
Appeal Decision

Site visit made on 16 September 2025

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2025

Appeal Ref: APP/U2750/W/25/3365238

Riverside A, Low Street, Brotherton, Selby, North Yorkshire WF11 9HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by The Clothing Bank against the decision of North Yorkshire Council.
 - The application Ref is 2023/0091/FUL.
 - The development proposed is 2 single storey detached buildings for clothing sorting and storage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by The Clothing Bank against North Yorkshire Council. This application is the subject of a separate decision.

Procedural Matters

3. One of the buildings as described in the above banner heading has already been completed at this site. The appeal scheme has therefore been assessed on a part retrospective basis.
4. Since the determination of the application, the Planning Practice Guidance (PPG) has updated their guidance relating to flood risk and coastal change. This was updated 17 September 2025 and both parties have had the opportunity to comment on this in relation to the appeal.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance; and
 - Whether the proposed development would be suitably located having regard to its location in flood zone 3 and the risk of flooding.

Reasons

Living conditions

6. The appeal site relates to a garden located behind two terraced properties known as Riverside A and B. The site is partly used as a garden and partly used for the operating of a clothing charity, The Clothing Bank. The appeal premises are owned by the co-founder of The Clothing Bank.

7. The proposed development is for the erection of two single storey detached timber buildings to be used for the storing and sorting of clothing for the charity. The charity collects clothing by donations where they are then sorted and packed into bundles for individuals and families in need of clothing.
8. One of the buildings has already been erected on site and is used for its intended purpose. There is a pedestrian access to the land via an alleyway off Low Street, which passes underneath the terraced houses. There are residential properties and gardens alongside the north, south and west boundaries with a school further east.
9. The Clothing Bank has two sites in Brotherton. One is at Riverside A, and the second site is an unmanned storage site, at the Jolly Sailor Yard, located a short distance from the appeal site on the west side of Low Street. The Jolly Sailor Yard is a site which was granted consent in 2022 to site 60 shipping containers for storage use. The charity rents seven of the shipping containers and also has a charity bin on this land.
10. The Clothing Bank has many drop off points covering a wide geographical area and are managed by volunteers. All of the collected clothes are brought to Brotherton. The drop off policy for volunteers is to contact The Clothing Bank to book an hourly slot to drop at Brotherton, which can either be to the Jolly Sailer Yard or Riverside A. They allow drop off's between 8am and 5pm on four days a week and 9am to 4pm on Saturdays. Their drop off policy also states that if the collected bags are too large and it is lunchtime, they can be left in the passageway at Riverside A. Other members of the public are encouraged to drop off at the clothing bin at the Jolly Sailor Yard, but the charity also accepts clothing donations being brought to Riverside A directly on an appointment only basis. The Clothing Bank states that clothing drop offs to Riverside A equates to a maximum of 9 visiting vehicles per day across 5 days, but is likely to be less in reality as not every slot is booked.
11. As clothing is dropped off at both Riverside A and the Jolly Sailor Yard, the appellant makes shuttle trips between the shipping container site and the storage buildings at Riverside A to bring clothing back and forth to be sorted. The appellant advises that these shuttle trips are not more than twice daily. Once clothes are sorted at Riverside A, it is distributed for collection which involves visits to postal shops etc, and the charity also has visitors such as those for clothing bundles or from organisations. Some visits are said to be out of hours from organisations etc who urgently need clothing bundles.
12. The total number of movements in a day for the charity at Riverside A could be as high as over ten, predominantly during daytime hours and weekends. I appreciate that every slot is not booked and in reality, trips are likely to be less. However, the weekly diary of comings and goings from Riverside A over a two-week period still shows a high number of averaged trips over the 5 days when factoring in drops at Riverside, those not booked, collections, van down and back and visits. Two days were closed but not booked visits were still made. The highest number of movements in one day was over 10. This is in addition to the normal movements associated with a family living in a property. These are the results of the diary undertaken for the site, and I cannot therefore agree that the Council has exaggerated the scale and potential impact of the operation.
13. A third-party objector has also recorded the movements over a two day period which are greater than the movements contained within the appellant's diary.

Images have also been provided showing the nature of the activities i.e. bags being dropped off/picked up and the use of wheeled containers.

14. Based on the evidence before me and the recordings of movements, I cannot agree that such movements can be considered infrequent. Comings and goings are predominantly during normal working day hours, are not scheduled for Thursdays or Sundays and the operation is suspended over Bank Holidays and Christmas. Nonetheless, movements are still high. Even if short in duration, movements are clearly over and above that associated with a residential property. This would inevitably create noise and disturbance and thus have an adverse impact on residential amenity. The issues include the general noise and disturbance from cars and visitors arriving and leaving the site on a regular basis, noise made by bins when moving clothing and out of hours/not booked visits.
15. I do not dispute that a further shed at this site would enable more efficient sorting and assembly of clothing for distribution, but it still has the potential to create more comings and goings than at present by increasing the storage space at the site which would be permitted by the description of development. It is therefore a reasonable assumption that the appeal site could take more donations in the future. The operations may be evolving with volunteers directed to the Jolly Sailor Yard for dropping-off clothing, but this would not alter the fact that there are still regular visits to and from the appeal site. The appellant claims that the proposals do not constitute a material change of use of Riverside. However, the proposals are operational development and has been assessed accordingly having regard to the material considerations.
16. At my site visit, I observed the signage on the alleyway door which stated that no donations were to be left at Riverside and encouraged drop off at the Jolly Sailor Yard with directions. For the signage to be seen, this would still amount to comings and goings, and it cannot sufficiently guarantee no drop offs. I appreciate the level of support shown for the scheme including those from residents on Low Street and I acknowledge the hard work and benefits of supporting people in need. This would not however alter my findings in relation to the above main issue.
17. The appellant has welcomed the use of planning conditions to limit operations, but the appeal site is associated with a residential property where there would usually be someone present out of hours. It would therefore be difficult to enforce opening hours or prevent people from knocking on their door or turn away people given the work that the charity does. It would also be difficult to prevent people from dropping off bags even if there is nobody at the site. As set out earlier, the sign would not sufficiently guarantee this. Consequently, conditions to mitigate amenity issues could not be imposed as they would fail the tests set out at paragraph 57 of the National Planning Policy Framework (the Framework).
18. For the above reasons, the proposed development would unacceptably harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance. It would therefore be contrary to Policies ENV1 and ENV2 of the Selby District Local Plan, 2005. Such policies explain amongst other matters, that proposals for development which would give rise to, unacceptable levels of noise/nuisance will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.

Flood risk

19. The appeal site is within flood zone 3, which is defined as being highly vulnerable to flooding. Paragraph 170 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 175 of the Framework explains that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).
20. Details about the sequential test and if necessary, exceptions test are included in the PPG. It should show that there are no reasonably available, lower-risk sites that are suitable for the proposed development. As set out earlier, the PPG has updated their guidance relating to flood risk and coastal change. To this end, paragraph: 027 of the PPG expands on paragraph 175 of the Framework. It explains that, in applying paragraph 175, a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied.
21. A Flood Risk Assessment has been prepared and submitted for the site. The assessment states that the land is above ordnance datum and the floor level of the existing clothing building is above the garden area. The building rests on small concrete posts, and there is a clear void below the floor of the building. It is proposed to construct a similar building along the southern boundary of the site. The buildings would have a lifespan of 10-20 years.
22. The assessment has identified that a floor level of 11.2 metres above ordnance datum would be sufficient to protect the buildings from flooding. The Environment Agency raise no objections, subject to a condition for floor levels. The buildings have a void underneath, which will prevent flood risk being increased elsewhere.
23. Access/egress to the buildings are however also located within flood zone 3 and the buildings would generate movements from staff/volunteers and visitors. The Flood Risk Assessment considers user safety, but this is relevant to preparing for a flood event rather than whether the layout, design and mitigation measures ensures users would remain safe from the flood risk. Consequently, the scheme does not ensure that staff, volunteers and other users would remain safe from current and future surface water flood risk for the lifetime of the development, nor does the Flood Risk Assessment clearly demonstrate otherwise. A sequential test would therefore need to be applied.
24. A sequential test has been submitted for the site which had a search area restricted to Brotherton and the neighbouring village of Byram. No available properties were

identified. The charity has donation points across Yorkshire and other regions, and they provide for needs irrespective of geographical boundaries. It could therefore be the case that there are sites further beyond the two villages which could still be within suitable reach for their volunteers and their network of local organisations. The Jolly Sailor Yard could be a potential alternative site as well and it is at lesser risk of flooding (flood zone 2) which has not been sufficiently considered. I appreciate that there are logistical benefits to any new buildings staying in Brotherton and at the home of the co-founder, but there is still limited detail on why a clothing sorting and storage building could not be on a site further from Brotherton or Bryham. I am not sufficiently satisfied that this location is the only practical solution for the charity. Overall, the sequential test is not passed. I recognise the changes made at paragraph 27a of the PPG relating to how the area of search for the sequential test should be identified. This would not alter my findings as I am not sufficiently convinced that sites outside the catchment area could not provide reasonable alternatives having regard to the nature and scale of the proposal.

25. Paragraph 176 of the Framework sets out that some minor development and changes of use should not be subject to the sequential test. Footnote 62 explains that this includes householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park. Based on the evidence before me, I am not sufficiently satisfied that the proposals would fall into one of these categories and thus would not be exempt from the sequential test.
26. For the above reasons, I conclude that the sequential test does not demonstrate that there are no other available sites at lesser risk of flooding. The proposed development would not therefore be suitably located having regard to its location in flood zone 3. It would be contrary with Policy SP15 of the Selby District Core Strategy, 2013 which relates to sustainable development and climate change. For the same reasons, the proposed development would also be contrary with chapter 14 of the Framework relating to meeting the challenge of climate change, flooding and coastal change.

Other Matters

27. I am aware of the matters that are not in dispute and responses received from various consultees. I am also aware of the appellant's frustrations with the Council in terms of communications during the application process. Such matters would not alter my findings in relation to the above main issues.

Planning Balance and Conclusion

28. The proposed development would unacceptably harm the living conditions of neighbouring occupiers with particular regard to noise and disturbance. It would also not be suitably located having regard to its location in flood zone 3. I attribute significant weight to such matters. The scheme would continue to support people in need and thus provides community benefits and there is a high level of support shown for the scheme. This however would be to the detriment of residential amenity and a second building on the site could indeed worsen the current issues. The benefits are not considered to outweigh the harm that I have identified.
29. Bringing everything together, the development conflicts with the development plan when considered as a whole. There are no material considerations, either

individually or in combination, that would outweigh the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR