



Appeal Decision

Inquiry held on 4-7 and 11 November 2025

Site visit made on 7 November 2025

by S Wilkinson BA, BPI, Dip LA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2025

Appeal Ref: APP/U2750/W/25/3366264

Land North of Hull Road, Hemingbrough, Selby, YO8 6QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Barratt Homes and Hall for Hemingbrough against North Yorkshire Council.
 - The application ref is ZG2024/0023/FULM.
 - The development proposed is 137 dwellings, open space, landscaping, and associated infrastructure and Community Centre with associated car parking and recreational space.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of 137 dwellings, open space, landscaping, and associated infrastructure and Community Centre with associated car parking and recreational space at Land North of Hull Road, Selby, YO8 6QJ in accordance with the terms of the application, Ref ZG2024/0023/FULM, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal was lodged by Barrat Homes and Hall for Hemingbrough (the Hall), a Community Interest Company (CIC) tasked with the delivery of a community hall designed to serve the recreational needs of the local area. Whilst this is a detailed scheme it includes details of just phase 1 of the proposed Hall.
3. Following the lodging of the appeal the Council identified nine putative reasons for refusal. These addressed the site's location, impact on best and most versatile agricultural land, design, impact on landscape character, trees, accessibility, the principle of the community centre, flood risk and foul water discharge. At the Case Management Conference (CMC) the Council stated that it would not defend the issue of foul water discharge.
4. The appeal was accompanied by a draft S106 Agreement which was revised during the Inquiry to include a Locally Equipped Area of Play (LEAP) proposed for a site adjacent to the pumping station. I accepted this amendment as no party would be prejudiced by the proposed location. A completed Agreement dated 18 November 2025 was received after the Inquiry closed.
5. On the last day of the Inquiry the appellant indicated that they could provide additional information to substantiate the economic benefits of the appeal

scheme. I did not accept this as 'no exceptional' circumstances as required by the Procedural Rules¹ had been identified for its late submission.

6. Both parties agree² that the Council has 2.4 years housing land supply.

Main Issues

7. It was agreed at the Case Management Conference that the Council's nine putative reasons for refusal could be distilled into six main issues. However, in advance of the Inquiry the main parties agreed through a Statement of Common Ground that the loss of Best and Most Versatile (BMV) agricultural land is a harm which is insufficient to refuse planning permission and should be factored into the overall planning balance.
8. On commencement of the Inquiry the Council accepted that its reasons relating to trees and the discharge of sewerage treatment could be addressed through suitably worded planning conditions. Furthermore, during the Inquiry the Council withdrew its defence of Reason 7 related to flood risk.
9. Accordingly, the appeal raises the following main issues:
- The site's location in relation to national and local policies,
 - The effect of the scheme on the landscape character and appearance of the area,
 - The design of the scheme with regard to the amount of development, its character and appearance, the location and provision of open space, and
 - Whether or not there are exceptional circumstances for the location of the proposed community hall outside the defined settlement boundary.

These matters are addressed in the planning balance which also accounts for matters relating to the loss of BMV, trees, the sequential test and sewerage treatment.

Reasons

Policy context

10. The Council withdrew the draft Local Plan of the former Selby District Council following local government reorganisation in 2023 and the introduction of the new National Planning Policy Framework (the Framework) in 2024. Background evidence to the draft plan has informed the evidence of both parties. Work is underway on a new Local Plan for North Yorkshire which the Council is aiming to adopt in 2029.
11. The Development Plan comprises the Selby District Local Plan 2005 (LP), the Selby District Core Strategy 2013 (CS) and the Minerals and Waste Joint Local Plan 2022 (MWJLP) although the latter is not relevant to the issues raised by this appeal.

¹ Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000.

² Statement of Common Ground

12. I find that policy CSSP10 referred to in the Council's first reason for refusal is not relevant to this appeal as the site is not identified as a rural exception site.

Main issue 1

Site location

13. The appeal site is located on the north side of the Hull Road (the A63). Whilst the bulk of Hemingbrough is located to the south, limited areas of development lie on the north side of the road which are included in Hemingbrough's 'development limits' defined by policy LPDL1. Adjacent to the appeal site is the R&R Country store and a row of dwellings which form part of the appeal site's southern edge.
14. Policy LPDL1 was predicated on an annual housing target derived from the Regional Housing Strategy and Planning Policy Guidance Note 3 both of which have now been superseded. Whilst the CS included a revised housing target of 450 dpa the development limits of each settlement were not altered. Instead, the settlement strategy included in policy CSSP5, identified that the development limits would be reviewed in a Site Allocations Local Plan which would be prepared following the adoption of the CS; this was never addressed.
15. The CSSP2 identifies Hemingbrough as a Designated Service Village, an acknowledgement that its existing range of services could support future residential development. However, the policy restricts development to within the original development limits and whilst it identifies a number of exceptions which could allow development on land beyond these, they do not apply to this appeal.
16. For these reasons, I conclude that the site's location lies beyond the development limits and conflicts with policy CSSP2.

Main issue 2

Landscape and visual effects

Context

17. The appeal site comprises around 6.02ha of arable pasture. It is bounded to the south by commercial buildings and a row of dwellings but has a direct frontage to the A63 of around 75metres. Its western boundary lies adjacent to the Hagg Lane Green, Site of Interest for Nature Conservation (SINC).
18. The site's northern boundary is formed by a public right of way (PROW) 35.35/3/1 which is included in the appeal site. This PROW morphs into Inner Moor Lane which lies just north of and parallel to the full length of the footpath but extends away from the site returning south via Novey Lane to its junction with Hull Road. The site's eastern boundary is open to the fields beyond although defined in part by a line of mature trees.
19. The site does not lie in a valued landscape as defined by Paragraph 187a) of the Framework.
20. The site is included in the Humberhead Levels National Character Area 39 and within Landscape Character type 23 – Levels Farmland. At a more localised level the Selby District Landscape Character Assessment includes the site in LCA10, East Selby Farmland. Features common to these assessments include a flat landscape averaging around 10m AOD with large arable fields created as a result

of amalgamation with field boundaries comprising hedgerows with mature boundary trees. The settlement character is defined by scattered villages and farms.

Landscape effects

21. Whilst the area surrounding Hemingbrough is broadly representative of the area's landscape character, the appeal site differs given its proximity to the A63 and the existing commercial and residential development which exert their influence through lighting and noise. These matters were confirmed on the site visit and reinforced by the dark skies map³ included in the appellant's evidence. Accordingly, the site's value as contributing to the rural setting of Hemingbrough is diminished when compared to other areas across the LCA10.
22. The Selby Landscape Sensitivity Study 2021, prepared as part of the now withdrawn plan, assesses land parcels around existing settlements for residential and commercial development. The appeal site falls within parcel HE2, categorised as having a low-moderate sensitivity to residential development where few characteristics are sensitive to change. Significantly, out of a total of around 103 parcels included in the study only 4 have a lower sensitivity.
23. Whilst these conclusions are not based around a specific scheme and the appeal site forms only part of parcel HE2 it provides a useful pointer to the sensitivity of the site to residential development. In the context of this parcel which extends well to the north of Hemingbrough I find that the less sensitive areas lie adjacent to the existing ribbon development along the A63; this includes the appeal site.
24. The site's potential value is derived from a range of factors⁴. Its natural features include the protected trees and woodland around the site and its openness as an arable field. However, the site has no clearly defined cultural heritage or associations; views to the spire of the Collegiate Church of St Mary the Virgin (St Mary's Church) are incidental.
25. Its recreational value is high, given the location of the well used PROW^{35.35/3.1} which adds to its functional value. The site is not particularly distinctive given the range of characteristics it shares with surrounding areas. However, its landscape condition is high, given that it continues to be used for arable pasture. Its scenic value is limited being derived from the distant views afforded towards the spire of St Marys Church but impacted by the location of the existing dwellings and commercial buildings on its southern edge. Overall, based on this analysis I find that the site has a medium value.
26. The Selby Landscape Character Assessment⁵ recognises that the openness of the LCA makes it particularly sensitive to small scale development but conversely appreciates that larger development could be absorbed given the area's extensive open character if sites have a sense of enclosure due to existing mature vegetation. The site falls within the latter given the established tree belts along its western, northern and to a lesser degree its eastern boundaries. Accordingly, I find that the site would have a medium susceptibility to the degree of change resulting from the appeal scheme.

³ CD7.10

⁴ Landscape Technical Note (TGN02/21)

⁵ CD5.3

27. The suggested root protection areas are sufficient⁶ in size to allow the retention of the site's protected trees which provide a base for the introduction of additional planting as part of landscape mitigation.
28. The degree of change resulting from this scheme would be medium adverse. given its level character requiring only minimal regrading to create development platforms and the proposed mitigation planting which would be integrated with the existing tree belts. However, this is a major scheme which would be permanent and irreversible resulting in an overall landscape effect which would be major adverse. Despite the size of the appeal scheme the impact of these changes would be limited to the character of the site with no impacts on the NCA39, NCT23 and LCA10.

Visual effects

29. A series of viewpoints around the site were agreed by the parties and used as the basis for the site visit. My conclusions are based on the evidence before me on the degree of visual impacts and the sensitivity of the receptor at Year 15 when the proposed mitigation planting would have had sufficient time to mature.
30. Presently views across the site from along PROW 35.35/3/1 from Viewpoint 1 (VP1) allow clear views across the flat arable field and looking eastwards the visitor experiences views across a similar landscape beyond the site's boundaries. At this point the impact of traffic along the A63 by virtue of both noise and visibility is minimal. Looking directly south there are views of the stark rear elevation of the commercial buildings located on the A63 and the two large portal framed barns in the southwest corner of the site. These features reinforce the visitor experience that the site is on the edge of a settlement. The slender tapering spire of St Mary's Church only becomes visible from the middle of the site's northern boundary.
31. The proposed mitigation includes the retention and enhancement of existing vegetation with a narrow grass verge alongside the northern edge of the existing PROW which would lie immediately adjacent to a road within the scheme. In place of the existing view the appeal scheme would inevitably dominate the visitor experience with views of the houses and road facing the PROW. This is critical given the highly sensitive nature of the receptors. The site's rural character would be entirely lost and whilst aspects of the existing view such as the rear of the buildings and the two large barns have little merit, the relationship of the site to the church spire would be lost. There would be major adverse impacts.
32. A walker using Inner Moor Lane close to this point would experience less visual impacts due to the depth of the existing hedgerow and trees which given the degree of enclosure would restrict views of the appeal scheme.
33. From along the length of Inner Moor Lane away from the site, the route is bounded by a hedge along its southern edge and although it is gappy it allows only limited glimpses of the appeal site. From VP2 the impacts of the appeal scheme would be adverse but reduced by the proposed mitigation involving additional planting designed into the Site of Alternative Natural Greenspace (SANG).

⁶ Mr Tivendale PoE

34. From VP3 looking directly west, the open sweep of fields which include the site would be replaced by views of the proposed housing along the site's eastern edge. However, views of the proposed scheme would be broken by the proposed landscaping included in the SANG. Impacts would be low adverse.
35. From VP4 looking northwest from Hull Road the visitor on foot presently enjoys clear views across the site towards the established tree belts on Inner Moor Lane and the PROW 35.35/3/1. The appeal scheme would dominate views but adverse impacts would be moderated by the proposed landscaping around the SANG and the retained existing tree belts along the eastern edge of the site. There would be low adverse visual impacts.
36. At VP5 existing views extend across the open arable field to the tree belts on its northern edge although influenced to some extent by the presence of the R&R Country Stores and the barns. By year 15 this view would be dominated by the access leading to the central part of the scheme with immediate views dominated by the Hall and its parking but still influenced by the presence of the R&R country store. For this reason despite the clear views of the scheme its impacts from this point would be moderate adverse.
37. From VP9 located several hundred metres to the west along the A63, the views towards the site access are almost entirely obscured by the strong tree belt in the SINC. The frontage signs to the R&R stores can, however, be seen. On development of the site the set back of the proposed housing behind a landscaping belt to the west of the access means that they would not be visible from this location. The signage for the stores would still be seen.
38. Given the extent of tree belts along the west and north sides of the site no part can presently be seen from VPs 6, 7 and 8. I am satisfied that given the height of the proposed houses and the Hall none of these would make any visual impact on the surrounding landscape when viewed from these locations.
39. Drivers and cyclists on the A63 presently have only limited views of the site given its maximum speed of 40 mph. Views for drivers/cyclists on the east bound carriageway would be minimal given the site's short frontage. The effect of the proposed 30 mph speed limit would only have a limited impact on allowing drivers/cyclists more time to view the site. In contrast those travelling along the opposite carriageway instead of viewing the site as contiguous with the surrounding farmland would see glimpses of the appeal scheme. However, the adverse visual impacts effects would be minimal.
40. For occupiers of the residential properties along the north side of the A63 the views would be limited in most cases to the upper floors. However, for several of these properties views would be restricted by the well treed pond on the edge of the site.
41. Where there are no existing boundary tree belts several residential properties presently enjoy views across the open site. On development of the appeal scheme these views would be significantly altered but restricted to just the upper floors due to the proposed mitigation planting. Limited visual harm would arise.

42. In contrast the site of the recently dismissed appeal scheme⁷ at the Paddock just north of the A63 is prominent being located well away from other development. Although no landscape assessment was submitted with that appeal from my site visit its development would have had significant adverse visual impacts from surrounding viewpoints.
43. The pathway through the SINC presently affords limited views into the site. Whilst the two existing barns located at the southwestern corner of the site are visible, the proposed housing would be set further away from this edge behind the SANG. This would result in only glimpses of housing within the scheme. Accordingly, the visual impacts for the visitor to this area would result in only limited harm.

Conclusions on landscape

44. Policy SP18 is broad in scope and seeks to protect the open countryside, its character, landscape and appearance. However, the main parties agreed⁸ that only SP18 (1, 4, 5 and 9) are relevant to this issue which address the protection and enhancement of the natural environment through the safeguarding of green infrastructure and public rights of way with a requirement to steer development to areas of least environmental and agricultural quality.
45. Despite the size of the appeal scheme its impact would not be experienced much beyond the site itself. The development of a large flat field by housing inevitably leads to physical impacts but the harm is limited to the site itself with no impacts on the LCA10.
46. The visual impacts arising from the views along PROW 35.35/33/1 would be major adverse and by the site access would, even after 15 years, be assessed as having moderate adverse impacts with three other VPs resulting in low adverse impacts. However, the limited number of viewpoints where visual harm would be experienced is further evidence of the limited harm arising from the scheme.
47. For these reasons, whilst I conclude that overall the extent of adverse landscape and visual impacts would be limited this still results in a conflict with policy CSSP18.

Main issue 3

Design

48. The Inquiry focussed on a range of issues related to the morphology of Hemingbrough, the scheme's context, design and layout. Policies SDCS SP18 and SP19 (excluding parts j and k⁹) and ENV1 identify the importance of good design which responds to its context and creates attractive and safe places accessed by a range of transport modes.
49. ENV1 refers specifically to the importance of nationally recognised design benchmarks and in evidence the parties referred to guidance including the Framework, National Design Guidance (NDG), Manual for Streets (MfS), Active

⁷ APP/U2750/W/24/3348110

⁸ Statement of Common Ground

⁹ Statement of Common Ground

Travel England (ATE), Building for a Healthy Life (BfHL) and the Village Design Statement 2009 (VDS),

Morphology

50. Hemingbrough's development pattern is constrained by the flood plain of the River Ouse and its confluence with the Derwent which lies to its south and east. Its historic development has therefore extended north east from Main Street which with Finkle Street and Water Lane represents its historic core and designated Conservation Area (CA) with the Grade I listed St Mary's church at its centre.
51. Over the last century there has been a gradual process of development with successive waves of housing extending towards the A63. The ribbon development on the north of this road lies reflects this process with the settlement form recognised in the 'development limits' included in the Development Plan.
52. Beyond the CA there is no dominant architectural style with development reflecting the period of its construction. The prevailing architectural style comprises small estates of bungalows, detached and semi-detached dwellings of comparable styles. These estates do not reflect the CA but adhere to a common typology being no higher than 2 storeys with detailing representative of a suburban vernacular which includes regular and uniform windows, pitched roofs with gable and hipped ends.
53. Given Hemingbrough's morphology and the constraints afforded by the flood plains of the Ouse and Derwent the appeal site's location on the north side of the A63 represents a logical extension to the settlement.
54. It is accepted that the VDS advises that Hemingbrough should evolve through incremental change with an implication that small scale change is appropriate for the scale and size of village. However, this requirement needs balance with the requirements for placemaking advocated by guidance included in both BfHL and the NDS which emphasise the importance of context.
55. The scheme represents around 10% of the existing area of Hemingbrough and is of sufficient size to create its own distinct sense of place which due to its location, in part shielded behind the commercial buildings and housing on Hull Road, would not overwhelm the character of the existing settlement. Given this context, to replicate the form of development advocated by the VDS on the appeal site would appear incongruous.
56. For this reason, there is no conflict between the appeal scheme and policy (CSSP19b).

Integration of the scheme into the existing settlement pattern

57. The physical distance between the appeal site and the shops and services in Hemingbrough are 'walkable'¹⁰ and broadly fall within the guidance suggested by the parties. The suggested location of the Hall is within an appropriate distance suggested by the suggested in the Needs Assessment¹¹. It is acknowledged

¹⁰ CD7.14

¹¹ CD5.7 to large parts of the existing village

however, that access by both pedestrians and cyclists would require the crossing of the A63.

58. The A63 is subject to a 40mph speed limit where it runs through the village. Pedestrian footways vary in width on the north side from 1.0 -1.4m but on the south side are around 0.8m. Only part of the northern footway is partially lit. Traffic surveys¹² demonstrate that the A63 has morning and evening peak traffic flows of around 568 and 640 vehicles respectively although outside these times traffic flows remain constant and include a large number of Heavy Goods Vehicles. Whilst this level of traffic is assessed as moderate¹³, given that there is just a single reserve to facilitate pedestrian crossing located by the existing playing fields, the road presents both a physical and perceptual obstacle for pedestrians/cyclists to navigate.
59. The appeal scheme seeks to address this situation through the introduction of a 30mph speed limit and the inclusion of a pedestrian crossing island point just west of the proposed site access. These measures would enable safer access to/from the site by reducing the impact of the 'barrier' that the road currently presents and would be consistent with guidance from the ATE. These measures would address the concerns highlighted by my Inspector colleague in their decision on the Paddock.
60. The Stage 1 Road Safety Audit (RSA)¹⁴ which accompanies the appeal acknowledges the importance of these highway modifications recognising their positive impact for pedestrian safety. The scheme would adhere to the principles identified in Inclusive mobility¹⁵ and for this reason would adhere to policy CSSP19d).
61. Furthermore, the proposed crossing would improve the site's legibility with the rest of the village with a direct route into Water Lane rather than the extended route highlighted in the Council's evidence entirely along the A63.
62. The 'dead frontages' along the south side of the A63 would not pose as significant a threat to pedestrian safety as the present situation. In the event that pedestrians choose to continue to walk along this road, the scheme includes proposed improvements to the width of each footway where these can be delivered; these measures represent a material improvement and would facilitate access for pedestrians.
63. Given that the appeal site includes the Hall and playing fields and with shops and services within the existing village there would be opportunities for the different parts of Hemingbrough to cohere around a diverse range of needs. The proposed location of the Hall would be accessible to the existing local community.
64. With regard to this matter there is no conflict with policy CSSP19c).

Layout and design

65. The proposed layout includes a single point of access from the A63 located at the site's southwestern edge. A narrow SANG surrounds the entire site with the proposed housing facing towards the site's northern, western and eastern edges

¹² Mr Flagstaff PoE

¹³ Mr Flagstaff EIC

¹⁴ CD1.40

¹⁵ Department of Transport 2022

with a series of detached and semi-detached housing located around a large central area of public open space which includes the Hall.

66. Although this is a major development the layout of the appeal scheme would not result in one which could be considered as impermeable and illegible. Internal roads lead to the centrally located open space through which there would be pedestrian access and other roads allow clear views towards the SANG which connects to the existing PROW located on the site's northern edge. As each road within the scheme includes footways they would allow safe and easy access.
67. Concerns over its block structure and uniform building lines are overstated given that the longest stretches of housing include detached properties or short terraces.
68. The perimeter blocks face outwards allowing surveillance over the pedestrian route included in the SANG and the existing PROW 35.35/3/1. Critically the proposed playing field is surrounded on 3 sides by dwellings which overlook it. There are just a few properties, principally the 'Wagtail' located around the scheme where blank frontages face onto public spaces but these often lie close to other houses which face directly on to these spaces.
69. The blank frontage to both the rear and flank of the commercial buildings is unattractive but in the case of the former this is an existing building which cannot be designed out. A suggested planning condition could resolve this matter through a specific landscaping solution. High fencing is not proposed for the perimeter of the field as suggested in the Council's evidence.
70. Whilst the delivery of additional parking associated with future phases of the Hall have led to a single area of open space located adjacent to the existing commercial building this would be linked to the SANG. Subsequently if used for parking it would be located in the least sensitive part of the site being closest to the main access.
71. Whilst the scheme includes limited shortcomings in terms of the tandem parking and the inclusion of several parking courts located to the rear of several blocks of dwellings, overall the layout and design is appropriate and would not seriously prejudice surveillance or safety; the comments of the Police are instructive in this regard.
72. In respect of designing out crime there would be no conflict with policy CSSP19h) and given the permeability through the scheme and connections to the existing footpath on the northern edge of the site I do not find a conflict with CSSP18.4 and CSSP19f, 19g and 19h).

Public open space

73. Application of the Council's open space standards which are informed by Fields in Trust guidance to the proposed scheme identify that around 8,220sm of open space is required whereas the appeal scheme provides around 12,300sm of public open space. The majority of this space would be located in the SANG around the perimeter of the site. However, when considering the open space included in the playing fields the total amount is around 22,600sm. Furthermore, the proposed LEAP as required by the guidance would partly address the Council's original concerns.

74. The proposed playing fields would be open to the surrounding housing. Other areas of public open space located around the Hall include overspill areas for its expansion and for additional parking. Their use for open space as a 'meanwhile use' is appropriate in this context.
75. Whilst the SANG's western boundary would not allow access to the SINC this is to protect the area's local populations of Great Crested Newts; this is entirely appropriate for the protection of protected species.
76. I conclude that both in terms of its quantity and quality, the proposed areas of open space would allow the provision of a range of different spaces which would be accessible and consistent with policy CSRT2 and broadly consistent with the Fields in Trust guidance¹⁶.
77. For these reasons, the appeal scheme would not conflict with policy CSRT2.

Built form and character

78. Published guidance including the NDG, support development that creates a distinct sense of place which relates to the character of its surroundings. Specifically, the VDS requires that new development should satisfy modern needs and seamlessly integrate with its local area. However, the nature of Hemingbrough's development has resulted in a broad range of building types with wide variations in their character.
79. The proposed 137 dwellings include 15 housing types which would be distributed across the estate either in small groups or individual houses. I acknowledge that these house types are common to the appellant's other developments reflecting their 'industry standard' approach, but there is sufficient variety proposed to create a strong sense of place which would endure and be consistent with paragraph B.3 of the VDS. The appeal scheme would not detract from local character.
80. Furthermore, to add variety, three material palettes, all of which include brick, consistent with paragraph B.4.9 of the VDS, are proposed for the dwellings throughout the estate with the palettes of materials spread throughout and not restricted to specific dwelling types. Whilst the prevailing height would be two storeys around 10% of the units would be 2.5 storeys; this would introduce a interest into the scheme.
81. Accordingly, with regard to this matter there is no conflict with policy CSSP19a).

Conclusions on Design

82. Policy CSSP18 is essentially an environment policy and is not strictly relevant to this main issue although it references the importance of links to Green infrastructure. Policy CSSP19 is a design policy which is broad in scope, informed by the Buildings for Life guidance. The policy is predicated on design contributing to community cohesion.
83. The appeal site's location on the edge of settlement well away from the CA allows the creation of a scheme with a strong sense of place. The scheme would connect with the existing network of PROWs and would allow access by a range

¹⁶ CD6.18

of transport modes; the impact of the barrier represented by the A63 would be reduced by the appeal scheme. The scheme includes public and private spaces which would be clearly distinguished. The proposed Hall would complement the health and social well being needs of the local community.

84. Whilst the scheme includes some minor design shortcomings, its layout and design would not detract and the inclusion of the Hall and public open space could support community cohesion. There would be no conflict with policy CSENV1.
85. Whilst the parties have referred to guidance documents, Building for a Healthy Life is specifically referred to in supporting text to Policy CSSP19. The appellant's assessment is instructive in identifying the scheme's contribution to addressing its criteria. The appeal scheme would make a positive contribution to the local area. Accordingly, I conclude that the appeal scheme is well designed and overall does not conflict with policies CSSP18 and CSSP19. There would be no conflict with Paragraphs 135 and 139 of the Framework.

Main issue 4

Location of the Hall for Hemingbrough

86. The needs assessment¹⁷ identifies the importance of informal play and recreation currently provided in village halls and centres across the former district. Furthermore it establishes that there is continuing demand for village halls and community centres and that overall there are issues concerning both the number and quality of existing sports halls.
87. The scheme includes details of the first phase of the proposed Hall which together with the area of the playing field would occupy an area of 1.2ha. This phase would include space for changing rooms, communal meeting room and café and multi purpose hall served by 29 parking spaces. Other phases could include extensions to its rear and flank to extend the range of facilities with additional parking on land to its south. It is intended that the Hall would serve a wider community than just Hemingbrough.
88. The Council identified that the Hall's proposed location is contrary to policy CSCS4 being outside 'development limits'. Through the Statement of Common Ground it was agreed that the only relevant parts of this policy in support of its objection relate to its design and accessibility [CSCS4 2) and CSCS4 3)].
89. The business plan (2023) for the Hall includes an analysis of possible alternative sites. Whilst this is not exhaustive and it is understood dates from 2016 the Council has suggested just one alternative site, presently occupied by the existing playing fields, discounted because of limitations on its size as the proposed hall would result in the loss of existing sports pitches. This in itself is an argument against the Council's suggested site given the findings of the needs assessment and points to the use of the appeal site for the Hall.
90. Proposed parking would lie close to the site's main access and the suggested transport measures included in the S106 Agreement would allow access to the Hall by a range of transport modes.

¹⁷ Cd5.7 Indoor Sports Facilities Needs Assessment , Knight Kavanagh and Page 2020

91. The proposed Hall which would be between 8.2-8.79m height with elevations of contrasting brick, timber cladding and with large areas of glazing to its front and north elevations; these accentuate its horizontal dimension in contrast to the surrounding housing. It is acknowledged that whilst the Hall would be of functional design this is necessary to accommodate a multi use games room and allow for further extension; its design is entirely appropriate for its location.
92. Whilst the Hall lies outside the development limits the policy does allow for this in exceptional circumstances. There is proven demand based on the needs assessment. The highway works proposed as part of this scheme would address concerns over how the whole community could access the Hall. Given the options analysis for site selection and the absence of a clear alternative within the development boundary I conclude that the location of the Hall outside the adopted development limits does not conflict with policy CS4 and specifically would not conflict with CS4 2) and CS4 4) regarding its design and accessibility.

Infrastructure

93. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 58 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind. The Council submitted a CIL compliance schedule identifying how each suggested obligation is consistent with its adopted policies and the requirements of the Regulations.
94. The S106 Agreement includes a series of covenants in favour of the Council. These include a requirement that 20% of all dwellings shall be affordable and of these 16 will be affordable rent and 11 shall be shared or intermediate units. This accords with policy CSSP9 and the CIL viability assessment which determines the proportion of units which can be affordable.
95. An obligation requires a contribution of £167,480 payable to the Council as an agent of the NHS (Humber and North Yorkshire) to increase capacity at the local Selby Primary Care Network. This is supported by the policy CSSP12 and the Supplementary Planning Guidance. Another obligation includes a contribution of £98,748 and £66,465 towards Special School and Early Years provision. This is supported by policy CSSP12. Payment of each of these will be linked to pre commencement of the dwellings and their occupation.
96. Consistent with the Council's adopted SPD the appellant is required to pay £65.00 per dwelling for the cost of providing waste and recycling bins.
97. To address the Council's concerns over the accessibility of the site an obligation requires payment of £37,638 for bus enhancement and the relocation of an existing bus stop close to the proposed site access. Payment will be staggered related to the operation of triggers determined in the first instance by occupation of the dwellings. A further obligation requiring payment of £2,000 for introduction of signage and road markings for the new speed limits. These measures are supported by policy ENV1.
98. The Agreement includes a travel plan monitoring fee of £5,000.

99. The Agreement allows for the provision of a locally equipped play area (LEAP) to the northern edge of the playing field.
100. I conclude that the above obligations include the provision of infrastructure, which is necessary, directly required and fairly and reasonably related in scale to this development. To conclude I am satisfied that each of these obligations fall within the provisions of Regulation 122(2) of the CIL Regulations and Paragraph 58 of the Framework.

Hall for Hemingbrough

101. The S106 Agreement, in addition to the above obligations, includes covenants required to give effect to the delivery of the Hall and the public space around it. The Agreement differentiates between the 'Community Hall Land', on which the Hall could be built and the surrounding area of public open space, the 'Community Hall Open Space land'.
102. In summary, through the operation of a series of triggers they allow the CIC to have the option on whether they intend to take ownership of the land on which the Hall would be built and until this time they would be responsible for its maintenance. Effectively the obligation requires the developer to 'gift' the land to the CIC on a contractual basis.
103. In the event that the CIC did not wish to take on the land it would be laid out as part of the adjacent open space and managed by the Management Company who would be responsible for the management of public spaces across the site. This would be subject to a residential open space scheme which would be submitted to the Council for agreement. The scheme would be implemented before 50% of the dwellings were occupied and funded through covenants included in sales deeds of each market dwelling.
104. If the CIC agree to take on the land the developer would pay £500,000.00 derived from the sale of the site's market housing. This amount of money is included as the costs for phase one of the Hall included in the business plan and would be paid on transfer of the Community Hall Land.
105. Other obligations require that on completion of the whole scheme if the Hall is incomplete then the Community Hall Land will be managed as an area of additional open space.

Other matters

106. I address the range of matters originally raised by the Council in its putative reasons which were not pursued at the Inquiry. These include the loss of BMV agricultural land, landscape features, flood risk and disposal of waste water.

Best and most versatile agricultural land

107. The appeal site comprises 6.05ha of arable land. Of this 3.8ha is classified as within Class 2 and 3a identified as BMV agricultural land. Records on the amount of land classified as either 3a or 3b in Selby District are unclear but on a simple comparator basis it is estimated that for Grades 1-3, the 5.6 ha of BMV lost from the site's development when compared to a total of around 56,900ha across the former Selby District; this amounts to just 0.0001% of the District's BMV agricultural land.

108. I agree with the parties suggested benchmark based on a recent appeal decision¹⁸ that any loss of BMV land below 20ha is not a significant amount of agricultural land. When assessed against the requirements of policy CSSP18 which requires development to be steered towards areas of least agricultural quality the conflict with this policy is qualified.

Protection of existing landscape features

109. It is accepted that the site's boundaries include small areas of woodland and individually protected trees. These are important landscape features.
110. The appeal scheme includes tree surveys which recognise the importance of these features. The scheme has been designed with appropriate 'buffer' zones to enable the safeguarding of root protection areas. Suggested mitigation which would ensure the protection of these important landscape elements both during construction and their long term management once the scheme is occupied can be addressed through the submission of details required by planning conditions.
111. For these reasons, I find that there is no conflict with policies CSENV1 and CSSP18.

Flood Risk

112. Policy SP15d) and Paragraph 170 of the Framework are consistent in seeking to direct development away from areas of the highest flood risk. A sequential risk based approach is advised based on the flood vulnerability of land. Three categories of flood zone (FZ) are identified with FZ1 being the least vulnerable. Through the operation of a matrix included in Annex 3 to the Framework development is categorised in relation to vulnerability.
113. The appeal site is in FZs 1 and 2 and the scheme design has located the majority of housing within FZ1 along with the Hall and its 'open space land'. Beneath the open space an attenuation tank would be located as part of a scheme of flood mitigation. However, about one third of the housing, located on the eastern edge of the site would be located in FZ2.
114. The Council suggest that another less vulnerable site within FZ1, located just off School Road should have been considered as part of the sequential test. However, although this site is subject to an existing application for planning permission for a smaller scheme than for this appeal, a residential development had been refused and subsequently dismissed by one of my Inspector colleagues¹⁹ and is now the site for housing for which an application has been submitted. In this context it cannot be considered to be sequentially preferable.
115. Since the submission of the appeal scheme Planning Policy Guidance²⁰ (PPG) has been revised and requires a proportionate approach to the application of the sequential test albeit one which still maintains that in the identification of 'reasonably available sites', ownership is not necessarily a constraint and that smaller sites could be appropriate. However, I accept that given the scale of the proposed scheme, the development of 137 dwellings could not have been satisfactorily accommodated on this site.

¹⁸ APP/X4725/W/243354032

¹⁹ APP/U2750/W/23/3327421

²⁰ PPG paragraphs 27-28

116. For these reasons I conclude that the appeal scheme does not conflict with policy CSSP15 and Paragraphs 170 and 175 of the Framework.

Capacity of waste water treatment plant

117. The Water Authority (WA) originally objected to the appeal scheme on the basis of there being insufficient capacity to accommodate the additional sewerage arising from the appeal scheme. In subsequent correspondence the WA has suggested that planning conditions could address these concerns²¹.
118. I have had regard to the joint note on this matter agreed by both parties²² and find that the suggested conditions would ensure sufficient safeguards to allow the scheme to proceed and are consistent with Policies SP18 and ENV1(5).

Other matters raised by interested parties

Hemingbrough Conservation Area (the CA)

119. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The Hemingbrough CA lies around 200metres from the edge of the appeal site. At its core is the listed St Mary's Church but there are a range of buildings, some of which are listed, of contrasting architectural styles dating primarily from the seventeenth and eighteenth centuries located around a series of medieval loft and croft boundaries.
120. Given the distance between the CA and the appeal site which are separated by other development restricting intervisibility, I conclude that the appeal scheme would have no impact on the CA.

The Grade I listed Parish Church

121. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty requiring a decision maker, to have special regard to the desirability of preserving listed buildings or their setting or any features of architectural or historic interest which they possess.
122. The Grade I listed Collegiate Church of St Mary the Virgin lies in the centre of Hemingbrough around 1km from the appeal site. It dates from the late twelfth century and is marked by its late thirteenth century tower and spire completed around 1416-1446. The church is constructed of magnesium ashlar with a lead roof. Its significance is mainly derived from its architectural quality and internal features, particularly its pulpit and Misericord. Whilst the wealth of fine architectural details are significant it is marked by its 191-foot spire which is an important feature within the flat and broad landscape.
123. Whilst only the middle and top of the spire are visible from the appeal site I have no evidence of any functional relationship between this asset and the site. Accordingly, the appeal scheme would not undermine the significance of this asset.

Internationally Designated Sites

²¹ CD7.12

²² ID. 14

124. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as competent authority I am required to undertake an Appropriate Assessment of the development on the basis of the appeal scheme's Likely Significant Effects on two internationally designated sites, the Derwent and Valley and Skipworth Common. Natural England issued standing advice on this matter.

The Derwent Valley

125. The Derwent valley lies around 3km to the east of the appeal site. The Lower Derwent Special Protection Area (SPA), Special Area of Conservation (SAC), and Site of Special Scientific Interest (SSSI) and Ramsar site which lie around 2.4km to the north east. This is an area designated for the river and surrounding bogs, water meadows and marshes which support communities of aquatic fauna with important species of fish and birds.
126. Evidence from the withdrawn local plans Habitat Regulations Assessment identifies that this designated site would not experience recreational pressure from the development of the site. This is because road access to the closest entrance involves a 10km drive to Bubwith Bridge from where only a limited number of footpaths allow access to the banks of the Derwent. The SANG within the site could support recreation opportunities for occupiers of the appeal scheme away from this protected site.
127. Whilst the site could support foraging for qualifying species which include the Bewick Swan and Golden Plover other more open arable sites located away from Hemingbrough are likely to be more attractive to both these species. Potential impacts arising from air pollution derived from increased car usage from residents of the site are considered unlikely given the distance between the appeal site and the Derwent valley.

Skipwith Common

128. The appeal site lies around 5.7km southeast of the Skipwith Common Site of Special Scientific Interest (SSSI), also designated as a SPA and National Nature Reserve. This distance is beyond the 4km threshold beyond which it is considered that the appeal scheme could result in significant increases in recreational pressures²³. Furthermore, the site includes the SANG which would reduce the potential for recreational pressure on this designated site.
129. I consider that the proposed measures would adequately mitigate the recreational effects of the proposed scheme, either alone or in combination with other plans and projects, so that there would be no adverse effect upon the integrity of these two internationally recognised sites.

The SINC

130. Specific concerns were identified during the Inquiry about the potential impact of the appeal scheme on the habitat of the Great Crested Newt (GCN), a European Protected Species²⁴, which inhabit ponds in the SINC. The appeal scheme includes a 10m wide strip of landscaping along the site's western edge designed to accommodate the SANG which would include several ponds including a

²³ Habitat Regulations Assessment AECOM 2024

²⁴ Conservation of Habitats and Species Regulations 2017

dedicated one for dogs to 'exercise'. The scheme does not include any drainage or physical connectivity between the site and the SINC which could adversely impact on the quality of this local wetland habitat.

131. Conditions requiring details of a Construction Environmental Management Plan (CEMP) and a Landscape and Ecology Management Plan (LEMP) include requirements for precautionary measures such as temporary amphibian fencing and monitoring to ensure that the local populations of GCN remain.
132. Surveys identify that the mature trees around the site and those overhanging the SINC provide roosting and foraging opportunities for bats. Adverse impacts arising from the scheme would be derived from the level of activities and possibly tree pruning affecting roosting habitat. The proposed SANG within the site together with the TPO designations could reduce the scope of potential works on these trees.

Planning balance and conclusions

133. The appeal scheme includes a range of benefits identified below.

Social benefits

Market and affordable housing

134. The appeal scheme includes 110 market and 27 affordable houses.
135. The Annual Monitoring report identifies that in 2024-2025 there were only 192 completions against an annual requirement included in the SDCS of 450 dwelling per annum. However, given the age of this requirement the five year housing land supply (1 April 2025-31 March 2030) should be assessed against the standard method, which equates to 2,974 dwellings equating to 595dpa. The former Selby District area has 2.4 years housing land supply (HLS) with the North Yorkshire Council area having around 2.3 years HLS. This is a chronic situation.
136. The Council recognise that the provision of affordable housing is a significant challenge for the Selby District²⁵. The withdrawal of the new Local Plan in 2023 and the anticipated adoption of the new North Yorkshire Plan in 2029 identifies that a plan led solution to addressing housing land supply is some years away. This will exacerbate the challenge of affordable housing provision.
137. Hemingbrough as a designated service village demonstrates that given the range of services in the settlement it has potential for growth. Furthermore, given the extent of physical constraints around other settlements across the Authority area policy CSSP5 identifies that the DSVs would be required to accommodate a large portion of the housing requirement. The appeal scheme is consistent with this policy.
138. The appeal scheme would make a very important contribution to addressing both market demand and housing need which I accord significant weight.

Community Hall

139. The leisure opportunity afforded by the financial contribution towards the proposed first phase of the Community Hall would provide a modern multipurpose

²⁵ CD4.8 Affordable Housing SPD

indoor space for the benefit of the local community. There is also the potential through later phases to lead to an improved offer for a wider community.

140. A needs assessment²⁶ identifies the importance of informal play and recreation currently provided in village halls and centres across the former district. It also identifies a gap in provision in the wider area in the east of the former Selby district. These arguments address the concerns of interested parties over the rationale for the inclusion of the Hall in this scheme. The £500,000 included in the S106 Agreement does not guarantee that this scheme will be delivered but it does represent a sizeable amount of money which could attract match funding.
141. I acknowledge the concerns of the interested parties that the first phase of the proposed Hall could undermine existing informal leisure opportunities provided in both the Methodist Church Hall and the Institute. However, the size of the proposed space included in the first phase would allow recreation for a range of activities which could complement those existing. Letters of support for the proposed scheme indicate interest in this. Whilst delivery is not assured, the S106 Agreement would still allow the provision of a large area of open space which could benefit the wider community.
142. Whilst many objections refer to the size of the Hall being designed to cater for settlements other than Hemingbrough these would form part of later phases and do not form part of the appeal scheme.
143. The provision of the Hall is accorded moderate weight.

Economic benefits

144. It is acknowledged that the appeal scheme would result in a range of economic benefits. The appellant refers to several aspects including the creation of 100 FTE people employed directly in the construction of the scheme over four years with a further 28 FTE indirectly benefiting. There would be an increase in spend of around £15.7m GVA arising from the resident population with increases of £3.6m of retail and leisure expenditure.
145. Whilst I acknowledge that economic benefits would arise from the appeal scheme, in the absence of hard evidence to support these figures I only accord them limited weight.

Environmental benefits

Biodiversity Net Gain

146. The scheme includes a 11% increase in Biodiversity Net Gain. This marginally exceeds the statutory requirement of 10%. This benefit is accorded moderate weight.

The SANG

147. The proposed SANG is a further benefit to the scheme. This would be an informal space for recreation designed to link in with the existing PROW network and could reduce additional trips to the SINC and internationally designated sites. I accord this aspect of the scheme moderate weight

²⁶ Cd5.7 Indoor Sports Facilities Needs Assessment , Knight Kavanagh and Page 2020

Planning balance

148. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.
149. Both main parties acknowledge that there is an undersupply of housing land. In these circumstances there is a presumption in favour of sustainable development as defined by the Framework. Accordingly, Paragraph 11dii) of the Framework applies.
150. I do not find a conflict between the scheme and the design policies included in CSSP18 and CSSP19. Accordingly, the scheme does not conflict with Paragraphs 135 and 139 of the Framework and footnote 9 of Paragraph 11d) does not apply.
151. The fact that policies are deemed as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 232, which amongst other things, states that the closer that local policies are to those in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date by reason of an inadequate land supply to still carry significant weight.
152. Given my findings on the main issues above I find that outstanding matters relate the location of the site and landscape impacts; in this context the only important policies are CSSP2 and CSSP18.
153. The development limits are underpinned by housing requirements included in the Regional Strategy (2004) and Structure Plan (1995), both now superceded. Policy CSSP2 requires that development outside the development limits is limited to the replacement or extension of existing buildings or their re-use and whilst development would be allowed the focus is on contributions to the local economy.
154. Whilst the housing requirement has changed significantly since this time the settlement strategy included in both the LP and CS was adopted, both recognise that the 'designated service villages' such as Hemingbrough have a role in meeting the housing requirement. The identification of sites in support of the settlement strategy included in CSSP5 was however predicated on a Site Allocations Local Plan which was never adopted.
155. Policy CSSP2 does not include the nuance included in Paragraph 187 of the Framework which while respecting the character and beauty of the countryside is broader and would allow development on sites in the countryside. Accordingly, I accord only limited weight to the conflict between the site's location and this policy.
156. Policy CSSP18 seeks to safeguard the natural environment and steer development to areas of least environmental quality. This is broadly consistent with Paragraphs 187b) which recognises the intrinsic character and beauty of the countryside. Given that there would be only limited harm arising from the landscape impacts I accord moderate weight to the conflict between the appeal scheme and this policy.
157. In contrast, the weight I attach to the social, economic and environmental benefits of the appeal scheme outweigh the conflict with the settlement strategy. Whilst

there are harms arising from the scheme in terms of its landscape impact they are not so great as to overcome the benefits of the scheme.

158. Given the extent of these benefits the loss of around 3.8 ha of BMV does not override the scheme's beneficial contribution to partly addressing the housing shortfall.
159. Furthermore, the issues of design, location of the Hall and flood risk would not lead to harms resulting in conflict with other policies of the Development Plan. Other issues relating to trees and foul water discharge can be satisfactorily addressed through suggested conditions.
160. The Council have a persistent under supply of housing land and a plan led solution is several years off. The appeal scheme would partially address this situation.
161. Paragraph 11d)ii) footnote 8 of the Framework requires that where the Council is unable to demonstrate the required housing land supply, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework when taken as a whole.
162. I conclude that in this instance the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. As such the proposed development benefits from the Framework's presumption in favour of sustainable development
163. In this case therefore, material considerations, including the Framework outweigh the conflict with the development plan as a whole and indicate that planning permission should be granted for development that is not in accordance with it.
164. I therefore conclude that the appeal is allowed and outline planning permission is granted subject to conditions and the completed S106 Agreement.

Conditions

165. The suggested conditions were considered during the Inquiry in the context of the advice in both the Framework and the Government's Planning Practice Guidance. Their wording set out in the schedule below reflects that discussion. The appellant indicated they were content with the proposed pre commencement conditions. The numbers referred to below relate to the corresponding condition in the schedule.
166. The standard condition relating to the life of the permission (condition 1) requires development to commence within one year of the date of this decision. This reflects the gravity of the housing supply position. To provide certainty, the plans on which this decision is based (condition 2) are identified.
167. As suggested by the Water Authority I have imposed conditions regarding the discharge of surface and foul water. These would ensure that the scheme is properly drained and that pollution is prevented (conditions 3&4). To enable access to the local drainage channel on the edge of the site condition 5 seeks to maintain a strip of sufficient width free from development to enable access for maintenance.

168. A series of highway conditions are required to ensure highway safety both during construction and after completion of the whole scheme. I have imposed condition 6 which requires the submission of a full set of drawings addressing the necessary engineering works required for the roads and sewers which would service the appeal scheme. Other highway conditions (7, 8, 9, 11, 12 and 13) require the creation of a satisfactory means of access with appropriate sight lines in advance of the full occupation of the site, full details of internal roads, footways, parking spaces and turning areas and that completion is to the Council's standards which would allow adoption²⁷.
169. I have imposed condition 10 requiring details of off site mitigation works to be completed in advance of construction for the central island and the footway works along Hull Road in advance of occupancy. Given the importance of these works for highway safety a Stage 2 Road Safety Audit is required. To limit the potential for on street parking I have imposed condition 14 which would restrict the use of permitted development rights which could allow the conversion of garage space to domestic use.
170. To encourage the use of a choice of travel modes condition 15 requires the submission of a travel plan.
171. I have imposed a series of conditions to protect local ecology. These include a requirement for a Biodiversity Gain Plan in accordance with the statutory metric which would be supported by a further condition requiring the submission of a Habitat Management and Monitoring Plan. This would give effect to the scheme for the delivery of a BNG of 11% (conditions 22, 23, 24 and 25).
172. Conditions 17 and 18 require the submission of details for the delivery of a mitigation strategy for the Great Crested Newt and the introduction of an 'amphibian drainage' strategy'. These measures would address the concerns of the interested party on habitats within the SINC. Other measures required are the submission of details for a Construction Ecological Management Plan designed to ensure that appropriate measures are in place to protect species in advance of construction occurring and a Landscape Ecological Management Plan (conditions 19 and 20).
173. A lighting strategy is necessary (condition 21) to ensure that the surrounding tree belts used by foraging bats are protected from intrusive lighting. A separate lighting strategy is required for the Community Hall given its location in the centre of the site which could impact on living conditions of surrounding occupiers (condition 39).
174. Other conditions are required to reduce the potential for adverse impacts on the living conditions of surrounding residential properties and the site's immediate environment. These include details of a Construction Management Plan (condition 16). In this I have added the requirements included in the suggested condition 27 and 28. A separate condition is required to ensure that specific measures are submitted in respect of piling given that this could be seriously prejudicial to the living conditions of surrounding occupiers (condition 26).
175. Conditions are necessary to ensure that any site contamination, or the potential for such, is detected and remediated accordingly and that any risks from

²⁷ Sn38 of the Highways Act 1980

contamination are properly dealt with to protect the health of future occupiers and to prevent pollution of the environment. (27, 28 and 29).

176. A landscaping condition is imposed both to ensure that the impact of the appeal scheme on the surrounding landscape is limited that it is developed as an attractive site for future occupiers. This would include specific requirements to address the dead frontage presented to the southern end of the site by the rear elevation of the commercial buildings its fencing (conditions 30 and 31). For the same reason full details of materials for the whole scheme are required to be submitted (condition 34) and specifically for the Hall (condition 35).
177. Given the importance of the existing tree belts to the landscaping scheme conditions 32 and 33 require additional tree surveys and an updated Arboricultural Method Statement to be submitted in advance of works commencing.
178. In respect of the Community Hall and playing field I have imposed several conditions regarding its hours and days of use (conditions 37 and 38). Condition 36 confirms the use of the Hall to ensure that it maintains the purposes for which it was originally constructed consistent with the S106 Agreement.

S Wilkinson

INSPECTOR

Schedule of Conditions

1. The development for which permission is hereby granted shall be begun within a period of one year from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

Site Layout - Site Layout Rev F, Materials Layout – August 2024, Close Boarded Fence - DB-SD13-006 Rev B, Post and Rail Fence - DB-SD13-007, Boundary Wall - Type 3 - DB-SD13-013 Rev D, Community Hall Elevations & Section - 16.2058-42, Community Hall Floor Plan - 16.2058-41, Community Hall Proposed Site Plan - 16.2058-40 Rev B, Housetype Portfolio - YE-21-30 16.04.25, Landscape Masterplan - P22-2054_EN_0001_V, Site Access Layout Wide View - DPLSK005 Rev, Site Access Layout Close View - DPLSK006 Rev D, Bike storage plan - DB-SD26-026

3. No discharge of surface water or foul water from the application site shall take place until the points of discharge have been agreed in writing by the Local Planning Authority.

The maximum foul water pump rate shall be restricted to 4.75 (four point seven five) litres per second, to the public combined sewer network. The surface water discharge rate shall be calculated based on the “greenfield rate” taken as 1.4 litres per second per hectare for the “developed area”.

4. No development approved by this permission shall be commenced until the Local Planning Authority has approved a detailed design of the drainage scheme for the disposal of surface water and foul sewage. The drainage scheme shall include details of

- a timetable for its implementation.
- adoption/maintenance, including drawings showing assets to be adopted and a maintenance plan covering requirements until the assets are vested.
- Exceedance Flow Plan.

Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use..

5. A strip of land 3 metres wide adjacent to the top of the embankment of an open watercourse and/or 3 metres wide from the edge of a culverted watercourse shall be kept clear of all new buildings, structures, walls, fencing and planting unless agreed otherwise in writing with Ouse & Derwent Internal Drainage Board.

6. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on the road construction works, until full detailed engineering drawings of all aspects of roads and sewers, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
7. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.
8. The completion of all road works must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

The development must not be brought into use until the access to the site north of Hull Road 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:

The access must be formed with 8 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that the access road into the site must be constructed in accordance with NYC Standard Detail and the following requirements.

- Any gates or barriers must be erected a minimum distance of 3 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- That part of the access extending 10m metres into the site from the carriageway of the existing highway must be at a gradient not exceeding 1 in 30.
- Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed in accordance with North Yorkshire Councils specification and maintained thereafter to prevent such discharges.
- The final surfacing of any private access within 3 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.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

9. There must be no access or egress by any vehicles between the highway and the application site at north of Hull Road until the following has been provided:

- Vehicle visibility splays giving clear visibility of 120 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
- Pedestrian visibility splays giving clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway of the major 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.

10. The following schemes of off-site highway mitigation measures must be completed as indicated below:

- Central island works with relevant lining at Hull Road prior to construction.
- All footway works along Hull Road prior to occupation.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit commissioned in accordance with NYCC protocol carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

11. 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) at land north of Hull Road until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- vehicular, cycle, and pedestrian accesses
- vehicular and cycle parking;
- vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and
- loading and unloading arrangements.

No part of the development must be brought into use until the vehicle access, parking, manoeuvring and turning areas for the development 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.

12. No development shall be occupied until the access, parking, manoeuvring and turning areas for development for all users 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.
13. No dwelling must be occupied until the related parking facilities 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.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Order, the garages shall not be converted into domestic accommodation without the granting of an appropriate planning permission.
15. Prior to the first occupation of the development, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include: -
 - agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
 - a programme for the delivery of any proposed physical works;
 - effective measures for the on-going monitoring and review of the travel plan;
 - a commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;
 - effective mechanisms to achieve the objectives of the Travel Plan by future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

16. No development shall 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 Construction Management Plan. The Plan must include, but not be limited to, arrangements for the following in respect of each phase of the works:
 - Details of a scheme to minimise the impact of dust, vibration, noise and dirt on surrounding residential occupiers

- No works of demolition or preparation prior to building operations shall take place other than between the hours of 08:00 and 18:00hrs Monday-Friday and 08:00 and 13:00hrs on Saturdays and at no time on Sundays or Bank or National holidays
 - details of any temporary construction access to the site including measures for removal following completion of construction works;
 - restriction on the use of Hull Road access for construction purposes;
 - wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
 - the parking of contractors' site operatives and visitor's vehicles;
 - areas for storage of plant and materials used in constructing the development clear of the highway;
 - measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
 - details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
 - protection of carriageway and footway users at all times during demolition and construction;
 - protection of contractors working adjacent to the highway;
 - details of site working hours;
 - erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
 - means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
 - measures to control and monitor construction noise;
 - an undertaking that there must be no burning of materials on site at any time during construction;
 - removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - details of the measures to be taken for the protection of trees;
 - details of external lighting equipment;
 - details of ditches to be piped during the construction phases;
 - a detailed method statement and programme for the building works; and
 - contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
17. Development shall adhere to the measures set out in the Ecological Appraisal (BSG, February 2024) and subsequent BSG Ecology entitled Hemingbrough, Hull Road – BSG response to North Yorkshire Council ecology comments – ‘Great Crested Newt mitigation’ dated 10 April 2024.
18. Prior to commencement of development an amphibian friendly drainage strategy as agreed in principle through the BSG Ecology entitled “Hemingbrough, Hull Road – BSG response to North Yorkshire Council Ecology comments: Great Crested Newt mitigation”, dated 10 April 2024, shall be submitted for the approval of the Local Planning Authority and implemented as approved.

19. Prior to the commencement of development, a Construction Ecological Management Plan (CEcMP), including pre commencement surveys of sensitive and mobile species, precautionary working method statements, protective buffer zones/fencing and mitigation as set out within the Ecological Impact Assessment and BSG Ecology Great Crested Newt Mitigation letter (dated 10.04.2024) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be brought forward in accordance with the Construction Ecological Management Plan (CEcMP) and its findings.
20. Prior to commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority. Once approved, the LEMP shall be implemented in accordance with the approved details for the lifetime of the development. The LEMP shall include, but not be limited, to arrangements for the following:
- monitoring of Great Crested Newts
 - explain how new and retained habitats will be established, managed and monitored.
 - description and evaluation of features to be managed
 - ecological trends and constraints on site that might influence management;
 - aims and objectives of management;
 - appropriate management options for achieving aims and objectives;
 - prescriptions for management actions;
 - preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - details of the body or organization responsible for implementation of the plan;
 - ongoing monitoring and remedial measures;
 - details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery;
 - how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the approved scheme (where the results from monitoring show that conservation aims and objectives of the Plan are not being met).
21. Prior to the installation of any external lighting, a sensitive lighting strategy, including light contour plans which demonstrates that light spill onto surrounding habitats has been minimised, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved lighting scheme and retained as such thereafter.
22. The Biodiversity Gain Plan shall be prepared in accordance with the Statutory Metric completed by Fiona Shuttle ACIEEM on 08.02.2024.
23. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the Biodiversity Gain Plan and including:

- a non-technical summary;
- the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the Biodiversity Gain Plan;
- the management measures to maintain habitat in accordance with the Biodiversity Gain Plan for a period of 30 years from the completion of development, including the management of invasive species and
- the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority, has been submitted to, and approved in writing by, the local planning authority.

Within 12 months of the first occupation of the development:

- the habitat creation and enhancement works set out in the approved HMMP shall have been completed; and
- a completion report, evidencing the completed habitat enhancements,
- shall be submitted to and approved in writing by the Local Planning Authority.

24. The created and/or enhanced habitat specified in the approved HMMP (Condition 23) shall be managed and maintained in accordance with the approved HMMP.

25. Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

26. Should any of the proposed foundations be piled, no development shall commence until a schedule of works to identify those plots affected, and setting out mitigation measures to protect residents from noise, dust and vibration has been submitted to and approved in writing by the local planning authority. The proposals shall thereafter be carried out in accordance with the approved schedule.

27. Development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

28. Prior to first occupation or use, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the

remediation carried out) must be submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

29. In the event that unexpected land 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, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

30. Prior to the commencement of development (excluding demolition, site clearance, or ground investigations), a comprehensive landscaping scheme shall be submitted to and approved in writing by North Yorkshire Council. The scheme shall include:

1. Soft Landscaping Details:

- Planting plans showing species, size, density, and location of proposed planting
- Use of native and climate-resilient species to support biodiversity net gain
- Soil preparation and planting specifications

2. Hard Landscaping Details:

- Boundary treatments (e.g. fencing, hedgerows, walls)
- Surface materials for paths, driveways, and communal areas
- Street furniture and lighting (where applicable)

3. Tree Protection and Buffer Zones:

- Identification of all existing trees and hedgerows to be retained, particularly along site boundaries
- Protective fencing must be located beyond the root protection areas during construction with no works services or working area within RPA's, in accordance with BS 5837:2012

4. Landscape Management Plan:

- Long-term design objectives and biodiversity enhancements
- Management responsibilities and maintenance schedules for all communal and buffer areas

- Provisions for replacement planting within five years of completion should any trees or plants die, be removed, or become seriously damaged or diseased

All landscaping works shall be implemented in full accordance with the approved scheme within the first planting season following completion of the development. The approved landscaping shall thereafter be maintained in accordance with the management plan.

31. Notwithstanding landscape masterplan P22-2054_EN_0001_V details of the proposed landscaping, including a reduced 2m footpath, enhanced planting along the eastern boundary and screening to the rear of R&R country shall be submitted to and approved in writing by the LPA. The approved scheme shall be implemented in accordance with an agreed timetable and retained and maintained thereafter.
32. No phase or sub phase of the development shall commence until an up to date Tree Survey (which accords with the principles of BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations or subsequent amendments to the standard) has been submitted to and approved in writing by the Local Planning Authority to supercede the data from the December 2021 survey results. The Tree Survey must have been undertaken within 12 months of it's submission to the LPA. The Tree Survey will form the basis of the Arboricultural Method Statement (AMS). No tree pruning or felling to be completed unless referenced to a current tree survey completed within the previous 12 months (unless otherwise agreed in writing with the LPA).
33. No phase or sub phase of the development, including demolition or enabling works, is to commence until an updated detailed Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), detailing alternative construction/protection measures required to address conflicts between the design and retained tree Root Protection Areas (RPAs), that have not been designed out, has been submitted to and approved in writing by the Local Planning Authority. This must include a specification of tree protection measures and an auditable system of arboricultural supervision and monitoring requirements. It must also address how works close to retained trees will be achieved. The AMS will be implemented in full prior to any works taking place and during the development and tree protection measures must be remain in place until completion is agreed with the Local Planning Authority. A pre commencement meeting including the LPA Arboricultural Officer, Site Manager and appointed Arboricultural Specialist must take place on site to ensure all tree protection measures have been installed in accordance with the approved details. No retained tree(s) will be felled, pruned or otherwise impacted without the written approval of the LPA. The development shall thereafter be carried out in accordance with the approved details or any variation as may be subsequently agreed in writing by the LPA.
34. Prior to the development reaching above slab level, details of the materials to be used in the construction of the exterior walls and roof of the dwellings

hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Only approved details shall be utilised

35. Prior to the community centre (the Hall) reaching above slab level, details of the materials to be used in the construction of the exterior walls and roof of the community centre hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Only approved details shall be utilised.
36. The Community centre and associated playing fields shall be used for Class Use F2(b) and (c) only
37. The community centre shall be open between 0700 – 2300hrs Monday – Saturday; 0800-1800hrs Sundays, Bank Holidays and Public Holidays
38. The playing fields connected to the community centre shall be used between 0800-2100hrs Monday -Saturday; 0800-1800hrs Sundays, Bank Holidays and Public Holidays.
39. No external lighting shall be installed at the community centre or playing fields until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the location, type, intensity, hours of operation, and measures to minimise light spill. The approved scheme shall be implemented in full prior to the installation of any external lighting and thereafter retained as approved.

End of Schedule

DOCUMENTS

The full suite of documents can be found via this link

[Documents for reference ZG2024/0023/FULM: Public Access](#)

INQUIRY DOCUMENTS

ID.1	Appellant Opening
ID.2	Council Opening
ID.3	Statement of Ms Parkinson
ID.4	Presentation of Mr Bennett
ID.5	Design roundtable agenda
ID.6	Email for J Castleton to F Shuttle, 3 November 2025 with Map showing internationally designated sites
ID.7	Citations for Internationally designated sites, Skipwith Common SAC and Lower Derwent SAC, SPA and Ramsar
ID.8	Site visit Itinerary
ID.9	Note on the Hall for Hemingbrough group
ID.10	Revised draft conditions
ID.11	Revised draft S106 Agreement
ID.12	Plan of Highways
ID.13	Report on Viability
ID.14	Note on Water Resources Act 1991
ID.15	Council Closings
ID.16	Appellant Closings

Documents submitted after the Inquiry closed

Completed S106 Agreement dated 18 November 2025

APPEARANCES

FOR THE APPELLANT:

Mr G Cannock KC, Counsel instructed by Ms S Newman, Senior Land Manager
Barrat David Wilson Homes, Yorkshire East Division

He called:

Mr S Natkus MTCP, PG Dip, MRTPI

Ms A Keegan BA (Hons) MA MCIHT

Mr J Smith BSc (Hons) DIP LA CMLI

Mr I Tavendale (F.Arbor.A)

Mr D Sagstad B Eng (Hons) FCILT MCIHT

Mr T Morley B Eng (Hons) MICE

Ms R Sells Solicitor Gateley Legal

FOR THE LOCAL PLANNING AUTHORITY:

Mr F Humphries, Counsel instructed by Mr G Sharp Solicitor North Yorkshire
Council

He called:

Ms H Golightly BA (Hons) CMLI MA

Ms M Castanos BA (Hons) Price Barch (Hons) MAUD, PG Dip UDGRP

Ms L Drake BA (Hons) MPhil MRTPI

INTERESTED PARTIES:

Ms Parkinson, Local Resident

Mr S Bennett, Chairman of Hemingbrough Parish Council and Vice Chair of
HIPFA