



Appeal Decision

Site visit made on 5 February 2025

by N Kempton BAHons PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2025

Appeal Ref: APP/E2001/W/24/3349681

Land West of Moor Farm, Cliffe Road, North Newbald, East Riding of Yorkshire YO43 4SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Ms Lucinda Hemingbrough against the decision of East Riding of Yorkshire Council.
 - The application Ref 24/30027/CONDET, sought approval of details pursuant to condition No 10 of a planning permission Ref 20/01149/PLF, granted on 10 February 2021.
 - The application was refused by notice dated 15 April 2024.
 - The development proposed is erection of 2 livestock buildings, 1 straw storage building with associated feed bins, hardstandings and access and siting of a temporary agricultural workers mobile home including associated infrastructure.
 - The details for which approval is sought are: condition 10- the provision of inter-visible passing places within highway land along its length and resurfacing from the junction of Moor Farm to the site entrance.
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Decision

1. The appeal is allowed, and the details submitted pursuant to condition 10 attached to planning permission Ref 20/01149/PLF granted on 10 February 2021 in accordance with the application Ref 24/30027/CONDET dated 17th January 2024 and the details submitted with it are approved.

Applications for costs

2. An application for costs was made by Ms Lucinda Hemingbrough against East Riding of Yorkshire Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. During the course of the appeal, the Council adopted the East Riding Local Plan Update (2020-2039) (LP) (adopted 02/04/2025). Consequently, the policies cited on the decision notice no longer form any part of the development plan. The appellant has had an opportunity to comment of the following replacement policies, which the Council has identified as being relevant to the appeal:
ENV1: Integrating High Quality Design
EC4: Enhancing Sustainable Transport
4. I have had regard to the most up-to-date policies and determined the appeal on this basis.

5. The appeal follows refusal by the Council to approve details required by condition 10 on planning permission reference 20/01149/PLF (the planning permission).
6. The planning permission relates to the erection of 2 livestock buildings, 1 straw storage building with associated feed bins, hardstandings and access and siting of a temporary agricultural workers mobile home including associated infrastructure, land west of Moor Farm, Cliffe Road, North Newbald.
7. It is not within my remit to reconsider the merits of the planning permission. Neither is it within the scope of the appeal to question the imposition of the condition itself.
8. Case law has established that there is nothing to prevent a decision being made on an application for the discharge of a condition if the permission expires during the decision-making process, so long as the application has been validly made before the expiry date of the permission.
9. The planning application had a time commencement condition which required the approved development to commence by 10 February 2024. The application for the approval of the details pursuant to condition 10 was submitted to the Council on the 17th January 2024. Hence, I am satisfied that the application to discharge the condition was validly made.
10. Wider matters of lawfulness do not fall within the scope of my determination, and I make no comment on it. Consequently, I have confined my deliberations to whether the condition should be discharged based on whether the terms are met, and the merits of the information submitted.

Main Issues

11. The main issues are:
 - whether the details submitted address the requirements of condition 10 on the planning permission, and;
 - if so, the effect of the proposed details on the safe and efficient operation of the highway in the vicinity of the site.

Reasons

Whether the details submitted address the requirements of the conditions

12. Condition 10 requires the submission of details relating to the provision of inter-visible passing places within highway land along its length and resurfacing from the junction of Moor Farm to the site entrance.
13. Highway details pursuant to the requirements of condition 10 were submitted and subsequently considered acceptable in highway terms by the Council's Highway Development Management section for planning purposes. The Council does not dispute the merits of these highway details.
14. Therefore, I find that the information meets the requirements of condition 10.

Effect on the safe and efficient operation of the highway

15. Condition 10 was imposed in order to secure highway improvements to ensure adequate access to the development in the interests of highway safety, in accordance with the following policies of the LP: ENV1 which supports

development where it achieves high quality design by promoting equality of safe access, movement and use, amongst other things; EC4, which relates to enhancing sustainable transport and requires development proposals to bring forward necessary transport infrastructure to accommodate expected movement to and from the development.

16. Furthermore, the imposition of this condition requiring highway improvements accords with paragraph 116 of the National Planning Policy Framework (the Framework), which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.
17. I am satisfied that the submitted highways details for the passing places and the resurfacing are clear, proportionate and acceptable for planning purposes. It follows that the details submitted would accord with policies ENV1 and EC4 of the LP and with the Framework. Accordingly, condition 10 should be discharged.

Other Matters

18. The Council sought legal Counsel and concluded that a lawful start had not been made on the development pursuant to the planning permission prior to the expiration of the planning permission, and that the application could not, therefore, be approved. As set out in the preliminary matters above, case law has established that there is nothing to prevent a decision being made on an application for the discharge of a condition if the permission expires during the decision-making process, so long as the application has been validly made before the expiry date of the permission.
19. The Council contests that condition 10 of the planning permission imposes two separate requirements, prior to the commencement of development: the first part requiring the submission of details relating to highway improvement works; and the second part requiring the implementation of the aforementioned highway improvement works. Implementation is not the substantive issue. This matter does not directly relate to the merits of the details that are the subject of the appeal before me. Hence, it lies outside of the scope of my determinations.
20. I have had regard to the representations received. Some of the concerns raised have been addressed in this decision letter. With regards to concerns relating to the submitted highway details, these details will need to be approved by the Highway Authority under the Highways Act 1980. If any design changes are required, the details can be amended at technical approval stage. This is outside of the planning appeals process.

Conclusion

21. For the reasons given above the appeal is allowed.

N Kempton

INSPECTOR