



Appeal Decision

Site visit made on 30 July 2025

by A Caines BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2025

Appeal Ref: APP/U2750/W/25/3366757

**Land and Existing Building East of Hazeldene Fold, Main Street, Minskip
YO51 9PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Forward Investments LLP against the decision of North Yorkshire Council.
- The application Ref ZC24/03763/FUL was approved on 7 April 2025 and planning permission was granted subject to conditions.
- The development permitted is use of existing building as a light industrial unit within use class e(g)(ii) or e(g)(iii), together with retrospective groundworks, with associated access and parking areas and landscaping.
- The conditions in dispute are Nos 2, 3, 4, 5, 14, 15 and 16 which state that:
 - 2) Groundworks shall not continue on site until a land contamination Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.
 - 3) Where site remediation is recommended in the Local Authority approved Phase II Intrusive Site Investigation Report groundworks shall not re-commence until a land contamination remediation strategy has been submitted to and approved in writing by the local planning authority. The remediation strategy shall include a timetable for the implementation and completion of the approved remediation measures.
 - 4) Land contamination remediation of the site shall be carried out and completed in accordance with the Local Planning Authority Approved Remediation Strategy. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
 - 5) Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a land contamination Verification Report shall be submitted to the local planning authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for that part of the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the local planning authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.
- 14) No further demolition/development shall occur in relation to the development hereby permitted until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 - i) The programme and methodology of site investigation and recording;
 - ii) The programme for post investigation assessment;
 - iii) Provision to be made for analysis of the site investigation and recording;
 - iv) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) Provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

15) No further demolition/development shall occur in relation to the development hereby permitted other than in accordance with the Written Scheme of Investigation approved under condition 14.

16) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 14 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- The reasons given for the conditions are:

2), 3) & 5) To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

4) Where site remediation is recommended in the Local Authority approved Phase II Intrusive Site Investigation Report groundworks shall not re-commence until a land contamination remediation strategy has been submitted to and approved in writing by the local planning authority. The remediation strategy shall include a timetable for the implementation and completion of the approved remediation measures.

14), 15) & 16) This condition is imposed in accordance with Section 16 of the NPPF (paragraph 205) as the site is of archaeological significance.

Decision

1. The appeal is allowed and the planning permission Ref ZC24/03763/FUL for use of existing building as a light industrial unit within use class e(g)(ii) or e(g)(iii), together with retrospective groundworks, with associated access and parking areas and landscaping at Land and Existing Building East of Hazeldene Fold, Main Street, Minskip YO51 9HZ, granted on 7 April 2025 by North Yorkshire Council, is varied by deleting conditions 2, 3, 4, 5, 14, 15 & 16.

Main issues

2. The appeal is made directly against the imposition of a number of conditions on the subject planning permission. In short, conditions 2, 3, 4 & 5 are all related to land contamination; while conditions 14, 15 & 16 relate to archaeology. The appellant contends that these conditions do not meet the relevant tests set out under paragraph 57 of the National Planning Policy Framework (the Framework).
3. Thus, the main issues in this appeal are:
 - whether the conditions relating to land contamination (conditions 2-5) are necessary and reasonable having regard to the nature of the development and the potential risks to human health and the environment;
 - whether the archaeological conditions (conditions 14-16) are justified and proportionate given the scale and scope of permitted works.

Reasons

Land contamination (conditions 2-5)

4. These conditions were imposed to ensure that any risks from land contamination are appropriately assessed and mitigated. However, they were based on a Phase 1 Risk Assessment submitted for a different proposal at the application site involving demolition and new build with extensive excavation.
5. The permitted scheme differs materially from this previous proposal. It involves reuse of an existing structure with only modest groundworks for parking, drainage and landscaping. Technical details provided confirm that excavation for these

works will be shallow, and based on my site inspection, are largely confined to level areas of previously disturbed made ground.

6. Objectors raised concerns about past unauthorised works, including trenching and asbestos removal, suggesting that these actions may have increased the risk of contamination. While such concerns are understandable, planning decisions must be based on the current proposals and evidence.
7. The Council's Environmental Health Officer did not comment on the permitted application or appeal, and no new contamination risks have been identified. A letter from the original Phase 1 environmental consultants confirms that intrusive investigation is no longer necessary.
8. On balance, based on the evidence before me, I find that conditions 2-5 are not necessary to make the development acceptable in planning terms. Their removal would not conflict with the aims of paragraphs 196 and 197 of the Framework, which seek to ensure safe development.

Archaeology (conditions 14-16)

9. These conditions were imposed due to the site's proximity to the historic core of Minskip and a possible Roman enclosure. Initially, the Council's archaeologist recommended a Written Scheme of Investigation and monitoring.
10. Objectors argue that previous unmonitored works may already have caused harm and request that at least a watching brief be retained.
11. However, following clarification of the limited scope of proposed groundworks, the Council's archaeological advisor revised their position. They now consider that the development is unlikely to significantly affect archaeological deposits, and that further investigation is not proportionate. No substantive evidence has been presented to the contrary.
12. In light of this updated professional advice and the limited scale and nature of ground disturbance involved, I find that conditions 14-16 are not proportionate or justified. Their removal would not conflict with paragraph 205 of the Framework, which requires heritage assets to be conserved in a manner appropriate to their significance.

Other Matters

13. Objectors raised concerns about procedural fairness and the integrity of the planning process. However, the appeal process exists to allow for reassessment where updated evidence and professional advice support a different outcome. The removal of conditions in this context does not undermine the planning system.
14. Issues relating to access, road capacity, and the suitability of the site for industrial use were considered during the original grant of permission and are outside the scope of this appeal. The appeal does not alter the permitted use or intensify the development. Any legal disputes over access rights are civil matters and not determinative in this planning appeal.
15. Concerns about signage and visual impact are not directly related to the conditions under appeal. Any unauthorised advertisements or breaches of planning control can be addressed separately by the Council through enforcement mechanisms.

Conclusion

16. Based on the evidence before me, I am satisfied that conditions 2, 3, 4, 5, 14, 15, and 16 are neither necessary nor reasonable. Their removal would not result in unacceptable harm to public health, heritage assets, residential amenity, or the environment.
17. The appeal is therefore allowed, and planning permission ZC24/03763/FUL is varied accordingly.

A Caines

INSPECTOR