
Appeal Decision

Site visit made on 19 January 2026

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2026

Appeal Ref: APP/E2001/W/25/3369811

Land adjoining North Dene, North Leys Road, Hollym, Withernsea HU19 2SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr James Nolan against the decision of East Riding of Yorkshire Council.
 - The application Ref is 25/00187/OUT.
 - The development proposed is described as 'outline - erection of a self-build dwelling (all matters reserved).'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the East Riding of Yorkshire Council against Mr James Nolan. However, this application was subsequently withdrawn and I am no longer required to consider it.

Preliminary Matters

3. The description of development in the banner heading above is taken from the Council's decision notice as it more accurately describes the proposal.
4. The Council advised that the reference to the appeal site being within Flood Risk Zone (FRZ) 3a in reason for refusal 2 on its Decision Notice is incorrect. It clarified that the appeal site is located within FRZ 2 as referred to within its officer report and within the appellant's Flood Risk Assessment (FRA). This has not altered with the Environment Agency's publication of an updated flood risk mapping dataset known as NaFRA2 during the appeal process. The evidence before me indicates that the appeal site lies within FRZ2 and I have therefore dealt with the appeal on this basis, taking into account the representations received.
5. Following an update to paragraph 27a of the Planning Practice Guidance in September 2025, the Council published a document entitled, 'Area of Search; Immediate Neighbouring Settlements' on the 29 January 2026. It aimed to support the application of the sequential test for non-major development. This was subsequent to the deadline for the Council's statement of case and as such is new information. However, I accept that it could not have been provided any sooner during the appeal process. The appellant was given the opportunity to comment on this information but no response was received. As the document suggests that a smaller search area be utilised than that originally suggested by the Council, I am satisfied that the appellant would not be prejudiced by taking it into account.

Main Issues

6. The main issues in this appeal are i) whether the proposal would be consistent with planning policies relating to housing in rural areas, including with regard to its effect on the character and appearance of its surroundings, and ii) whether the location of the development is acceptable with regard to flood risk.

Reasons

Site Description

7. Hollym comprises a linear village arranged along the northern and southern sides of Northside Road and the western section of North Leys Road. It contains a number of facilities and a bus service operates along Hollym Road to nearby towns. There are occasional gaps within the developed frontages and properties often have large plots producing a character that is of a generally low density and typical of a rural village. Whilst there is development beyond the defined linear area, it is more sporadic and often relating to farm steadings or larger dwellings in larger plots.
8. The appeal site comprises grassland with a single storey building and a storage container sited alongside the boundary with Manor Lane. An area between these structures is gravelled and at the time of my visit was being used for the parking of vehicles. Although the storage container is a detracting feature, the appeal site nonetheless due to its largely open and undeveloped appearance, contributes positively to the character and appearance of the area.
9. North Dene, the dwelling to the north which faces away from the appeal site, forms part of the defined village boundary and visually relates to the row of dwellings along the western side of North Leys Road, rather than the appeal site. A small copse of trees exists to the south-east.

Housing in Rural Areas

10. The supporting text to Policy S4 of the East Riding Local Plan; Strategy Document Update 2025 (ERLP SDU), explains that rural areas within the East Riding are subject to significant development pressure. The policy therefore seeks to achieve a balance between permitting new development and protecting the intrinsic character of the countryside. In this regard, it is consistent with the objectives of the National Planning Policy Framework (the Framework).
11. Part B of Policy S4 is explicit in requiring development in villages and the countryside to accord with the specific provisions of part C or D. Whilst new housing development is supported under part C, part D explicitly states that land outside of a development limit is regarded as the countryside, where only limited forms of residential development are supported. These include conversions of existing buildings, replacement dwellings and the subdivision of an existing residential building, new dwellings of exceptional quality, affordable housing for local people, and specialist accommodation provided for people with identified care needs (criterion D;1, 2, 3, 4 and 7).
12. Despite being located outside of the defined village of Hollym, the appellant considers that the appeal site reads as part of the form of the village. They have referred me to the caselaw of *Wood v SSCLG & Gravesham BC* [2014] EWHC 683 (Admin) [2015] EWCA Civ 195 and the appeal decision at Badgers Mount in

Sevenoaks District¹. However, these decisions both considered the issue of the definition of a village for the purposes of infill development in the Green Belt. The contexts are therefore materially different to that before me.

13. The Council explains that a consistent methodology was used to define the development limits across the East Riding and that it sought to define the main body of a settlement for planning purposes. Larger gardens to the rear or sides of properties on the edge of the main built body of a settlement were purposefully excluded from the development limits. The Council's methodology has not been supplied. Nonetheless, I am cognisant that the ERLP SDU was relatively recently adopted in April 2025. I am not satisfied that the specific circumstances on the ground have changed significantly since the development limits were established, such that I should consider the appeal site to be part of the settlement.
14. As described above, Hollym is a linear village comprising in the main frontage development along North Leys Road and Northside Road. Although adjacent to the settlement boundary the proposed development would not continue the established pattern of development. For these reasons, I consider that part D rather than part C of Policy S4 would apply here.
15. Manor Road is served by streetlighting but is without a footpath. Nonetheless, it would be a very short walk to reach North Leys Road which does contain a single narrow footway on the northern side. This would enable the future occupiers of the proposed dwelling to access some of the facilities within the village such as the village hall and the public house on foot. Whilst these do offer some services, they would not necessarily fully meet the daily needs of residents, given that future occupiers would need to travel to access a supermarket, school or employment opportunities. The Council has acknowledged that the presence of facilities were known, but that it did not lead to it classifying Hollym as anything other than a village within the ERLP SDU.
16. Irrespective of the facilities and services available nearby, no information has been submitted which suggests that the proposal would satisfy any of the exceptions specified within Policy S4 (D) for development outside of a development limit, including that of affordable housing to meet the Framework definition. Consequently, the proposal would conflict with the objectives of the Council's spatial strategy and locational requirements for housing development.
17. The proposal is described as a self-build dwelling and the Council has suggested this could be secured by planning conditions, although none have been presented. The proposal would make a contribution towards a specific form of housing. However, I am not aware that there is unmet demand for such housing and the Self-Build and Custom Housebuilding Act 2015², does not provide for the approval of self-build plots as an exception to the provisions of the development plan.
18. In any event, I am not persuaded that planning conditions relating to self-build would meet the tests set out within paragraph 57 of the Framework. A more appropriate mechanism to secure the dwelling as a self-build would be through a planning obligation, given the complexities around future ownership and occupation. No such mechanism is before me. Consequently, the delivery of a

¹ Appeal reference APP/G2245/W/22/3297714.

² Amended by the Housing and Planning Act 2016.

self-build dwelling could not be guaranteed. In any event, it has not been demonstrated why the proposed development requires a rural location.

19. Paragraph 73 of the Framework states that great weight should be given to the benefits of using suitable sites for homes. Likewise, paragraph 125(c) of the Framework requires decision-makers to give substantial weight to the value of using brownfield or previously developed land (PDL) for homes. However, the Framework is clear that both of these matters relate to sites within settlements. As discussed above, that is not the case here.
20. Even if that were not the case, it is unclear from the evidence before me including my visit, what the appeal site is or has been used for. The Council has confirmed that there is no planning history in respect of the use of the land. It is described on the planning application form as 2 storage units but with no explanation as to what type of storage is taking place. Within the appellant's statement of case the appeal site is referred to as a 'former garden plot' which implies it is no longer in use as a garden. It is also referred to as 'existing residential curtilage'³.
21. Even if I could accept that the land has been used in connection with the residential occupation of North Dene⁴, it does not necessarily mean it forms part of its curtilage. Residential curtilage is the land immediately surrounding a dwelling, used for the enjoyment of that dwelling as part of the domestic setting. The appeal site is fenced and/or walled off from the land which forms the driveway and rear garden to North Dene, such that there is no physical or visual connection to this dwelling. The occupant of this property has objected to the proposal, again suggesting that the appeal site does not form part of its domestic curtilage.
22. Even if the appeal site did formerly belong to North Dene, despite the discrepancy in the name provided in the appellant's statement of case, there is no dwelling located within the appeal site or nearby, to which it could be considered as curtilage. From the limited and contradictory evidence before me, I cannot be satisfied that the appeal site would meet the Framework's definition of PDL as garden land in a non-built-up area, or land which has been lawfully developed. Given that it has not been demonstrated that the proposal would comply with criterion A(2) of Policy S4 of the ERLP SUD, compliance with A(1) and A(3) would not be determinative and so I have no need to consider them further.

Character and Appearance

23. The proposed dwelling would not be isolated or removed from existing built form. However, it would be a considerable stretch to describe Manor Road as having a built character, even with Manor House on the opposite side of the road. Instead, I find that dwellings are more sporadic, often without any direct neighbours and with parcels of intervening pasture or other land between them.
24. I observed that Manor Road marks the transition between the more built-up area of Hollym to the west and the open countryside to the south. I acknowledge that the appeal site is bounded by North Dene to the north and there is mature tree planting to the south-east, such that it is relatively visually contained. It does also contain existing development. However, this is low-key and does not significantly

³ Paragraph's 7.1 and 5.1 respectively.

⁴ The appellant refers to the appeal site forming part of the former residential garden of North Leys. The dwelling to the north is North Dene and the dwelling opposite is Manor Farm. No such property exists on the site location plan submitted by the appellant. Therefore, the property referred to is assumed to be that of North Dene.

diminish the openness of the site or its contribution to the undeveloped character and appearance of the countryside. The siting of the proposed dwelling would thus extend development southwards, away from the largely linear pattern that presently follows North Leys Road.

25. The appellant's Biodiversity Net Gain exemption form suggests that the development may consist of a 3-bedroom bungalow of circa 106sqm. Such a development would have a large footprint in what is a relatively small plot. This would not be consistent with other properties nearby. Nonetheless, I acknowledge that the proposal is made in outline with all matters including appearance and scale reserved for later consideration.
26. The appeal site lies within FRZ 2 and is therefore in an area at risk of flooding. The appellant's FRA advises that the finished ground floor level of the proposed dwelling should be set no lower than 600mm (0.6m) above the adjacent highway or average site level, whichever is the higher. I am satisfied that this would need to be the subject of a planning condition in order to protect the future occupiers from the risk of flood were the development acceptable in all other regards. I will come back to the matter of flood risk later in my decision and confine my considerations here to how the proposal would affect the character and appearance of the area.
27. There is no topographical survey before me to confirm the existing levels across the site, but from a visual inspection, it appears to be relatively flat and consistent with the level of Manor Road. Even if the resultant dwelling was to be single storey, the raised floor level required to address flood risk would add significant mass and bulk to the scale of the dwelling. The resultant dwelling would require stepped access or the grading of land which is not a characteristic feature of neighbouring dwellings. It would therefore stand out conspicuously and intrusively.
28. I am not convinced that an appropriate appearance that responds sympathetically to the rural character of the area could be achieved for the proposed dwelling at the reserved matters stage, even with its proximity to the settlement boundary.

Conclusion – First Main Issue

29. Although close to the development limits, the proposal would result in residential development sprawling out into the countryside that due to flood risk mitigation measures, would have a scale and design that would be harmful to the character and appearance of the countryside. Furthermore, the proposal would not meet any of the specified criteria for new residential development within the countryside. It would therefore conflict with Policy S4 of the ERLP SUD as set out above, where development opportunities for new housing within rural areas of the district are carefully limited to a narrow range of circumstances. Further conflict is also found with Policies ENV1 and ENV2 of the ERLP SUD which amongst other things requires development to have regard to the site's wider context and the character of the surrounding area and landscape setting.

Flood Risk

30. Located in FRZ 2, the appeal site is at medium risk of flooding. Residential development is considered to be 'more vulnerable' in flood risk vulnerability classification⁵.

⁵ Annex 3 of the Framework.

31. Policy ENV6 of the ERLP SUD is consistent with the Framework's aims to steer new development to areas at the lowest probability of flooding, by applying a sequential test (ST) to those developments on sites in areas at risk of flooding and not already allocated in the development plan. Development should not be permitted if there are 'reasonably available' sites appropriate for the proposed development in areas at lower risk of flooding. 'Reasonably available' sites are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.
32. There is no evidence before me to suggest that the ST should not be applied in this instance and there is no exemption to the ST because no other land is owned by the appellant. The PPG is unambiguous that lower-risk sites do not need to be owned by the appellant to be considered 'reasonably available'⁶.
33. The Council advises that following the publication of the Areas of Search Document, proposals for development at risk of flooding in Holmlym should consider reasonably alternative sites within Holmlym, Withernsea, Holmpton, Patrington and Welwick. This is instead of the whole of the Holderness Housing Market Sub Area as initially reported by the Council in its officer report.
34. The ERLP SUD is up to date and has only recently been adopted. It is inclusive of a number of allocated housing sites and the Council confirms that there are sites available specifically within Withernsea and Patrington. This has not been disputed by the appellant. Government guidance⁷ indicates that such sites should be considered in the first instance. As the FRA does not consider any other sites outside of the appellant's ownership, I find it is flawed in its approach. In the absence of any evidence to demonstrate that there are no sequentially preferable sites available in areas of lower flood risk, the ST has not been passed.
35. Paragraph 167a) of the Framework and the PPG⁸, are clear that without the ST, there is no need to consider the exception test. Therefore, even if I could accept that the appeal site is capable of accommodating sustainable drainage measures and resilience to flood risk, they do not justify permitting development in flood risk areas when there may be other reasonably available, lower risk sites appropriate for the proposed development.
36. For the above reasons, it has not been demonstrated that the location of the development would be appropriate with regard to flood risk. The proposal is therefore contrary to Policies ENV6 and A5 of the ERLP SUD and paragraph 168 of the Framework which seek to avoid inappropriate development in areas at risk of flooding, by directing development away from those at highest risk.

Other Matters

37. The site lies within the Zone of Influence relating to the Humber Estuary, which is a Site of Special Scientific Interest, Special Protection Area, Special Area of Conservation and RAMSAR site. They are afforded protection under the Conservation of Habitats and Species Regulations 2017. The proposal for a new dwelling may result in in-combination impacts of recreational disturbance to the European Protected Habitats. Were I minded to allow the appeal, I would need to

⁶ Paragraph: 028 Reference ID: 7-028-20220825.

⁷ Flood Risk Assessment; The Sequential Test for Applications (2017).

⁸ Paragraph: 031 Reference ID: 7-031-20220825.

be satisfied that the proposal would have no adverse effects on the integrity of the protected sites, including through the undertaking of an appropriate assessment and consideration of any suggested mitigation.

Planning Balance and Conclusion

38. The proposal would result in the construction of a new dwelling that would boost housing land supply in an accessible location. Economic and social benefits would flow from the construction of the dwelling, as well as from future occupiers supporting local services and facilities. Such benefits would however, be limited given only one dwelling is proposed.
39. Moreover, the Council has evidenced that it does not have a deficit in its 5-year housing land supply and this is not disputed by the appellant. I have no reason to consider that paragraph 11d(ii) of the Framework should be engaged. Even if the Council does have a shortfall in respect of self-build housing, there is no mechanism before me to secure the development as such. I am unable to attach any weight to the proposed development as a self-build proposal.
40. Set against the limited benefits, the proposal would conflict with the Council's spatial strategy for housing by introducing a new dwelling in the countryside outside defined settlement limits, contrary to policies that seek to direct housing to sustainable locations. The proposal would therefore undermine the integrity of the development plan and ability of the Council to deliver a plan-led approach to development. The harm carries significant weight.
41. In addition, I have found harm to the character and appearance of the area and that the proposal fails the sequential test for flood risk. National and local policy are clear that new development, particularly more vulnerable uses such as housing, should be directed to areas at the lowest risk of flooding. The failure to demonstrate that there are no reasonably available alternative sites at lower flood risk is a serious matter. The harm arising from this conflict with flood risk policy carries substantial weight, reflecting the importance attached to protecting future occupiers and avoiding inappropriate development in areas at risk of flooding.
42. I have had regard to the presumption in favour of sustainable development. However, this does not displace the primacy of the development plan. Where a proposal conflicts with an up-to-date development plan, permission should not normally be granted unless material considerations indicate otherwise. In this case, the limited weight attributed to the benefits of the proposal would not outweigh the significant harm to the housing strategy including siting development in areas at least risk of flooding. I am not required to consider the effect of the proposal on protected European sites as I am dismissing the appeal and it would not be determinative.
43. The proposal conflicts with the development plan and there are no considerations individually or cumulatively that would outweigh the harm. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR