



Appeal Decision

Site visit made on 29 July 2025

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2025

Appeal Ref: APP/E2001/W/25/3363862

Land West of Rush Lyvars Lake, Preston Road, Hedon, East Riding Of Yorkshire HU12 8JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Hulme of Waverley Hedon Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/01785/PLF.
 - The development proposed is erection of 3 'First Home' dwellings with associated access and landscaping works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the address from the Council's decision notice as this accurately reflects the location of the appeal site. The description of development has also been taken from the decision notice, omitting wording that is not an act of development, which both parties have used in their submissions, so I am satisfied that no one is prejudiced by this approach.
3. Since the Council's decision, the East Riding Local Plan Update 2020-2039 (2025) (LP) and the East Riding Design Code (2025) (DC) have been adopted. The appellant has had the opportunity to comment on the relevant policies identified by the Council which supersede those listed on the decision notice, and the provisions of the DC which is a supplementary planning document (SPD).
4. A new version of the National Planning Policy Framework (the Framework) has also been published since the determination of the planning application. The parties have provided comments on the implications of the changes for their respective cases.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area, bearing in mind that it would be within the setting of the Hedon Conservation Area (HCA); and
 - whether the proposal would be in a suitable location having regard to flood risk.

Reasons

Character and appearance

6. The appeal site is a parcel of undeveloped land enclosed by a metal fence and gate fronting Preston Road. It is bounded to the south by a public footpath along a disused railway, to the west and north by a fishing lake, and to the east by Preston Road, which has residential development on the other side of the road that has a varied character and appearance. The appeal site has clear open qualities in terms of its role and function in the locality and makes a positive contribution to the established pattern of development and open spaces in the area.
7. It lies close to, but outside the development limits of Hedon and is part of an area designated as a key open area (KOA) under LP Policy A1, where development is required to protect the character and individual identity of Hedon by maintaining the KOA and preventing coalescence with Preston. While there are clusters of built form in the KOA, and even if there have been recent permissions by the Council, it is largely free from development, separating Hedon and Preston.
8. The appeal site is also proximate to the HCA. Insofar as is relevant to this appeal, the significance of the HCA is derived from its unique collection of period properties within a constricted town centre. Its setting includes the spatial qualities of the townscape adjacent to its boundaries. This includes Preston Road on approach to Hedon, and thus the appeal site. Notwithstanding the unkempt appearance of the appeal site, its open characteristics make a positive contribution to the significance of the HCA by allowing the historically confined town centre to be appreciated.
9. Despite the ribbon development on the other side of Preston Road the appeal site and its immediate context on the western side of Preston Road is of a distinctly different character from the main built-up area of Hedon to the south. As such, the introduction of three detached dwellings at the appeal site would be a marked visual change, standing very prominently within the generally open context of this side of Preston Lane. Even allowing for landscaping to soften the proposal and the use of pre-grown hedging, the appeal scheme would introduce a substantial element of built development at the site, altering the relationship between open space and buildings in an area that is sensitive to development pressures. It would erode the principal characteristic of the KOA and permanently alter the character and appearance of the area. This sense of discordant intrusion would be readily apparent to those travelling along Preston Lane, on approach from Souttergate and by those using the public right of way on the disused railway line.
10. The detrimental effect from the increase in built form would be exacerbated by the proposed materials and modern appearance, which would not help to root the buildings in their location, and would negatively impact the overall feel and quality of place. While render is used in the wider area, despite revisions from a previous scheme, the use of this material alongside light brick would draw the eye given that red brick is the predominant material and properties have a more traditional appearance. A cohesive palette of materials with the prevailing appearance of the area would not be achieved as advised by DC Code C53.
11. While the wider area of the KOA would remain generally free of development, the urbanising effect of the proposal would contribute to a small, but nevertheless harmful encroachment of built form that would alter the general character and

spatial qualities of the area. In doing so, the proposal would fail to meet the requirements of LP Policy A1 for development to conserve and enhance those elements that contribute to the significance of heritage assets, including their setting. The policy notes that this is particularly important in Hedon in order to retain and enhance its attractiveness and facilitate the town's tourism role.

12. Even if I were to accept that the appeal site is brownfield land, the proposal would still be harmful to the open character of the area and the historic environment. The Framework is clear that the creation of high-quality places is fundamental to what the planning and development process should achieve and that would not be the case for the appeal scheme. While the Council has concerns regarding the effect of the proposal on trees adjacent to the site, they are not within the red edge plan and therefore beyond the control of the appellant. Notwithstanding that the loss of these trees would be undesirable, there is no substantiated evidence that the appeal proposal would be likely to result in pressure to completely remove them.
13. Overall, the proposal would be detrimental to the prevailing character and appearance of the area and would unacceptably impinge on the setting of the HCA, detracting from the ability to appreciate the constricted historic core, and therefore its significance. Considering the scale and nature of the proposal relative to the designated heritage asset, the degree of harm would be less than substantial and towards the lower end of the spectrum. In these circumstances, the Framework states that the harm should be weighed against the public benefits, which I will return to later.
14. To conclude, the proposal would be unduly harmful to the character and appearance of the area, bearing in mind that it would be within the setting of the HCA. It would be in conflict with LP Policies S4, ENV1, ENV2, ENV3, A1 and H2. Amongst other things, these policies require development to integrate high quality design having regard to the specific characteristics of the site's wider context and surroundings, including those elements that contribute to the special interest of conservation areas including the landscape setting. The character and individual identity of Hedon is also required to be protected by maintaining its physical separation from Preston and the scale and design of First Homes exception sites must be appropriate to the role, character and appearance of the settlement.

Flood Risk

15. There is no dispute that the appeal site is within Flood Zone 3, denoting the highest risk of flooding and so a sequential test (ST) is required. LP Policy ENV6 says that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Framework includes an over-arching principle that development should be directed away from areas at highest risk of flooding. To that end, a sequential, risk-based approach is to be taken to individual applications in areas known to be at risk now or in the future from flooding. Planning Practice Guidance (PPG) confirms that this means avoiding, so far as possible, development in current and future medium and high flood risk areas. It is for the decision-maker to consider whether the ST is passed, with reference to information held on land availability and an appropriate area of search.
16. The appeal site is not within the development limits of Hedon which is well defined proximate to the site by the disused railway line, and it has not been shown with

detailed evidence that the delivery of First Homes would specifically meet the local affordable housing needs of the Hedon community. Furthermore, the scheme does not attract support from the PPG¹ relating to development sustaining a community, given the modest scale of the proposal. It is therefore my view that it is reasonable for the ST to be based on the Holderness sub area, which reflects high levels of self-containment in terms of migration, economic characteristics and commuting flows and also has local affordable housing needs which are significant across the whole of the East Riding.

17. Notwithstanding the appellant's views on the search area, their ST has been based on the Holderness sub area and concludes that there are no reasonably available sites in a flood zone of less risk that could accommodate the development. This appears to be based on an assessment of brownfield sites of a similar size to the appeal site, rather than the functional requirements of the proposed development. These narrow search parameters are at odds with the guidance in the Flood Risk and Sequential Test SPD (2021) which reflect the PPG and advises that alternative sites should not be dismissed on the basis that they are smaller or larger than the proposed site or would not generate the same sustainability benefits and should not be constrained by landownership.
18. Overall, there is very limited evidence detailing how, or even whether, the availability of a broader selection of sites from a range of sources was investigated. On this basis, it has not been clearly articulated that a robust review of the availability of alternative sites for the appeal scheme has been properly explored. The evidence fails to adequately address the ST and it has not been clearly shown whether there are reasonably available sites appropriate for the proposed development in areas at lower risk of flooding. Indeed, the council maintain that there are alternative sites available within the Holderness sub area.
19. The ST has not been passed, consequently there is no need to consider the Exception Test. While the Environment Agency did not object to the scheme, this does not mean they endorse the appellant's ST, and their response clearly stated that the responsibility for deciding whether the ST is satisfied rested with the Council as decision maker.
20. In conclusion, the proposal would not be in a suitable location having regard to flood risk. IT would therefore be in conflict with LP Policies ENV6 and A1 which require, amongst other things, that the risk of flooding to development, from all sources both now and in the future, should be managed by applying a sequential test to ensure that development is steered towards areas of lowest risk.

Other Matters

21. Although there would be no significant consequences for ecology and trees at the site, and satisfactory biodiversity net gain would be achieved, these matters, and any other policy compliance including energy efficiency, are neutral factors which weigh neither for nor against the proposal. Similarly, there is no substantiated evidence to show that the appeal proposal is the only way to deter crime and antisocial behaviour at the site. Consequently, any crime prevention arising from the appeal scheme would also be a neutral matter.

¹ Paragraph: 027 Reference ID: 7-027-20220825

22. The appeal site lies within the zone of influence for the Humber Estuary Special Area of Conservation, Special Protection Area and Ramsar Site, afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations). The Regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat. Notwithstanding the appellants' agreement to make a financial contribution to mitigate the effects of the proposal, as the scheme is unacceptable for other reasons, it is not necessary for me to consider the implications of the proposal upon the protected sites.

Heritage Balance

23. The harm to the significance of the HCA from development in its setting would be less than substantial harm. The Framework requires that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should also require a clear and convincing justification. Nevertheless, the Framework also requires such harm to be weighed against any public benefits.
24. The implications of Footnote 41 in the latest version of the Framework are that the delivery of First Homes is a matter of local discretion but there are no fixed national policy requirements. There is support for First Homes exception sites, subject to a number of criteria, under LP Policy H2. Within this context, the proposal would meet an identified affordable housing need through the provision of three First Homes in an accessible location. Given the scale of the proposal this social benefit attracts limited positive weight. There are also likely to be modest, time-limited economic benefits from the construction stage and some limited economic benefits arising from expenditure by future occupiers. However, there is limited guarantee of the extent to which this would be directed to local businesses or services or contribute to sustaining Hedon. Setting is not itself a heritage asset, accordingly, securing the optimum viable use of a heritage asset is not relevant.
25. Taking the above into consideration, overall, even cumulatively, the sum of the public benefits of the proposal would not outweigh the harm to the significance of the HCA that I have identified.

Conclusion

26. The social and economic benefits outlined in the heritage balance each carry limited weight and would not outweigh the significant weight given to the development plan conflict regarding the effect of the proposal on the character and appearance of the area and flood risk.
27. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR