearance of the area and the setting of the village. The proposal would therefore conflict with Policy HG5 of the Local Plan and would not be an appropriate location for housing. Also for those reasons it would conflict with policies S1 and E1 of the Local Plan. Together these require that development protects and enhances the high quality natural and historic environment, integrates with surroundings and respects and contributes positively to local character, identity and distinctiveness.

Other Matters

37. Croft Lane is a narrow country lane. The proposal would involve only one new access to the lane. Although I acknowledge the comments of local residents, the Highway Authority raises no objection to the proposal subject to the addition of conditions. From my observations on site and the lack of otherwise compelling evidence before me I see no reason to disagree.

Planning and Heritage Balance

38. I have found that the proposal would cause harm to the setting and significance of the CA and the Old Hall a Grade II* listed building. The harm caused would be less than substantial but nevertheless of considerable importance and weight.
39. The proposal would lead to four new dwellings. While the Council can demonstrate a healthy five year housing land supply, this is not a bar on further development. The appeal proposal would contribute not only to an identified need for bungalows within the Council's SPD but would also assist in supporting the Government's aim of significantly boosting the supply of houses and attracts moderate weight.
40. The proposed houses would be self-build and custom build housing secured by a Unilateral Undertaking (UU) which has not been disputed by the Council. I am satisfied that the UU meets the tests set out in paragraph 58 of the Framework. There is significant disagreement between the parties as to the extent of shortfall in the requirement and the deficit when the Council has a duty to give enough suitable development permissions to meet the identified demand.
41. The Council considers for the purposes of this appeal that it requires 21 plots by October 2024. There is nothing before me to suggest whether this has been achieved. The appellant introduces a number of scenarios suggesting the Council has underdelivered by 80 units. Whichever figure I use, there is a significant under delivery of dwellings that would have an important social and economic function. Although the properties would be bungalows, I am not convinced that this would reduce their attractiveness to people looking to build their own home, especially given the Council's own admission that there is outstanding demand for bungalows

in the Council area. The provision of four plots as self-build and custom housing therefore attracts substantial weight.

42. The proposal would provide economic benefits due to the construction of the plots and purchase of materials as well as those associated with future occupier spending in the local area, which attracts moderate weight. A Biodiversity Net Gain of 13.2% attracts minor weight.
43. Increased Council Tax receipts are mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services etc, that is not a consideration to which I attach positive weight.
44. In addition, reference is made to income for the Council from the New Homes Bonus as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. However, the Planning Practice Guidance (PPG) makes it clear that it would not be appropriate to make a decision based on the potential for the proposal to raise money for a local authority. Accordingly, while the Bonus is a material consideration, it is not one to which I attach positive weight
45. I have found that the harm to heritage assets would be less than substantial but nevertheless of considerable importance and weight. The benefits together would be substantial, and I am satisfied that in this instance they would outweigh the harm to the heritage assets I have identified. I conclude therefore that on balance the proposal would preserve the special interest of the listed building and the significance of the CA. This would satisfy the requirements of the Act, paragraph 215 of the Framework and would not conflict with policies S1, S7 and E5 Local Plan. These require that heritage assets should be conserved in a manner appropriate to their significance and preserve the setting of heritage assets.
46. The proposal would conflict with the Council's spatial strategy, but only due to harm caused to heritage assets and minor harm to the character and appearance of the area. Nevertheless it would conflict with the development plan as a whole. Given my findings above, I am satisfied that the material considerations would outweigh that conflict and in this instance lead to a decision not in accordance with the development plan.
47. While I have found that this particular set of circumstances would be acceptable, that may not be the same for all proposals in the countryside and I am satisfied that this would not set an unacceptable precedent for future development.

Conditions

48. I have had regard to the list of conditions supplied by the Council, together with the comments submitted by the appellant, and considered them against the tests in the Framework and the advice in the PPG. I have made such amendments as necessary to comply with those documents.
49. Standard conditions relating to the timescale for the submission of the reserved matters as well as a condition regarding the approved plans are required to provide certainty (2-5). A condition requiring the submission of details of a design code for the site as a whole is necessary to be submitted and approved prior to the

submission of the reserved matters, as given that the proposal is for self/custom build bungalows, it is likely that there will be no overall developer. In that instance it is important to achieve consistency to protect the character and appearance of the area and the CA (1).

50. Conditions regarding surface water and foul drainage are necessary to minimise the risk of flooding on the appeal site and elsewhere as well as ensuring the appropriate drainage of the appeal site (6 & 7). A condition securing details to protect the water main on site are required prior to work commencing to ensure that damage is not caused, and adequate room is retained for maintenance (8).
51. A condition is imposed securing details of ground levels and finished floor levels to protect the character and appearance of the area (9).
52. The Council has suggested a condition removing permitted development rights for the plots relating to extensions to the dwellings and development within the curtilage of each dwelling. The PPG states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity¹. The Council has not submitted any reason for the suggested condition. Although the appeal site is on the edge of the village in the open countryside, I see no reason as to why these plots should have their permitted development rights removed, when there is nothing before me to suggest that is equally the case for the surrounding residential properties which could extend without requiring planning permission. The condition is not therefore reasonable, neither has it been drafted with precision as required by the PPG.
53. A condition regarding unexpected contamination is reasonable and necessary given the sensitive end user (10). Conditions 11-15 are imposed for highway safety reasons. Finally a condition is imposed securing the properties as bungalows given that the contribution the dwellings will make to supply is a benefit of the development and to protect the impact on the character and appearance of the area and designated heritage assets (16).

Conclusion

54. For the reasons above the appeal is allowed.

Zoe Raygen

INSPECTOR

¹ Paragraph: 017 Reference ID: 21a-017-20190723

Schedule of Conditions

- 1) Prior to the submission of the reserved matters, a design code for the site as a whole to encompass the design principles to be fulfilled by the development (including but not limited to details relating to the consistency of design, materials, form, setting back of properties and proportion of plot widths to be built upon) shall be submitted to and approved in writing by the Local Planning Authority. The reserved matters shall be in accordance with the approved design code.
- 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 approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The development hereby permitted shall be carried out in accordance with drawing nos 121 PB DR A 0001, 121 PB DR A 1002 (access only) and AMA/22095/SK/001 PO3.
- 6) The development shall be carried out in accordance with the details shown on the submitted Flood Risk Assessment & Drainage Strategy 22095-FRDS-002 (revision 1) dated November 2023 prepared by Andrew Moseley Associates (received by the LPA on 01.12.23).
- 7) The use of the development hereby approved shall not be commenced until the foul sewage and surface water disposal facilities have been constructed and brought into use in accordance with the details approved under Condition 6 above.
- 8) No construction works in the relevant area(s) of the site shall commence until measures to protect the water main that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the pipe owner shall be retained at all times.
- 9) Prior to construction of any building or regrading of land commencing detailed cross sections shall be submitted to and approved in writing by the Local Planning Authority, showing the existing ground levels in relation to the proposed ground and finished floor levels for the development and the relationship to adjacent development. The levels shall relate to a fixed Ordnance Datum. The development shall be constructed in accordance with the approved details and thereafter be retained in the approved form.
- 10) In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures

identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority

- 11) There must be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.
- 12) The development must not be brought into use until the access to the site has been set out and constructed in accordance with the following requirements:
 - i) The crossing of the highway verge must be constructed in accordance with the approved details and Standard Detail number E50.
 - ii) A tactile paved crossing point must be provided linking the site with the existing footway on the eastern side of Croft Lane.
 - iii) 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 highway.
 - iv) The final surfacing of any private access must not contain any loose material that is capable of being drawn on to the existing public highway.

All works must accord with the approved details

- 13) There must be no access or egress by any vehicles between the highway and the application site until splays are provided giving clear visibility of 43 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.
- 14) There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) until full details of the following have been submitted to and approved in writing by the Local Planning Authority:
 - i) vehicular and pedestrian accesses including tactile paved crossing point;
 - ii) vehicular parking;
 - iii) vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear.

No part of the development must be brought into use until the vehicle and pedestrian access, parking, manoeuvring and turning areas have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

- 15) No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority.

Construction of the permitted development must be undertaken in accordance with the approved plan.

The plan must include, but not be limited to, arrangements for the following in respect of each phase of the works:

- i) details of any temporary construction access to the site including measures for removal following completion of construction works;
 - ii) wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
 - iii) the parking of contractors' vehicles;
 - iv) areas for storage of plant and materials used in constructing the development clear of the highway;
 - v) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
- 16) The dwellings hereby approved shall have a single storey of living accommodation only which shall be on the ground floor.