

## DEVELOPMENT MANAGEMENT

### APPEALS LIST

APPLICATION NUMBER & SITE ADDRESS	APPEAL REFERENCE & STATUS	OFFICER & PROCEDURE
DM/0140/22/FUL  The Stables Ashby Hill Ashby Cum Fenby North East Lincolnshire DN37 0QF	AP/016/22  INPROG	Richard Limmer  Written Representation
DM/0536/20/FUL  Land Adjacent To 83 Brigsley Road Waltham Grimsby North East Lincolnshire DN37 0LB	AP/017/22  INPROG	Richard Limmer  Written Representation
DM/0046/22/TPO  24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22  INPROG	Paul Chaplin  Fast Track
DM/0393/22/OUT  Land Adj Old Nursery Cheapside Waltham North East Lincolnshire	AP/001/23  INPROG	Bethany Loring  Written Representation

DM/0285/22/FUL	AP/002/23	Richard Limmer
Land Off Torbay Drive Waltham North East Lincolnshire	INPROG	Written Representation

DM/0597/22/FUL	AP/003/23	Jonathan Cadd
260 Humberston Fitties Humberston North East Lincolnshire DN36 4EY	INPROG	Fast Track

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## Appeal Decision

Hearing held on 10 January 2023

Site visits made on 9 & 10 January 2023

**by Mr JP Sargent BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> February 2023**

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**Appeal Ref: APP/B2002/W/22/3304337**

**Land south of Church Lane, Humberston**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
  - The appeal is made by NYC Estates Limited against North East Lincolnshire Council.
  - The application Ref DM/0068/22/OUT, is dated 1 August 2022.
  - The development proposed is an outline application to erect 93 dwellings, with means of access to be considered (to include construction access off South Sea Lane).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. This is a proposal for outline planning permission, with access being considered at this stage but all other matters reserved for subsequent consideration. The access details before me relate to the site's permanent access onto Church Lane, as well as a temporary construction access onto South Sea Lane. With the exception of the haul road linking to the construction access, access within the site is not being addressed at this stage. A possible layout for the development has been submitted in support of the appeal (the illustrative plan). Insofar as it concerns matters beyond identifying and defining the site access points, I have viewed this layout as being illustrative but nonetheless informative.

### Main Issues

3. The main issues in this case are
  - a) whether the proposal would conflict with the Council's spatial strategy;
  - b) its effect on highway safety;
  - c) whether it would cause harm to the significance of designated heritage assets;
  - d) its effect on the character and appearance of the area;
  - e) whether its impact on infrastructure would be addressed;
  - f) and, if any harm would arise from any of the above, whether that would be outweighed by public benefits, or a decision contrary to the development plan justified by other material considerations.

## Reasons

### ***Spatial Strategy***

4. The housing subject of this appeal would be on a 5.38ha site that is now part of a ploughed field, and sits to the south of Church Lane. The site is outside of, but immediately adjacent to, the development boundary for Humberston, which, in the *North East Lincolnshire Local Plan* (the Local Plan), is defined at this point as running along Church Lane.
5. Policies 3, 4 and 5 in the Local Plan play a key role in defining the spatial strategy for the Authority. Of these, Policy 5 says that development beyond a development boundary will be acceptable, provided certain criteria are met.
6. I therefore conclude that development on this site need not be contrary in principle to the spatial strategy as laid down in Local Plan Policies 3, 4 and 5.

### ***Highway safety***

#### *Church Lane*

7. Church Lane is a winding cul-de-sac that runs eastwards from Church Avenue, and for most of its length it has a pavement along the northern side only. Overall, when taking into account the houses on a number of culs-de-sac that lead off it, the Council told me that Church Lane now serves about 72 dwellings. It also provides access to a library/café, a community hall, a church, a car repairs and sales garage and, at the extreme eastern end, a primary school with around 250 pupils.
8. As part of the scheme 10 parking bays (the parking bays), which are on the south side of the lane at the eastern end and available for anyone to use, would be lost and the carriageway would be slightly widened. One arm of the existing turning head outside the school would be opened up to serve not only the 93 houses now proposed, but also a car park of 50 spaces that the appellant is intending to create to serve the school and compensate for the loss of the parking bays. The appellant gave me the anticipated traffic flows to and from the housing at peak times in the morning and evening. Concerns about these figures were raised by local residents. Clearly, they have to be an estimate, as the precise flows into and out of the new development will not be known until the estate is fully occupied. However, these figures have been derived using nationally accepted approaches, and so I have no grounds to question their reasonableness. I had no anticipated vehicle movements though in connection with the car park.
9. In places, the lane's carriageway falls below the 5.5m width the Council said was required. In contrast, national advice in *Manual for Streets* considers any width greater than 4.8m would be adequate to allow a lorry to pass a car. Given this, the Council was unable to offer the basis for its greater requirement, which, according to *Manual for Streets*, would enable 2 lorries to pass. It also gave no decisive reason why a narrower carriageway would pose a highway danger. Therefore, taking into account the appellant's intention to widen part of the eastern end, I raise no objection to the width of the carriageway, and consider the Council's requirement does not offer a reason to resist the scheme.

10. Moreover, the Council contended that a single access should not serve 200 houses or more, but rather that number of dwellings should have use of a second permanent access. In this case, although the scheme would mean that only around 165 houses were accessed off the lane, when the non-residential uses along its length were taken into account, it considered that the traffic flows associated with 200 homes would be exceeded.
11. I recognise that when increasing the properties using a single access there is a greater likelihood that the road could be blocked at a time when an emergency vehicle or other traffic wanted to access a property further along. Indeed I was told this situation had recently occurred when a fire broke out in a field at the east end of Church Lane. That though is a scenario that could happen with any number of houses. I accept that, in this assessment, the traffic associated with the non-residential activity would more than equate to the traffic generated by the shortfall in houses below the threshold of 200 dwellings. However, the Council was unable to give any basis for maintaining that 200 units was, in fact, the key figure in this assessment. Noting I was referred to no firm guidance on the matter in *Manual for Streets*, I consider the absence of a second permanent access is not, of itself, a reason to resist the scheme.
12. Turning to vehicle movements, I observed Church Lane when children were being collected from the school and, the following day, when children were being dropped off. Traffic associated with these periods, which I shall refer to as the school times, lasted for about 45 minutes or so. I also visited the lane during the afternoon and in the evening when there was no school activity. I recognise these observations were snapshots of the traffic situation and this affects the weight I afford them, but I have no reason to consider what I saw was atypical, and it appeared to reflect the evidence that had been submitted.
13. Outside of school times, the lane was relatively quiet. Many of the properties along its length appeared to have off-road parking, although some vehicles were at the kerbside or in the parking bays. As stated, I have no details of movements associated with the proposed car park. However, at such times it is fair to assume any such flows generated would be limited as, apart from occasional movements by school staff, there is no basis to consider it would be used to any significant degree by anyone other than existing residents. Having regard to the advice in *Manual for Streets* concerning the acceptability of the carriageway width, during these times I consider the road could safely accommodate the traffic associated with both the new houses and the car park.
14. During the school times though, the road is much busier. Many parents and carers walked to or from the school with their children, because either they lived nearby or because they had chosen to park nearer to the entrance to Church Lane. Many though drove down to the eastern end of the lane, to wait in their cars or to park and walk the final distance to the school. Inevitably this traffic gave rise to an appreciable congestion, due to the vehicles stopped or parking at the kerbside, and the fact that the turning head was realistically the only place to turn a car.
15. To my mind, introducing the additional traffic associated with this development into this situation would have a harmful effect on highway safety, by adding unacceptably to an already congested environment. I accept that the roads within the new development may be used by some to drop off or collect children, and may also provide more room in which to turn around, but on the

other hand this would draw more cars down the lane. In my opinion these benefits would not be sufficient to overcome the harm that the additional traffic flows would bring.

16. The future use of the car park is uncertain at this stage, but it was not intended primarily for the development's residents, as they would all have adequate off-street parking. Rather, at the Hearing it was said it would replace the 10 public parking bays that would be lost, and would also be offered for use by staff at the school and/or parents and carers. I was told that to date neither the school nor the local authority had expressed a desire to own, maintain or run it, in which case it would be funded and managed by the management company that would be set up to look after the communal areas across the development before me. Moreover, it was anticipated that when setting up the management company provision would be made for if, at some future date, it was no longer in a position to pursue any or all of its responsibilities towards the car park. None of this though has been secured by a legal agreement, but a condition was suggested to allow the matter to be resolved later.
17. I am therefore unaware as to precisely who would use the car park and how. With such uncertainty, it is difficult to attach any significant weight to the role of the car park in either overcoming my concerns about congestion, or indeed in balancing against any wider harm there may be. This is because, despite the appellant's assurances, I do not know precisely what benefits, if any, it will bring.
18. Putting that aside though, I would question whether the residents who now use the parking bays would be willing to make use of a car park that was, quite probably, further from and less visible from their homes. As a result, and assuming the parking bays are used because off-street parking is not, for some reason, practicable, this could lead to further parking at the kerbside, so adding to the congestion.
19. Moreover, if it is to be used for staff parking and for the dropping off and collection of children, although the appellant's traffic data for the lane makes no allowance for these flows, it is reasonable to assume it will draw more cars to the eastern end than at present, so adding to congestion here. Indeed this could be further exacerbated if more parents and carers are attracted to the car park than it can accommodate.
20. I recognise that the development may discourage parents and carers from turning their cars round in what is now the turning head. If the car park was allowed to be used in connection with the school, it would also provide some parking provision where, at times, it is clearly needed. However, balanced against this the parking area would draw more traffic down the lane, which possibly could exceed the car park's capacity, and there is uncertainty as to how precisely it would be used and managed. Therefore, I can have little confidence it would alleviate the concerns I have identified.

#### *South Sea Lane*

21. South Sea Lane lies to the south of the main body of the appeal site, separated by an intervening field. It is a country lane, that runs from the A1031, Tetney Road, to the west and terminates at a dead-end to the east. Apart from at the western end, it is narrow and not wide enough for vehicles to pass other than when using the few limited passing places, and it has verges and drainage

ditches to either side. There are some dwellings along the initial length off Tetney Road, but thereafter it serves few properties. As a result, it carries very little motorised traffic indeed, although I understand that some agricultural vehicles use it to access fields. However, it is part of a cycle route, and I was told it is popular with horse riders and with pedestrians, as it offers an attractive way through the countryside from the village towards the beach.

22. As part of this scheme it is proposed to have a second access to the site on South Sea Lane. This would be served by a haul road constructed over the field in between, and would be for a temporary period only to accommodate the construction traffic. I have no details as to the numbers or types of vehicles that would use this access in connection with the site, though the appellant has estimated the construction phase would take 2 years and so it is reasonable to assume that is how long this access point would be needed.
23. Although nothing was submitted to demonstrate this, it was agreed that a hedge meant sight splays to the north at South Sea Lane's junction with Tetney Road fell below those recommended for junctions to roads with 30mph speed limits, when those splays are measured to the nearside kerb. As Tetney Road is an 'A' classified road that, based on my observations, appears to carry a moderate flow of traffic, there was therefore a concern such a situation would compromise highway safety. Moreover, there was a further contention that, if 2 large construction vehicles met on South Sea Lane, they would not be able to pass.
24. In response, the appellant said that the sight splays with Tetney Road were achievable if measured to a point 1m into the carriageway. That though was unsubstantiated by any specific evidence or drawings and so cannot be afforded significant weight. It was noted too that lorry drivers needed a shorter 'x' distance than car drivers at junctions as they sat further forward in their vehicles. Whilst that may be so, I am aware that any heavy goods vehicles leaving South Sea Lane would not have a rolling start when joining Tetney Road. Rather, they would have to stop, as visibility would be too poor to allow the junction to be safely negotiated otherwise. Therefore, any benefit that may arise from the position of drivers would, to my mind, be offset by the slower manner in which these longer vehicles would pull out of the junction.
25. The appellant also said construction traffic could be required to arrive and leave in specified slots, while there could be a banksman at the junction for the duration of the development to control movements, so avoiding conflicts at the junction itself and further along South Sea Lane. I am aware though that, under planning legislation, there is a limit to the control that can be imposed on vehicles driving along the public highway. Quite how this system of specified slots would work was unclear, and I cannot assume that, if left to be addressed by a condition, a satisfactory solution would be achieved. If vehicles arrived earlier than expected, it may be that they could proceed straight to the site if no vehicles were leaving. Otherwise, they would have to wait either on Tetney Road itself, or elsewhere to be called forward when the lane was clear. I consider that the former of these options would cause unacceptable congestion on this 'A' road, while the location for the latter is unspecified and so cannot be given any appreciable weight. There was also no detail as to how this system of slots would accommodate farm vehicles and traffic associated with the houses on South Sea Lane that were unrelated to the construction of the development.



26. Overall, while I have noted the appellant's offers in relation to controlling construction vehicles passing through this junction, and its confidence that mechanisms and practices could be agreed that would overcome these harms, I have insufficient information to find that the construction traffic associated with the scheme would not compromise highway safety at this point. I realise that the impacts on this junction would be for the limited construction period only. Even if it was restricted to the 2 years suggested by the appellant, I consider that is an unacceptable timeframe to be adversely affecting highway safety in this way.
27. There would be opportunity for adequate sight splays at the junction of the haul road with South Sea Lane given the width of the verges. Mindful that this traffic would only be using the western portion of the lane, and that the road is straight with good intervisibility between drivers and other road users, I consider there would not be unacceptable safety issues for walkers, horse riders or cyclists.

*Conclusions on this issue*

28. Accordingly, I conclude the proposal would adversely affect highway safety on Church Lane and at the junction of South Sea Lane and Tetney Road, thereby conflicting with Policy 5 in the Local Plan, which requires regard to be given to access and traffic generation, and advice in the *National Planning Policy Framework* (the Framework), which seeks to resist development that compromises highway safety.

***The effect on designated heritage assets***

29. The Church of St Peter is Grade II\* listed. Although the nave and chancel are from the 1720s, the tower dates from the 15<sup>th</sup> Century. The existing building has therefore, in part at least, been the spiritual focus for the village for over 500 years. Its detailing and construction methods contribute to its special architectural and historic interest, and add to its significance.
30. Next to the church is the Manor Farmhouse, with its stables 40m to the south west and an ice house to the north-east, each of which is Grade II listed and, according to the listing details, they date from the 18<sup>th</sup> and 19<sup>th</sup> Centuries. Again, these have architectural and historic interest through their detailing and means of construction, which contribute to their significance.
31. To the east of the church, at the end of Wendover Lane, is Haverstoe Cottage, which again is Grade II listed. It is a cottage dating from the 17<sup>th</sup> or 18<sup>th</sup> Centuries, though with later alterations. Its special architectural and historic interest lie in its construction method and detailing, with its significance arising from it being a well-preserved cottage of its age.
32. All these properties are in the Humberston Conservation Area. The character and appearance of this lies, in part, in the way these older buildings and the spaces in between illustrate the age and evolution of the village, while its significance is found, to a great extent, in how it draws together and encompasses these principal elements of historic Humberston.
33. Moreover, the Humberston Abbey Scheduled Monument runs from Tetney Road to the north-west, round to the paddock immediately to the south of the church. This broadly relates to the extent of the Abbey (although it excludes the church yard, and the northern limits of its precincts are unknown). The



Abbey dates from around 1160. It was one of the few houses of the Tironian monastic order, an order that was a notable land owner in the area. The significance of this scheduled monument is therefore partly historic and partly archaeological, lying in the way in which its underground remains and its variations in topography indicate the presence of this notable religious house.

34. Turning to the effect that the setting makes to the significance of each of these designated heritage assets, to the south and south-east the open countryside means the church with its tall tower, the conservation area encompassing the historic village and, to a lesser extent, the scheduled monument are seen in an open rural context. This context, to my mind, highlights their original agrarian associations, and so contributes positively to the significance of each. In coming to this view, I appreciate that from South Sea Lane the tops of some of the modern houses on Church Lane are visible. They are not dominant elements in the landscape though as they are set down behind the crest of the intervening hill. The new houses on The Laurels can also be seen, but they are to the east away from the village's historic core and are a relatively small development, while the oil storage facility and the wind turbines are somewhat further south. As such, these elements do not undermine this rural context to any appreciable degree.
35. The open paddocks immediately next to the farmhouse and the stables contribute to their significance by emphasising their rural past and their connection with farming. Moreover, the proximity of the ice house to the farmhouse adds to the significance of that asset. However, even in January views of these 3 listed buildings were difficult from the wider rural landscape due to the dense boundary planting. The farmhouse was not readily apparent, and although the roof of the stables was visible, this gave little opportunity to experience that heritage asset. The ice house could not be seen, but to my mind that is not a feature whose significance would benefit from widespread views over a rural landscape, as it was principally designed to serve the property near which it stands. As such, views over the fields from the south and south-east do not contribute to the significance of these 3 designated heritage assets.
36. Similarly, when I visited, Haverstoe Cottage was substantially concealed by its robust boundary treatments, and I have little to inform me that an understanding or experience of that asset involves an appreciation of the farmland around. As such, again I find the fields to the south and east do not contribute to its significance.
37. The illustrative plan showed the new housing to be located to the east of Richardson Close, with a landscaped buffer of public open space running along the entirety of the southern side, from the hedgeline in the east to behind Haverstoe Cottage and up to the conservation area boundary and Public Footpath 57 on the west. This arrangement would allow no intervisibility between the new houses and Haverstoe Cottage, other than maybe by being able to see their roofs when in the cottage's garden. That view though would be over the neighbouring property and the dwellings on Richardson Close, and so to my mind would not harm the setting of that listed building. Moreover, if the sense of openness to the south of the cottage's garden did in fact contribute to its setting, that would be maintained by the area of public open space.

38. On that plan, the southernmost houses in the layout are shown looking over the landscaped buffer of open space on the southern side of the site. In my opinion, such an arrangement could lead to some intervisibility between those houses and the paddock that forms the most southerly part of the conservation area. This arrangement would erode the conservation area's rural setting to an extent, as it would constitute a dominant encroachment of built form into the current agrarian landscape. As such, it would cause harm, albeit less than substantial, to the significance of this asset.
39. In reaching this finding I recognise that, at the moment, views are possible from that paddock in the conservation area towards the rear gardens of the dwellings at the southern ends of Richardson Close and Wendover Lane. However, the intervening landscaping and the deep gardens minimise any appreciation of built form, and so that does not now have a comparable impact to the likely effects of the development.
40. If the scheme was developed broadly in line with the illustrative plan, there would be no intervisibility between the other 5 designated heritage assets and the new houses (other than maybe from the very top of the church tower). The development would be visible in the foreground in front of the tower when looking westwards from between viewpoints 7 and 9 in the appellant's *Landscape and Visual Impact Appraisal*, but from here the suburban housing on the east side of the village is already apparent, and in such a context the scheme would not change the appreciation of the church or the historic role it plays in the landscape.
41. However, intervisibility is not the sole determinant on whether or not a setting is harmed. When on South Sea Lane and Footpath 57 and taking in the context of the conservation area, the scheduled monument and the church, the dwellings now proposed would be far more striking than the existing houses along Church Lane. The appellant accepts a greater proportion of each dwelling would be seen, as their upper storey and roof slope would be visible, at least initially, while they would also be much closer to South Sea Lane. Although it was contended in the *Landscape and Visual Impact Appraisal* that the buffer would mean the development was 'completely screened' after a number of years, at the Hearing it was accepted the dwellings would remain visible to some extent, and this reflects the information on the illustrative plan. As a result, in my opinion the experience of the rural context of these assets would be diminished. By adversely affecting their settings in this way I consider less than substantial harm would be caused to the significance of each asset.
42. In assessing this impact, the illustrative plan is before me as a material consideration, and it is fair to assume it was offered as a reasonable way in which the development could be laid out. Some weight must therefore be given to the layout it shows. However, this is an outline proposal with all matters but access reserved, and so I recognise that its layout is not fixed.
43. It may therefore be possible to increase the distance between the new housing and the site's southern boundary when the Reserved Matters submissions were forthcoming. Given the scheme is for 93 dwellings though, and noting the density of the layout on the illustrative plan, I have insufficient evidence to show that any such increase would have a material effect on my concerns. Similarly the proposed landscape buffer could be strengthened. However, the

prospect of that is limited by the number of houses proposed, the desire to provide walkways through this area, and the need to maintain an aspect from the front of the dwellings overlooking it. On the information before me, I am therefore not satisfied that the opportunities to bolster this buffer would be sufficient to allay the sense of creeping urbanism that would result from the development.

44. Finally, in relation to this matter, as I have found that the wider setting does not contribute to the significance of the listed farmhouse, ice house or stables, the development would not cause harm to the significance of any of them. Furthermore, on the evidence now before me I have no reason to consider that there are any archaeological remains under the site that are of sufficient quality to prevent its redevelopment. As such, this aspect could be dealt with suitably under a condition.
45. Accordingly, I conclude the development would cause less than substantial harm to the significance of the Grade II\* listed Church of St Peter, the Humberston Conservation Area, and the Humberston Abbey Scheduled Monument by reason of its adverse effects on the settings of each of those assets. In relation to the church and the conservation area, this falls in the moderate to lower range of less than substantial harm, whilst the harm to the scheduled monument is at the lower end of that range.

### ***Character and appearance***

46. The proposal would be extending into the rural landscape around Humberston, and, as stated above, the housing it created would be more prominent when looking from the south and south-east when compared to the existing. I recognise that, on its southern side at least, the illustrative plan shows the scheme having a soft and informal edge. However, I consider that this loss of a field and its replacement with a housing estate would, to some extent, fail to have regard to the intrinsic character and beauty of this countryside location. For the reasons already given, this adverse impact would not be allayed by the potential landscaping along the southern boundary, and I am not satisfied that opportunity exists to bolster the landscaping or rearrange the housing in a manner that would reduce this impact sufficiently.
47. The *North East Lincolnshire Landscape Character Assessment* states that, for the Humberston sub unit, new built development would be logically located along the southern side of Humberston, and I appreciate that this scheme has the potential to accord with the broad design criteria in that document. That Character Assessment though is not part of the development plan, and does not define the extent of such new development. As such, it does not, of itself, offer a basis to over-ride the harm I have identified.
48. Accordingly I conclude that the proposal would fail to have regard to the intrinsic character and beauty of the countryside, in conflict with Policy 5 of the Local Plan, which requires development outside of settlement boundaries to recognise the distinctive open character and landscape quality of such areas. It would also conflict with the guidance in the Framework.

### ***Infrastructure contributions***

49. Through a legal agreement the appellant is proposing to make reasonable and appropriate contributions to education provision arising because of the scheme. Moreover, a proportion of the development would comprise affordable housing in line with the Council's policy. I am satisfied that these accord with the requirements of Regulation 122 in the *Community Infrastructure Levy Regulations 2010*.
50. Concerns were raised about the wider pressures the development would place on energy and water services, as well as on medical facilities in the area. I was aware of no decisive evidence to demonstrate harm would occur in relation to these matters, and there was no policy basis to require such contributions. As such, their absence is not a reason for refusal.
51. Accordingly, I conclude that the development would not adversely affect infrastructure provision.

### ***Other matters***

52. The site would be in a sustainable location, with suitable access to facilities and services to mean residents need not be reliant on private motorised transport. I am satisfied that with suitable conditions in place an adequate drainage scheme could be installed. Such a condition could be worded to require the demonstration of rights to drainage channels before works started.
53. There were comments relating to the effects on wildlife, and, being on the edge of the countryside, it is reasonable to expect the appeal site is used for foraging. However, I have no reason to consider there would be unacceptable harm in this regard to any protected species.
54. The proposal would involve the development of a very small portion of Grade 3A farmland. Although I have had regard to the benefits of best and most versatile land, given the scale and extent of this I am not satisfied that harm would result from its loss.

### ***Planning Balance***

55. I have therefore found less than substantial harm to the significance of the listed church, the conservation area, and the scheduled monument. I have also found development plan conflict in relation to highway safety, and the character and appearance of the area.
56. With regard to the heritage assets, the Framework states that scheduled monuments and Grade II\* listed buildings are among those assets of greatest significance. It adds that great weight should be given to an asset's conservation, with any harm to the significance of a designated heritage asset, including from development within its setting, requiring clear and convincing justification. Moreover, if less than substantial harm is caused to the significance of any asset, that harm should be weighed against the public benefits in what I shall call the heritage balance. Local Plan Policy 39 is broadly consistent with the Framework in relation to this issue, in that it seeks to conserve and enhance the historic environment, and safeguard heritage assets.

57. A second balance is found in section 38(6) of the *Planning and Compulsory Purchase Act 2004*, which says development should be in accordance with the development plan unless material considerations indicate otherwise (the planning balance).
58. In undertaking these balances, it is agreed that as the Council can currently demonstrate only 4.2 years' housing land supply, there is a shortfall in this respect. As such, the Council accepts there is an urgent need for housing. The appellant has noted the benefits of delivering affordable housing as well, while it is contended there would also be benefits from the car park, from the landscaping and recreational opportunities, and to the economy and drainage.
59. I accept that the delivery of open market and affordable housing in an Authority where a need exists are benefits to which significant weight is attached. There is no clear and convincing reason why such housing needs to be here though. Its proximity to services and its location next to existing housing mean the site is suited, in some regards, to these forms of residential development and would deliver some economic benefit to nearby businesses, but such factors could no doubt apply to other sites on the periphery of settlements.
60. I have not been convinced, on the evidence and details before me, that the car park would in fact be a benefit, given uncertainty over its use and management. Similarly, I am not satisfied that reducing run off to less than green field rates is particularly beneficial. Although it is in a low-risk area with regards to flooding that to my mind is not a specific benefit but something that is advocated through planning policy.
61. While there would be various revenues flowing to the Council, these would inevitably occur with any housing scheme, and I am aware of no particular reason why such a benefit is needed here. I also accept that there would be some environmental improvements to which I afford moderate weight. Whilst the belt of planting along the southern side would have some benefit to the wider landscape, the effects of this would be outweighed by the housing behind. There would be a recreation area that would be open to use by those who did not live on the scheme. This would be a benefit, though in my view the ease of access to the wider countryside would limit its appeal in this regard.
62. Assessing these points in the context of the heritage balance, there would be public benefits accruing from housing delivery, improvements to the local economy, the environment, and recreation provision. However, even if taken together, these would not outweigh the less than substantial harm I have identified to the designated heritage assets.
63. Accordingly, I have found less than substantial harm would be caused to the significance of the Humberston Conservation Area, the Humberston Abbey Scheduled Monument, and the Grade II\* listed Church of St Peter, by reason of the effect of the development on the setting of each of those designated heritage assets, and, in the absence of any clear and convincing justification, I consider this harm is not outweighed by any public benefits. I therefore conclude that the proposal would conflict with Policy 39 in the Local Plan, and guidance in the Framework.
64. With regard to the planning balance, given the shortfall in the supply of housing land, the appellant contended the development plan policies that are

most important for determining the application should be deemed out of date. As a result, paragraph 11d) of the Framework states planning permission should be granted unless certain circumstances apply (often referred to as the tilted balance). However, given my findings in relation to heritage matters, then under paragraph 11di) and Footnote 7 of the Framework, despite the housing land supply situation, the tilted balance is not engaged.

65. Overall, in making the planning balance, I am mindful that meeting housing need on greenfield sites on the edge of settlements can often be one of the ways such a shortfall can be addressed, and the impact of the new houses would be mitigated to some degree by the planting and the crest of the hill. Therefore, I accept that the benefits of additional housing would justify a decision contrary to the development plan in relation to the harm the scheme would cause to the character and appearance of the countryside. However, even if all the above factors are taken together, to my mind they are clearly and demonstrably outweighed by the harm to heritage assets and the adverse effects on highway safety, and so do not justify a decision otherwise than in accordance with the development plan.
66. In considering this scheme I recognise too that there were issues raised concerning the effect of the development on wildlife designations in and around the Humber estuary. Given my findings, I have had no need to consider whether or not the scheme would have a likely significant effect on these designations, and, if so, whether mitigation would be possible. However, even if I were to consider that such an effect existed and it could be satisfactorily mitigated, that would carry neutral weight in the balance above as it would just address the additional impact of the development itself. As such, it would have no material effect on my findings.

### **Conclusion**

67. Accordingly, for the reasons stated, I conclude the appeal should be dismissed.

*JP Sargent*

INSPECTOR



## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr M Bottomley	Heritage consultant
Mr J Eales	Ecology consultant
Mr J Easton	Barrister instructed by Walton & Co
Mr A McGarrell	Highways consultant
Mr R Mowat	Planning consultant
Mrs B Richmond	Planning consultant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr M Dixon	Head of Development Services
Ms L Hattle	Senior Highway Development Control Officer
Mr R Limmer	Major Projects Planner

### **INTERESTED PARTIES:**

Mr A Akrell	Local resident
Mrs J Akrell	Local resident
Ms M Buffon	Local resident
Mr J Chambers	Local resident
Cllr H Dawkins	Ward Councillor for Humberston & New Waltham
Mr M Forman	Local resident
Cllr S Harness	Ward Councillor for Humberston & New Waltham
Ms A Hudson	Local resident
Mr S Ibbotson	Local resident
Mrs G Jackson	Local resident
Mr S Jackson	Local resident
Cllr S Shreeve	Ward Councillor for Humberston & New Waltham
Mr Sleight	Local resident
Mrs J Tapplly	Local resident
Mr Young	Local resident

## **DOCUMENTS SUBMITTED AT OR AFTER THE HEARING EVENT**

### **FROM THE APPELLANT**

Email to the Planning Inspectorate with draft conditions & ecology note attached (dated 19 January 2023)  
Email to the Planning Inspectorate with signed s106 agreement attached (dated 23 January 2023)

### **FROM THE LOCAL PLANNING AUTHORITY**

Letter from Natural England (dated 9 January 2023)

### **FROM INTERESTED PARTIES**

5 photographs of South Sea Lane submitted by Mr Chambers  
Written submissions from Cllr Dawkins  
Comments from Humberston Village Council