



Appeal Decision

Site visit made on 4 March 2025

by F P Tinsley MA (Hons) MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2025

Appeal Ref: APP/U2750/W/24/3356869

Prospect Hill Farm, Frobisher Drive, Whitby, YO21 1LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Messers S and C Jay against the decision of North Yorkshire Council.
 - The application Ref: ZF23/00828/FL, was refused by notice dated 12 July 2024.
 - The development is described as 'creation of 2no. new dwellings.'
-

Decision

1. The appeal is allowed and planning permission is granted for the creation of 2no. new dwellings at Prospect Hill Farm, Frobisher Drive, Whitby, YO21 1LT in accordance with the terms of the application, Ref ZF23/00828/FL, subject to the following conditions:
 1. The development hereby permitted shall be carried out in accordance with the following drawings:
Drawing No. D11141-101 REV G (Proposed Block Plan)
Drawing No. D11141-102 REV E (Elevations & Plans) received on 10 May 2023.
Drawing No. D11141-104 REV A (Proposed Garage Elevations & Floor Plans), received on 12 June 2023.
 2. Before the commencement of any works of construction above foundation level, the samples of brick and pantiles to be used on the new build dwelling and garage shall be submitted to and approved in writing by the Local Planning Authority.
 3. Notwithstanding the submitted details as shown on the Proposed Block Plan of Site (D11141-101 REV G), before the commencement of any works of construction above foundation level, details regarding all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority.
 4. The development must not be brought into use until the access to the site at 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 and the following requirements:

- a. The crossing of the highway verge shall be constructed in accordance with the Standard Detail number E9A.
 - b. Any gates or barriers shall not be able to swing over the existing highway.
 - c. Provision to prevent surface water from the site discharging onto the existing or proposed highway shall be constructed and maintained thereafter to prevent such discharges
 - d. The final surfacing of any private access within 6 metres of the public highway shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
5. No dwelling shall be occupied until the related parking and turning facilities have been constructed in accordance with the approved drawing Proposed Block Plan of Site 00/02A. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Preliminary Matters

2. Both parties have been provided with the opportunity to comment on 5-year land supply in North Yorkshire. On 17 March 2025, the Council confirmed housing land supply of 3.3 years. The appellants have been provided the opportunity to comment on the implications for this appeal. I shall refer to this where necessary below.
3. At the time of my site visit I saw that there is evidence of development commencing on site. I am content that these works are pursuant to planning Ref: 18/00775/FL which permitted construction of a single dwelling on the site.

Main Issue(s)

4. The main issues are:
 - Whether the appeal site provides a suitable location for the development, with regard to the Council's spatial strategy.
 - The effect of the development on the character and appearance of the site and surrounding area, including its landscape character; and
 - The effect of the proposal on the living condition of surrounding occupiers with regard to loss of light, privacy and outlook.

Reasons

Whether the Appeal Site Provides a Suitable Location for the Development

5. Policies HC1 and HC2 of the Scarborough Borough Local Plan 2017 (the Local Plan) supports new opportunities for housing development within existing settlements and on allocated sites. Policy HC1 also states that where there is no longer a demonstrable supply of sites to fully meet the 5-year supply of housing land, sustainable housing sites that would both make a positive contribution to the housing land supply and would be well related to the development limits of settlements will be supported, provided proposals comprise sustainable development and are consistent with the Local Plan. Such proposals will not be required to comply with Local Plan Policy ENV6 but must be of a scale that

respects the size of the settlement it relates to and its position within the settlement hierarchy.

6. The appeal site is partially located within an existing settlement straddling the settlement boundary. It is not identified as an allocated housing site within the Local Plan. At the time of its decision, the Council could demonstrate a 5-year supply of housing, and no exception to Policy ENV6 was applied. However, the Council has since confirmed that the current housing land supply is 3.3 years. This is a significant shortfall below the required 5-year supply.
7. The site currently has extant planning permission for a single dwelling. It is located partially within the development limits of Whitby, a large town at the second tier of the settlement hierarchy set out in Local Plan Policy SH1. The scale of the development is modest relative to the size of Whitby's urban area and its position in the settlement hierarchy. The site's proximity to the urban area provides relatively good access to local services, amenities and public transport. It provides two dwellings, and therefore makes a modest addition to the supply of housing in this area.
8. The appeal scheme therefore represents sustainable development on a site that would make a positive contribution to the housing supply and would be well related to the settlement, consistent with the Local Plan.
9. The appeal site thus provides a suitable location for the development, with regard to the Council's spatial strategy. I have not identified any conflict with Policy HC1 or Policy HC2 of the Local Plan which, among other provisions, seeks to encourage new opportunities for housing development that accords with the Local Plan. Policy HC1 does not require compliance with Policy ENV6 in circumstances where there is no longer a demonstrable supply of sites to fully meet the 5-year land supply requirement. In respect of this main issue, I have therefore also not identified any conflict with Policy ENV6 which, among other provisions, seeks to protect the character of the open countryside.

Character & Appearance

10. The appeal site is located immediately adjacent to a housing estate characterised by two story semi-detached dwellings of a utilitarian design. There is also Prospect Hill Farm which is a large two storey dwelling and associated outbuildings to the east of the site. It is an edge of settlement location at the boundary point to expansive open countryside to the south. The site is very visible from many vantage points at varying distances in the area to the south which is the River Esk Valley. The Council have characterised the landscape to the south of Whitby as 'settlement fringe' and note the role of it being a setting to the National Park. The key consideration is that proposals should not degrade the defined settlement edge to the countryside to the south.
11. The appeal site is currently unoccupied having previously accommodated a single dwelling which was demolished pursuant to planning permission Ref: 18/00775/FL. This also granted permission for a dwelling of a very similar design to one of the proposed dwellings subject to this appeal. This includes a southern elevation facing the Esk Valley which incorporates a significant glazed element. The appeal site makes limited contribution to the character and appearance of the area in its current form. There are pleasing views from Frobisher Drive towards the south across the site. The settlement boundary is not uniform and there are several

examples of buildings, including Prospect Hill Farm, projecting into the open countryside.

12. The proposed development incorporates a new dwelling of similar design in almost the same location to that permitted. The proposed second dwelling to the west is of a very similar design. The impact would be to extend the residential area and settlement edge forward, but this would not degrade the strong settlement edge. The design would be distinct from dwellings in the immediate area; however the overall settlement boundary is not uniform in design. The proposed dwelling to the east of the site would screen the gable of 2 Frobisher Drive which presents a blank façade to the countryside to the south. The overall result of the two proposed dwellings would be distinctive but not incongruous or appear as overdevelopment in the surrounding context. There would be symmetry between the dwellings and the scale of the landscape setting is sufficient to comfortably accommodate both houses. It is appropriate to control the material finishes of the bricks and pantiles to be used to ensure that they are appropriate in the surrounding context. This can be achieved by means of condition.
13. For the above reasons, I find that the proposed dwellings would not have a harmful effect on the character and appearance of the surrounding area. Accordingly, I find no conflict with Policies DEC1 or ENV7 of the Local Plan which requires that new development protects or enhances the features that contribute to the landscape character of a particular area and take into account the sensitivity of the landscape.

Living Conditions of Surrounding Occupiers

14. There are several dwellings to the north of the site on Frobisher Drive and Anchorage Way. Residents of three of these properties have raised objections to the appeal proposals.
15. The proposed dwellings would be set back from the site boundary to the north by approximately 4.7m to allow for the access road to the garage associated with the western most dwelling. This is in addition to a further separation distance from the site boundary to the properties to the north. The western most proposed dwelling will be positioned perpendicular to the gable of 2 Frobisher Drive and be 10.8m distant at the closest point. The separation distance to the rear elevations of the dwellings on Anchorage Way will be approximately 20m. The eastern most proposed dwelling is on approximately the same site as the extant dwelling permitted under Ref: 18/00775/FL. These separation distances are sufficient to ensure that the proposal will not have an unacceptable impact on the living conditions of the occupiers of the dwellings to the immediate north in terms of overshadowing or enclosure.
16. The site boundary will also incorporate an approximately 2m high timber fence and the rear elevation of both proposed dwellings will also only include one window at first floor level which will be obscure glazed. These factors remove the potential for loss of privacy and overlooking for residents of the dwellings to the immediate north.
17. For these reasons, while I accept that there will be a change in views over open countryside, I find that the proposed dwellings would not have a harmful effect on the living conditions of occupiers of the properties to the immediate north of the appeal site in terms of loss of light, privacy and outlook. Accordingly, I find no

conflict with Local Plan Policy DEC4 which requires that proposals should not give rise to unacceptable impacts on surrounding properties in these regards.

Other Matters

18. The proposal would result in increased traffic along Anchorage Way and Frobisher Drive. The traffic resulting from two additional dwellings would, however, be light. Adequate car parking will be available on site. These matters can be addressed by means of condition. The proposals are acceptable in this regard.
19. No evidence has been presented to indicate that the proposal will have a negative impact on ecology and be contrary to Policy ENV5 of the Local Plan.

Conditions

20. The Council has suggested conditions should the appeal be successful. I have considered these and amended where necessary to accord with the Planning Practice Guidance and the tests for conditions set out in Paragraph 57 of the National Planning Policy Framework (the Framework).
21. It is necessary to specify the approved plans as this provides certainty. 2 Reason: in the interests of the character and appearance of the development and in accordance with Local Plan Policy DEC1. Materials samples and boundary treatment details are required for approval in the interests of the character and appearance of the development and surrounding landscape character in compliance with policies DEC1 and ENV6 of the Local Plan. Conditions are attached to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience and to provide for adequate and satisfactory provision of off-street parking for vehicles in the interest of safety and the general amenity of the development.

Planning Balance and Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise.
23. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. The Framework states that the relevant policies for the supply of housing are to be considered out of date if the local planning authority cannot demonstrate such a supply. For decision making this means that, where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development and the tilted balance in paragraph 11d) of the Framework is engaged in this case.
24. In terms of the adverse impacts, there would be limited negative effect on the character and appearance of the area, including its landscape character, although the development can be sited to reduce the harm and incorporate design measures to mitigate the impact to an acceptable level. The proposal accords with the overall aims of all other relevant development plan policies set out in the Local Plan. Other potentially adverse effects would be overcome or satisfactorily mitigated by planning conditions.

25. Against that, the proposal would provide social and economic benefits through contributing to the supply and mix of housing in the area, providing construction jobs and supporting local services and facilities. The Framework promotes sustainable development and the additional dwellings would make a positive, albeit modest contribution to the supply of housing. This would support the economic and social objectives of sustainable development that weighs in favour of the proposal.
26. In environmental terms, the appellants states that the scheme's design, energy efficiency measures and landscaping would amount to environmental benefits. These benefits are tempered by the scale of development as two dwellings, but nevertheless carry modest weight in favour of the proposal.
27. Consequently, overall, in my view, the adverse impacts arising from this development do not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework read as a whole, which is a material consideration in favour of the development.
28. The appeal scheme accords with the development plan as a whole and there are no other considerations that would outweigh this conclusion. Accordingly, for the reasons given, the appeal is allowed.

F P Tinsley

INSPECTOR