
Appeal Decision

Site visit made on 6 January 2026

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2026

Appeal Ref: APP/U2750/W/25/3375515

Halesgarth Kennels, Hales Lane, Drax, Selby, North Yorkshire YO8 8PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Caroline Ashbutler against the decision of North Yorkshire Council.
 - The application Ref is ZG2024/0654/FUL.
 - The development proposed is the demolition of existing portacabin and erection of a detached building for shop, grooming room and kennels office.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing portacabin and erection of a detached building for shop, grooming room and kennels office at Halesgarth Kennels, Hales Lane, Drax, Selby, North Yorkshire YO8 8PL in accordance with the terms of the application, Ref ZG2024/0654/FUL, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - (i) The principle of the proposed shop element in this location;
 - (ii) The effect of the proposed development on the character and appearance of the countryside; and
 - (iii) Flood risk.

Reasons

Principle of the shop

3. Saved Policy S4 of the Selby District Local Plan 2005 (LP) allows for the provision of shops outside of defined development limits where the proposal is ancillary to an existing use. In this instance, the shop is proposed to sell animal feed products produced by the appellant. The appellant runs the kennels and cattery business which adjoins the appeal site.
4. There is already a shop area within the portacabin on the appeal site. The Council states that the floorspace for that use is approximately 8.25 square metres (sqm). They further state that the floorspace of the proposed shop would be approximately 25 sqm, although that figure includes the adjoining store room.
5. The appellant explains that much of the pet food they sell is bulky and in large bags. This would appear to be a plausible justification for some increase in floorspace, to allow for such goods to be displayed. But whatever is the case, the

increase in floorspace would not be substantial compared to what currently exists. I am satisfied that on that basis it would remain ancillary to the existing use of the wider site that is under the appellant's control, even considering that it would have its own entrance and a display window. I will return below to the matters of scale and character and appearance which are set out in the other criteria of Saved Policy SP4.

6. Policy SP2 of the Selby District Core Strategy 2013 (CS) permits development in the countryside where it would represent the replacement or extension of existing buildings and it would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities. In this instance, the proposal would replace the existing portacabin and I consider that it would have tangible economic benefits, not least through providing a higher standard of accommodation for its uses. Thus, it would align with the strategic aims of Policy SP2. There is also support in Policy SP13 of the CS for the expansion of businesses in rural areas which bring sustainable economic growth.
7. Policy SP14 of the CS seeks to support services within existing town centres. I do not consider that the proposed shop element, which I have found to be ancillary and to not represent a substantial increase in floorspace over what currently exists, would compromise the aims of that policy.
8. In conclusion therefore, the proposal would accord with the aims of Saved Policy S4 of the LP and Policies SP2, SP13 and SP14 of the CS, where collectively they set out the strategic approach to economic development and to development in the countryside.

Character and appearance

9. The proposed building would be well-designed, and it would be a significant visual improvement in comparison to the existing portacabin. Whilst the portacabin is a flat-roofed low-level building, it is nonetheless clearly visible from Hales Lane and from some of the surrounding fields. It does not have a positive visual impact on its surroundings because of its general appearance.
10. Whilst the Council is concerned that the proposed building has an appearance akin to a dwelling, its pitched roof would serve to give it a more pleasing visual appearance than if it were to be flat-roofed. Furthermore, the character and appearance of the surrounding area is peppered with dwellings and other buildings, including that of the appellant and those visible nearby in the settlement of Drax.
11. The proposal would be seen in the foreground of existing buildings within the kennels and cattery site from the north and north-west and would be screened by them from the south. The materials suggested on the plans are acceptable both in the context of the surrounding area and in the countryside in general.
12. As a whole, I consider the scale and design of the proposal to be acceptable, and that there would be a betterment compared to the existing situation. As such, the proposal would accord with Policy ENV1 of the LP and Policy SP19 of the CS where they seek to promote high quality design. There would also be an accordance with Saved Policy S4 of the LP and Policies SP2 and SP13 of the CS where they refer to matters of design and scale.

Flood risk

13. Paragraph 173 of the National Planning Policy Framework states that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in future from any form of flooding. The appeal site is located within Flood Zone 3a, which has a high probability of flooding.
14. The appellant submitted a sequential test with the planning application. This states that a comprehensive search was conducted to identify alternative sites within Selby with a lower flood risk and that the search determined that there are no viable alternative locations that would meet the specific requirements of the proposed development without significant compromise on functionality, accessibility, and cost. The sequential test provides no details of which sites were considered and discounted. The appellant's Statement of Case sheds no light on this matter. Without this, it is not possible to discount there being other sites on which the proposed development could, in purely physical terms, take place where the risk of flooding would be lower.
15. However, the Planning Practice Guidance¹ advocates that a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location. In this case, whilst not an extension to an existing building, the proposed development would replace an existing portacabin. It would not significantly increase the floorspace in comparison to what exists, and a large amount of the new floorspace would be given over to storage areas, a hall and a WC.
16. Beyond that, the proposal would provide an office to serve the business and a grooming room to replace that which currently exists in the portacabin. I have found that the shop would be of a size that would be ancillary to the business. On balance, I consider that it would be impractical to accommodate the office floorspace elsewhere because it would serve the business on the site and unreasonable to require the grooming room and shop to be located elsewhere, given that both already exist on the appeal site in some form. Therefore, taking a pragmatic approach, I conclude that it is reasonable not to look beyond the appeal site for this specific proposal, and thus that the sequential test can be considered to be satisfied in the circumstances of the appeal case.
17. The proposal falls within the less vulnerable class of development in flood risk terms. The Flood Risk Assessment provides recommendations to address the specific risks that would exist. These could be secured by way of a planning condition.
18. For these reasons, I conclude that the proposal would accord with Policy SP15 of the CS where it refers to development in areas of flood risk.

Other Matter

19. The plans submitted include details of signage. The Council considers that this element would fall under the advertisement control regime and I have no reason to disagree with that position. I have not therefore considered the signs as part of this appeal.

¹ Paragraph: 027a Reference ID: 7-027a-20220825

Conditions

20. Conditions setting out the time period to commence development (1) and the approved plans (2) are needed to provide certainty. In the interests of visual amenity it is reasonable to require precise details of external materials and finishes to be approved (3). Given the proximity of trees to the proposed development and as it is intended to retain those trees, a condition requiring an Arboricultural Method Statement (4) is needed. Conditions relating to access, parking, manoeuvring and turning (5) and requiring a Construction Management Plan (6) are needed in the interests of highway safety.
21. To address flood risk matters it is necessary to impose a condition requiring that development be undertaken in accordance with the submitted Flood Risk Assessment (7). To ensure that appropriate provision is put in place in accordance with the comments of the statutory undertaker, conditions relating to drainage are required (8 & 9). It is necessary to place control on external lighting for visual amenity reasons given the countryside location, but I have reworded the suggested condition to allow for the possibility of the submission of details for consideration by the Council.
22. It is not necessary to impose the statutory biodiversity net gain condition, as this is deemed to have been applied and the specific guidance set out in the Planning Practice Guidance² is that it should not be attached to planning decisions. I have addressed the matter of the sequential test and therefore the Council's suggested condition in that regard is not needed. Given the distance to the nearest dwellings, other than the appellant's own dwelling, I do not consider that an hours of working condition is necessary.
23. I have reworded the Council's suggested conditions were necessary in the interests of precision.

Conclusion

24. For the reasons given above, the appeal should be allowed.

Graham Wraight

INSPECTOR

² Paragraph: 024 Reference ID: 74-024-20240214

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos ADP24/P29/01, ADP24/P29/02B, ADP24/P29/05B, ADP24/P29/06B and ADP24/P29/07A.
- 3) Prior to installation, samples of all external materials and finishes to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development, including demolition or enabling works, shall commence until a detailed Arboricultural Method Statement (AMS) to include root protection areas and construction methods/protection measures has been submitted to and approved in writing by the Local Planning Authority. This must include a specification of tree protection measures and an auditable system of arboricultural supervision and monitoring requirements. It must also address how works close to retained trees will be undertaken. The approved AMS shall be implemented in full prior to any works taking place and during the development, and tree protection measures must remain in place until completion is agreed with the Local Planning Authority. No retained tree(s) shall be felled, pruned or otherwise impacted without the written approval of the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details or any variation as may be subsequently agreed in writing by the Local Planning Authority.
- 5) No part of the development hereby permitted shall be brought into use until the access, parking, manoeuvring and turning areas for all users at Halesgarth Kennels, Hales Lane, Drax, have been constructed in accordance with a scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.
- 6) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must thereafter be undertaken in accordance with the approved CMP. The CMP must include, but not be limited to, arrangements for the following:
 1. details of any temporary construction access to the site including measures for removal following completion of construction works;
 2. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
 3. the parking of contractors' site operatives and visitor's vehicles;
 4. areas for storage of plant and materials used in constructing the development clear of the highway;
 5. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

- 7) The development hereby permitted shall be carried out and maintained in accordance with Flood Risk Assessment version 1.2 dated 01/08/2024.
- 8) The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems shall extend to points of discharge in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 9) No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- 10) No external lighting shall be installed to the building hereby permitted nor any additional lighting installed within the associated parking area unless in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority.

-----End of Conditions-----