



Appeal Decision

Site visit made on 30 March 2026

by Elizabeth Pleasant BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2026

Appeal Ref: APP/E2001/C/24/3347646

Lant at Willerfoss Homes, Merrywick Hall, 41 New Road, Hedon, Hull, East Yorkshire HU12 8EW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Willerfoss Homes Ltd against an enforcement notice issued by East Riding of Yorkshire Council.
 - The notice was issued on 20 June 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission, the siting of a cabin with access ramp.
 - The requirements of the notice are to:
 - Remove the Cabin identified as 'Infection Control Cabin' as shown on the attached drawing '213/9 Rev A' at Annex 1 and on the photo at Annex 2, from the Land.
 - Remove the access ramp and platform associated with the Cabin from the Land.
 - Restore the land which the Cabin was sited on to the condition it was in before the siting of the Cabin.
 - The period for compliance with the requirements is 6 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). 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 Act.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of 6 months and its substitution with 12 months as the time for compliance.
2. Subject to the variation 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

3. The National Planning Policy Framework, December 2024 (NPPF) has been published, and the East Riding Local Plan Update (ERLPU) has been adopted since the appeal was made and initial statements of case submitted. The Council has provided copies of the policies in those documents relevant to the appeal and the parties have had an opportunity to comment on them and so have not been prejudiced.

Appeal on ground (a), deemed planning permission

Main Issues

4. The main issues in this case are the effect of the development on:
 - the character and appearance of the area;

- the living conditions of neighbouring occupiers by reason of outlook and privacy; and
 - risk of flooding.
5. Integral to my decision making will be exercising duties under the Equalities Act 2010. The residents of Willerfoss Care Home are adults with learning disabilities and autism; the public sector equality duty (PSED) thus applies.

Reasons

Character and appearance

6. Willerfoss Care Home is situated in a prominent location on the corner of New Road and Merryman Garth in a predominantly residential area. It is a two-storey, red brick property, which has been substantially extended to all elevations and enclosed along its neighbouring road boundaries by an approximately 1.8m high brick wall. Access to the property is from Merryman Garth. The premises include a brick bungalow to the south of the main building and there are a number of small sheds/outbuildings within the garden area which provide additional storage for the care home. Lawned areas are situated to the south and east of the main building.
7. The cabin has been constructed in the southeastern corner of the site adjacent to the vehicular entrance from Merryman Garth. It is a substantial 'chalet style' timber building with a shallow pitched roof, covered in felt tiles. It has been sited on a steel frame/platform to raise it well above ground level and a ramp/raised walkway has been constructed along its northern and western elevations to provide level access to the building.
8. Small sheds and ancillary buildings within the gardens of residential properties are not uncommon in this residential area. Indeed, the host property, Willerfoss Care Home already has a significant number of small sheds within its curtilage. However, those other ancillary buildings are generally small in scale and sited away from road frontages and their impact on the street scene is limited.
9. In contrast, the cabin in this case is substantial in scale and sited in a prominent location at the site entrance. In addition, it does not have the appearance of an ancillary domestic shed and by reason of its scale, design and use of materials it is visually incongruous and conspicuous when entering Merryman Garth from New Road. Its design and appearance does not assimilate with the existing character of the area and it detracts from the appearance of the street scene.
10. I conclude that the development has a harmful effect on the character and appearance of the area. There is conflict with the design aims of Policy ENV1 of the ERLPU which seeks to ensure, amongst other things that all development contributes to the diverse character and appearance of the area through their design, layout, construction and use and has regard to the existing character of the surrounding area in terms of scale, massing and materials. I also find conflict with paragraph 135 of the NPPF which seeks to ensure that new development functions well with and adds to the overall quality of the area, including being sympathetic to the surrounding built environment in terms of siting, building types and materials.

Living conditions

11. The cabin has been sited adjacent to the southern boundary of the site and alongside its common boundary with neighbouring residential bungalows known as Nos. 25 and 26 Merryman Garth. Both properties have small rear gardens. However, those gardens have sheds and outbuildings within them which, to an extent, screen the cabin and reduce its visual impact, including its dominance and their outlook from rear elevation windows and garden areas.
12. The walkway and ramp, which provides access for people using/visiting the cabin, runs alongside the boundary fence to No 25 Merryman Garth. The proximity and height of the walkway in relation to that boundary means that anyone accessing the cabin is able to see into the rear windows and garden of No 25. In response to that concern, the boundary fence has been increased in height where it abuts the walkway. Whilst the increase in height provides some screening of the walkway, it does not fully screen the rear elevation and garden of No 25 from visitors and users of the cabin as they walk up the length of the ramp. Thus, there is some loss of privacy and disturbance to the occupiers of No 25 from the use of the walkway/cabin. I am also mindful that the fence, by reason of its height, has a further enclosing impact on the small garden of No 25.
13. I recognise that Willerfoss Homes Ltd have a good relationship with its current neighbours, and that the existing occupiers of properties on Merryman Garth, including those at No 25, do not object to the siting and use of the cabin. However, the absence of objections to the development from neighbours does not mean that it should be permitted where harm has been identified, and consideration should be given to the living conditions of existing and future occupiers of neighbouring dwellings.
14. I conclude that the siting of the cabin has a harmful effect on the living conditions of neighbouring residents by reason of loss of privacy. Although the harm is not substantial, there is conflict with the development plan and in particular with Policy ENV1 of the ERLPU which seeks to ensure that new development has regard to the amenity of existing and proposed properties and does not have an unacceptable impact on existing uses in the surrounding area.

Flood Risk

15. The appeal site is located within Flood Zone 3a, where there is a high probability of flooding, albeit this location does benefit from flood defences. Considering the minor nature of the development, its specific locational requirements and having regard to the provisions of Planning Practice Guidance (PPG) and the Council's Flood Risk Guidance Note, the Council do not consider that a sequential test would have been required to be undertaken for this development. From the evidence available, I see no reason to disagree. Nevertheless, a site-specific flood risk assessment should have been carried out.
16. The PPG advises that development should be flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; any residual risk can be safely managed; and safe access and escape routes are included where appropriate and as part of an agreed emergency plan.

17. The appeal is accompanied by the Care Home's Flooding Policy and Procedure (HS03) for the appeal site, including the building the subject of this appeal. Having regard to the raised level of the building, its use, predominantly as an infection control unit, the Council does not consider that its users would be placed in direct harm in the event of a flood. That is because the estimated flood depths and velocity of flooding are such that sufficient notice could be given in the event of a flood so that the building could be safely evacuated to a place of refuge in the neighbouring building. Nevertheless, the Council consider that having regard to the uncertainties of climate change on all sources of flooding, the development is not suitable as a permanent building due to the future high risk of flooding.
18. Having regard to the evidence before me, including the nature and use of the building, I conclude that the risk to harm from flooding to the occupiers of the building would not be significant. Subject to conditions to restrict the use of the building to an infection control unit and its occupation in accordance with the procedures set out in the Home's Flooding Policy and Procedure (HS03) there would be no conflict with Policy ENV6 of ERLPU which seeks to ensure that development does not result in unacceptable flood risk consequences for its users, nor advice in the PPG.

Other Matters

19. A material consideration is the contribution that the cabin makes to infection control at the Care Home, including providing additional space to support the well-being of the occupiers of the home. The cabin was granted temporary planning permission in July 2021 for a two-year period to meet a specific need for additional infection control during the COVID-19 pandemic. The Council took a pragmatic approach at that time to deal with a specific concern whilst recognising harm to other material considerations, including the character and appearance of the area and harm to living conditions of neighbouring occupiers. That temporary permission expired in July 2023¹. The cabin has remained on site, and I understand that it has and continues to be instrumental in preventing infection at this Care Home, whilst also providing additional space and accommodation for staff, visitors and residents to change, wash, meet and work. This consideration has positive weight in the planning balance.

Planning Balance

20. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise².
21. In this case, I have concluded that the development is contrary to policies in the development plan and the NPPF which seek to promote good design and ensure that new development adds to the overall quality of the area, including being sympathetic to the surrounding built environment in terms of siting, building types and materials. Harm arises from the impact of the development on the character and appearance of the area and attracts substantial weight in the planning balance.
22. I have also found conflict with policies in the development plan which seek to protect the living conditions of neighbouring residents. Harm arises from a loss of

¹ Local Planning Authority Ref: 20/03558/PLF

² Section 38(6) of the Planning and Compulsory Purchase Act 2004.

privacy to neighbouring residents, and that harm attracts moderate weight in the planning balance.

23. The absence of harm arising from risk of flooding has a neutral impact on the planning balance.
24. On the other side of the planning balance, is the benefit derived from the development in the provision of additional infection control facilities at the Care Home and supporting the welfare needs of its residents. That benefit does not outweigh the harm identified to the character and appearance of the area, harm to living conditions of neighbouring residents and conflict with the development plan.
25. I have considered the appellant's request for a further temporary consent. However, it is clear from the evidence provided in support of the appeal that the cabin is no longer just a temporary measure to address a need during the COVID-19 pandemic but is needed permanently to support the well-being of the residents by providing additional welfare accommodation and additional infection control for staff and visitors. It seems to me that a more permanent solution is therefore required to meet those accommodation needs. Having regard to the PSED, I therefore consider that a reasonable and proportionate response would be to extend the period for compliance with the Notice from six months to twelve months. That extended time period would allow Willerfoss Care Home to find an alternative solution to their accommodation needs.
26. I conclude that the adverse impacts I have identified of granting planning permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the development plan and NPPF taken as a whole. Other considerations do not indicate otherwise. The dismissal of the appeal is a proportionate response having regard to the PSED considerations set out above.

Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Elizabeth Pleasant

INSPECTOR