
Appeal Decision

Site visit made on 5 February 2026

by **J Symmons BSc (Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 02 March 2026

Appeal Ref: APP/E2001/W/25/3376372

Former Beverley St Nicholas Primary School Juniors, St Nicholas Road, Beverley, East Riding of Yorkshire HU17 0QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ford Water Homes Limited against the decision of East Riding of Yorkshire Council.
 - The application Ref is 25/02077/VAR.
 - The application sought planning permission for the erection of 30 dwellings with associated parking, works, and infrastructure following demolition of former St. Nicholas Junior School without complying with condition 22 attached to planning permission Ref 24/00898/VAR, dated 10 July 2024.
 - The condition in dispute is No 22 which states that:
'The development hereby permitted shall be carried out in accordance with the following approved plans:
Received under planning application ref: 21/02391/PLF:
2011-496 09 - Proposed Block Plan and Location Plan (received 21.03.2023); 2011-496 13 - Window Reveal Detail (received 21.02.2023); 2011-496 01 - Plots 1-7 Proposed Floor Plans and Elevations (received 05.08.2022); 2011-496 10 - Window and Door Details (received 14.07.2022); 2011-496 11 - Window and Door Details (received 14.07.2022); 2011-496 12 - Window and Door Details (received 14.07.2022); 2011-496 04 - Plots 17-21 Proposed Floor Plans and Elevations (received 05.07.2022); 2011-496 05 - Plots 22-30 Proposed Floor Plans and Elevations (received 05.07.2022); 2011-496 06 - Proposed Full Site Sections DD-GG (received 05.07.2022); 2011-496 07 - Proposed Full Site Sections (received 05.07.2022); 2011-496 08 - Proposed Full Rendered Street Elevations (received 05.07.2022) (not including the western elevation boundary treatment which are shown on plan 2011-496 15 (received 21.02.2023) and plan 2011-496 01 (received 05.08.2022); 2011-496 02 - Plots 8-12 Proposed Floor Plans and Elevations (received 30.06.2022); 2011-496 03 - Plots 13-16 Proposed Floor Plans and Elevations (received 30.06.2022); 2011-496 15 - Proposed West Elevation Materials Specification (received (21.02.2023);
2011-496 34 - Proposed Accommodation Schedule (received (04.08.2021); 2011-496 36 - Bin Store Elevations (received (04.08.2021).
Received under planning application ref: 24/00898/VAR:
2011-496 17 - Proposed East Elevation Materials Specification (received 10.04.2024); 2011-496 18 - Proposed North Elevation Materials Specification (received 10.04.2024); 2011-496 37 - Proposed Section AA Materials Specification (received (08.04.2024); 2011-496 38 - Proposed Section EE Materials Specification (received 20.06.2024); 2011-496 40 - Proposed South Elevation Materials Specification (received 20.06.2024); 2011-496 41 - Proposed Section CC Materials Specification (received 20.06.2024); 2011-496 42 - Proposed Section AA Materials Specification (received 02.07.2024).'
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 - The reason given for the condition is:
'This condition is imposed in accordance with policy ENV1 of the East Riding Local Plan and for the avoidance of doubt to ensure that the development hereby permitted is carried out in accordance with the approved details in the interest of the character and amenity of the area and the provisions to the development plan.'
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. In 2023, planning permission (LPA Ref. 21/02391/PLF) was granted for the redevelopment of the appeal site to provide 30 dwellings with associated parking, works and infrastructure following the demolition of the former St Nicholas Junior School. In 2024, a further application under section 73 of the Town and Country Planning Act 1990 (s73) (LPA Ref. 24/00898/VAR) was approved to vary condition 22 of the 2023 permission, allowing amendments to the external materials of several dwellings.
3. The appeal concerns the Council's refusal of a further s73 application seeking to vary condition 22 of the earlier s73 permission. The variation sought would regularise a number of alterations made during construction to the approved dwelling designs and external materials, introduce revised boundary treatments and landscaping, permit the installation of solar panels, and provide a revised car-parking arrangement to the rear of Plots 16 to 19.
4. Of the changes listed, the Council's objection relates only to the proposed parking arrangement to the rear of Plots 16 to 19. This relates to its effects on the character and appearance of the development, surrounding area, and the development's open space and biodiversity. The remaining elements of the variation are not disputed by the Council and based on the submitted evidence, I have no reason to come to a different view.
5. A s73 application cannot be used to vary the operative part of a planning permission, including the description of development to which the original permission relates. I have therefore applied the description of development contained in the planning permission issued in 2023 in the appeal header.
6. It is evident that some of the changes sought have already been completed and therefore form retrospective elements of the proposal. As some of these were completed prior to the application, I am treating the appeal under section 73A of the Town and Country Planning Act 1990 (as amended). However, for clarity, as the revised parking arrangement and the amendments to the northern and eastern boundary treatments have not been implemented, I have considered these as proposed works.
7. Consequently, the main issue in the determination of the appeal is the effect that the proposed parking arrangement and associated works to the rear of Plots 16 to 19 would have on the character and appearance of the development, surrounding area, and on the development's open space and biodiversity.

Reasons

8. The area between the rear elevations of Plots 16 to 21 and the northern and eastern boundaries comprises low grassed landscaping, a line of mature boundary trees and vertical hoop-top rail fencing. Together, these features create an attractive, soft landscaped edge that maintains a largely open visual relationship with the adjoining public grassland and the established residential area beyond. Although the fencing provides a physical boundary, its open form ensures that the development and neighbouring open space do not appear visually separate. The

area also offers a pleasant open space for residents and makes a contribution to the biodiversity value of the development.

9. Although the 2023 scheme would introduce a 2-metre-high brick wall along the northern section of this boundary, the visual connection would nevertheless be maintained and, to an extent, reinforced by the proposed lower and more permeable 1-metre-high metal fence along the eastern boundary. A relatively narrow footpath would also be provided within this space, linking the central car park to the plots and to a gated access point on the northern boundary. Overall, the arrangement would continue to provide a softer and less developed edge to the scheme and its surroundings, while offering open space and biodiversity value.
10. The proposed parking arrangement would result in a substantial increase in the development's encroachment into the landscaped area, extending the spread of parking beyond the more contained and clearly defined car parks previously approved. Although the scheme would include 'grasscrete' and gravel surfacing and proposes to retain the existing open fencing, albeit at a slightly reduced height, the introduction of a proposed 1.8m high hedge and the presence of parked vehicles into the area would appear conspicuous and intrusive. These elements would disrupt the currently open character of the boundary and weaken the visual relationship between the development and its wider surroundings. It would also reduce the development's open space and its biodiversity contribution. While the proposed hedge would provide some biodiversity mitigation, even if was reduced in height as considered necessary by the Council, it would not address the visual intrusion from parked vehicles. Moreover, in the absence of effective measures to prevent indiscriminate parking within the area, it is likely that the resultant visual and landscape impacts could exceed that associated with the proposed formal parking bays.
11. Even though the area is partly shaded by adjoining trees and buildings, has more of a natural landscape appearance than other parts of the development, and is not as conveniently located for some residents to access or use, these factors do not diminish the positive visual contribution the space makes, nor the biodiversity value it provides within the development context.
12. Notwithstanding the above, the proposal would offer greater day-to-day convenience for future occupants of Plots 16 to 19. However, there is little evidence to suggest that the walking distance from the central car park approved under the 2023 permission is excessive for such things as carrying shopping or with children. During my visit, I observed that the footpath serving the plots would not be unduly long, would follow a reasonably direct and straightforward route, and would be easily navigable, with nothing to indicate that it would be unsafe, insecure or otherwise unsuitable for residents. Although one prospective purchaser has expressed concerns about the distance from the car park, this single representation does not demonstrate that the modest walking distance is significantly discouraging potential buyers.
13. The appellant also contends that relocating the central car park's bays to the rear of the plots would enable the area to be replaced with high-quality landscaping, thereby improving the outlook for some residents, increasing biodiversity net gain (BNG), and providing improved footpath connections to the central car park and adjoining amenity space. While these measures would offer certain benefits, there is little before me to demonstrate that they would deliver any meaningful

enhancement to a layout already found acceptable in the approved scheme and not judged to give rise to visual, open space or biodiversity harm. In respect of BNG, the Council's Nature Conservation Officer has compared the consented and proposed schemes and concluded that no overall increase would be achieved, and no substantive evidence has been provided to demonstrate otherwise. Although the appellant indicates that a Biodiversity Gain Plan would be prepared to meet BNG requirements, on the evidence provided, I am not persuaded that an increase would result.

14. To provide further betterment, compensation landscaping is proposed by the appellant, including off-site planting to the south-east and the introduction of allotment beds and community planting at the southern end of the development. However, the Council advises that the off-site planting is not part of the submitted application and raises concern that, given the extent of mature trees in this area, the allotment beds and community planting have limited prospects of establishing or thriving. Little substantive evidence has been provided to address or resolve these concerns, and given these uncertainties, I afford these measures only limited positive weight.
15. The appellant confirms permeable paving would be used to the proposed parking and the proposed landscaping would employ established planting practices, has been costed, and could be implemented immediately. A five-year maintenance programme is also proposed, alongside a willingness to provide a management agreement for this. It is further indicated that no-dig construction techniques and cellular confinement systems would be used to safeguard the mature trees. However, these are general measures expected to be used to provide sustainable drainage, ensure the success of landscaping schemes and where tree protection is required. They therefore attract limited weight in my assessment.
16. I recognise that the appellant has identified a range of planning conditions intended to secure a number of general provisions and some of the measures described above. However, the availability of conditions to regulate these matters does not alter my above findings or the weight I have attributed. Nor do they overcome the concerns I have identified.
17. Taking all of the above into account, the benefits put forward in support of the proposal, whether considered individually or cumulatively, would not outweigh or justify the significant visual harm the proposal would cause to the development and its surroundings or the adverse effects it would cause to the development's open space and biodiversity.
18. The proposed development would harm the character and appearance of the development and its surroundings, as well as the development's open space and biodiversity contribution. It would therefore conflict with Policy ENV1 of the East Riding Local Plan 2020–2039 Strategy Document Update 2025, and Paragraphs 135, 139 and 140 of the Framework. Together, amongst other matters, these require development to achieve high-quality design, to be visually attractive and sympathetic to local character, and to ensure that the quality of approved schemes is not materially diminished between permission and completion through subsequent changes.

Other Matters

19. Concerns have been raised regarding the Council's handling of the pre-application and application stages, including alleged misunderstandings by the Eastern Area Planning Sub-Committee, the absence of officers and Members from site visits, and a Councillor's comment about future residents. However, such procedural issues fall outside the scope of this appeal. The appeal process has allowed the proposal to be reconsidered, and I have assessed it on its planning merits.
20. While no objections have been raised by the Council's Highway Officer, Tree Officer or the Lead Local Flood Authority, this does not make the proposal acceptable. Their assessments relate to specific technical matters and do not address the visual, open space or biodiversity harm I have identified. Accordingly, the absence of objections from these consultees does not alter my conclusions on the proposal.
21. An appeal decision relating to land at Kipling Avenue, Tilbury, Essex (Ref: APP/M1595/W/22/3309178) was submitted as an appendix, but its relevance was not explained. Having reviewed it, I find nothing that affects my assessment of the appeal before me.

Planning Balance and Conclusion

22. Notwithstanding that there is a need to regularise the various alterations carried out during construction, the undisputed changes proposed to the detailed design, external materials and the addition of solar panels would not, in themselves, give rise to unacceptable harm. While some of these amendments may offer benefits through modest enhancements to the built form, improved sustainability and reduced maintenance, the evidence presented does not demonstrate that they would significantly improve the scheme beyond that already approved. In the absence of more substantive supporting information and having regard to the modest scale and extent of the alterations, I afford only moderate positive weight to the benefits arising from these proposed changes.
23. Even taking this moderate positive weight together with the weight afforded to the other benefits previously identified, they would not, when set against the significant harm I have found arising from the proposed parking arrangement to the character and appearance of the development, its surroundings and its open space and biodiversity, outweigh or justify that harm.
24. Accordingly, for the above reasons and having regard to the development plan as a whole and to the approach set out in the Framework, I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR