



Appeal Decision

Hearing held on 5 August 2025

Site visit made on 5 August 2025

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2025

Appeal Ref: APP/U2750/W/25/3360685

Land North of Middleton Road, Pickering YO18 8NR

- 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 outline planning permission
 - The appeal is made by David Wilson Homes against North Yorkshire Council.
 - The application Ref is ZE24/00588/MOUT.
 - The development proposed is the erection of up to 140no. dwellings and associated infrastructure with all matters reserved except access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 140no. dwellings and associated infrastructure with all matters reserved except access at Land North of Middleton Road, Pickering YO18 8NR in accordance with the terms of the application, Ref ZE24/00588/MOUT, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council's statement of case indicates that it would have approved the application subject to conditions had it been empowered to do so.
3. The planning application was submitted in outline with all matters reserved except access and I have considered the appeal on this basis. As such, I have regarded all elements of the proposed drawings as indicative except the access.
4. Prior to the Hearing the appellant submitted a planning obligation secured in an agreement with the Council under section 106 of the Act (s106 Agreement). This included various provisions regarding affordable housing, public open space and biodiversity net gain.

Main Issues

5. From the evidence I have before me the main issues are:
 - The effects of the proposed development on local drainage; and
 - Whether any conflict with the development plan would be outweighed by other material considerations.

Reasons

Policy background

6. The appeal site is formed of three fields that are in agricultural use located adjacent to the planned development limits of Pickering, as defined in the Council's Local Plan Strategy (LP). Pickering is identified as a Local Service Centre in Policy SP1 of the LP where growth to accommodate new homes and local employment opportunities is anticipated. Being located outside of Pickering's planned limits of development means that the field is treated as countryside for the purposes of applying the relevant LP policies.
7. Policy SP2 of the LP sets out the Council's approach to the delivery and distribution of new housing. This Policy outlines its approach to the pattern and distribution of allocations in Pickering, which included avoiding coalescence with Middleton. The Policy also includes criteria where development for housing may be permitted outside the defined development limits. The proposal does not accord with any of these listed forms of development.
8. The proposal would therefore conflict with the requirements of Policies SP1 and SP2 of the LP, when taken together and in so far as they relate to this matter, bringing an in-principle policy harm as a result of this conflict.

Drainage

9. During the appeal Yorkshire Water objected, advising that it had not considered the development of the site within its current Asset Management Period (AMP), which runs until 2030. Moreover, it stipulated that Pickering's waste water treatment works (WWTW) had limited capacity and was unable to accommodate the anticipated effluent generated by the development.
10. This was a change in position from the original response to the planning application, and the extent of constraints are unspecified beyond the word 'limited'. Nonetheless, there is no substantive evidence before me to dispute the current capacity constraints stated by Yorkshire Water. During the Hearing I also heard from interested parties regarding their experience of the capacity issues in Pickering and incidents of pollution at Costa Beck.
11. The appellant's have advised that completions of the proposed dwellings would likely span both the current AMP and the next AMP, and the proposal would include a pumped foul system, which would enable flows to be managed at peak periods. In this regard, the Council consider the matter could be managed by way of a condition, which would restrict the occupation of any dwelling until confirmation is provided that sufficient capacity exists within the sewerage network and WWTW to accommodate the foul drainage flows from the development.
12. This would allow the parties to work together to ensure that the phasing of the development and any infrastructure improvements are undertaken in a manner that does not overload the local sewerage network and WWTW. With that in mind and having regard to the provisions within the Water Industry Act 1991, I am satisfied that the Council's suggested condition is a reasonable approach to ensuring that the development is not occupied until capacity exists.
13. On this basis, the proposed development would not have an unacceptable effect on local drainage. As such, I find no conflict with the requirements of Policy SP17

of the LP which says, amongst other things, that water resources will be protected by ensuring that necessary sewerage and water treatment infrastructure improvements are provided in tandem with new development and that the scale, type, location and phasing of new development or land based activity can be accommodated without an unacceptable impact on water supply.

Other material considerations

14. There is no dispute that the Council can not demonstrate a 5-year supply of housing land with the Council confirming it currently has a 0.8-year supply. There is no substantive evidence as to how the newly formed Council from merging district councils has impacted this figure. In any case, the housing land supply figure for the Council is not disputed. In addition to boosting the supply of houses, the proposal would secure 35% of the houses as affordable homes and the Council confirmed that there is a need for such homes with the LP indicating an acute need. Given the level of shortfall in the supply of housing, these are matters of significant weight.
15. The trees and hedgerows proposed to be retained represent an avoidance of harm rather than a specific benefit of the scheme. However, the submitted Biodiversity Gain Report indicates how the proposal would achieve at least a 10% gain to biodiversity, even with some loss of hedgerow. The proposal would also include managed open space that would be available for all residents not just those within the proposed housing scheme. These represent benefits of moderate weight.
16. Pickering has a level of facilities and access to public transport that is commensurate with its status as a Local Service Centre. From the evidence before me, the town's infrastructure would be capable of catering for the proposed development and would be accessible from the appeal site. Given the distance to the centre of Pickering, future occupiers would be able to walk or cycle to facilities in the town. The proposal would result in spending within the local economy by residents of the proposed development. There would also be employment benefits in terms of the provision of jobs during the construction phase. I give moderate weight to the social and economic benefits given the scale of the development.
17. I'm told that all the new homes would be energy efficient, and the scheme would be designed to a high quality. However, as the scheme is in outline with all matters reserved, except access, the details of this are not before me. As such, whilst this maybe the aspirations of the development, these matters weigh neither for nor against the proposal in the planning balance.
18. The signed and dated planning obligation would secure 35% of the dwellings as affordable homes and contains obligations in relation to Biodiversity Net Gain and Open Space. These obligations are necessary to meet identified affordable housing needs and provide an appropriate level of open space and biodiversity gain that would accord with Policies SP3, SP10 and SP14 of the LP, in so far as they relate to these matters. They would therefore be necessary to make the development acceptable in planning terms. I also accept that they would be directly related to the development, and fairly and reasonably related to it in scale and kind. Accordingly, they would meet the tests set out in paragraph 58 of the National Planning Policy Framework (the Framework) and in Regulation 122 of the CIL Regulations.

Other Matters

19. The proposal would result in the loss of Grade 3a agricultural land, the historic field pattern, and bring development associated with Pickering closer toward Middleton, eroding the countryside around this part of Pickering, which is designated as an Area of High Landscape Value. However, the appeal site's character is also heavily influenced by the adjacent housing, and I am satisfied that the scheme could be designed in a manner that would be compatible with it. Moreover, a considerable gap to Middleton would remain, such that the differing identities of the two settlements would remain distinct. Given the distance and intervening features in between the appeal site and the Middleton Conservation Area, I am satisfied that the principle of residential development would not have a harmful effect on its setting.
20. There is no substantive evidence of a lack of need for new homes in this area or a lack of employment nearby for future occupiers. Concerns that the road and footway network, local facilities and services would be unable to accommodate future residents are noted. However, improvements are proposed to the footway and highway and, these could be secured by way of a condition. Moreover, there is no specific evidence before me of any road, services or facilities that would exceed their capacity as a result of this development.
21. As the scheme is in outline much of the detail is yet to be designed. The details of the surface water drainage could be subject to a condition requiring approval of a scheme, including management and maintenance measures, to ensure the system operates as approved. Moreover, I am also satisfied that mitigation necessary to protect the groundwater source from risks during the construction phase and the final development could be secured by condition.
22. The scheme would alter the view of open countryside from nearby properties. However, as the scheme is in outline, details of the appearance and layout of the houses are not before me. In this regard, there is no firm evidence that the scheme would result in an unacceptable level of overlooking or an unacceptable impact on outlook, notwithstanding the change of view. Moreover, any noise and disturbance during construction would be for a temporary period only and could be managed through a condition.
23. There is no firm evidence that harm to wildlife in the area would occur, or that there would be harm to tourism, air quality, the track to the west, or flood risk. Matters relating to concerns with any developer are not matters for my consideration in this appeal. I have determined the appeal on its own merits.

Planning Balance

24. The proposal would conflict with the settlement strategy and there would be an in-principle policy harm due to the subsequent conflict with Policies SP1 and SP2 of the LP. On this basis I find that the proposal would conflict with the development plan as a whole. However, the Council does not have a 5-year supply of housing land and paragraph 11d) of the Framework is therefore engaged.
25. Aside from the emerging Local Plan, which is at an early stage, there is no other obvious remedy to the housing shortfall in the short or medium term. This overall position indicates that the development plan is failing to meet its strategic challenges, and the settlement strategy is not working effectively. I therefore afford

the conflict with policies relating to these matters limited weight. On the other hand, there would be significant benefits from boosting the supply of housing, along with other moderate biodiversity, open space, social and economic benefits.

26. Consequently, and having regard to my findings in the appeal, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. This is having particular regard to key policies for boosting the supply of housing, directing development to sustainable locations, making effective use of land, and providing affordable homes, all of which the proposal would provide.

Conditions

27. I have considered the conditions agreed between the main parties taking into account the requirements of the Planning Practice Guidance and the Framework. Where necessary, and in the interests of brevity, clarity and precision, I have altered the Council's suggested conditions to better reflect the relevant guidance.
28. Conditions that set out the timescales for relevant submissions, and for the commencement of development, the reserved matters requiring approval, and that specify the relevant drawings (1, 2 and 3) are standard and necessary to provide certainty.
29. Conditions relating to the roads, cycle paths, footways, access and parking, and off-site highways mitigation measures (4, 5, 6, 7, and 8) are necessary in the interests of highway and pedestrian safety and the convenience of highway users. A condition relating to the Travel Plan (9) is necessary to minimise the reliance on private vehicles and promote sustainable methods of travel.
30. A condition requiring a Construction Management Plan (10) is necessary in the interests of safety and the living conditions of the occupiers of nearby properties. Conditions relating to drainage and the protection of water mains (11, 12, 13, 14, 16, 17, 18, and 19) are necessary to ensure the site is adequately drained, to protect local infrastructure and in the interests of the natural environment. A condition requiring a Construction Environmental Management Plan (15) is necessary in the interests of the natural environment, including the groundwater source.
31. A condition requiring the development to be in accordance with the Noise Impact Assessment (19) is necessary in the interests of the living conditions of the occupiers of nearby properties. Conditions relating to archaeological investigations (20 and 21) are necessary to safeguard and promote the archaeological interest of the site. Conditions relating to lighting, habitat management and biodiversity gain (22, 23, and 24) are necessary in the interests of local ecology and biodiversity.

Conclusion

32. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal is allowed and planning permission is granted.

Mr R Walker

INSPECTOR

Schedule of Conditions

1. Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Five years from the date of this permission ii) The expiration of two years from the date of approval of the last of the reserved matters to be approved.
2. No development shall commence until details of all the reserved matters have been submitted to and approved in writing by the Local Planning Authority: (a) the siting, design and external appearance of each building, including a schedule of external materials to be used; (b) the landscaping of the site; (c) the layout of the proposed buildings and space(s) including parking and any external storage areas; and (d) the scale (including the number) of buildings overall. Development shall be carried out in accordance with the approved details.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings numbered 01 Rev D1 Location Plan and DPLSK006 Preliminary Site Access.
4. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.
5. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

6. The following schemes of off-site highway mitigation measures must be completed prior to the occupation of the first dwelling:
 - a) Provision of a right turn ghost island on Middleton Road at the site access, incorporating the visibility splays shown on drawing no DPL SK006;
 - b) Provision of a 3m wide cycle path from the site access along Middleton Road up to the junction with Keld Close;

c) Widening of the existing footway from the site access heading west up to the junction with the A170 to a width of 2m where possible within the existing highway extents; and

d) Provision of improvements identified in the pedestrian audit of the key routes from the proposed site to the Town Centre and Schools.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme, including any structures which affect or form part of the scheme, have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with the delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

7. Within 3 months of works commencing on site, a scheme for the monitoring of traffic flows pre and post development, to be undertaken on the link road between the A170 and Middleton Road located to the west of Alba Rose Care Home and joining the A170 at Keld Head Farm Holiday Cottages, including measures to introduce a one way traffic system if deemed necessary, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be undertaken in accordance with the approved details.
8. There must be no excavation or other groundworks, except for investigative works, until full details of the following have been submitted to and approved in writing by the LPA:
 - Vehicular, cycle and pedestrian access;
 - Vehicular and cycle parking.

No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users of that part of the development have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

9. Prior to the first occupation of the development, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include:

- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
- a programme for the delivery of any proposed physical works;
- effective measures for the on-going monitoring and review of the travel plan;
- a commitment to delivering the Travel Plan objectives for a period of at least five years from the first occupation of the development; and
- effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

10. No development shall commence on any phase of the development until a Construction Management Plan (CMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved CMP. The CMP shall include, but not be limited to, the following details for each phase of the works:
 1. Details of any temporary construction access to the site, including measures for removal following completion of construction works;
 2. Wheel and chassis underside washing facilities to prevent mud and debris spreading onto the public highway;
 3. Parking arrangements for contractors' site operatives and visitors;
 4. Areas for storage of plant and materials, located clear of the highway;
 5. Measures for managing the delivery of materials and plant to the site, including routing and timing of deliveries, and loading/unloading areas;
 6. Routes to be used by HGV construction traffic and highway condition surveys on these routes;
 7. Measures to protect carriageway and footway users during demolition and construction;
 8. Site working hours;
 9. Measures to minimise dust emissions, including dust suppression measures and methods to monitor emissions of dust arising from the development;
 10. Measures for the protection of trees;
 11. Details of any ditches to be piped during construction;
 12. A detailed method statement and programme for the building works;

13. Contact details for the responsible person (site manager or office contact) who can be contacted in the event of any issue;
 14. Identification of works likely to cause noise, light, or dust disturbance to sensitive receptors and measures to minimise such disturbances through technical, physical, and best practice management approaches;
 15. A communication strategy to inform regulators, residents, and stakeholders in advance of disruptive works which are likely to cause noise and dust disturbance;
 16. Procedures for recording, investigating, and responding to complaints from residents;
 17. Measures to ensure disruptive works are undertaken during normal construction hours wherever possible;
 18. Use of lighting only when necessary, with controls to prevent overspill beyond the site boundary; and
 19. A commitment to regularly review the CMP, with any amendments affecting noise, light, or dust to be agreed in advance with the Local Planning Authority and communicated to stakeholders.
11. No dwelling hereby permitted shall be occupied until confirmation has been provided to the Local Planning Authority that sufficient capacity exists within the public sewerage network and wastewater treatment works to accommodate the foul drainage flows from the development. The confirmation shall include details of any necessary off-site infrastructure improvements and a timetable for their completion. Occupation of dwellings shall only proceed in accordance with the approved phasing and infrastructure delivery plan.
 12. No building or other obstruction shall be located over or within 5 (five) metres either side of the centre line of the water main i.e. a protected strip width of 10 (ten) metres, that enters the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker.
 13. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed under condition 14 of this consent.
 14. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority. All foul sewers within source protection zone 1 (SPZ1) shall be lined with an impermeable liner. Furthermore, occupation of any part of the development shall not commence until the approved drainage works have been fully constructed in accordance with the approved plans and there shall be no temporary storage of foul sewage.
 15. No development (including demolition and site clearance) shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall

include, but not be limited to, the mitigation techniques and pollution prevention measures necessary to protect the groundwater source from risks posed both by the construction phase and the final development. Once approved, the development must be carried out in accordance with the approved CEMP. The CEMP must be retained on site for the duration of the works being carried out and made available for the use of site managers and operatives.

16. Development shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document). The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed. Note that further restrictions on surface water management may be imposed by Yorkshire Water and the Local Planning Authority.
17. No development shall take place until a Management & Maintenance Plan for the proposed SuDS drainage scheme has been submitted to and approved in writing by the Local planning Authority. Details shall include drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development. If the drainage system is to be adopted by Yorkshire Water/Northumbria Water a maintenance plan should be included up to the date at which it is vested. The drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
18. No development shall take place until an appropriate Exceedance Flow Plan for the site has been submitted to and approved in writing by the Local Planning Authority. Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. This is achieved by designing suitable ground exceedance or flood pathways. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site. The development shall thereafter be carried out in accordance with the approved details.
19. The development hereby approved shall be carried out in accordance with the recommendations contained within the Noise Impact Assessment Ref: NIA-11247-23-11478-v2 Middleton Road, Pickering Issue: Final received by the Local Planning Authority on 09.07.2024.
20. No demolition/development shall commence until a Written Scheme of Investigation has been submitted to and approved by the local planning

authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording;
2. Community involvement and/or outreach proposals;
3. The programme for post investigation assessment;
4. Provision to be made for analysis of the site investigation and recording;
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
6. Provision to be made for archive deposition of the analysis and records of the site investigation; and
7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall thereafter take place other than in accordance with the approved Written Scheme of Investigation.

21. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 20 of this consent and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
22. Prior to the installation of any external lighting a scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate how light spill onto adjacent sensitive habitats will be avoided. The external lighting shall thereafter be installed and maintained in accordance with the approved details.
23. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The HMMP shall include: (a) a non-technical summary; (b) the roles and responsibilities of the people or organisation(s) delivering the HMMP; (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the Biodiversity Gain Plan; (d) the management measures to maintain habitat in accordance with the Biodiversity Gain Plan for a period of 30 years from the completion of development, including the management of invasive species and (e) the monitoring methodology and frequency in respect of the created or enhanced habitat, to be submitted to the local planning authority. The development shall be carried out in accordance with the approved details.
24. The Biodiversity Gain Plan should be prepared in accordance with the Statutory Metric completed by Will Steele (BSG Ecology) dated 23rd May 2024 and the Biodiversity Net Gain Report (BSG Ecology) dated May 2024. The development shall be carried out in accordance with the approved details.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Giles Cannock KC	Kings Chambers
Lucie Jowett	Stantec UK Limited
Maeve Whelan	Stantec UK Limited

FOR THE LOCAL PLANNING AUTHORITY:

Peter Jones	North Yorkshire Council
Aisling O'Driscoll	North Yorkshire Council

INTERESTED PERSONS:

Councillor Joy Andrews	Local Councillor
Simon Thackray	Local Resident
Robert Rayner	Local Resident
Jeremy Spouge	Local Resident

DOCUMENTS:

- Schedule of agreed conditions