
Appeal Decision

Site visit made on 3 February 2026

by A Caines BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2026

Appeal Ref: APP/U2750/W/24/3341278

The Forge, Tockwith Road, Long Marston YO26 7PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant 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 Andrew Emmott against the decision of North Yorkshire Council.
 - The application Ref is ZC23/04454/DVCON.
 - The application sought planning permission for demolition of conservatory and erection of two-storey rear extension, without complying with a condition attached to planning permission Ref ZC23/03181/FUL, dated 19 October 2023.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in strict accordance with the application form and the following drawings submitted with the application: Location Plan: Drwg No.PRPD-35 Rev P1; Site Plan: Drwg No.PRPD-36 Rev P1; Proposed Plans: Drwg No.PRPD-31 Rev P1; Proposed Elevations: Drwg No.PRPD-32 Rev P1.
 - 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 allowed and planning permission is granted for demolition of conservatory and erection of two-storey rear extension at The Forge, Tockwith Road, Long Marston YO26 7PQ in accordance with the application Ref ZC23/04454/DVCON, without compliance with condition number 2 previously imposed on planning permission Ref ZC23/03181/FUL dated 19 October 2023 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from 19 October 2023.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan PRPD-45 Rev P1; Block Plan PRPD-46 Rev P1; Site Plan PRPD-44 Rev P1; Proposed Plans PRPD-41 Rev P1; Proposed Elevations PRPD-42 Rev P1.
 - 3) Except where stated otherwise on the application form and approved drawings, the materials to be used in the construction of the development hereby permitted shall match those used in the existing building.

Background and Main Issue

2. Planning permission was granted in October 2023 for the demolition of a conservatory and the erection of a two-storey rear extension. The appeal concerns an application under section 73 of the Town and Country Planning Act 1990 (TCPA) seeking to vary Condition 2 by substituting a revised set of plans. The amended drawings show a reduction in the width of the approved two-storey

extension together with the introduction of a modest single-storey glazed projection beyond the rear wall of the proposed two-storey element. The Council raised no objection to the planning merits of the revised scheme, including its effect on the Green Belt. The application was refused solely on the basis that the proposed single-storey addition would, in the Council's opinion, conflict with the operative part of the original permission and therefore fall outside the scope of s73.

3. The correspondence before me indicates that the appellant sought procedural advice from the Council before submitting the application. The advice suggested that amendments to footprint or built form should be progressed through a s73 application. While such advice does not determine the lawful scope of s73, it provides context for the appellant's choice of procedure.
4. The **main issue** therefore is whether the proposed variation of Condition 2 falls within the lawful scope of s73 of the TCPA 1990.

Reasons

5. S73 of the TCPA 1990 enables a planning authority to grant permission for the same development as previously permitted, subject to different conditions. Established case law confirms that a permission granted under s73 cannot alter the operative part of the original planning permission, which includes the description of development. A variation that would result in a permission in conflict with the operative part would fall outside the powers conferred by s73.
6. The description of development for the extant permission is "Demolition of conservatory and erection of two-storey rear extension." The description identifies the principal component of the authorised works but does not set parameters concerning the precise dimensions of the extension or the presence of minor or incidental elements that might reasonably accompany it.
7. The amended plans would continue to deliver a two-storey rear extension as described in the original permission. The additional single-storey, glazed projection would be modest in scale, subordinate in form and physically and visually integral to the rear extension as a whole. It would not introduce new development to any other elevation where a change of description might arise. In this context, the amendments would not alter or redefine the essential nature or identity of the development authorised by the operative part of the original permission.
8. I therefore conclude that while the amendments introduce built form not shown on the original drawings, the modest single-storey projection does not contradict the core description of the development. The description remains accurate and the proposal is capable of determination under s73.

Other Matters

9. There is no evidence before me to suggest that the amended scheme would cause harm to the character or appearance of the area, the openness of the Green Belt, or the living conditions of neighbouring occupiers. The proposal therefore accords with the development plan.
10. Concerns raised by the appellant regarding the Council's procedural advice and handling of the application fall outside the scope of this appeal and do not affect my findings. Any such matters remain between the appellant and the Council.

Conditions

11. As allowing the appeal results in a new planning permission, I have imposed a revised condition listing the updated plans in the interests of certainty. I have also restated the undisputed conditions from the earlier permission that remain relevant and capable of taking effect. Condition 1 reflects that a decision under s73 cannot extend the period for commencement.

Conclusion

12. For the reasons given, I conclude that the appeal should succeed. I shall therefore grant a new planning permission without the disputed condition but varying and restating the remaining conditions as necessary.

A Caines

INSPECTOR