



Appeal Decision

Site visit made on 16 February 2026

by **M Willis BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th March 2026

Appeal Ref: APP/U2750/W/25/3376194

Land at E459140 N436040, Field Lane, Wistow, Selby YO8 3XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr C Clark of CE & JE Clark against the decision of North Yorkshire Council.
 - The application Ref is ZG2025/0880/PIP.
 - The development proposed is for up to 9 residential units and widening of existing highway and dropped kerb.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of the development from the decision notice in the banner heading above, in the interests of clarity.
3. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises¹ that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second 'technical details consent' stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
5. A revised PPG was published in relation to flood risk whilst the application was being considered by the Council. The appellant has commented that he was not given the opportunity to update the sequential test assessment that had been submitted in support of the application in response to the revised PPG. Therefore, as part of this appeal, an updated Sequential Test Report (STR) and two drawings showing an indicative layout for the site (Drawing Refs: PI-005-A and PI-006) have been submitted. I am required to have regard to the latest version of PPG in determining this appeal. The Council has had an opportunity to comment on the updated STR and the indicative drawings in its response to this appeal. I am therefore satisfied that by accepting these at appeal stage both main parties have

¹ Paragraph: 001 Reference ID: 58-001-20180615

not been prejudiced by the change to PPG or that any procedural unfairness would occur.

Main Issues

6. The main issues are whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Location

7. The matters which are relevant and need to be considered in relation to location include the suitability of the site having regard to its location and flood risk.

Suitability of location

8. The appeal site is an undeveloped parcel of agricultural land which is located adjacent to, but outside of, the development limits of the village of Wistow. A row of detached properties adjoins one side of the site with further residential development and properties opposite. The remaining surrounding land comprises agricultural land which wraps around the edge of a flood defence structure. Further along Field Lane, on the same side as the appeal site, there is a single detached residential property and a small cluster of residential properties.
9. There is existing residential development both adjacent and opposite the site. The red line boundary of the proposal, and therefore any housing within the site, would not extend beyond the last dwelling on the opposite side of Field Lane. Therefore, although the site lies outside the village's defined development limits housing in this location would not appear out of keeping with the established pattern of development in the immediate area.
10. In terms of accessibility, Wistow village has some local services and facilities which include a school, church, public house, takeaway, recreation/ playground ground and tennis club. The village is also served by a reasonably frequent bus service which operates on average every two hours to places such as Selby and York. Both Selby and York offer a wide range of services and educational, employment and other facilities.
11. Notwithstanding the above, the proposal would result in the development of greenfield site that sits outside the development limits of the village. Although the site has access to some local services and facilities, as well as reasonable public transport links to other nearby larger settlements, the development would nevertheless be contrary to Policy SP2 of the Selby District Core Strategy 2013 (SDCS) which seeks to direct new development to towns and larger settlements and to within settlement boundaries and to limit development within the open countryside locations.

Flood Risk

12. The majority of the site is located within flood zone 2 with part of the site falling within flood zone 3.
13. No relevant development plan policies were cited by the Council in its reason for refusal relating to flood risk. However, I note from the delegated report reference is given to Policy SP15 of the SDCS and a copy of this policy was provided. The policy reflects the requirements of the National Planning Policy Framework (the Framework) in relation to flood risk and so is relevant in the determination of this appeal. Paragraph 175 of the Framework confirms 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 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.
14. The Flood Risk Assessment (FRA) identifies the site as being at risk of flooding from fluvial sources. Consequently, the appellant has undertaken a sequential test assessment. Although it is suggested development within flood zone 3 could be restricted to that of the garden spaces and some of the driveways and garages of the properties, this would still result in development, including access routes, being located within an area that has been identified as being at risk of flooding. A sequential test is therefore required, as set out in paragraph 175 of the Framework.
15. The appellant has undertaken a sequential test. The updated STR identifies the search area for reasonably available sites to be Wistow and its immediate surrounding settlements of Cawood and Selby. It lists a number of sites and the reasons as to why the appellant considers these should be discounted as possible alternatives to the development. The search area used is reasonable and I note is not contested by the Council. Similarly, the approach of discounting sites where development has already commenced or has been completed is also appropriate as those sites cannot be considered as reasonably available.
16. However, I am not persuaded that only sites falling within flood zone 1 should be considered as sequentially preferable to the appeal site. This is because the appeal site contains land that is both within flood zones 2 and 3 and so, as a whole, is at higher risk of flooding than a site which is only located within flood zone 2 or which contains a mixture of land within flood zone 2 and lower. In this regard, the Wistow 2 (Plantation House) site has permission for nine dwellings and so is comparable in terms of being able to accommodate the quantum of development proposed. The site is also in the same broad area as the appeal site but crucially is largely located within flood zone 2 with a small element in flood zone 1. Whilst that part within flood zone 1 is small, it is nevertheless still a genuinely lower-risk alternative to the appeal site and so preferable for the siting of a more vulnerable form of development than the appeal site.
17. In light of the above, I conclude that the appeal site is at risk of flooding and that the STR has failed to robustly demonstrate that there are no reasonably available sites that would be sequentially preferable to the site in terms of flood risk. The proposal would therefore be contrary to Policy SP15 of the SDCS which seeks, amongst other criteria, to ensure development in areas of flood risk is avoided

wherever possible through the application of the sequential test and exception test (if necessary). The proposal would also be contrary to the policies contained within the Framework in relation to flood risk in particular paragraphs 174 and 175.

Overall conclusion on location

18. The sequential test has not been passed. In addition, although accessible and in-keeping with the character of the area, the proposed housing is contrary to the spatial strategy of the Council because it would be outside a defined settlement boundary. It therefore follows that the proposed development would not be in a suitable location.

Proposed land use

19. The Council has identified the land as being Grade 1 and therefore best and most versatile (BMV) agricultural land. The appellant accepts the land is identified as Grade 1 on the DEFRA Provisional Agricultural Land Classification (ALC) mapping but contends that this is not accurate at an individual field level and so cannot be relied upon for determining the classification of an individual site. However, no ALC survey or assessment has been undertaken and so there is no substantive evidence before me which demonstrates that the site does not comprise BMV land. Given the ALC grading, in the absence of substantive evidence to the contrary, I must proceed on the basis that it is Grade 1.
20. The proposal site is described as being 0.56 hectares in size. Whilst this is a small part of a wider agricultural landscape, there is nothing before me which explains how the land relates to any wider farmholding or the extent of the BMV land within the wider area. As a result, the appellant has failed to demonstrate that the loss of the land would not materially preclude farming of the wider holding, or that the degree of harm from its loss would be limited. It has therefore not been demonstrated that the proposal complies with Policy SP18 of the SDCS which, amongst other criteria, seeks to steer development to areas of least environmental and agricultural quality.

Amount

21. The application seeks permission for up to nine residential units. Although the final layout and scale of the development would be a matter to be considered at the technical details stage, the Council has confirmed the proposed density is acceptable. I concur and consider the amount of development proposed acceptable as the provision of up to nine dwellings on the site would not be excessive.

Other Matters

22. My attention has been drawn to a number of appeal decisions.
23. In the Filby case² the proposal was retrospective and the land did not appear to have been in recent agricultural use. In the New Longton case³, part of the land was previously developed. This is not the same as the appeal site which is an undeveloped greenfield site which was evidently in agricultural use at the time of my visit.

² Ref: APP/U2615/W/23/3335914

³ Ref: APP/F2360/W/21/3278967

24. In the Weston on Trent⁴ and Braintree⁵ cases, the area of BMV land proposed to be lost was not considered significant in the context of that within the wider District. In the Barcombe Cross⁶ case, the proposal was not located within a flood zone and was for a much larger housing development where the adverse effects of that proposal, including loss of BMV, were found to not significantly and demonstrably outweigh the benefits of the scheme as a whole. In the Newland⁷ case the Council and Inspector accepted that the sequential test had been passed and in the and Broadwas⁸ case, this decision did not involve flood risk as an issue.
25. For the reasons set out above, none of these appeal cases are directly comparable to the appeal proposal and so do not alter my findings. In any case I have determined this appeal on its own merits and on the evidence before me.
26. Representations have been made by interested parties which include concerns about overshadowing and overlooking; noise and light pollution; impacts on wildlife; increased traffic and parking issues and drainage and sewage. These relate to matters that go beyond the scope of this 'in principle' application and so are not matters which I need to consider at this stage.

Planning Balance

27. The Council is unable to demonstrate a five year supply of deliverable housing sites and as such paragraph 11(d) of the Framework is engaged as set out in Footnote 8. I have found that the proposal would result in the release of a greenfield site outside the development limits of the village and that this would be contrary to the aims of Policy SP2 of the SDCS. However, given the lack of a five-year housing land supply, and the associated likely need to accommodate housing development outwith the adopted spatial strategy, the conflict with this policy is reduced and only attracts moderate negative weight against the proposal.
28. I have found the proposal to be contrary to Policy SP18 of the SDCS as it has not been demonstrated that the area lost to the development would be of the least environmental and agricultural quality. I have also found that the site is at risk of flooding and that the sequential test has failed to demonstrate that there are no reasonably available sites that would be sequentially preferable to the site. The proposal is therefore contrary to Policy SP15 of the SDCS and the policies in the Framework in relation to flood risk. When taken together, I attach these conflicts and harms very great weight against the proposal.
29. Set against the above, potential benefits of the proposal include the delivery of up to nine modern, energy-efficient, market homes which would contribute to boosting local housing supply. Although only nine homes are proposed, in the context of the Council being unable to demonstrate a five year supply of housing land, I place significant positive weight on this factor. Other benefits, subject to technical details being approved, include opportunities for landscaping and biodiversity improvements. However, given the scale of the proposal, these benefits would be limited and so only attract a little weight in favour of the proposal.

⁴ Ref: APP/F1040/W/20/3261872

⁵ Ref: APP/Z1510/W/17/3187374

⁶ Ref: APP/P1425/W/23/3323308

⁷ Ref: APP/U2750/W/24/3355423

⁸ Ref: APP/J1860/W/24/3354156

30. As the development is in an area at risk of flooding, the circumstances at sub-paragraph 11(d)(i) of the Framework also apply and so provides a strong reason for refusing the development. The benefits that I have set out above do not justify granting permission in principle contrary to both the flood risk conflicts and also with the spatial strategy. The proposal would therefore conflict with the development plan taken as a whole. The benefits of the proposal also do not amount to a material consideration of sufficient weight to indicate that a decision contrary to the development plan should be made.

Conclusion

31. For the reasons outlined above, the appeal is dismissed.

M Willis

INSPECTOR