



Appeal Decision

Site visit made on 11 March 2025

by **Ryan Cowley MPlan (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th April 2025

Appeal Ref: APP/E2001/W/24/3356129

**Land south of Windcroft, Rolston Road, Hornsea, East Riding of Yorkshire
HU18 1XG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr N Young against the decision of East Riding of Yorkshire Council.
- The application Ref 24/01175/VAR was approved on 25 June 2024 and planning permission was granted subject to conditions.
- The development permitted is erection of a dwelling and construction of new vehicular access (without compliance with conditions 2 (Surface Water and Foul Drainage Details), 4 (Surface Water) and 12 (Permitted Development Rights) and variation of condition 3 (Ecological Enhancement Management Plan), condition 9 (Obscure Glazing), condition 10 (boundary treatments) and 13 (Approved Plans) of Planning Permission 23/00781/PLF) to allow for increase in size of approved garage.
- The conditions in dispute are Nos 11 and 12 which state that:
Condition No 11: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Class A and B shall take place to extend the dwelling hereby permitted without the grant of a separate planning permission from the Local Planning Authority.
Condition No 12: The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2165-001 B - Location Plan, received 13.10.2023
 - 2165-003 E - Proposed Site Plan, received 06.03.2024
 - 2165-004 C - Proposed Ground & First Floor Plans, received 06.03.2024
 - 2165-005 C - Proposed Elevations, received 06.03.2024
 - 2165-006 C - Proposed Sections & Comparative Elevations, received 06.03.2024
 - 2165-007 C - Proposed Site Section & Streetscene Elevations, received 06.03.2024
 - 1205-01 D - Proposed Drainage Plan, received 13.05.2024
- The reasons given for the conditions are:
Reason No 11: This condition is imposed in accordance with policy ENV1 of the East Riding Local Plan and for the avoidance of doubt and in the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.
Reason No 12: This condition is imposed in accordance with policy ENV1 of the East Riding Local Plan and for the avoidance of doubt and to ensure that the development hereby permitted is carried out in accordance with the approved details in the interests of the character and amenity of the area and the provisions of the development plan.

Decision

1. The appeal is allowed and the planning permission Ref 24/01175/VAR for erection of a dwelling and construction of new vehicular access (without compliance with conditions 2 (Surface Water and Foul Drainage Details), 4 (Surface Water) and 12 (Permitted Development Rights) and variation of condition 3 (Ecological Enhancement Management Plan), condition 9 (Obscure Glazing), condition 10 (boundary treatments) and 13 (Approved Plans) of Planning Permission

23/00781/PLF) to allow for increase in size of approved garage at Land south of Windcroft, Rolston Road, Hornsea, East Riding of Yorkshire HU18 1XG, granted on 25 June 2024 by East Riding of Yorkshire Council, is varied by deleting condition Nos 11 and 12 and substituting them for the following condition:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2165-001 B - Location Plan
 - 2165-003 G - Proposed Site Plan,
 - 2165-004 B - Proposed Ground & First Floor Plans,
 - 2165-005 B - Proposed Elevations,
 - 2165-006 B - Proposed Sections & Comparative Elevations
 - 2165-007 B - Proposed Site Section & Streetscene Elevations
 - 1205-01 D - Proposed Drainage Plan

Applications for costs

2. An application for costs was made by Mr N Young against East Riding of Yorkshire Council. This is the subject of a separate Decision.

Preliminary Matters

3. The East Riding Local Plan Update 2025 – 2039 (the Local Plan Update), comprising a Strategy Document Update and Allocations Document Update, was adopted at the meeting of the Full Council on 2 April 2025. This has superseded the East Riding Local Plan 2012-2029 Strategy Document Adopted April 2016, which formed part of the development plan at the time of the Council's decision. Nevertheless, the Council advise that the updated policies are not relevant to this proposal. The appellant has confirmed they agree with this position. I have therefore determined the appeal on this basis.

Background and Main Issues

4. Planning permission was granted in March 2024¹ for erection of a dwelling and construction of new vehicular access. The application to which the appeal relates was subsequently submitted to the Council in April 2024. This sought to vary or remove several of the planning conditions attached to this planning permission, including the complete deletion of a condition removing certain permitted development rights (condition No 12) and a variation to the approved plans conditions (condition No 13) to substitute the approved plans for amended plans that would allow for an increase in the size of the approved garage.
5. The Council granted planning permission for the revised application in June 2024², subject to a condition (No 11) removing permitted development rights pursuant to Schedule 2 Part 1 Classes A and B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) and another condition (No 12) setting out the approved plans.
6. The Council contend that condition No 11 is necessary due to the size of the site, the relationship of the proposed dwelling to neighbouring dwellings and the impact any further extensions and additions to the property would have on the amenity of the area and residential amenity. It considers it reasonable to remove permitted

¹ Council Ref 23/00781/PLF

² Council Ref 24/01175/VAR

development rights in these circumstances, as it would allow the Council to consider whether planning permission should be granted for additions, extensions or enlargements.

7. The Council also maintain that the proposal for a larger garage would result in the garage being unacceptably prominent within the street scene, and that this would not contribute to safeguarding and respecting the character and appearance of the area or achieve a high quality of design. Condition No 12 was thus applied with the previously approved garage remaining on the approved plans.
8. The main issues are therefore:
 - Whether condition No 11 is necessary and reasonable having regard to the living conditions of the occupiers of neighbouring properties and the character and appearance of the area; and
 - The effect that varying condition No 12 would have on the character and appearance of the area.

Reasons

Condition No 11

9. The appeal site comprises an elongated plot of land situated between two existing dwellings at Windcroft and Roselynn. At the time of my site visit, the plot was largely cleared and enclosed by a tall timber fence. A group of trees sit beyond the rear boundary, while the adopted highway on Rolston Road runs along the front.
10. The surrounding area is characterised by a mix of house types of varying sizes and designs. Most houses along this part of the road are detached and sit within generously sized plots, particularly on the appeal site's side of the road. There are thus gaps between dwellings and, combined with the extent to which each is set back from the road and the proliferation of vegetation along the frontage, this gives the area a spacious and verdant character and appearance.
11. The approved dwelling would likewise be set back from the road. A gap to the boundary would be maintained on both sides, with additional space to the neighbouring property at Roselynn provided by the intervening private access track. The approved dwelling would feature a dual pitched roof and a front facing gable, with the roof sloping away from the side boundaries. This would give the dwelling a somewhat modest profile from the front. Overall, the scheme would be sympathetic to the prevailing character and appearance of the area.
12. Condition No 11 sought to remove Class A and Class B permitted development rights in their entirety, which would preclude further extensions or other alterations to the dwelling, or any additions to its roof, without further planning permission being granted.
13. Class A and Class B would otherwise allow extensions to the dwelling including, for example, a 2-storey extension to the rear, and dormer windows in the side facing roof slopes. This would however be subject to the conditions and limitations of the GPDO including, among other provisions, limitations on the height and depth of extensions relative to the existing house, their position and their proximity to site boundaries and finishing materials.

14. The limited extensions and alterations allowed by the GPDO would not result in an overly large dwelling relative to the plot size or nearby dwellings. Moreover, any extensions to the rear would have limited impact on the street scene. Examples of dormer windows can also be found nearby. In this context and given the variety in the form and appearance of houses locally, there is no compelling reason to suspect that additions to the property typically permitted by the GPDO would be harmful to the character and appearance of the area.
15. In accordance with the terms of the GPDO, any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be obscure-glazed and non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. This would adequately protect the privacy of neighbours from any overlooking that might otherwise arise from the provision of side facing dormer windows, or other windows that could be installed in the side elevations of the approved dwelling or any subsequent extensions.
16. The distances between the approved dwelling and neighbouring properties, and the locations of their immediate rear garden spaces, are such that the conditions and limitations of the GPDO set out above would also be sufficient to negate any undue harm to the living conditions of neighbours from loss of outlook or overshadowing.
17. Accordingly, I find that the disputed condition is not reasonable or necessary having regard to the living conditions of the occupiers of neighbouring properties and the character and appearance of the area.

Condition No 12

18. The amendments sought through the variation of condition No 12 would increase the size of the approved garage. It would extend further forward towards the front boundary of the site, and would have a squarer footprint, in comparison to the 'L' shape of the approved garage.
19. The width of the garage viewed from the front would not change, nor would its height increase significantly. The front elevation of the dwelling would thus appear much the same as the approved scheme. While the garage would nevertheless be a perceptibly larger structure, it would remain considerably set back from the road. A significant amount of space would thus remain to the front of the dwelling.
20. Adequate separation would also be maintained to neighbouring dwellings. The proposed garage would sit in alignment with the neighbouring garage and dwelling at Roselynn, which would partially screen it in views from the south.
21. While attached garages are a common feature within the street scene, and prominent structures forward of the front elevations of dwellings along this part of Rolston Road are not, there is sufficient variety in the form and appearance of house types and garages in the vicinity that a larger garage at the appeal site would not look unduly intrusive or out of character,
22. I recognise that the garage was amended during the earlier application to address concerns with respect to its visual impact, and the appeal scheme seeks to reinstate the design originally proposed. The proposal before me however is not of

a size, form or appearance that would have an appreciably greater impact on the character and appearance of the area compared to that of the approved garage.

23. I therefore conclude that varying condition No 12 as proposed would not have a harmful effect on the character and appearance of the area. The proposal would be in accordance with Policy ENV1 of the Local Plan Update. This policy, among other provisions, seeks to ensure that all proposals contribute to safeguarding and respecting the diverse character and appearance of the area, and supports development that achieves a high quality of design, including by having regard to the specific characteristics of the site's wider context.

Conditions

24. The Council has suggested reinstating the remainder of the conditions attached to the planning permission 24/01175/VAR. However, this decision concerns condition Nos 11 and 12 only. It does not create a new separate planning permission for the development but has the effect of altering the permission by removing the conditions in question and replacing them with the modified version. The planning permission and this decision must therefore be read together.

Conclusion

25. For the reasons given above I conclude that the appeal should succeed, and the planning permission is therefore varied by deleting condition Nos 11 and 12 and replacing them with the condition set out in the formal decision above.

Ryan Cowley

INSPECTOR