



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: 14 May 2026

Appeal Ref: APP/E2001/C/24/3339163

Land at 3 The Old Racing Stables, North Bar Within, Beverley, East Riding of Yorkshire HU17 8DL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Richard Burt of Eco Custom Homes Ltd against an enforcement notice issued by East Riding of Yorkshire Council.
- The enforcement notice was issued on 16 January 2024.
- The breach of planning control as alleged in the notice is failure to comply with a condition imposed on a planning permission ref 22/02612/PLF granted on 1 December 2022.
- The development to which the permission relates is: erection of a dwelling (Re-submission of 21/04510/PLF)
- The condition in question is no 12 which states that:
“The development hereby permitted shall be carried out in accordance with the following approved plans:
210802-001 REV L – Proposed Layout and Sections received 21/09/2022
210802-002 REV L - Proposed Elevations received 21/09/2022
210802-004 REV B - Location Plan received 09/08/2022
210802-006 REV E - Proposed Site Plan (including drainage details) received 05/08/2022
210802-010 REV A - Proposed Cross Section Through Garage received 05/08/2022
210802-011 REV D - Proposed Roof Layout received 25/08/2022
210802-301 - Exterior Door Details received 09/08/2022
210802-305 - Barn Style Door Detail received 30/11/2022
210802-306 REV A - Proposed Bi-fold Door Detail received 30/11/2022
210802-402 REV B - Proposed Window Details received 30/11/2022
Drainage Assessment/Report - received 05/08/2022
This condition is imposed in accordance with policies ENV1 and ENV3 of the East Riding Local Plan and for the avoidance of doubt and to ensure that the development hereby permitted is carried out in accordance with the approved details in the interests of the character and amenity of the area and the provisions of the development plan.”
- The notice alleges that the condition has not been complied with in that: the development is not proceeding in accordance with the approved plans.
- The requirements of the notice are to: Alter the building so that it fully accords with the approved plans ref 210802-002-Rev L and all consequential requirements arising from Planning Permission 22/02612/PLF
- The period for compliance with the requirement 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, (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 slight revisions to the wording of policies ENV1 and ENV3, 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 Council also adopted the East Riding Design Code (ERDC) on the same date. 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 dwelling as currently erected. From a review of the evidence in this case, the main issues are:
 - whether the development preserves or enhances the character or appearance of the Beverley Conservation Area (the BCA);
 - whether the development preserves the settings of 28 North Bar Within and St Marys Manor, both of which are Grade II listed buildings; and,
 - the effect of the development on the living conditions of occupiers of 1 and 2 The Old Racing Stables (Nos 1 and 2), with regard to privacy and outlook.

Conservation area

4. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
5. The National Planning Policy Framework (the Framework) defines the significance of heritage assets as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
6. The significance of the BCA, in part, relates to Beverley once being a major commercial centre serving East Riding. One of the key features of the BCA is the surviving medieval town plan. The appeal site is located in an area which formed part of the early medieval town. Within this area there is a clear street hierarchy. North Bar Within is much wider than most of the roads which lead from it and accommodates taller buildings and several commercial properties. Roads leading from North Bar Within tend to be narrower and the buildings are often much shorter. These side roads previously accommodated outbuildings associated with properties on North Bar Within. A common design feature of buildings throughout this part of the BCA is high pitched roofs.

7. There is a dispute between the parties in terms of the measured height of the building. It is not clear why this discrepancy exists or which set of measurements is most accurate. Regardless, my assessment is of the development as built.
8. The development is a replacement dwelling. The dwelling it replaced was modest in size and appeared subservient to the development fronting North Bar Within. Although the dwelling as approved would have been much taller than the original dwelling, the dwelling as constructed is taller still, and now visually competes with the development fronting North Bar Within. As such, the dwelling as constructed is contrary to the historic pattern of development, and it disrupts the street hierarchy.
9. I acknowledge the height difference between the appeal property and No 2 is similar to what was shown on the planning application plans. I also note that if built in accordance with the approved plans the appeal property would be shorter than No 2 due to a measurement discrepancy on the application plans. However, to conform with the historic pattern of development in this area, buildings to the rear of those on North Bar Within would need to appear subservient to those fronting North Bar Within but could be of varying heights. Therefore, whether the appeal property is slightly taller or shorter than No 2 does not alter my assessment on the effect of the development on the character and appearance of the BCA.
10. When compared to the approved dwelling, the eaves height of the built dwelling has increased more than the ridge height. This has resulted in the dwelling having a shallower roof pitch than what was initially approved. The constructed roof is now much shallower than nearby buildings and appears incongruous within the roofscape. Furthermore, there is a significant gap between the top of the first floor windows and the eaves. Accordingly, the dwelling appears ill proportioned and top heavy.
11. The appellant has highlighted several properties within the BCA with similar gaps between the top of upper floor windows and the eaves. However, these buildings are in an area which was cleared in the 20th Century and has been subject to more recent development. Therefore, the character of those areas is materially different to the appeal site.
12. For the reasons given above, the development neither preserves nor enhances the character and appearance of the BCA. 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 Framework is clear that great weight should be given to an asset's conservation. Accordingly, this harm attracts considerable importance and weight.
13. Where a development proposal leads to less than substantial harm to the significance of a designated heritage asset, the Framework requires the harm to be weighed against the public benefits of the proposal. I will return to this later in my decision.

Listed buildings

14. Section 66 of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

15. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. The Framework advises that any harm to, or loss of, the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

St Mary's Manor

16. St Mary's Manor was originally one of three important family homes located within the centre of Beverley. It originally belonged to James Moyser, a locally important lawyer, and was set in four acres of grounds, with formal gardens, parterres, avenues, and statues. Although parts of the land associated with St Mary's Manor have been developed and the building has been extended and subdivided, it still sits within a large plot of land in a prominent position on North Bar Within. The building has also retained many historic features including its painted stucco finish, the Westmorland slate roof, and a doric porch which provides a central entrance to the building. I therefore consider that the significance of St Mary's Manor to be primarily derived from its special architectural interest, but also linked to its historic interest, as a large townhouse located in a prominent position within Beverley.
17. The formal grounds which are enclosed by a tall brick wall form the immediate setting of St Mary's Manor. Furthermore, the visual contrast between the Manor's spacious, sylvan, and verdant grounds and the higher density town centre development highlights the Manor's historic significance. The Manor is set back from other properties which front North Bar Within. As such, it is viewed alongside the modest development to the rear of the properties fronting North Bar Within. The grand scale of the Manor compared to the modest scale of these buildings reinforces its prominence in the town centre. As such, the surviving medieval town plan along with the scale and form of the surrounding townscape are an integral part of the Manor's setting.
18. The dwelling as constructed is prominent in views above St Mary's Manor boundary wall. For the reasons set out above, the roof and upper sections of the dwelling appear incongruous when viewed alongside the surrounding development. Due to its scale and design, when viewed from North Bar Within and the grounds of St Mary's Manor the dwelling as constructed visually detracts from the setting of the Manor. In particular, when viewed from parts of the Manor's ground the viewers eye is drawn to the dwelling rather than the Manor.

28 North Bar Within

19. 28 North Bar Within is an early 18th Century building. The front elevation includes detailing such as keystones above the windows and is finished with painted stucco. The 18th Century iron guard rails and scrapers have also been retained to the front of the building. The side elevation is finished with brick, and the openings within this elevation include less elaborate detailing. The difference in finish reflects the use of the front of the property as a commercial property. Whereas the side elevation appears to be used for servicing or for residential purposes. The building is 2-storey with a tall-pitched roof which includes dormers. The scale of the building and pitch of the roof are common features of the buildings fronting North Bar Within. Overall, 28 North Bar Within is a very good example of the grand

historic buildings that front this section of North Bar Within. Therefore, the significance of 28 North Bar Within is primarily derived from its special architectural interest.

20. For the reasons set out above, the relationship between 28 North Bar Within and buildings to its rear is particularly important. Furthermore, as the grounds of St Mary's Manor are immediately next to 28 North Bar Within, the development to the rear is more prominent in mid distance views from North Bar Within than other backland development in Beverley. Development to the rear of the properties fronting North Bar Within tends to be subservient in scale to the properties fronting the road. The contrast in size and the difference in design creates a hierarchal pattern where properties fronting North Bar Within tend to be of a higher status.
21. As set out above, the dwelling as constructed is taller than the approved development. It disrupts the hierarchal pattern of development in the area due to the constructed dwelling being tall backland development. The scale of the building also makes it appear incongruous in the setting of 28 North Bar Within as the constructed dwelling visually competes with it. This harm is amplified as there is mid-distance views of the development from North Bar Within.
22. Taking all of the above into account, the development does not preserve the settings of 28 North Bar Within and St Mary's Manor, both of which are Grade II listed buildings. Given the localised nature of the development, I consider the harm to amount to less than substantial harm. With regard to St Mary's Manor, the harm would be at the lower end of the spectrum of less than substantial harm as the development has only affected a small part of the Manor's overall setting. With regard to 28 North Bar Within, the harm would be in the middle of the spectrum of less than substantial as it would have a significant effect on the building's setting.

Heritage balance

23. The Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits. The proposal is harmful to the significance of three designated heritage assets: the BCA; St Mary's Manor; and, 28 North Bar Within.
24. The development makes an effective use of land in an accessible location. There would have also been economic benefits associated with the construction period. Due to the scale of the development, I ascribe modest weight to these benefits.
25. As a whole, the public benefits do not outweigh the great weight and importance I ascribe to the harms to the character and appearance of the BCA and to the significance of the listed buildings, by way of harm to their settings.
26. Consequently, the development is contrary to LPSDU policies ENV1 and ENV3. These policies indicate that development that will cause harm to the significance of a heritage asset will only be granted where clear and convincing justification for the harm can be demonstrated in line with national guidance, amongst other matters. The development is also not in accordance with the National Design Guide and ERDC. These documents advise that well-designed buildings are influenced positively by the significance and setting of heritage assets and specify that to get the roof pitch right consideration needs to be given to the surrounding context, amongst other matters.

Living conditions

27. In its reasons for issuing the enforcement notice, the Council state that the window on the second floor in the eastern elevation has not been provided in accordance with Condition 7, as it is not obscurely glazed. Nonetheless, the enforcement notice is only concerned with the breach of planning control that arises from a lack of compliance with Condition 12. Upon review of the approved plans specified within Condition 12, the Proposed Layout plan¹ indicates that this window would be obscurely glazed. Therefore, this matter also falls to be considered under the alleged breach of Condition 12.
28. The appellant has indicated that the obscure glazing has been installed. Nonetheless, in photos provided by the Council it was not installed prior to the issuing of the enforcement notice. Although I accept the obscure glazing has now been installed, my assessment is based on the development as it was when the Council issued the notice.
29. In the absence of obscure glazing, the second-floor window would provide direct and uninterrupted views across the entirety of the private external amenity spaces serving Nos. 1 and 2, as well as into the windows of their habitable rooms at close proximity. This level of overlooking would be intrusive and would result in an unacceptable loss of privacy for the occupiers of Nos. 1 and 2 when using these spaces.
30. If built in accordance with the approved plans, the development would have been tall and in proximity to Nos 1 and 2. Given the limited separation between Nos 1 and 2 and the development, it would have been overbearing, to a degree, when viewed from the front windows and external amenity areas of Nos 1 and 2. Accordingly, this would have had a slight detrimental effect on the living conditions of occupiers of Nos 1 and 2.
31. The development, as built, is taller than the approved development. As such, it has a greater effect on the outlook experienced by the occupiers of Nos 1 and 2. Therefore, for these neighbouring occupants, the development has an oppressive effect that harmfully constrains their outlook to an unacceptable degree.
32. Overall, I conclude that the development has a harmful effect on the living conditions of occupiers of Nos 1 and 2 The Old Racing Stables, with regard to privacy and outlook. Therefore, the development is contrary to LPSDU Policy ENV1. This Policy indicates that development will be supported where it achieves a high quality design, which will be accomplished by having regard to the amenity of existing properties. The development is also contrary to the ERDC where it indicates that overlooking can be mitigated through obscure glazing.

Intentional unauthorised development

33. In determining the appeal on ground (a) I have had regard to the Planning Policy Statement (PPS) on Green Belt protection and intentional unauthorised development issued by the Secretary of State on 31 August 2015. It makes 'intentional unauthorised development' a material consideration to be weighed in the determination of planning applications and appeals, including enforcement appeals. The PPS remains extant although it is not incorporated into the

¹ Drawing No. 210802-001 Rev. L – Proposed Layout

Framework or Planning Practice Guidance. However, permission should not be refused simply on the basis that the development was carried out without planning permission or is unlawful. A finding of 'intentional unauthorised development' must be supported by evidence of something more – that the appellant intended the development to be unauthorised or actively sought to harmfully flout the rules.

34. Within their Statement of Case the appellant has indicated that during the build it was discovered that the height of No 2 was incorrectly measured during the planning application. They advised that the dwelling was constructed to maintain the approved step down in height between it and No 2. To ensure this relationship was maintained the dwelling has been built taller than approved. As such it is apparent to me that the appellant decided to proceed with the unlawful development intentionally. Therefore, I give the PPS weight in determining this case.

Conclusion

35. The development is harmful to the character and appearance of the BCA, and does not preserve the settings of 28 North Bar Within and St Marys Manor, both of which are Grade II listed buildings. The public benefits do not outweigh the harm to the significance of the designated heritage assets, individually or combined. There is also harm to the living conditions of the occupiers of Nos 1 and 2, with particular regard to privacy and outlook. I have also found the breach of planning control to have been intentional unauthorised development. 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.
36. For the reasons given above, 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