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## Appeal Decision

Site visit made on 18 June 2025

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

an Inspector appointed by the Secretary of State

**Decision date: 16 September 2025**

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**Appeal Ref: APP/E2001/W/25/3363530**

**Land to the north east of Ferry Road, Wawne HU7 5XY**

- 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 E and J Shuttleworth against the decision of East Riding of Yorkshire Council.
  - The application Ref is 22/03139/PLF.
  - The development proposed is erection of 9 'First Home' dwellings with associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs was made by E and J Shuttleworth 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) 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 This has superseded the East Riding Local Plan 2012-2029 Strategy Document Adopted April 2016, on which the Council's decision was based. Copies of relevant Local Plan Update policies have been provided. The appellant has had an opportunity to comment on the relevance of the Local Plan Update through the appeal process. The appeal has thus been determined based on the Local Plan Update.

### Main Issues

4. The main issues are (i) whether the location of the development would be acceptable with regard to the Council's spatial strategy and the provision of First Homes; and (ii) its effect on the character and appearance of the area.

### Reasons

#### *Spatial strategy and first homes*

5. The site is adjacent to the development limits of Wawne. It is in the countryside with regard to the Council's spatial strategy and relevant Local Plan policies. Development within the countryside is strictly controlled. Nevertheless, Policy H2, among other provisions, supports First Homes rural exception sites for affordable

housing that are well related to development limits, of appropriate scale and design, and provide 100% affordable housing.

6. The site is well related to the development limits of Wawne. The Council did not raise any substantive concerns regarding the scale or design of the scheme, and the proposal seeks to provide all dwellings as First Homes, providing 100% affordable housing if delivered in this manner. The Council refused planning permission on the basis that no mechanism had been provided to secure the dwellings as First Homes, or the necessary restrictions on their sale thereafter.
7. The appeal was accompanied by an executed Unilateral Undertaking (UU) which seeks to secure the dwellings as First Homes, and their retention as such in future sales. The Second Schedule of the UU places obligations on the Council, including stipulations that the Council must issue a compliance certificate to confirm that a dwelling is a First Home within a set timeframe; and deal with any additional First Homes contributions in accordance with the provisions set out in the UU.
8. The UU is subject to the Council complying with the Second Schedule. However, a UU can only bind the parties who make it and their successors in title. It cannot bind the Council, as they are not a party to it. Were the Council to fail to adhere to the provisions of the Second Schedule for any reason, this may release the appellant from the obligations. Moreover, the definition of First Homes in the UU erroneously refers to the Council as the approving body rather than the Secretary of State, as would be the case for a development allowed on appeal, which could affect the operation of the UU. I am thus not satisfied that, as currently written, the UU would secure the scheme as 100% affordable housing.
9. I thus cannot conclude that the location of the development would be acceptable with regard to the Council's spatial strategy and the provision of First Homes. The proposal would therefore fail to comply with Policies S4 and H2 of the Local Plan Update. These policies, among other provisions, seek to secure appropriate provision of affordable housing as part of housing developments and provides exceptions for affordable housing development beyond development limits.

#### *Character and appearance*

10. The appeal site is enclosed by tree and shrub planting along its boundaries. Beyond the western boundary of the site is a dense wooded area. These existing landscape features significantly contribute to the rural character and appearance of the area and the verdant setting of the appeal site. While the proposal would require the clearing of some soft landscaping at the site frontage to provide access, much of the existing tree and shrub planting would be retained and the Council's Tree Officer raised no objections, subject to planning conditions.
11. The landscaping proposals include a hedge containing both deciduous and evergreen shrub species planted along the full length of the northern site boundary as a double staggered row to ensure a dense low-level screen. Planning conditions were suggested by the Council to secure tree protection measures, details of hard and soft landscaping, and a landscape management plan, in the event the appeal was allowed. I am satisfied that such conditions would have been sufficient to secure the retention and protection of existing landscape features within the site, and details of new tree and shrub planting.

12. There are however elements of the existing soft landscaping that sit beyond the site boundary. The UU includes provisions to secure the long-term maintenance of the wooded area adjacent to the site. Many of the existing trees along the northern boundary of the site however are beyond the appellant's control, they do not feature in the legal agreement and so there is no guarantee that they would be retained or maintained. These features significantly contribute to the landscape setting of the site and provide screening at a higher level. Overall, combined with the issues with the submitted UU outlined above, I am not satisfied that the proposal would adequately secure the long-term retention and management of existing landscape features at the boundaries of the site.
13. In the absence of the retention and long-term management of existing landscape features, the proposal would have a harmful effect on the character and appearance of the area. It thus would conflict with Policies S4, H2, ENV1, ENV2 and ENV5 of the Local Plan Update. These policies, among other provisions, seek to support some forms of development beyond development limits where proposals respect the intrinsic character of their surroundings; are sensitively integrated into the existing landscape, including by ensuring important hedgerows and trees are retained; are of an appropriate scale and design; incorporate soft landscaping to enhance the setting of buildings, public spaces and views; and conserve, restore, enhance or recreate biodiversity.

#### **Other Matters**

14. The proposal would contribute to the local housing supply. It would adjoin an existing settlement, with access to its services and amenities, provide a temporary economic boost during construction, and the additional residents may contribute to the vitality and viability of the community. However, these benefits would be relatively modest given the scale and context of the development, and insufficient to outweigh the identified harm and development plan conflict.
15. During the appeal, the Council advised that the site lies within the Impact Risk Zone of a Site of Special Scientific Interest (SSSI) relating to the Humber Estuary. The Humber Estuary is also internationally designated as a Special Protection Area (SPA), Special Area of Conservation (SAC), and RAMSAR site, which are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended). The potential effects relate to increased recreational disturbance. However, Regulation 63(1) indicates that an Appropriate Assessment is only necessary where the competent authority is minded to grant consent for the proposal. As I am dismissing the appeal on other grounds, and as this would at best be a neutral factor, it is not necessary for me to consider this matter further.

#### **Conclusion**

16. The proposed development conflicts with the development plan, taken as a whole. I have found no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed.

*Ryan Cowley*

INSPECTOR