



Appeal Decision

Site visit made on 5 February 2026

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 27 March 2026

Appeal Ref: APP/E2001/C/24/3355099

Land known as 29 Market Place, Hornsea, East Riding of Yorkshire HU18 1AN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr H Mohamad of Mille Saporì against an enforcement notice issued by the East Riding of Yorkshire Council.
- The notice was issued on 10 October 2024.
- The breach of planning control as alleged in the notice is without planning permission the installation of a flue shown edged in blue at Annex 2 of this Notice.
- The requirements of the notice are to:
 - a) remove the flue shown inside the blue rectangle at Annex 2 from the land edged red on the accompanying plan to this notice at Annex 4.
 - b) reinstate the roof to its condition prior to the when the unauthorised development was undertaken as shown at Annex 3.
- The period for compliance with the requirement is: 9 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990, as amended, (the 1990 Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the 1990 Act.

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The Council adopted the East Riding Local Plan Update Strategy Document Update (LPSDU) on 2 April 2025, and this post-dates the issuing of the enforcement notice. This adopted document and its suite of policies now form part of the statutory development plan for the Council's administrative area. This has resulted in some slight revisions to the wording of Policies ENV1, ENV3 and ENV6, which were cited in the enforcement notice. However, the main thrust of these policies and what they seek to achieve, for the purposes of this appeal, remains the same. The parties were invited to comment on the implications of this for the appeal, and I have taken their comments into account.

The Appeal on Ground (a) and the Deemed Planning Application

3. The appeal on ground (a) is that planning permission ought to be granted for the matters alleged in the notice. Therefore, in making an appeal on ground (a), the appellant seeks to retain the flue as installed.
4. From a review of the evidence in this case, the main issues are: (i) whether the development preserves or enhances the character or appearance of the Hornsea

Conservation Area (HCA); and, (ii) the effect of the development on the living conditions of neighbouring occupiers, with particular regard to noise and odour.

Conservation area

5. The appeal site is located within the HCA. Accordingly, the statutory duty set out under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the PLBCA Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the HCA.
6. The significance of the HCA, in part, relates to its development as a historic market town, located close to the sea and the freshwater Hornsea Mere. The town largely comprises of 19th Century architecture. Buildings in the town are traditionally finished with red brick and clay pantiles. There are also several examples of walls finished in locally sourced cobble.
7. The appeal property forms part of a terraced block which fronts onto Market Place. The rear of this block is visible in public views from Hillerby Lane, which links the town centre with Hornsea Mere. The terraced block is partly finished with cobble walls, and the appeal property's roof is finished with clay pantiles. As such, the appeal property is a good example of the traditional design of buildings within Hornsea, and it makes a positive contribution to the character and appearance of the HCA.
8. The installed flue is large and utilitarian in appearance. Its metallic finish visually contrasts with the building's clay pantile roof. Even if, as the appellant suggests, it was to be painted in either mat black or the same colour as the roof tiles, due to its design, it would still be prominent in views from Hillerby Lane and so it appears incongruous within the roofscape. Consequently, the flue detracts from the traditional appearance of the terraced block.
9. Accordingly, the development has a harmful effect on the character and appearance of the HCA. Given the extent and localised nature of the development, I consider the harm to amount to a low level of less than substantial harm. Regardless, the National Planning Policy Framework (the Framework) is clear that great weight should be given to an asset's conservation. Therefore, this harm attracts considerable importance and weight.
10. The Framework advises that this harm should be weighed against the public benefits of the proposal. No public benefits are advanced in favour of the proposal. From the submitted material it appears that the proposal would amount to only private benefits for the appellant. Consequently, in this case, the harm is not outweighed by any demonstrable public benefit.
11. Overall, the development neither preserves nor enhances the character or appearance of the HCA. Accordingly, the proposal does not meet the statutory requirements set out in s72(1) of the PLBCA Act. The development is contrary to LPSPDU Policy ENV3 which states that development that is likely to cause harm to the significance of a heritage asset will only be granted permission where the public benefits of the proposal outweigh the potential harm.

Living conditions, noise and odour

12. The flue is in proximity to a bedroom window and the private external amenity space of a neighbouring dwelling. Therefore, occupiers of that dwelling may be affected by the operation of the flue.
13. No evidence has been submitted by the appellant with regard to the levels of noise or odour emitted from the flue. Consequently, it has not been demonstrated that the flue does not have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise and odour.
14. For these reasons, the development is contrary to LPSDU policies ENV1 and ENV6. These policies indicate that environmental hazards will be managed to ensure that development does not result in unacceptable consequences to the wider community, amongst other matters. It is also not in accordance with paragraphs 135 and 187 of the Framework. These paragraphs advise that planning decisions should ensure that developments create places with a high standard of amenity and prevent existing development from being adversely affected by unacceptable levels of air pollution.

Conclusion

15. The development is harmful to the character and appearance of the HCA, and no public benefits are put forward to outweigh this harm. There is also harm to the living conditions of neighbouring occupiers, with particular regard to noise and odour. In these regards, the development is contrary to the above cited policies of the development plan and the associated provisions of the Framework. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan.
16. For the reasons given, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

J Hobbs

INSPECTOR