



Appeal Decision

Site visit made on 11 November 2025

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2025

Appeal Ref: APP/U2750/W/25/3368970

Land To North Of Nitrovit Row, Skipton Old Airfield, Sandhutton, Thirsk, North Yorkshire YO7 4EG

- 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 under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Matthew Robinson against North Yorkshire Council.
 - The application Ref is ZB24/01587/MRC.
 - The application sought planning permission for Change of use of land from existing waste management development site to light industrial unit site without complying with a condition attached to planning permission Ref ZB23/01766/FUL, dated 16 November 2023.
The condition in dispute is No 2 which states that: *The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered 23.12-025 Rev. B, 23.12-020 Rev. B and 23.12-010 Rev. B received by the Local Planning Authority on 23.08.2023 unless otherwise approved in writing by the Local Planning Authority.*
 - The reason given for the condition is: *In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.*
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Decision

1. The appeal is dismissed and planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted is refused.

Background and Main Issue

2. Planning permission Ref ZB23/01766/FUL was granted for the construction of four industrial units which included the provision of landscaping to an existing bund running along the edge of the appeal site.
3. The application subject to this appeal is made under Section 73 of the Town and Country Planning Act 1990 (as amended) (S73). It proposes revisions to the plans that have previously been approved. This type of application is possible as a condition (Condition 2) was imposed on the original permission specifying the approved plans. The application seeks removal of that condition and replacement with a condition specifying the plans that reflect the amended proposal. The revisions to the scheme consist of replacing the landscaped bund with a landscaped ditch.
4. The appeal is against the Council's failure to reach a decision on this application within the relevant statutory timeframe. However, the Council have provided a report at appeal that makes clear that had they been in a position to do so, they

would have refused permission for the proposed revisions to the approved scheme.

5. The main issue is therefore whether the proposed revisions would be acceptable having regard to flood risk and the effect on the character and appearance of the area.

Reasons

Flood Risk

6. Policy RM2 of the Hambleton Local Plan (2022) (the LP) sets out that the Council will manage and mitigate flood risk by avoiding development in flood risk areas. Paragraph 170 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. In order to assess the risk of flooding the Justification to LP Policy RM2 and Framework paragraph 181 make clear that all proposals within Flood Zones 2 and 3 should be accompanied by a site-specific flood risk assessment (FRA).
7. The Environment Agency Flood Maps identify the site as being within Flood Zones 2 and 3. As defined in the Planning Practice Guidance (PPG) Flood Zone 3 is defined as having a 'high probability' of flooding, second only in terms of potential vulnerability to the functional floodplain.
8. Framework paragraph 181 states that development should only be allowed in areas at risk of flooding where, through an FRA, it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
9. I acknowledge the provision of the Drainage Strategy; however, no FRA has been provided. Nevertheless, a landscaped ditch on the scale proposed would likely result in the development interacting with floodwater in a different way than if the landscaped bund had been retained. In the absence of an FRA, required through Policy RM2 and the Framework, I cannot reasonably conclude that the approved development would not be at risk of flooding, nor can I be certain that it would not increase flood risk elsewhere. There is also no means of assessing how any risk could be managed were a flood event to occur.
10. I understand that the ditch is a result of discussions with the Environment Agency (EA) and I appreciate that the EA has raised no objections to this application. However, and regardless of the matters that in the future will form part of the discharge of drainage conditions, I am required to have sufficient information in order to make a decision on flood risk as part of this appeal, which, in the absence of a FRA, I do not.
11. For these reasons I cannot conclude that the proposed revisions would be acceptable having regard to flood risk. There is therefore conflict with LP Policy

RM2 and the provisions of the Framework which together seek to ensure new development avoids areas of current or future flood risk and does not increase the risk of flooding elsewhere.

Character and Appearance

12. The appeal site lies within a flat, open and predominantly agricultural landscape in an area that includes several industrial units. The proposed industrial units thus have potential to be visible for considerable distances.
13. The existing bund, which already includes some planting, sits forward of a concrete wall and mesh fence, defining the edge of the site that would be occupied by the four light industrial units. The bund would offer some immediate screening of the structures, whilst the landscape planting that would be secured through condition 4 of the original permission would supplement this and over time would help to reduce the visual impact of the structures on the landscape.
14. The appellant argues that the planting can still take place. However, whilst I am provided with spot heights on drawings to show the proposed ditch, there are no cross sections and I therefore cannot be certain of the gradient of the bank sides. Moreover, there is no supporting information to demonstrate that a strip of woodland, as proposed, could be planted or become established here either in terms of the gradient, the nature of the bank sides or whether such a ditch would be a hospitable environment for woodland trees. Additionally, I cannot be sure that the planting of trees here would not interfere with its drainage function.
15. If an appropriate level of tree planting were either, not provided or, failed to establish, the site would be highly conspicuous in views from the north in particular for its lifetime. The tall row of industrial units seen in this view alongside the boundary treatments would appear as a stark and imposing structure that would erode the open, agricultural character and adversely affect the landscape as a result.
16. For the above reasons the proposed revisions would adversely affect the character and appearance of the area. This would be contrary to Policies S5, E1 and E7 of the LP, which together, seek to ensure new proposals constitute high quality design that respects and strengthens the distinctive character of the landscape, integrating successfully with its surroundings and contributes positively to local character in terms of landscaping.

Other Matters

17. The Council has raised concerns over the impact of the proposed revisions on the ability to fully enact a legal agreement associated with another permission on the site, NY/2019/0026/FUL. However, I am provided with very little in relation to this and, as I am dismissing the appeal on other grounds, I need not consider this matter any further.
18. I acknowledge the delays in processing the application and the difficulties the appellant has experienced in contacting officers of the Council to discuss the application. Whilst I sympathise with the appellant in this regard, the processing and level of communication during the planning application relates to the practical administration of the application rather than to the acceptability of the scheme. I

have therefore determined the appeal scheme with regard to its planning merits as I am required to.

Conclusion

19. For the reasons given above the appeal should be dismissed.

Paul Martinson

INSPECTOR