



Appeal Decision

Site visit made on 12 January 2026

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2026

Appeal Ref: APP/Y2003/W/25/3375266

Middle Moor Farm, Dole Road, Crowle, North Lincolnshire DN17 4BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Howard Crow against the decision of North Lincolnshire Council.
 - The application Ref PA/2025/1060.
 - The application sought planning permission for outline application with all matters reserved to erect a dwelling for an agricultural worker without complying with a condition attached to planning permission Ref PA/2018/1758, dated 5 December 2018.
 - The condition in dispute is No 5 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: location plan and block plan.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Background

2. Planning permission was originally granted in outline for an agricultural worker's dwelling, with all matters reserved. A subsequent reserved matters application was then approved¹. The proposal seeks to vary condition 5 of the original outline consent as the dwelling has started to be built in a different location to that approved.
3. The appellant states that the re-sitting of the dwelling's footprint is approximately 10 metres west of the approved siting and rotated by around 15 degrees. The Council, however, considers the distance between the two locations is greater, and notes that the layout of the dwelling was approved under the reserved matters application. The proposal does not seek to alter the scale or massing of the dwelling.

Main Issues

4. The main issues are whether there is an extant planning permission to vary under s73 of the Act, and if so, whether the proposal falls within the scope of s73 of the Act and whether it has been satisfactorily demonstrated that the development would be safe from flooding.

¹ PA/2020/1637

Reasons

5. The appellant states that the revised siting of the dwelling is required for safety reasons and that no enforcement action has been taken. They also highlight that the original site plan was inaccurate.
6. The appellant asserts that the condition does not act as a condition precedent. However, compliance is necessary for the works undertaken to fall within the scope of the development for which planning permission was granted. The evidence before me suggests that the foundations were excavated prior to 5th December 2023. Nevertheless, these foundations were not built in adherence to the approved plans. The appellant acknowledges that the proposal was clearly undertaken in breach of conditions requiring adherence to approved plans.
7. In my view, the deviation from the approved plans is not minor, even when the corrected site plan is taken into account. Based on the distance and orientation provided by the appellant, the foundations are in a significantly different position from that approved. Furthermore, the excavations appear to have been undertaken outside the previously approved red line area. The appellant suggests that the original red line boundary was unreasonable. However, that was clearly established and agreed at the time of the original permission. For these reasons, the planning permission was not lawfully implemented within the requisite timeframe. Consequently, no part of the development undertaken on site has been carried out in accordance with the previous planning permissions.
8. S73 of the Act cannot be used where the original planning permission was subject to a time-limited commencement condition and that time period has expired without the development being lawfully begun. Once the standard time limit has passed, the permission lapses and there is no extant permission capable of amendments under s73. It is therefore not possible to vary a condition attached to a lapsed permission.
9. My attention has been drawn to an appeal decision². That case related to an enforcement notice, and involved a different degree of variation from the approved siting. Accordingly, the findings in that decision are not directly comparable.
10. For the reasons set out above and considering the highlighted legal judgements³, I conclude that the permission in this case cannot be varied under s73 of the Act because there is no extant planning permission to vary. A new planning application would be required instead. Given this conclusion, there is no need for me to go on to consider the wider main issues of the appeal as doing so would not affect the outcome.

Conclusion

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

L Wilson

INSPECTOR

² APP/N0410/C/24/3354154 and APP/N0410/C/24/3354155

³ Including *Test Valley Borough Council v Fiske* [2024] EWCA Civ 1541, *Finney v Welsh Ministers & Others* [2019] EWCA Civ 1868