



## Appeal Decisions

Hearing Held on 24 - 25 November 2020

Site visit made on 26 November 2020

**by Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

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### **Appeal A - Appeal Ref: APP/N2535/W/19/3221725**

#### **Land at Good's Farm, Meadows Lane, Reepham, Lincolnshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by M Good and Son Limited against the decision of West Lindsey District Council.
  - The application Ref 138041, dated 5 July 2018, was refused by notice dated 9 October 2018.
  - The development proposed is described as 'Erection of 25 dwelling houses, including the reconstruction of the existing barn and boundary walls to facilitate its use as a single dwelling, associated garaging, car parking, access roads, landscaping, public open space and footpaths'.
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### **Appeal B - Appeal Ref: APP/N2535/W/19/3225861**

#### **Good's Farm, Meadows Lane, Reepham, Lincolnshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by M Good and Son Limited against the decision of West Lindsey District Council.
  - The application Ref 138941, dated 22 January 2019, was refused by notice dated 15 March 2019.
  - The development proposed is described as 'Demolition of brick-built barn and alterations and rebuilding of stone boundary wall'.
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### **Decision**

1. Appeal A - The appeal is dismissed.
2. Appeal B - The appeal is dismissed.

### **Applications for Costs**

3. Applications for awards of costs were made by M Good and Son Limited against West Lindsey District Council. These applications will be the subject of separate Decisions.

### **Preliminary Matters**

4. I have considered the two appeals concurrently, but on their own merits, because there are some common matters between them. During and after the hearing the additional evidence listed at the end of this decision was submitted. It was relevant to my considerations, reasonably brief and capable of being

addressed by the parties present, or in writing after the hearing closed. Thus, accepting it has not resulted in any party being significantly prejudiced.

### **Main Issues**

5. Through the Statement of Common Ground (SOCG), the Council have confirmed that the biodiversity survey and geophysical assessment submitted with the appeal has addressed its concerns regarding the effect of the proposal upon potentially as yet unknown archaeological deposits and the possible habitats of protected species. I have no reasons to disagree and therefore I have not considered these matters further as they are no longer in dispute.
6. Thus, the main issues in this appeal are:
  - Whether the proposed development would adhere to the spatial strategy in the development plan, with particular reference to whether there is clear local community support for it;
  - Whether, within the meaning of the development plan, the proposal has followed a sequential approach and would be in an appropriate location;
  - Whether the proposal would preserve or enhance the character or appearance of the Reepham Conservation Area (CA) and the effect on the setting of the CA;
  - Whether the appeal scheme would preserve the setting of the Grade II\* listed building known as the Church of St Peter and St Paul; and
  - Whether the proposal would make adequate provision for affordable housing.

### **Reasons**

*Whether there is clear local community support for the proposal*

7. Policy LP2 of the Local Plan<sup>1</sup> (LP) sets out the spatial strategy for the plan area and this incorporates a settlement hierarchy. The proportion of housing growth directed to each settlement is dependent on its size and the level of services and facilities available. Thus, most growth is to be concentrated on the Lincoln Urban Area, Main Towns, Market Towns and Larger Villages. However, in order to support their role and function as sustainable settlements, and help to meet local needs, some proportionate and appropriate development is directed to the lower order settlements such as the Medium and Small Villages.
8. Reepham is categorised in Policy LP2 as a Medium Village where a limited amount of development will be accommodated over the plan period. To achieve this, Policy LP4 of the LP sets a growth target of a 15% increase in the number of dwellings at the village over the plan period. Policy LP2 explains that unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support, housing developments at Medium Villages such as Reepham will typically be on sites of up to 9 dwellings in appropriate locations. However, in exceptional circumstances proposals may come forward at a larger scale on sites of up to 25 dwellings.

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<sup>1</sup> Central Lincolnshire Local Plan 2012 – 2036 Adopted April 2017

9. Thus, the expectation in Policy LP2 is that development schemes at Medium Villages will usually be minor in scale given their position in the settlement hierarchy. However, if there is clear local community support then major schemes can be pursued, or if exceptional circumstances can be demonstrated then up to 25 homes can be approved. This provides two alternative options for delivering schemes beyond the nine homes threshold.
10. The phrase 'clear local community support' is defined in Policy LP2 as meaning clear evidence of local community support for the scheme generated via a thorough and proportionate pre application consultation exercise at the point of submitting a planning application. The policy does not define what the local community is for this purpose, what a thorough and proportionate consultation exercise would be and what would amount to local community support. It is however clear that it is local community support at the time of submitting the planning application and therefore consultation responses received during the application should be set aside when addressing this point.
11. Policy LP2 explains that the Parish Council will effectively have the casting vote when the consultation is inconclusive. Thus, it is logical to conclude that the parish is the geographical area when defining the 'local community'.
12. The consultation exercise involved a leaflet being sent to all householders and a vote overseen by the Parish Council. Although generally systematic and detailed there were some limitations in the process. For example, the earlier consultation raised expectations regarding the level of affordable housing and some households apparently received more than one voting card. That said, the level of affordable housing was confirmed at the public meeting and the vote was not the only method used for testing public opinion, as a follow up public meeting was also held. Accordingly, the Council have confirmed through the SOCG that the consultation exercise was thorough and proportionate. This is a reasonable conclusion based on the balance of the evidence before me. This is important, as it indicates that those parishioners that voted were expressing an informed view.
13. There is a subtle change in terminology within Policy LP2, with the policy initially referring to 'clear local community support' but the definition of this term (also within the policy) referring to 'clear evidence of local community support'. Clear support could be read as a higher bar than clear evidence of local support. Nevertheless, I have used the latter term as this is the stated definition of the former. Thus, it would be reasonable to interpret clear evidence of local community support as simply being a majority of those who voted, as such an approach would be easy to understand and therefore amount to clear evidence.
14. The SOCG confirms that 59% of those who voted were in support of the proposal. At the public meeting 18 out of 20 written comments received indicated support for the proposal. This is clear evidence of consistent local community support for the proposal at the pre application stage. This was based on a voter turnout of 40%, which is low, but all households were given a chance to vote. Some of those that voted in support of the proposal could have been motivated by a desire to advance their own sites or through a friendship with the appellants. Others may not have voted due to concerns about splitting the village. However, such personal motivations are part and parcel of a public vote and do not invalidate the result.

15. I therefore conclude that the appellants have demonstrated that there was clear local community support for the proposal at the point of submitting the planning application. Accordingly, the appeal scheme is not, in principle, at odds with Policy LP2 of the LP. Given this conclusion, there is no need to consider whether there would be exceptional circumstances.

*Whether the proposal has followed a sequential approach*

16. Policy LP4 of the LP sets out a sequential test for proposals in Medium Villages. It explains that brownfield land or infill sites within the developed footprint of the settlement are 'Category 1', followed by brownfield sites on the edge of a settlement (Category 2) and then greenfield sites on the edge of the settlement (Category 3). 'Brownfield land' is not defined but it is reasonable to conclude that it means previously developed land (PDL) as defined in the National Planning Policy Framework (the 'Framework').
17. The appeal site encompasses a farmyard and arable field. It therefore falls outside the definition of PDL in the Framework and is in Tier 3. It is therefore necessary for the appellant to demonstrate that there are no other sites that are both available and suitable in Categories 1 and 2. There is no requirement to compare the appeal site with other sites in Category 3, including that part of the site identified as Site CL3084 in the AECOM study<sup>2</sup>, which was undertaken to inform emerging allocations in the draft Neighbourhood Plan.
18. In considering which sites are 'available' it is necessary to start with an assessment of those on the market. However, a site does not need to be currently on the market to be available. For example, a site could be available if a landowner has publicly expressed a desire to develop their land through some formal process such as a call for sites. In addition, it is advantageous if the suitability of a site has been tested through a formal process, such as an allocation, the grant of planning permission or some other robust appraisal.
19. The appellant has undertaken a sequential assessment and has not been able to identify any sequentially preferable sites that are suitable, available and capable of accommodating the proposed development. The Council has not directed me to any other sequentially preferable sites save for those identified in the AECOM study. Some of the sites in the AECOM study were advanced following a recent call for sites whereas others were included following a review of the SHELAA<sup>3</sup> sites promoted by landowners in 2015. All the sites in the AECOM study were subject to a baseline technical study. It is therefore possible to ascertain whether some of the sites in the study are available and suitable.
20. Sites 3, 12, 13.1 and 16 are in sequentially higher categories than the appeal site but, having viewed these sites and reviewed the constraints identified in the AECOM study, which resulted in an amber score, it would be unwise to rely on them being suitable. Sites 5 and 10 in the AECOM Study are also in a sequentially higher tier and scored 'green' in the study. However, it is unlikely that more than one home could be delivered at each site and therefore this level of provision would be significantly below that advanced by the appellants.
21. Therefore, although considering sites in a 'disaggregated way' is not an unreasonable approach in the context of the sequential test in Policy LP4, it would nevertheless be unreasonable in this instance to prevent 25 homes on

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<sup>2</sup> Reepham Neighbourhood Plan Site Assessment Final Report March 2019

<sup>3</sup> The Strategic Housing and Economic Land Availability Assessment

the edge of the village just because two could be delivered in it. Thus, in the circumstances, the proposal would be sequentially acceptable.

*Whether the proposal would be in an appropriate location*

22. The sequential approach in Policy LP4 of the LP requires development to be in an 'appropriate location' as defined in Policy LP2 of the LP. To qualify as an appropriate location a site, if developed, would need to retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance; and not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.
23. Policy LP2 does not provide any guidance explaining how a decision maker should assess the core shape and form of a village. Nevertheless, it would be reasonable to assess the grain and layout of the settlement, how it interacts with the countryside and then whether the proposal once built would retain this. In so doing, a focus should be placed on how the core shape and form of the village, including its grain and layout, would be experienced with the proposed development.
24. Reepham is a nucleated village with an historic centre focussed on The Green and Church Lane. The village has expanded to the south but has been largely contained by the railway line save for a large body of housing along Fiskerton Road. Several housing estates have been constructed to the west and south west of the High Street including Manor Rise, Mellows Close and Spring Hill and these have a clearly defined edge with the arable landscape.
25. Alternatively, the northern part of the village (that north of Church Lane and The Green) has been subject to infilling, but not significant growth beyond the historic centre. Accordingly, the village centre has retained a soft and informal rural edge rather than the harder more regimented edges found elsewhere. The gardens, allotments and paddocks to the north of Church Lane reinforce the rural edge and provide both a green buffer between the village core and the open arable landscape and a tapering of the settlement into the countryside. The existing farmyard at the appeal site reads as part of the line of development along the northern side of The Green and is therefore physically part of the village. The field beyond the farmyard is open countryside experienced in the context of other arable fields and predominately viewed against the backdrop of the green 'buffer' described above.
26. The appeal scheme would be experienced as a comparatively large single body of housing on the northern edge of the settlement and therefore it would extend the village in a direction that has not been subject to significant expansion. This would jar with the grain and layout of the village and would be more than a fraying of the settlement's edge. Moreover, by projecting past the farmyard into an arable field the proposal would not amount to the infilling synonymous with this part of the village, such as Carpenters Close.
27. The proposal would incorporate an open space in the north east corner and softening landscaping around the edges. However, the open space would be too small to reinforce the existing green buffer to the west and therefore the housing in the field would be experienced as a jarring protrusion of the village, at odds with the character of the northern edge of the settlement. The meadow and belt of landscaping to the east of Meadow Lane would provide a sense of transition, as would the extensive landscaping through the development, but

this would not overcome the harmful impact that would occur from the development projecting too far in a northerly direction.

28. Accordingly, the proposal would fail to retain the core shape and form of the village and would significantly harm the settlement's character and appearance and its rural edge. It therefore follows that the proposal would not be an 'appropriate location' under Policy LP4 of the LP.

*Whether the proposal would preserve or enhance the character or appearance of the Reepham Conservation Area (CA) and the effect on its setting*

29. Both the Reepham Conservation Area Appraisal and the appellants' Heritage Impact Assessment explain that the CA is focussed on the historic village centre which was recorded in the Domesday Book. The Reepham Tithe Award Map of 1851 shows a small settlement arranged around a village green and set within an agricultural landscape. The village was subject to infilling and expansion in the second half of the 19<sup>th</sup> Century due to growth in the agricultural economy and the coming of the railway line. The expansion and infilling continued into the 20<sup>th</sup> Century and often involved bungalows.
30. As a result, the CA encompasses distinctive 19<sup>th</sup> and 20<sup>th</sup> Century layers, a mix of architectural styles and an organic layout evident in variable plots sizes and informal corners and bends. That said, the historic village centre is still very legible, particularly the northern edge, which has retained a strong spatial connection to the countryside. As a result, the village, particularly when viewed from the north, is experienced within an agricultural landscape. In addition, The Green has retained a rural character due to the presence of wide grass verges, planted front gardens, a narrow carriageway and the prominently sited brick barn at Manor Farm, which is justifiably identified in the Reepham Conservation Area Appraisal (CAA) as an 'Important Building'.
31. Accordingly, and mindful of relevant advice<sup>4</sup>, it is reasonable to conclude that the CA derives much significance from its evidential and historic value as an example of a very old and evolving agricultural settlement. In this respect the way the village is experienced in a rural landscape from the north adds to the significance of the CA. The historic layering and rural character have also fortuitously provided an aesthetic value to the CA. For example, the view along The Green looking west from Smeeting Lane provides an attractive unplanned view that takes in Manor Farm Barn, the green and the church.
32. Being a farmyard and agricultural field, the appeal site contributes positively to the rural character and setting of the CA. The agricultural activity also provides some continuity with the past. There is also a view through the farmyard from The Green towards open countryside which provides a direct visual link from the historic village core to the settlement's agricultural hinterland. When viewed from The Green, the large modern agricultural buildings have a recessive appearance, being set back from the road behind the old brick barn and the trees in front of the walled garden of Reepham Manor. However, the farmyard buildings have a considerable presence in views back towards the CA from the north and are therefore notable detractors in the CA's setting, as is the expanse of concrete that comprises the yard.

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<sup>4</sup> Managing Significance in Decision-Taking in the Historic Environment Historic Environment Good Practice Advice in Planning: 2 – Historic England



33. In order to achieve enhanced visibility splays, which would be necessary to accommodate the increase in vehicle movements that would occur as a result of the proposal, the brick-built barn and adjoining stone wall would be demolished. Both are important features in their own right as heritage assets, but they also add to the significance of the CA. Removing the prominent, attractive and historic barn would harm the character and authenticity of the CA because an important component of its significance is the collective presence of the historic 'Important Buildings' as identified in the CAA. The removal of an attractive historic building with a patina of age would also harm the CA's appearance and its rural character. The same would apply to the wall, which is finished in local stone.
34. In an attempt to offset the harm that would occur from demolishing these features, the appellants would (in Appeal A) construct Plot 1 in a style aimed at broadly replicating the appearance of the barn in a position 1.5m further back from the lane, and therefore broadly on the same footprint. The wall would also be re-positioned. Plot 1 would have the same form and dimensions as the existing barn and therefore the concept of a copy would have some integrity. This would be greatly aided by the intention to reuse as many bricks and stones as possible and copy the existing bonds, mortar colour and pattern of fenestration. The large barn doors would be reused and pinned back, a slate roof constructed, and the northern elevation would not have the detracting presence of a roller door. Thus, in some respects, Plot 1 would be more attractive than the existing barn. Plot 1 and the reconstructed wall would have a similar appearance to the existing structures that would be lost, and this would provide some continuity to the street scene.
35. However, even with the reuse of bricks and the barn doors, Plot 1 would not have the same patina of age that the barn currently exhibits. Moreover, there would be a complete loss of authenticity. This would be especially apparent because Plot 1 would not be a barn. It would instead be a newly constructed home set within a domestic garden and alongside a large garage and driveway. It would also have large double-glazed windows in the western elevation, which would be a clumsy insertion. It's also doubtful whether the existing windows could be reused because they would not provide adequate means of escape or the thermal performance required by building regulations.
36. Setting Plot 1 about 1.5m back from the current position of the barn would straighten the view along The Green. This would alter the street scene by diluting the way the curve in the road is framed by the barn. That said, the road alignment would not change so the curve would remain. Plot 1 would also provide a semblance of the commanding presence the barn currently has in the street scene. The grass verge would also be widened thereby reinforcing the rural character of The Green and providing a sense of continuity with the verges either side of the site access.
37. Overall, the demolition of the barn would result in moderate residual harm to the significance of the CA. This is because of the mitigation that would be provided through the construction of Plot 1, which would have a very similar appearance and a high level of integrity as a replica. Without the reconstruction of Plot 1, as proposed in Appeal B, the level of harm would be significant as an important building would be lost without the partial mitigation of a facsimile replacement and views of the utilitarian farmyard would be opened up.

38. The development would close off the existing view from The Green into open countryside. This would harm the sense of spatial and visual connectivity between the historic core and its rural hinterland. However, the eastern side of Meadow Lane would have a rural character due to the extensive belt of tree planting, which would sit alongside the pleasant walled garden of Reepham Manor. Furthermore, Meadow Lane would be flanked by grass verges, which would provide a visual link with The Green, and Plots 1-3 would have a rural vernacular style, although this would be diminished by the absence of front gardens and the presence of large garages. Overall, the view along Meadow Lane from The Green would retain some semblance of a rural feel. Views out to open countryside would also be provided from further along Meadow Lane. As such, the loss of the view from The Green towards open countryside would have a moderate adverse impact on the CA.
39. Of greater concern would be the expansion of development beyond the farmyard into the adjoining field. This would seriously urbanise the setting of the CA when viewed from the north, where the historic relationship between the old village centre and the agricultural landscape is best appreciated and experienced. As a comparatively large body of houses projecting beyond existing development, the proposed housing would be stark in views from the north east and north. This would seriously harm the setting of the CA despite the benefits that would accrue from removing the existing, harmfully prominent, agricultural structures and concrete yard. Planting and the low density would soften the presence of the houses, but the northern edge of the CA would still be experienced in a very different way, with a more suburbanised edge rather than as an informal rural fringe. As a result, the setting of the CA would be significantly harmed.
40. The CAA does not directly identify views of the CA from the north and north east as being 'important views', but the document is now somewhat dated and does not follow existing Historic England advice<sup>5</sup> on considering setting. As such, this is not a point that undermines my findings, particularly as Policy LP25 of the LP refers to views in an out of CAs.
41. It was confirmed at the hearing that the site access would not be that proposed in the Transport Assessment. Instead, it would be without pavements or kerbs and therefore the type of shared space scheme encouraged by the Minister of State for Housing and Planning in 2018. Given the circumstances of a lightly trafficked lane with slow moving vehicles, a situation that would endure post development, this would be a safe and suitable approach. As such, the entrance into the site would not have an over engineered appearance and would therefore have only a limited impact on the rural character of The Green. For these reasons, there would be no need for a pavement along The Green.
42. There is some street lighting along The Green so the addition of extra lighting in the development would not be out of place and could be controlled through the imposition of a planning condition. The development would result in additional vehicle movements in what is a quiet part of the CA with a rural character. However, the increase would not be significant, adding around one vehicle every four minutes in the peak hours. This would not result in a notable change in the character of traffic flows along The Green or within the CA more widely. Thus, the lighting and traffic impacts would be neutral. The removal of

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<sup>5</sup> Conservation Area Appraisal, Designation and Management – Historic Advice Note 1



the existing agricultural buildings would benefit the view from the cricket pitch towards Reepham Manor, where they loom in the background, but this would not offset the cumulative harm I have identified.

43. In conclusion, Appeal A would result in moderate residual harm to the significance of the CA as a whole. Appeal B would result in significant harm. Thus, the appeal schemes would fail to preserve the character and appearance of the CA. Appeal A would also result in significant harm to the setting of the CA. As such, the proposals would be at odds with Policy LP25 of the LP, which states that development within a CA, or affecting its setting, should preserve features that contribute positively to its character, appearance and setting.

*Whether the appeal scheme would preserve the setting of the Church of St Peter and St Paul*

44. The Church of St Peter and St Paul was listed Grade II\* in 1966. It is of medieval origins but was mostly rebuilt in around 1862 when it was altered by a local architect. The building therefore derives much of its significance from its architectural value and this is often experienced at close range. Nevertheless, the building benefits from a tall tower and this gives it a commanding presence at points around the village in the rural, predominantly agrarian landscape.
45. It is important not to conflate the church's value to the rural landscape with the rural landscape's value to the significance of the church. That said, the church has been a central feature of the village as a rural community for many years and has a high status as their place of worship. The church tower reinforces the status and provides legibility in the rural landscape, from where it was probably designed to be seen. As such, there is historical and evidential value in experiencing the church in a rural context and with a visual connectivity to the surrounding agrarian landscape.
46. The 1851 Tithe Map demonstrates that the Church once stood in the north western corner of the village adjacent to open countryside and therefore it would have been particularly prominent, especially as Reepham was a small settlement. Over time, there has been extensive development to the south, west and east of the church which has eroded the connectivity it once had with the wider landscape. As a result, the church has a limited presence in views from the east, west and south and is no longer experienced from these directions as the dominant structure it would have once been, as it is now lost amongst the skyline of modern housing.
47. A ribbon of housing has also been constructed along Church Lane thereby severing the spatial link with the open countryside to the north. However, the northern fringe of the village has not been subject to the same level of modern development as elsewhere and therefore the church tower is prominent in views from the north. Particularly in the vicinity of viewpoints (VP) 2, 3 and 8 (as defined in the appellant's Landscape and Visual Impact Assessment - LVIA), where the church tower stands nestled amongst trees but proud of the skyline.
48. Thus, when approaching the village from the north it is still possible to gain an impression of how the church once stood in the rural landscape and how generations of villagers would have viewed it. This sense of continuity provides communal value. The bucolic setting north of the Church also has a rural charm which fortuitously provides aesthetic value to the church and its setting despite the disparaging remarks made by Pevsner.

49. Consequently, the special interest of the listed building, in so far as it relates to this appeal, includes its visual presence in views from the north of the village. This is because the ability to experience the values derived from these views are important to the way the building is understood and appreciated – its significance in other words.
50. The agricultural field in the northern part of the appeal site contributes to the setting of the Church because it provides a rural foreground to views from VP3, which is representative of several vantage points along the public right of way. It also contributes positively to the rural setting of the church when viewed from the north in a broad arc that encompasses VPs 2 and 8. That said, the large agricultural buildings that currently occupy the remainder of the site are prominent and of a scale that competes with, and detracts from, views of the church from this direction.
51. Removing the existing agricultural buildings would notably improve the setting of the church when viewed from the north and VP3. However, the appeal scheme would effectively block views of the church from VP3 and would be a prominent block of development with more of a presence than the existing barns. This would be due to the greater size of the built footprint and the northerly projection outside the farmyard. This would also be the case despite the sloping gradient of the arable field. The impact would change over time as the proposed planting matures, but the housing would nevertheless project harmfully into the rural setting of the church when experienced from the north/north east of the village.
52. The impact from VP3 would be significant, but this is only one unplanned view of the church. The impact from the north would be more limited because views of the church tower would not be blocked and it would still be possible to experience the church in a rural context, albeit with the proposed housing estate being a prominent visual competitor. Overall, the proposal would moderately harm the setting of the church.
53. This impact would not be mitigated by opening up a new public view of the church from the northern edge of the brook (which marks the northern boundary of the appeal site) because the housing would be very apparent from this location, especially Plot 23.
54. Historic England has provided guidance on the setting of heritage assets in GPA3<sup>6</sup>. This document suggests that because Church's are often tall structures, their setting is unlikely to be affected by small-scale development if it does not compete with their scale. In my view, 25 homes would not be 'small scale' in the context of the northern edge of the village and would collectively compete with the church. Notwithstanding this, an assessment of the significance of an individual listed building will involve a discrete and specific appraisal. In this instance, the specific circumstances before me indicate that the proposal would harm the setting of the church for the reasons given and therefore the aforementioned general guidance in GPA3 is not determinative.
55. Overall, I conclude that the proposal would moderately harm the setting of the listed building and thus its significance. The setting of the listed building would not be preserved. The proposal would therefore be at odds with Policy LP25,

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<sup>6</sup> The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3

which seeks to secure development that would not be prejudicial to a listed building's setting.

*Whether the proposal would make adequate provision for affordable housing*

56. Within the Lincoln Strategy Area Policy LP11 of the LP requires 25% provision of affordable housing in schemes proposing 11 or more homes. That said, the policy also states that the Central Lincolnshire authorities will negotiate the level of affordable housing with developers if an accurate viability assessment demonstrates this percentage cannot be met in full.
57. The appellants' viability assessment has indicated that it would not be commercially viable to deliver any affordable housing. This is because the assessment suggests the residual land value (RLV) would be £674,195 below the existing use value (EUV) and £774,195 below the EUV plus a landowner premium of 20% above the EUV (EUV+), which is required to incentive the sale of the land. The Council have not provided evidence that undermines the robustness of the EUV.
58. However, I share the Council's scepticism as to whether the construction of the new farmyard should be included as a development cost of the proposal. To do otherwise would, in theory, see the landowner benefiting twice as they would receive funds to relocate the farmyard and the RLV upon the sale of the site. This is all the more pertinent because I have not been presented with any details demonstrating where the farmyard would go and an indication that the relevant permissions are in place.
59. Thus, the development costs can be reduced by £586,871 (the costs identified for relocating the farmyard) with this sum added to the RLV. Thus, the RLV could reasonably be increased to £654,782 with 0% affordable housing and £412,676 with 25%. This is a better picture than depicted in the viability appraisal as the EUV+ would be exceeded with 0% affordable housing. That said, the EUV+ would not be reached with 25% affordable housing.
60. During the hearing the Council raised several other concerns with the viability appraisal. It indicated that a 17.5% developer profit would be more appropriate than 20%. This proposition was not supported by evidence, but I nevertheless consider there is some flexibility in the profit level given that the appellants would be the developers and therefore the risks would be lower.
61. The Council also suggested the build costs and professional fees are higher than the average for the area, that the EUV+ could be set at 10% above the EUV (rather than 20%) and that there are some errors in the appraisal. For example, it refers to the costs of a barn conversion when one is not proposed and identifies s106 contributions instead of CIL costs. The appraisal is also based on figures that are now two years old. Many of these points could have some traction but the Council failed to develop a robust counter assessment which identified alternative figures and the implications this would have for the RLV. As such, the significance of the alleged limitations is unclear and therefore the Council has not demonstrated that 25% affordable housing would be a viable proposition.
62. That said, the appellants have offered to provide 12% affordable housing (3 homes) and this would be secured through the necessary planning obligation submitted after the hearing. I was advised at the hearing that such provision

would come out of developer profit. To my mind this is an indication that there may be some force to the Council's point that there is some scope within the scheme to provide affordable housing without it prejudicing the deliverability of the scheme. In addition, the appellant has included a review mechanism within the planning obligation that would facilitate a reappraisal based on actual build costs and sales. This would address some of the Council's concerns regarding apparently inflated development costs.

63. In summary, the Council have not demonstrated that 25% affordable housing would be viable, but it has highlighted some limitations with the viability appraisal. Similarly, the appellant has not robustly demonstrated a figure of 0% affordable housing but the evidence before me suggests 25% provision to be too high. In the circumstances, it would be a pragmatic approach to split the difference and therefore 12% with a review mechanism seems about right. Thus, the proposal would make adequate provision for affordable housing and therefore a conflict with Policy LP11 would not occur.

### **Other Considerations and Heritage Planning Balance**

64. The harm that would occur to the setting of the listed building would be moderate and therefore 'less than substantial' within the meaning of the Framework. The moderate harm to the CA and the significant harm to its setting would also be 'less than substantial' in Appeal A. The harm to the CA in Appeal B would also be 'less than substantial' given the localised impacts, but of a high order given the importance of the barn and the absence of mitigation in the form of a facsimile type replacement. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal. However, in so doing less than substantial harm should not necessarily be conflated with a less than substantial planning objection.
65. The existing access into the farmyard has very poor visibility to the west due to the presence of the brick barn. The visibility is below the standards set by Manual for Streets and is therefore more likely to be unsafe, as demonstrated by an independent road safety audit. This is aggravated by the nature of the farm traffic, which involves around 2000 movements a year by large vehicles including tractors, combines and lorries. When these vehicles are turning right out of the farmyard they cut across the oncoming traffic, which they are unable to see when commencing the manoeuvre. This results in the risk of a vehicle collision. There is also the risk that farm traffic would hit pedestrians and cyclists, but they would be moving more slowly and would, in most instances, be able to hear the vehicles manoeuvring and thus step onto the grass verge.
66. A collision with an agricultural vehicle would likely be more serious than with a car, as demonstrated by data collected by the Lincolnshire Road Safety Partnership. Therefore, improving the visibility at the site access by removing the barn would be a public benefit. However, it is unclear whether this data relates to circumstances similar to the appeal site. This is important because The Green is characterised by slow moving and infrequent traffic. As such, the risk of a serious collision is reduced.
67. Moreover, local residents would be familiar with the access and would therefore be accustomed with the need for additional caution and would know that it is unwise for children to play in the vicinity of the access. Likewise, farm operatives would be professional drivers that would take the utmost care when exiting the site. There is also good forward visibility along The Green so in

many instances motorists would be able to see a vehicle emerging from the appeal site in good time and react. It is therefore unsurprising that no accidents have been recorded in the vicinity of the site access, as the situation is, to a significant extent, self-policing.

68. The appellant points to the near miss log kept by the business as evidence that there is a problem, as this records the number of near misses increasing year on year. It would be advantageous to deal with the problem before an accident occurs, although there is no guarantee one would for the reasons already given. Moreover, there is no evidence before me to suggest the appellant has put in place other measures to address the safety concerns. For example, there is nothing to suggest other solutions have been explored with the local highway authority, such as signage or alterations to the barn or the lane. I also heard at the hearing that it is not uncommon for more than one member of staff to be on site at any one time and consequently there could be opportunities to see vehicles out. In addition, there has been no indication that public liability insurance would not be forthcoming if the status quo endures. These factors would suggest the problem is not as acute as is suggested. As such, the highway safety benefits from demolishing the barn would be of moderate weight in Appeals A and B.
69. Farm traffic currently has to go through the village, where many of the roads are narrow lanes that are often cluttered by on street parking. This results in noise and disturbance to residents along the route, but the impact is seasonal, short in duration and intermittent. Moreover, there is little to suggest large vehicles prevent an unacceptable highway safety risk. It would be advantageous to remove most of the heavy vehicle movements from the village and therefore this would be a public benefit. However, it is one of limited weight. Relocating the farmyard would enable the appellants' existing business to become more efficient and grow and thrive without the constraint of the access and village centre location. This could aid the local economy in a modest way.
70. Removing the farmyard from its current site would mean local residents would not be affected by noise and disturbance from the grain dryers, fuel tank and general activity. However, substantive evidence such as a noise assessment or complaints log is not before me to suggest this is an existing problem of note. In fact, many representations have suggested this is not a problem. As such, this is a very limited public benefit. Likewise, the benefits from creating an additional footpath route would be limited given the existing extensive network north of the village. Visual improvements from removing the existing agricultural buildings and concrete yard would be undone by the impacts of extending the proposal northwards outside the built footprint of the yard.
71. The appeal scheme would deliver around seven times more open space than is required by the development plan. The open space would support informal recreation by acting as somewhere to picnic or have a 'kick about'. Although this would not be the formal play space or recreation ground most in need, the open space provision needs to be considered in the context of the existing quantitative shortage. A planning condition could be imposed to ensure the spaces are attractively landscaped and managed and therefore more than simply a grass field of low recreational value. The open space that would be provided would also be well placed relative to the village centre. Open space provision would therefore be a significant benefit. The proposal would also



- benefit biodiversity through tree planting and the creation of the meadow and open space. This would be an added benefit of moderate weight.
72. The proposal would be a medium sized development that would provide twenty-five homes. This would moderately boost housing land supply and choice with the homes capable of being delivered reasonably quickly. It would also help meet the village growth target. However, there is nothing to suggest the appeal site is required to meet this target, especially as the work underpinning the emerging neighbourhood plan has provisionally identified ample provision on other sites. Moreover, the Council suggests that it has a five-year housing land supply and is therefore in the process of significantly boosting the supply of housing. In such circumstances, the contribution to housing supply would be a moderate benefit.
73. However, the appellants have provided me with five scenarios whereby the housing supply could be below five years. All but one relies on a Covid-19 adjustment of between 1.16% and 7.7% to take the supply marginally below five years. However, I have not been presented with an actual Covid-19 adjustment figure detailing the effects of the pandemic in a West Lindsey context and supported by substantive evidence. The conclusions in the Lichfield report appear to be based to a large extent on local market intelligence from Suffolk and therefore does not relate directly to West Lindsey. Moreover, the effects of Covid-19 could be short lived with development bouncing back over the five-year period. In addition, the Council used evidence from local developers to inform and forecast its housing supply figure and therefore it has probably factored in some of the effects of Covid-19.
74. Nevertheless, there is some traction to the appellants argument that the Council has not provided clear evidence that the Western Growth Corridor and Land at Eastfields Farm would be delivered in the five-year period. Thus, if I were to accept the appellants' points regarding purpose-built student accommodation, then the housing supply could be around 4.87 years. In such circumstances, the delivery of housing would become a significant benefit.
75. The construction and subsequent occupation of the properties would deliver notable economic benefits through the circulation of funds. It would also provide a boost to the vitality of the village, particularly given the proximity to the village core. However, substantive evidence is not before me demonstrating that local services and facilities are failing for lack of patronage. Nor is there anything to suggest that village clubs, societies and organisations need more members. Accordingly, these social benefits are of moderate weight. The financial benefits the Council would derive, such as additional Council Tax, would also have the potential to be a moderate benefit if spent on more than servicing the additional residents.
76. The delivery of affordable housing would be a benefit. However, this is not a strong benefit of the proposal as only three homes would be delivered, and this would be at a policy compliant level. Given the small number of homes proposed the benefit would still be modest even if I took the view the proposal was exceeding policy requirements.
77. When taken collectively, Appeal A would deliver important public benefits. However, the proposal would significantly harm the setting of the CA, and moderately harm both the character and appearance of the CA and the setting of a Grade II\* listed building. Paragraph 193 of the Framework states that



great weight should be given to the conservation of designated heritage assets and the more important the asset the greater the weight should be. This chimes with the considerable importance and weight I must give to the special regard I must pay to preserving the listed building's setting and the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA, as set out in the Act<sup>7</sup>. Accordingly, there is a strong presumption in favour of the preservation of heritage assets.

78. In this context I find that the less than substantial harm that would arise from Appeal A, which would cumulatively be of a high order within the 'spectrum' (of less than substantial harm), would not be outweighed by its public benefits taken together. This would be the case even if I were to share the appellant's view that the Council are unable to demonstrate a five-year housing land supply, which would result in the housing supply benefits carrying significant weight to be considered cumulatively with the other benefits.
79. The significant 'less than substantial harm' to the CA that I have identified in respect of Appeal B would not be outweighed by the moderate benefits to highway safety that would be derived from removing the barn.
80. Accordingly, in respect of both appeals, there would be a conflict with Paragraph 194 of the Framework as harm to designated heritage assets would not have clear and convincing justification. Accordingly, the application of policies in the Framework that protect designated heritage assets provide a clear reason to refuse the proposal. The failure to positively conclude the heritage balance also results in a conflict with Policy LP25 of the LP<sup>8</sup>.
81. The development would therefore fail to satisfy the requirements of the Act, the Framework and the development plan. In this instance it follows that the benefits of the proposal would not outweigh the totality of harm I have identified either, which includes a conflict with Policy LP4 of the LP.

## **Conclusion**

82. Appeal A had clear community support at the pre application stage, would be sequentially acceptable and would make adequate provision for affordable housing. However, in its entirety it would not be in an appropriate location and would harm designated heritage assets and their setting. It would therefore be contrary to the expectations of the Act and the development plan as a whole. There are no other considerations, including the Framework, which outweigh this finding. Consequently, for the reasons given, Appeal A fails.
83. Appeal B would harm the conservation area contrary to the expectations of the Act and would be at odds with the development plan as a whole. Likewise, there are no other considerations, including the Framework, which outweigh this finding. Consequently, for the reasons given, Appeal B also fails.

*Graham Chamberlain*  
INSPECTOR

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<sup>7</sup> See Sections 66(1) and 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>8</sup> Which states that unless it is explicitly demonstrated that the proposal meets the tests set out in the NPPF, permission will only be granted for development affecting designated heritage assets where the impact of the proposal does not harm the significance of the asset and/or its setting.

## **APPEARANCES**

### FOR THE APPELLANT

Mr Phillip Good	Appellant
Mr Joe Good	Appellant
Mr Phil Scrafton DipTP MRTPI	Globe Consultants Limited
Miss Natasha Bicknell LLB Law	Roythornes Solicitors
Mr Phillip Robson BVC, LLB (Hons) MSC	Kings Chambers
Miss Sara Boland BA (Hons) PG Dip LA CMILI	Influence Landscape Architects
Mr Adam Partington BA (Hons) MSc Oxon	Locus Consulting Ltd
Mr Vimal (Raz) Patel BEng (Hons)	RKS Associates

### FOR THE LOCAL PLANNING AUTHORITY

Mr George Backovic BA (Hons), URP, BTP, MRTPI	West Lindsey District Council
Mrs Liz Mayle BA(Hons) MA(Dist) IHBC	West Lindsey District Council
Ms Rachael Hughes DipSurv, MSc MRICS	West Lindsey District Council

### INTERESTED PARTIES

Mr Joe Stuffins  
Mr Vernon Stuffins (Snr)  
Mrs Jo Beresford-Robinson  
Mr Michael Robinson  
Mrs Louise Carder  
Mr Chris Carder  
Mrs Judith Smith  
Mrs Fiona World  
Mr David World  
Dr Laura Stuffins  
Cllr Christopher Darcel – Cherry Willingham Ward  
Mr Kevin Thoy  
Mr Michael Kheng  
Mrs Cathy and Mr Gary Fox

## **DOCUMENTS SUBMITTED DURING THE HEARING**

1. Conservation Area Appraisal, Designation and Management - Historic England, Advice Note 1 (Second Edition)
2. Site photographs taken by Mr George Backovic
3. Email from Liz Mayle setting out advice from the Council's Building Control Officer on reusing windows.
4. Site photographs taken by Mrs Liz Mayle
5. CAD drawing showing the proposed position of Plot 1 1510mm further into the site than the current barn
6. Email from Oliver Clawson setting out a suggested condition relating to an open space maintenance and management plan
7. Letter dated 28 September 2018 from Kit Malthouse MP and Nusrat Ghani MP relating to shared space schemes
8. Emailed representations from Mr Ron Harrison and Catherine Wilson submitted by Mrs Louise Carder
9. Questionnaire results relating to the Fiskerton Neighbourhood Plan

10. Emailed representation from Mrs Cathy and Mr Gary Fox
11. Emailed representation from Laura Stuffins
12. Emailed representation from Mr Vernon Stuffins
13. Emailed representation from Mr Kevin Thoy

#### **DOCUMENTS SUBMITTED AFTER THE HEARING**

1. Counterpart Planning Obligation
2. Email form the local planning authority confirming the acceptability of the counterpart planning obligation