



Appeal Decision

Site visit made on 4 December 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th April 2026

Appeal Ref: APP/U2750/W/25/3373425

Land south of Bramble Court, Sherburn in Elmet, North Yorkshire LS25 6ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Richard Hill of Landshill Ltd against the decision of North Yorkshire Council.
- The application reference is ZG2025/0714/OUT.
- The development proposed is the erection of a dwelling including access (all other matters reserved).

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Richard Hill of Landshill Ltd against North Yorkshire Council. This application will be the subject of a separate Decision.

Preliminary and Procedural Matters

3. The application was submitted in outline, with access to be considered at this stage. I have therefore treated the submitted drawings as being for illustrative purposes only in respect of the reserved matters of appearance, landscaping, layout and scale. Notwithstanding this, the planning application form and Design & Access Statement ("the DAS") set certain parameters for the proposal, notably that the proposed dwelling would have three bedrooms and two car parking spaces, which I have therefore treated as being rather more definitive.
4. The Council refused planning permission for four reasons. During the appeal, the appellant raised what they described as a "procedural irregularity". The Council's appeal statement had included a single piece of markup or review text in the section in which the Council suggested conditions in the event of my allowing the appeal; alongside a condition relating to visibility splays, someone with the initials "ME" had commented:

"You need to put the other dimension in- highways comments contain the same mistake- highways technical note does not show the full 215m- get corrected- refer to plan in condition and make sure highways are happy".
5. The appellant suggested that this was an explicit admission that the third reason for which planning permission had been refused – relating to access arrangements – was "based on factually incorrect data". Although the appellant's submission came outside the normal appeal timescale, in the interests of fairness I accepted this late representation and invited the Council to comment.
6. The Council's explanation was that the comment related to another scheme with which it was dealing at the time. It noted that the initials "ME" were not those of the

officer making the final review of its statement for this appeal; that there was no evidence (including in the Highways Officer's internal consultation response, or the final officer report) which set out specific dimensions for visibility splays in this case; and that the planning application had not included a "technical note" as referred to in the comment.

7. Having reviewed all the evidence before me, the Council's last two points are unarguable. I also have no reason not to accept its explanation as to why the comment by "ME" appeared in its appeal statement. While it is regrettable that the Council submitted a statement which retained review comments – which clearly should not have been there – that they did so is not, so far as this case is concerned, demonstrative of its evidence or decision-making being flawed in and of themselves.
8. The appeal site lies within the bounds of a larger 2016 outline planning permission¹ for a development described as "outline application with all matters reserved for the demolition of two dwellings and the erection of seven new dwellings". That scheme has not been built. Both main parties referred to this previous permission – "the 2016 outline permission" – and I address it at relevant points of my reasons below.

Main Issues

9. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed dwelling would provide acceptable living conditions for future occupiers, and the development's effect on living conditions for neighbouring residents;
 - Whether the proposed access arrangements would be safe and otherwise acceptable; and
 - Whether the development would make an appropriate provision in respect of Biodiversity Net Gain ("BNG").

Reasons

Character and appearance

10. The appeal site is an area of land on the eastern side of Low Street, in the centre of Sherburn in Elmet. The site has a street frontage approximately 6m wide, and it is around 29m deep. It previously accommodated a simple single-storey building which was last used as an electrical repair shop, but this was demolished in around 2020; the land is now vacant and overgrown.
11. Immediately north of the site is the entrance to Bramble Court, a private drive giving access to five dwellings including No 37 Low Street; to the south is a recessed gateway giving access to the driveway of a property known as "Sissons". Opposite the appeal site, and moving northwards, Low Street is predominantly characterised by two-storey dwellings built directly at the back of the footway (with

¹ LPA Ref: 2015/1413/OUT

some ground floor shop or commercial units). Moving south, houses are generally set back from both sides of the road; there is a substantial gap between No 37, past the appeal site, Sissons, and an Aldi supermarket, before houses resume at No 55.

12. I emphasise again that the proposal's appearance, layout and scale are reserved matters. However, it is necessary for me to understand whether the development applied for could be accommodated on the site without causing unacceptable harm. The appeal scheme was not, as the appellant has emphasised, described as "a three-bedroom two-storey house with loft dormer". However, the information on the application form is that there would be a dwelling with three bedrooms and two car parking spaces; there is an option on the form for a dwelling to have an as-yet unknown number of bedrooms, so I am not persuaded by the appellant's suggestion that three was stated only in order to aid the assessment of transport matters.
13. The dwelling applied for would therefore *have* to be built on two, or possibly two-and-a-half, storeys, and its footprint would have to extend over much of the appeal site. Assessing the development on that basis is not straying into determining any of the reserved matters, it is simply dealing with the reality of the limited size of the plot. A two or two-and-a-half storey dwelling in the centre of Sherburn in Elmet would not necessarily be out of keeping with the local character; there are many such dwellings nearby. However, a single relatively tall and thin dwelling on the appeal site would stand in isolation in the considerable gap to the south of No 37. It would be an intrusive and incongruous feature when viewed along Low Street.
14. The appellant suggests that the grant of the 2016 outline permission has conclusively proved that an appropriate scheme can be delivered on the site. However the indicative plans for that permission relate to a larger site, and show the existing No 37 Low Street having been demolished, with five two-and-a-half storey dwellings along the street frontage. A single detached dwelling is shown south of Bramble Court – that is, on this appeal site – with a terrace of four north of Bramble Court. In that case, although there would have been one detached dwelling, it would always have been seen in close relationship with the terrace of four. That would have been much more in keeping with the established character of the area; that permission does not weigh significantly in favour of this proposal.
15. I agree with the appellant that the Council has perhaps overstated the quality of the mature leylandii hedge which runs along much of the boundary of Sissons south of the appeal site; while it gives a moderate degree of grandeur to the Sissons driveway, seen from elsewhere it presents a rather solid and forbidding mass. I also acknowledge that the appeal site is currently in a poor condition and detracts somewhat from its surroundings. Overall, however, I agree with the Council's analysis that it has not been shown that an appropriate scheme could be achieved on the appeal site at reserved matters stage.
16. I therefore conclude that the proposed development would harm the character and appearance of the area. It would conflict with Saved Policy ENV1 of the 2005 Selby District Local Plan ("the SDLP"), and Policies SP4 and SP19 of the 2013 Selby District Core Strategy ("the SDCS"). Together, and among other things, while these policies are supportive of development within settlements (including Sherburn in Elmet) in a variety of circumstances, they seek to ensure that such

development is of a high quality, having regard to local character and context, and that it positively contributes to an area's identity.

17. There would also be conflict with the provisions of section 12 of the National Planning Policy Framework ("the Framework") which aim to achieve well-designed places, in particular Paragraph 135 which seeks to ensure that development functions well and adds to the overall quality of the area, is visually attractive as a result of good architecture, sympathetic to local character, and establishes or maintains a strong sense of place.

Living conditions

18. As I have already described, the appeal site is a long and narrow strip of land. Any amenity space provided on it for residents of the proposed dwelling would be overlooked from windows in the south-facing elevations of No 37 Low Street and No 2 Bramble Court. It would also be alongside the Bramble Court roadway (in fact a shared surface) so people coming and going from other houses on that street would also have views into any amenity space. This matter was not addressed in the appellant's appeal submissions, though I note the DAS stated that the only overlooking would be from a landing stair window at No 2; based on what I saw during my visit, I disagree with that analysis. I consider that any amenity space would be likely to lack adequate privacy.
19. The alternative would be to erect a high fence or similar boundary treatment along the southern edge of Bramble Court. This might ensure privacy but, given the narrowness of the appeal site, would lead to the amenity space being hemmed in between the fence or similar and the high leylandii hedge to the south; it would be likely to be a cramped and claustrophobic space as a result. In either scenario, there would be unlikely to be an acceptable quality of private amenity space for occupiers of the proposed dwelling.
20. The Council's concerns in respect of No 37 Low Street relate to potential overlooking of the amenity space on the north side of Bramble Close. I accept the appellant's observation that that space appears to largely serve as a area for vehicle parking and turning; in my view it is much more like a typical "front garden" in that respect than a private "rear garden", though it has a tall boundary wall which offers reasonable privacy from people at ground level.
21. In respect of overlooking from first-floor windows, given that there are two mid-terrace dwellings shown on the Low Street frontage in the indicative drawings for the 2016 outline permission, it is evident that it would be possible to bring forward a scheme at reserved matters stage which would not have side windows. I am satisfied that the appeal scheme would not lead to an unacceptable increase in overlooking, or a corresponding harmful loss of privacy, in respect of No 37 Low Street.
22. However, for the reasons I have set out above I do not consider that the proposed dwelling could provide an adequate private amenity space. As such, it would not provide acceptable living conditions for future occupiers. It would conflict with Policy ENV1 of the SDLP, and Policy SP4 of the SDCS. Among other things, these policies seek to ensure that new development is well-designed and laid out with a good standard of amenity.

23. For the same reasons there would be conflict with the provisions of Chapter 12 of the Framework which aim to achieve well-designed places, in particular Paragraph 135 which seeks to ensure that developments function well, and provide a high standard of amenity for all users.

Access

24. The DAS stated that vehicular access would be via the existing entrance from Low Road onto Bramble Court, and that two 2.5m x 5m parking spaces would be provided at the east of the site “consistent with previous approvals (application 2020/0827/FUL)” – though the planning history in the Council’s officer report indicates that that application was withdrawn. The primary pedestrian access would be from the Low Street footway on the western side of the site.
25. Access is defined in the relevant regulations as “the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network”². There is potentially some crossover between matters of access and layout, defined as “the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development”. In this light, the Council considered that appropriate parking arrangements could be achieved at the layout reserved matters stage. However, it noted a lack of information to demonstrate that the essential access arrangements – intervisibility at the entrance to Bramble Court from Low Street, and whether there would be suitable and safe access and turning for fire engines and refuse collection vehicles – would be acceptable.
26. The appellant considers that the principle of safe access via Bramble Court has been established through a series of approved applications including, as well as the 2016 outline permission, the scheme for the reconfiguration of No 37 Low Street which included the recently-constructed high boundary wall described above³. However, the stone boundary wall at No 37 was not present at the time the 2016 outline permission was granted, a change which would potentially have impacts on movement within Bramble Court, as well as to and from Low Street. This appeal scheme, meanwhile, would represent a further evolution of the site(s) around Bramble Court since the alterations at No 37 were approved.
27. Given that access is not a reserved matter in this scheme, I consider it essential that safe access is demonstrated at this stage. The information provided up to this point does not do this. The development would increase from five to six the number of dwellings served by Bramble Court. The appellant suggested that a condition could be imposed requiring the submission and approval of a detailed access and visibility splay drawing prior to the commencement of development but, given that the development would potentially have an adverse effect on access for existing dwellings I am not at all persuaded that this would be an appropriate course of action in this case.
28. I conclude that it has not been adequately demonstrated that the proposed access arrangements would be safe and otherwise acceptable. As such, the development would conflict with Policies ENV1 and T1 of the SDLP which, among other things,

² Section 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

³ LPA Ref: 2022/0347/HPA

seek to ensure that development should be well-designed, including in respect of proposed means of access and its relationship with the highway network.

29. As it has not been shown that the proposed development would provide safe and suitable access for all users, or for access by emergency vehicles, it would be unlikely therefore to function well over its lifetime. In these respects, there would be conflict with the provisions of Paragraphs 115, 117 and 135 of the Framework.

Biodiversity

30. It was stated on the planning application form that the scheme would be exempt from the statutory BNG condition imposed by Schedule 7A of the 1990 Town and Country Planning Act (as amended), being a *de minimis* development. However, the appellant acknowledged during the appeal that it would be subject to statutory BNG.
31. The Planning Practice Guidance (“the PPG”) sets out a minimum level of information which must be provided so that existing habitat baselines and pre-development biodiversity values can be understood⁴. This is a requirement even where, as the appellant suggests is the case here, the existing biodiversity value is low. The required information has not been provided. The appellant referred to “unequivocal” advice in the PPG that a “decision maker should assume that the condition will be discharged and the mandatory 10% biodiversity net gain will be achieved”⁵, but that no longer appears in the guidance.
32. I conclude that it has not been demonstrated that the development would make an appropriate provision in respect of BNG. It would therefore not comply with the statutory requirement I have described above. It would also not comply with the provisions of Paragraph 187 of the Framework, which seek the provision of net gains for biodiversity.

Other Matters

33. It was acknowledged in the Council’s officer report that the principle of residential development on the site is acceptable. However, it does not follow from this that any particular scheme would be acceptable, and I have found harm as described above.
34. The appellant’s appeal submissions included large amounts of material addressing the scope of outline applications and reserved matters, as well as references to numerous court judgments on these points. The appellant primarily relied on *Pilkington*⁶, which they summarised as requiring “that if the principle of development is acceptable, outline permission must be granted, with details to be settled at the reserved matters stage”. In fact, that judgment deals with the question of overlapping planning permissions, which is not directly relevant here.
35. I have had regard to all of the cited caselaw⁷, and am content my decision here is consistent with all relevant precedents to which my attention was drawn. Many of

⁴ Paragraphs 002 and 011; Reference IDs 74-002-20240214 and 74-011-20240214

⁵ The given reference ID was 74-022-20240213; the current Paragraph 022 (Reference ID: 74-022-20240214) deals with long-term habitat maintenance

⁶ *Pilkington v SSE & Lancashire CC* [1973] 26 P&CR 508

⁷ With one exception; the appeal statement included a reference to *Squire v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 1324 (Admin), though the appellant explained when I requested a copy of that judgment that it had been cited in error.

the matters raised in this respect are addressed in more detail in the associated costs Decision.

Planning Balance and Conclusion

36. Paragraph 11 d) and Footnote 8 of the Framework state that, where the policies which are most important for determining the application are out-of-date (including where the Local Planning Authority cannot demonstrate a five year supply of housing land, or where the Housing Delivery Test (“HDT”) indicates that the delivery of housing was substantially below the housing requirement over the previous three years) planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. There is no dispute between the main parties here that the Council’s housing land supply position is such that this “presumption in favour of sustainable development” applies here.
37. The Framework seeks to significantly boost the supply of housing. The appeal proposal would provide one self-contained dwelling, in a location which has a reasonable range of services nearby. The occupants of the dwelling would make some contribution to supporting and sustaining local businesses and services. Overall, I consider that social and economic benefits arising from the development would be modest.
38. The development would be harmful to the character and appearance of the area, would not provide adequate living conditions for its occupiers, would not provide adequate access, or increase biodiversity. As I have set out in assessing the main issues above, there would be conflict with specific provisions of the Framework in respect of each of those matters. Harm caused today in these respects would be likely to endure for many years, and probably for the lifetime of the proposed development. I therefore give these harms substantial weight in the overall balance.
39. Overall, I consider that the harm from the development would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. The proposal would not therefore amount to sustainable development in the terms set out in the Framework.
40. Section 38(6) of the Planning & Compulsory Purchase Act 1990 and the Framework state that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
41. The proposed development conflicts with the development plan taken as a whole. There are no material considerations, including those of the Framework, that indicate the proposal should be determined other than in accordance with the development plan.
42. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector