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Our Ref: APP/E2530/A/11/2150609

1 March 2012

Dear Mr Willis

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY R & S PASK, NAMULAS PENSION TRUSTEES LIMITED, THE  
TRUSTEES OF A J SNAREY 1987 SETTLEMENT, HPC HOMES LIMITED AND  
LARKFLEET LIMITED. APPLICATION REF: S10/0142/EIAOL  
LAND TO THE NORTH OF GRANTHAM (BOUNDED BY THE EAST COAST MAIN  
RAILWAY LINE, BELTON LANE AND THE A607 HIGH ROAD MANTHORPE),  
LINCOLNSHIRE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Terry G Phillimore, MA MCD MRTPI, who held a public local inquiry which opened on 2 November 2011, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of South Kesteven District Council to refuse outline planning permission for a sustainable urban extension to Grantham comprising: at least 1,000 dwelling houses; a continuing care retirement community; a neighbourhood centre (incorporating a primary school, primary healthcare and community assembly facilities (UCO Class D1) and small scale (maximum 750 square metres) convenience shopping (UCO Class A)); public house/lodge hotel; ancillary formal (playing fields/play areas) and informal open space, including structural landscaping and biodiversity enhancement areas; and access works (including alterations to the A607/Belton Lane junction), in accordance with planning application ref: S10/0142/EIAOL, dated 22 January 2010.

2. The appeal was recovered for the Secretary of State's determination on 12 April 2011, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development over 150 units and over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be dismissed and planning permission refused. For the reasons given in this

letter, the Secretary of State agrees with the Inspector's recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

### **Procedural Matters**

4. The Secretary of State has noted the procedural matters set out in IR1-9 and agrees with the Inspector's assessment of them.

5. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and Addendum as submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Like the Inspector (IR10), he considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

6. Following the close of the Inquiry, the Secretary of State received three written representations, from Robert Pask dated 14 November 2011, Shoosmiths dated 10 February 2012 and South Kesteven District Council dated 24 February 2012, which he has carefully considered. However, he does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching his decision. Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

### **Policy Considerations**

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the East Midlands Regional Plan March 2009, the South Kesteven Core Strategy adopted 5 July 2010 (CS) and certain saved policies of the South Kesteven Local Plan April 1995. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR25-44.

8. Material considerations which the Secretary of State has taken into account include those documents listed at IR45-49. Of these, the Secretary of State is aware that following the close of the public local inquiry, the Grantham Area Action Plan (GAAP) was submitted for examination in December 2011 and that the Site Allocation and Policies Development Plan Document was submitted for examination in January 2012. He attaches little weight to the policies in these plans as they have yet to be examined. He also attaches little weight to the consultation version of the Planning Obligations Supplementary Planning Document, as representations received are still subject to review by the Council. Circular 11/95: *Use of Conditions in Planning Permission*, and the Community Infrastructure Levy (CIL) Regulations 2010 and 2011, are also material considerations.

9. The draft National Planning Policy Framework which was published for consultation on 25 July 2011 is a material consideration. However, as this is a consultation document and is subject to change, the Secretary of State has given it little weight.

10. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the East Midlands Regional Plan is formally

revoked by Order, he has attributed limited weight to the proposed revocation in determining this appeal.

11. The Secretary of State has had special regard to the desirability of preserving the nearby listed buildings and their settings, and any features of special architectural or historic interest which they possess, as required by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In view of the possible impact of the proposal on the nearby Manthorpe Conservation Area, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of this area, as required by section 72 of the same Act. He notes that there is agreement that the character of the Manthorpe Conservation Area would be preserved and sees no reason to disagree (IR53).

### **Main Issues**

12. The Secretary of State agrees with the Inspector that the main issues are those set out in IR238.

### **Development Plan**

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the development plan as set out in IR239-246. He agrees that the principle of the growth of Grantham and its expansion onto greenfield sites accords with the spatial strategy. He also agrees that adverse impact on heritage assets would conflict with important policy objectives, and a site is required to perform well in terms of sustainability in order to comply with the strategy. He further agrees that the development would give rise to a material risk to the early delivery of the sustainable urban extensions and associated important road proposals identified in the CS (IR246).

### **Housing land supply**

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing land supply as set out in IR247-251. He notes that there is a housing land supply shortfall. He agrees that, in principle, the development of an un-allocated site is in line with the CS, subject to meeting requirements on appropriateness and location, but the expectation is that this would follow consideration of site phasing and allocations in the GAAP (IR251).

### **Prematurity**

15. For the reasons given in IR252-256, the Secretary of State agrees that there are matters relating to the scale, location and phasing of housing development at Grantham that remain to be determined through the Grantham Area Action Plan. This is at an advanced stage, and allowing the proposal would predetermine the addition of a currently unallocated large greenfield development for immediate release. This prejudice to the GAAP warrants a genuine concern about prematurity (IR307), even allowing for any potential delay as a result of the future actions identified by the GAAP Inspector in his Note of Exploratory Meeting on 15 February 2012 (as referred to in the letters of Shoosmiths and South Kesteven District Council in paragraph 6 above).

### Heritage assets

16. For the reasons given in IR257-267, the Secretary of State agrees with the Inspector that the harm to the significance of the heritage assets of Belton Park and Garden by reason of impact on their settings would be an important consequence of the proposal, but that the degree of harm would be less than substantial (IR264).

### Highways

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on highways as set out in IR268-275. He agrees that the proposal would give rise to additional traffic which would have a negative impact on the operation of the highways network, but that based on reasonable assumptions, it is likely that the magnitude of this would amount to a moderate adverse effect, with no significant increased risks to safety (IR275). He notes, however, that the available modelling evidence does not represent worst case assumptions, and there is a degree of risk in relying on these findings (IR301).

### Sustainability

18. For the reasons given in IR276-282, the Secretary of State agrees with the Inspector that there are some significant reservations about the degree to which the proposal would be a sustainable development (IR282). Like the Inspector, he considers that some aspects of the development would comply with sustainability objectives, such as internal design features, footway/cycleway and travel plan measures, but in other respects, such as the location relative to the town centre, it would be less successful (IR302).

### Conditions and obligations

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations as set out in IR222-236 and IR283-298. He is satisfied that the proposed conditions are reasonable and necessary and comply with Circular 11/95. He also agrees with the Inspector (IR297) that the S106 agreement obligations accord with Circular 05/05 and the CIL Regulations. He does not consider that the proposed conditions and obligations overcome his reasons for dismissing the appeal.

### **Overall Conclusion**

20. The Secretary of State agrees with the Inspector's overall conclusions at IR299-308. He considers that the proposal is consistent with the strategic policy of substantial new development at Grantham, and that it would provide up to 200 dwellings towards the shortfall in the 5 year land supply, including affordable and specialist housing. However, there are a number of factors weighing against the proposal. These include; the heritage and highways harm; conflicts with the development plan, including the risk to the delivery of the CS sustainable urban extensions and associated road schemes; some concerns about sustainability; and, prejudice to the emerging GAAP, which should determine the scale, location and phasing of housing development at Grantham.

21. Having weighed up all of the relevant material considerations, the Secretary of State considers that the proposal conflicts with the development plan and national

planning policies in a number of respects and though there are material considerations weighing in its favour, these are not sufficient to outweigh this conflict.

### **Formal Decision**

22. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your client's appeal and refuses outline planning permission for a sustainable urban extension to Grantham comprising: up to 1,000 dwelling houses; a continuing care retirement community (UCO Class C2); a neighbourhood centre (incorporating a primary school (UCO Class D1), primary healthcare and community assembly facilities (UCO Class D1) and small scale (maximum 750m<sup>2</sup>) convenience shopping (UCO Classes A1, A3 and A5)); public house (UCO Class A4)/lodge hotel (UCO Class C1); ancillary formal playing field/play areas and informal open space, including structural landscaping and biodiversity enhancement areas; and access works (including alterations to the A607/Belton Lane junction) in accordance with planning application ref: S10/0142/EIAOL (as amended), dated 22 January 2010.

### **Right to challenge the decision**

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

24. A copy of this letter has been sent to South Kesteven District Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours sincerely

Pamela Roberts  
Authorised by the Secretary of State to sign in that behalf



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# Report to the Secretary of State for Communities and Local Government

by Terry G Phillimore MA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 12 January 2012

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TOWN AND COUNTRY PLANNING ACT 1990

SOUTH KESTEVEN DISTRICT COUNCIL

APPEAL MADE BY

R & S PASK, NAMULAS PENSION TRUSTEES LIMITED, THE TRUSTEES OF A J  
SNAREY 1987 SETTLEMENT, HPC HOMES LIMITED AND LARKFLEET LIMITED

Inquiry held on 2, 3, 8-10 & 15 November 2011; site visit made on 4 November 2011

Land to the north of Grantham (bounded by the East Coast Main Railway Line, Belton Lane and the  
A607 High Road Manthorpe), Lincolnshire

File Ref: APP/E2530/A/11/2150609

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**File Ref: APP/E2530/A/11/2150609**

**Land to the north of Grantham (bounded by the East Coast Main Railway Line, Belton Lane and the A607 High Road Manthorpe), Lincolnshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by R & S Pask, Namulas Pension Trustees Limited, the Trustees of A J Snarey 1987 Settlement, HPC Homes Limited and Larkfleet Limited against the decision of South Kesteven District Council.
- The application Ref S10/0142/EIAOL, dated 22 January 2010, was refused by notice dated 12 January 2011.
- The development proposed is a sustainable urban extension to Grantham comprising: at least 1,000 dwelling houses; a continuing care retirement community; a neighbourhood centre (incorporating a primary school, primary healthcare and community assembly facilities (UCO Class D1) and small scale (maximum 750 square metres) convenience shopping (UCO Class A)); public house/lodge hotel; ancillary formal (playing fields/play areas) and informal open space, including structural landscaping and biodiversity enhancement areas; and access works (including alterations to the A607/Belton Lane junction).

**Summary of Recommendation: The appeal be dismissed.**

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**PROCEDURAL MATTERS**

1. The application was submitted in outline form with all matters of detail reserved for later approval other than means of access. Among other documents, the application was supported by an Environmental Statement, a Design and Access Statement and an illustrative Masterplan<sup>1</sup>.
2. Amendments were made to the application prior to its determination by the Council. The amendments comprised a revised Masterplan with changes to layout, landscaping and phasing, supported by a Supplementary Design Report dated 23 October 2010<sup>2</sup>. The Council's decision to refuse the application took account of these amendments.
3. Although the Council determined the application, after submission of the appeal it identified what it considered to be procedural failings with the application which it believed meant that it was legally flawed and permission could not be granted. These matters were set out both in a letter from the Council to the appellants dated 7 June 2011 and at the Pre-Inquiry Meeting held on 15 July 2011<sup>3</sup>. Specifically, the Council asserted that the application did not meet the requirement under Article 4(4) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 for, where scale is a reserved matter, upper and lower limits for the height, width and length of each building in the proposed development to be stated. In addition, although not specified in the letter, the Council contended at the Pre-Inquiry Meeting that the application failed to meet the requirement of Article 4(3) that, where layout is a reserved matter, the application should state the approximate location of buildings, routes and open spaces. A further point made in the letter was that no parameters plan

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<sup>1</sup> Documents CD5, CD3 and CD2 respectively

<sup>2</sup> The revised Masterplan is included as plan AM1A in CD11

<sup>3</sup> INSP2



- had been provided for the Environmental Statement, and that this had not been supplemented to deal with the revised illustrative masterplan.
4. The parties made submissions on these matters at the Pre-Inquiry Meeting, followed by discussion. While the appellants maintained that the application as originally made was lawful, they nevertheless, without prejudice, advised an intention to submit a package of additional information to address what the Council suggested was required. There was no disagreement that the additional information could lawfully be submitted and thus avoid a possibility of legal challenge to a grant of permission based on its absence.
  5. Subsequent to the Pre-Inquiry Meeting, on 19 July 2011, a direction under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment (England and Wales) Regulations 1999 (As Amended) was issued to the appellants by the Planning Inspectorate on behalf of the Secretary of State<sup>4</sup>. This required 'further information' to be supplied for the purposes of the public inquiry as follows: a parameters plan(s) identifying the extent of built development and the building heights; additional assessment of landscape and heritage impact having regard to these details; amendment or supplement to the Environmental Statement to deal with the revised Masterplan; an addition to the Non-Technical Summary of the Environmental Statement covering the alternatives considered.
  6. On 21 July 2011 the appellants submitted a package of additional information comprising: the revised Masterplan; a parameters plan (based on the original application); a revised parameters plan (based on amendments to the application prior to determination); a supplemental Environmental Statement dealing with the amendments; and a revised design and access statement explaining the additional information<sup>5</sup>. In addition, the material introduced a Post-Determination Masterplan<sup>6</sup> showing some further minor revisions to layout and structural planting, and confirmation was given that the residential content of the proposal was intended to comprise 'up to 1,000 dwellings' in place of 'at least 1,000 dwellings'. Publicity was carried out on this material.
  7. The Council accepts that there is now sufficient material on which to determine the appeal, including with respect to the environmental information (considered below)<sup>7</sup>. In addition, no objection has been raised to determination on the basis of the amendments to the scheme, including those in the Post-Determination Masterplan. The amended numerical housing content reduces the potential size of the development, and within the overall context of the proposal the revisions do not change its fundamental nature and are relatively minor<sup>8</sup>. They have also been the subject of consultation. This report therefore deals with the final revised scheme and it is considered that no interest would be prejudiced by determining the appeal on this basis.

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<sup>4</sup> INSP3

<sup>5</sup> CD11, CD12, CD14

<sup>6</sup> CD13

<sup>7</sup> SK12 p48

<sup>8</sup> SK12 p5

8. The Statement of Common Ground includes a revised description of the proposal to reflect the above changes and clarify references to use classes, as follows<sup>9</sup>:

A sustainable urban extension to Grantham comprising: up to 1,000 dwelling houses; a continuing care retirement community (UCO Class C2); a neighbourhood centre (incorporating a primary school (UCO Class D1), primary healthcare and community assembly facilities (UCO Class D1) and small scale (maximum 750m<sup>2</sup>) convenience shopping (UCO Classes A1, A3 and A5)); public house (UCO Class A4)/lodge hotel (UCO Class C1); ancillary formal playing field/play areas and informal open space, including structural landscaping and biodiversity enhancement areas; and access works (including alterations to the A607/Belton Lane junction).

It is recommended that this description of the proposal be adopted.

9. A completed legal agreement dated 15 November 2011 containing planning obligations pursuant to section 106 of the Act was submitted at the inquiry<sup>10</sup>.

## **ENVIRONMENTAL INFORMATION**

10. The proposal is Environmental Impact Assessment development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. As stated above, the application was accompanied by an Environmental Statement, and a supplementary statement was prepared covering the further information required under a Regulation 19 direction. Together with other material information and comments from statutory consultees, these items form the environmental information, which is considered to be adequate for the purposes of assessing the significant environmental effects of the proposal.

## **THE SITE AND SURROUNDINGS**

11. The site is described in the statement of common ground<sup>11</sup>. It lies around 2km north of the main part of the town centre of Grantham, abutting the northern edge of the built up area.
12. The site has an area of around 55.9ha. It is bounded by Belton Lane to the north, the East Coast Main Line to the west, and the A607 to the east. The site is bisected by the Running Furrows stream, which runs southwest to northeast at the eastern end. Gonerby Stream runs along the southern boundary. The highest point is on a slightly domed plateau near the northern boundary.
13. The site mostly comprises arable farmland in large fields (grade 3b). The area south and east of Running Furrows is not actively farmed, comprising unmanaged pasture, paddock and grassland. The site is crossed by an overhead 132kv HT electricity line running diagonally across the northern part supported by 4 pylons. A public footpath runs east-west across the southern part, from the A607 to underneath the railway line. Two trees in the north east corner of the site are subject to a Tree Preservation Order. There are a number of hedgerows around and across the site.

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<sup>9</sup> CD17 p6

<sup>10</sup> CD18

<sup>11</sup> CD17. Useful photographs are contained in APP4

14. The neighbouring built up part of Grantham known as the Manthorpe Estate comprises late 20<sup>th</sup> century suburban housing. Manthorpe village, to the south east of the site, is an estate hamlet which is a designated Conservation Area<sup>12</sup>. St John's Church at its northern end is a Grade II listed building. The residential property of Manthorpe Grange also projects into this eastern part of the site.
15. To the north of Belton Lane are the Belton Woods golf course and hotel complex, and an area of woodland (Brickkiln Plantation). To the west of the East Coast Main Line is farmland rising towards Gonerby village and the north western edge of Grantham.
16. Lying to the east of the A607 is Belton House set within Belton Park. The House is a Grade I listed building and the Park is a Grade I Registered Park and Garden<sup>13</sup>. The House dating from 1685-1688 and subsequently altered is in country house classical style, of two storeys plus an attic and semi-basement. Within the western part of the Park an avenue runs from the Lion Lodge Gate at the south end to the House at the north end (the south avenue). A second avenue runs through the northern part of the Park from a high point at the east end, where the Grade II\* Bellmount Tower (built 1749-1751) is located, to the House at the west end. A large number of other structures within the Park are also individually listed<sup>14</sup>. The House and most of the Park are in the ownership of the National Trust and open to public visit<sup>15</sup>. The Park is around 250m from the site at the closest point<sup>16</sup>.
17. Within the area between the Park and the A607 immediately to the east of the site is open land where the Grade II\* listed Manthorpe Mill is located<sup>17</sup>.

## THE PROPOSAL

18. Descriptions of the proposal are included in the Statement of Common Ground<sup>18</sup> and section 3.0 of the Supplementary Design and Access Statement<sup>19</sup>.
19. Some 33ha of the 55.9ha site area would comprise the built development zones of the scheme. These include roads, car parking and the hard surfaced central space in the Neighbourhood Centre together with children's play areas and non-structural amenity landscaping. The remainder would comprise formal playing fields and play areas, informal open space including structural landscaping and biodiversity and water areas including the sustainable urban drainage system infrastructure. The arrangement is set out on the Post-Determination Masterplan APDM1 and the extent of built development is shown on APP1A<sup>20</sup>.
20. Building heights would vary between 2, 2.5 and 3 storeys. The distribution of heights is shown in schedules and on APP2A. Densities would range between 25 and 50 dwellings per hectare (APP3A).

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<sup>12</sup> CD27

<sup>13</sup> List descriptions at CD47 and CD48

<sup>14</sup> CD47

<sup>15</sup> SK2 Appendix 4 is the National Trust's statement of significance for Belton; at CD74 is its Belton Parkland Plan.

<sup>16</sup> SK2 paragraph 8.9

<sup>17</sup> List description at APP2 Appendix 2

<sup>18</sup> CD17 pp6-7

<sup>19</sup> CD12

<sup>20</sup> The plans and schedules are included in CD11.

21. The development would be carried out in up to 8 phases (APP4A).
22. There would be no major changes to the topography of the site. The existing public footpath on the south side of the site would be accommodated within the development in a network of new footpaths and bridleways. Two existing HT electricity pylons would be removed and the high voltage cable undergrounded between the retained pylons.
23. As set out in the Statement of Common Ground on Transport Matters<sup>21</sup>, vehicular access to the development would be via a new four arm roundabout junction which would replace the existing A607/Belton Lane priority junction<sup>22</sup>. A number of accesses for emergency use would be provided including via an extension of Rosedale Drive to the south east of the site and off Belton Lane. Off-site, it is proposed to signalise the junctions of Longcliffe Road and Sandcliffe Road with the A607.

### **PLANNING POLICY**

24. The Statement of Common Ground<sup>23</sup> identifies the development plan position. The development plan for the area comprises the East Midlands Regional Plan March 2009<sup>24</sup>, the South Kesteven Core Strategy Adopted 5 July 2010<sup>25</sup> and certain saved policies of the South Kesteven Local Plan April 1995<sup>26</sup>.

### **East Midlands Regional Plan**

25. Policy 1 sets out regional core objectives within the framework of securing the delivery of sustainable development within the East Midlands. Policy 2 promotes better design.
26. Policy 3 deals with the distribution of new development. Grantham is identified as a sub-regional centre within the Eastern Sub-area, where appropriate development of a lesser scale than the principal urban areas and growth towns should be located. Paragraphs 2.2.11-12 identify Grantham as one of a number of New Growth Points where higher growth targets have been agreed in partnership with Government, with guaranteed access to increased levels of funding for necessary infrastructure.
27. Policy 4 gives more detail on development in the Eastern Sub-area. Among other things, development should ensure that the Growth Point Programmes of Delivery are achieved both in the overall numbers of dwellings and in the agreed phasing of development, with the centres (including Grantham) to be consolidated and where appropriate strengthened.
28. Policy 13a sets out figures for housing provision. Those for South Kesteven are an annual apportionment from 2006 of 680 dwellings and a total provision of 13,600 dwellings for 2006-2026. The policy indicates that higher numbers can be tested through development plan documents provided that they are consistent

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<sup>21</sup> CD17a

<sup>22</sup> Drawing no. 17359-OS-006RevA

<sup>23</sup> CD17

<sup>24</sup> CD20

<sup>25</sup> CD21

<sup>26</sup> CD45 and CD22

- with the principles of sustainable development. Policy 14 gives regional priorities for affordable housing.
29. Policy 26 sets out that sustainable development should ensure the protection, appropriate management and enhancement of the Region's natural and cultural heritage, and provides principles to be applied towards achieving this. These include avoiding damage to assets or their settings wherever and as far as possible, and that unavoidable damage must be minimised and clearly justified by a need for development in that location which outweighs the damage that would result. Policy 27 contains regional priorities for the historic environment, including that this should be understood, conserved and enhanced. Among ways to achieve this is to identify and assess the significance of specific historic assets and their settings.
  30. Policy 28 gives regional priorities for environmental and green infrastructure, and policy 29 for enhancing the region's biodiversity.
  31. Policy 43 sets out regional transport objectives. These include: supporting sustainable development; improving safety and reducing congestion; reducing traffic growth; and improving air quality and reducing carbon emissions from transport by reducing the need to travel and promoting modal shift away from the private car.

### **South Kesteven Core Strategy**

32. Policy SP1 provides the spatial strategy. The majority of all new development should be focused upon Grantham. New development proposals shall be considered on appropriate sustainable and deliverable brownfield sites and appropriate greenfield sites (including urban extensions) sufficient to ensure the achievement of growth targets. Details of specific sites (including urban extension sites) will be included in a Grantham Area Action Plan (GAAP). In all cases permission will only be granted on a less sustainable site where it has been proven that there are no other more sustainable options available or there are other overriding material considerations. Paragraph 5.1.5 gives criteria for assessing all potential residential sites which are located in accordance with the spatial strategy. These include tests on accessibility (with a reference to policy SP3) and impact on historic assets. Paragraph 5.1.6 indicates that the GAAP will allocate additional appropriate and sustainably located sites both within and on the edge of the built up area of the town to ensure that a range of sites is available throughout the plan period.
33. Policy SP3 deals with sustainable integrated transport. In considering development proposals it is to be ensured that the objectives of the local transport plan for Lincolnshire are met. As part of the growth agenda for Grantham the delivery of traffic relief, including heavy goods vehicles, from the town centre will be a priority and any major development proposals within these areas will be expected to contribute towards delivering these schemes. The provision of an east-west relief road between the A1 and A52 to the south of Grantham will be brought forward as part of the Southern Quadrant Sustainable Urban Extension to the town; the North West Quadrant Sustainable Urban Extension will provide for the completion of the Pennine Way Link between the A52 and B1174. The creation of a sustainable, modern transport network will be encouraged by, among other things, promoting the location of development in areas which are particularly accessible by public transport, cycling and walking;

- promoting a balanced mix of land uses and patterns of development which reduce the need to travel by car; and securing transport statements and travel plans where appropriate and requiring the preparation of transport assessments for all developments that are likely to have significant transport implications to determine the measures required on the surrounding highway network to ensure adequate access by all modes of transport.
34. Policy SP4 provides for securing developer contributions which are necessary in conjunction with development.
  35. Policy EN1 deals with the protection and enhancement of the character of the District. All development proposals and site allocations will be assessed in relation to, among other things, statutory, national and local designations of landscape features including natural and historic assets.
  36. Policy EN3 deals with renewable energy generation and policy EN4 with sustainable construction and design.
  37. Policy H1 requires new housing development in the District during the period 2006-2026 to be planned and phased to deliver the minimum level of housing development (13,600 dwellings) required by the Regional Plan. Housing growth should be focused on Grantham, to deliver the wider social and economic aspirations of the Growth Point Partnership, with a residual of 6,992 dwellings to be found over 2008-2026 out of 7,680 dwellings, giving an annual build rate for the remaining plan period of 389.
  38. Paragraph 5.1.7 deals with monitoring of housing development and sets out actions to be taken in the event that it becomes clear that the overall housing requirement is not being achieved and additional land is required to maintain a five year supply. These are: to re-prioritise the phasing of allocated sites; if there are insufficient allocated sites available to be brought forward a partial review of allocations will be undertaken; in such circumstances the grant of permission for additional sites which meet national and development plan locational requirements will be considered.
  39. Policy H2 sets out requirements for the North West Quadrant and Southern Quadrant urban extension sites. These include the road links referred to above. The former is expected to yield 3,500 new dwellings and the latter up to 4,000, and both are also anticipated to contain employment and community facilities. Detailed boundaries and criteria to guide masterplans are to be established though the Grantham Area Action Plan. Paragraph 7.35 refers to the two road schemes as being critical to the delivery of the spatial strategy.
  40. Policy H3 contains requirements on affordable housing.

### **South Kesteven Local Plan**

41. Policy H1 identifies specific sites for new housing estate development, towards making provision for about 3,795 dwellings at Grantham between 1990 and 2001. Policy H5 does the same for the rural area outside the main towns.
42. Policy E1 identifies sites for new industrial and business development in Grantham.

43. Policy REC3 applies a minimum recommended standard of 6 acres of playing space per 1,000 population to guide the overall provision of outdoor space. New public open space should be planned as an integral part of the total development and should, wherever possible, incorporate existing natural landscape features.
44. Policy REC4 requires, for larger developments, provision of playing fields to a minimum standard of 1.6ha per 1,000 population or 40m<sup>2</sup> per dwelling. Policy REC5 similarly requires a minimum standard of 0.8ha per 1,000 population or 20m<sup>2</sup> per dwelling of play space.

### **Other Local Policy**

45. The Submission version of the Grantham Area Action Plan Development Plan Document<sup>27</sup> was issued in October 2011. The Vision set out at paragraph 2.1 is that by 2026 Grantham will be a vibrant and key economic centre, and an economically, socially, environmentally and physically connected town. It adds that Grantham will be an attractive traffic calmed environment which allows the enjoyment of its historic spaces, buildings and streets.
46. Policy HS1 provides that at least 5,529 houses are to be built to 2026. This is an update of the Core Strategy figure of 7,680 taking into account construction and permissions since 2006 (paragraph 3.6.1). The policy identifies a number of sites for housing development, giving indicative numbers of dwellings including affordable units and phasing. Affordable housing provision is currently anticipated at 21% based on viability considerations (paragraph 3.6.10). Amongst the sites are the North West Quadrant (3,500 dwellings for 2011-2026) and the Southern Quadrant (1,600 dwellings during the same period). Policies NWQ1 and SQ1 give more detail on these sites. The Plan also identifies employment areas and allocations (policies EM1 and EM2). Policy MOV1 deals with movement and accessibility. Policy HE4 is aimed at protecting and enhancing the setting of Belton House and Park.
47. The period for representations on the Grantham Area Action Plan was due to end on 18 November 2011, with submission under Regulation 30 anticipated by the end of the year<sup>28</sup>. A Site Allocation and Policies Development Plan Document<sup>29</sup> (covering that part of the District outside the Grantham Area Action Plan area) is following the same timetable.
48. There are a number of other local documents of relevance. The 'Manthorpe Conservation Area Appraisal'<sup>30</sup> was issued by the Council in August 2007. The 'Belton House and Park Setting Study and Policy Development' (January 2010)<sup>31</sup> was prepared jointly for the Council and the National Trust as part of the evidence base for the Local Development Framework. The Council has agreed a consultation version of its 'Planning Obligations Supplementary Planning Document'<sup>32</sup>. Lincolnshire County Council has prepared the '3<sup>rd</sup> Local Transport

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<sup>27</sup> CD50

<sup>28</sup> SK1 p6, confirmed in answer to Inspector's questions. Regulation 30 of the Town and Country Planning (Local Development) (England) Regulations 2004 (as amended)

<sup>29</sup> CD25

<sup>30</sup> CD27

<sup>31</sup> CD26

<sup>32</sup> CD88

Plan 2011/12 to 2012/13<sup>33</sup> and the 'Transport Strategy for Grantham 2007 to 2021 and beyond'<sup>34</sup>.

## National Policy

49. The relevant national policy documents are also set out in the Statement of Common Ground. Of particular importance are: Planning Policy Statement 1: Delivering Sustainable Development (PPS1); PPS1 Supplement: Planning and Climate Change; The Planning System: General Principles; Planning Policy Statement 3: Housing (PPS3); Planning Policy Statement 5: Planning for the Historic Environment (PPS5); Planning Policy Statement 12: Local Spatial Planning (PPS12); Circular 05/05 Planning Obligations; Ministerial Statement – Planning for Growth (23 March 2011). Neither main party placed any reliance on the draft National Planning Policy Framework in their closing submissions<sup>35</sup>.

## PLANNING HISTORY

50. The potential for outward growth of Grantham at Manthorpe (including the appeal site) was considered at the Preferred Options Stage of the Core Strategy but not taken forward by the Council. The promotion of this option was dealt with by the Inspector as part of the Examination of the Core Strategy. She concluded that it was "*not necessary or appropriate to introduce this additional direction of growth within the Core Strategy. To do so would render the Core Strategy unsound.*"<sup>36</sup> The reasons given for this and the implications are explored below in the parties' cases.

51. The planning application was refused by the Council for 6 reasons<sup>37</sup>. In summary, these reasons raised objections on grounds of: conflict with the spatial policies of the development plan; prematurity in relation to the Grantham Area Action Plan; sustainability; impact on Belton House and Park and Garden; and traffic impact.

## AGREED MATTERS

52. A number of matters not in dispute between the main parties can be noted.

53. There is agreement that a locally distinctive development of a suitably high design quality could be secured and delivered by way of a Masterplan subject to conditions and obligations<sup>38</sup>. This includes achieving an appropriate standard of sustainability within the site, in compliance with policies EN3 and EN4 of the Core Strategy<sup>39</sup>. It is also agreed that the visual impact of the development on the landscape around the site is not an issue, with the exception of matters relating to the effects on Belton House and Park, and that the character and appearance of the Manthorpe Conservation Area would be preserved<sup>40</sup>.

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<sup>33</sup> CD28

<sup>34</sup> CD29

<sup>35</sup> SK16 and APP14

<sup>36</sup> CD23 paragraph 3.93

<sup>37</sup> CD9

<sup>38</sup> CD17 paragraph 5.8

<sup>39</sup> CD17 paragraphs 5.9 and 7.6

<sup>40</sup> CD17 paragraphs 6.2 and 10.1



54. It is recorded in the Statement of Common Ground that the approach to the layout and design of the development advocated by CABE<sup>41</sup> does not constitute an acceptable or appropriate one. This is on the basis that it does not have adequate regard to the context of the site and especially the presence of important heritage assets in the immediate vicinity<sup>42</sup>.
55. There is agreement that the proposed access strategy and the capacity of this are acceptable, and that the proposed mitigation measures for the A607 junctions are appropriate<sup>43</sup>.
56. With respect to housing land supply, an update has been prepared by the Council setting out the position at 31 March 2011<sup>44</sup>. This identifies an agreed supply of 4 years, so that the Council is unable to demonstrate a 5 year supply. The Council estimates that the appeal site could contribute some 132 units within 5 years<sup>45</sup> and the appellant some 200 units<sup>46</sup>. At the inquiry the main parties agreed that the range between these two figures represents reasonable uncertainty, and that the proposal would add the equivalent of up to around 0.3 years to the 5 year supply<sup>47</sup>.
57. There is agreement that the proposed hotel proposal is acceptable in conjunction with the proposed public house and within the context of the wider development including the new neighbourhood centre<sup>48</sup>.

## THE CASE FOR SOUTH KESTEVEN DISTRICT COUNCIL

58. The main points are:

### The Development Plan

59. The documents comprising the development plan are set out in the Statement of Common Ground<sup>49</sup>.
60. Unless and until the East Midlands Regional Plan<sup>50</sup> (EMRP) is abolished by primary legislation it will continue to form part of the development plan as the Regional Spatial Strategy<sup>51</sup>. Policy 27 of the EMRP requires land allocations to respect the historic environment<sup>52</sup>. This contradicts the appellants' implied contention that the impetus for growth in the EMRP permits a free-for-all if the housing land supply falls below five years. The EMRP encourages a step change in housing provision, especially in growth centres such as Grantham, but the identification of sites must respect a wide suite of development control interests.

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<sup>41</sup> INSP1

<sup>42</sup> CD17 paragraph 13.1

<sup>43</sup> CD17a paragraphs 4.9 and 5.6

<sup>44</sup> CD49 and CD17 paragraph 9.1

<sup>45</sup> SK13 paragraph 5.5

<sup>46</sup> APP8 paragraph 5.7

<sup>47</sup> APP11 p3

<sup>48</sup> Responses to Inspector's questions (Mr Middleton and Mr Aspbury).

<sup>49</sup> CD17 section 7

<sup>50</sup> CD20

<sup>51</sup> Cala Homes (South Ltd v. SOSCLG [2010] EWHC 2866 (ADMIN) and, in the Court of Appeal, [2011] EWCA Civ 639

<sup>52</sup> SK1 paragraph 2.2.5

The latter point is overlooked by the appellants. Thus if the Secretary of State agrees with the Council that the proposal would cause harm or substantial harm to the setting of Belton House Park and Garden, then the proposal is in conflict with the EMRP. The importance of this point is that, in the event that harm to Belton House is identified, there is no conflict in the development plan between promoting growth and avoiding harm. That dichotomy is already built into the development plan, which requires strategic land allocations only in cases which avoid harm. Thus, if harm is identified then the proposals are in conflict with the development plan. In these circumstances the appellants are left to rely on other material considerations. Their evidence<sup>53</sup> is silent on this point and they have not advanced any such case.

61. Conflict with the development plan is therefore decisive. Such conflict arises in relation to the development plan strategy, the Heritage question and the Highways question.

### ***The Development Plan Strategy***

62. It is necessary to draw a distinction between the Core Strategy<sup>54</sup> (CS), which is part of the development plan, and the Grantham Area Action Plan<sup>55</sup> (GAAP), which is not. Conflict with the CS engages the statutory presumption against the grant of consent<sup>56</sup>, whereas conflict with the GAAP is a material consideration to be taken into account against the proposal in the light of the PPS1: General Principles.

63. The reason such importance is attached to the adopted CS is that it has now passed through all of its statutory stages of examination. The public have been extensively consulted about its content and approach over a number of years and have fully participated in its preparation. There is a high emphasis in PPS1 attached to encouraging public participation in the planning process. The Secretary of State should therefore be very reluctant to contradict or depart from the strategic approach which has been set out and affirmed in the CS. The appellants' planning witness implicitly agreed with this<sup>57</sup>. His contention was that the appeal proposal accords with the strategy in the CS, but that is wrong. To approve the proposal would disrupt and frustrate the strategy.

64. The appellants fully participated in the CS process, in which they repeatedly advanced the proposition that the appeal site should be allocated for 1,000 houses in order to make the plan sound<sup>58</sup>. Their planning witness confirmed<sup>59</sup> that the argument advanced at this inquiry was not materially different to the one advanced in representations throughout the CS process. They failed in those<sup>60</sup>. It would be wrong for the Secretary of State to now allow those same contentions to succeed in a Section 78 appeal because, to do so, would undermine confidence in the forward planning process.

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<sup>53</sup> APP8 and evidence in chief of Mr Asbury

<sup>54</sup> CD21

<sup>55</sup> CD50

<sup>56</sup> S38(6) Planning and Compulsory Purchase Act 2004

<sup>57</sup> Cross-examination of Mr Asbury

<sup>58</sup> APP8 pp12-13; APP10 Appendix 2

<sup>59</sup> Cross-examination of Mr Asbury

<sup>60</sup> SK1 pp4-5; SK13; CD23

65. The CS, so far as concerns Grantham, promotes a renaissance of the Town Centre by stimulating economic activity through peripheral development. It states:

*"This will be achieved by creating the right balance of jobs, housing and infrastructure".<sup>61</sup>*

To randomly add 1,000 units to the housing side of the equation with little or no corresponding jobs and infrastructure would disrupt the balance which has been carefully struck in the strategy.

66. This does not state the full harm to the strategy from granting permission for the proposal. This might have the effect of preventing or delaying the provision of the Southern (East-West) Relief Road or Pennine Way Link which, in turn, would frustrate the achievement of the central objectives of the CS<sup>62</sup>.
67. The appellants' planning witness disagreed that there could be any relationship between the speed at which the Southern Quadrant and North West Quadrant Sustainable Urban Extensions (SUEs) come forward and a grant of permission at the appeal site<sup>63</sup>. In this regard he agreed that his was a lone view against a consensus involving the Council's policy and planning witnesses<sup>64</sup>, the landowners of the SUEs<sup>65</sup>, and the CS Inspector. The latter stated:

*"...there is no strong imperative to introduce another strategic location in the Core Strategy. Indeed I have some concern that to do so could deflect the current focus on delivering these SUEs to the detriment of the wider benefits this would bring for the Growth Point".<sup>66</sup>*

68. To understand the importance of this point it is first necessary to note the relationship between the provision of the road infrastructure and the achievement of the wider objectives of the plan<sup>67</sup>. The infrastructure would bring an immediate benefit to the operation of the local highway network. The Transport Strategy describes the provision of the Southern Relief Road as being required as soon as possible and points out that the Pennine Way would help to reduce congestion in the town<sup>68</sup>. The Local Transport Plan explains that these advantages would be secured by implementing an area wide HGV ban once an East-West Relief Road is in place<sup>69</sup>. Tackling congestion is identified in the Local Transport Plan as a key priority for Grantham in the plan period.
69. The provision of this infrastructure is not limited to highway considerations. Policy SP3 of the CS states that, as part of the Growth Agenda for Grantham, the delivery of traffic relief, including heavy goods vehicles, from the town centre will be a priority<sup>70</sup>. The explanatory text describes the provision of the Southern

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<sup>61</sup> CD21 p13

<sup>62</sup> Evidence in chief of Mr Middleton

<sup>63</sup> Cross-examination of Mr Aspbury

<sup>64</sup> Ms Sinclair and Mr Middleton

<sup>65</sup> INSP1: letter of representation from Ancer Spa dated 6th July 2011

<sup>66</sup> CD 23 paragraph 3.92

<sup>67</sup> SK1 p4

<sup>68</sup> CD29 pp.15 and 16

<sup>69</sup> CD28 paragraph 8.10

<sup>70</sup> CD21 p29

- Relief Road as critical to reducing the amount of through traffic (especially heavy lorries) and resultant congestion in the town centre<sup>71</sup>.
70. The relationship between the provision of the two roads and the promotion of the wider interests of the town in encouraging modal shift, growing employment and strengthening Grantham's sub-regional role was recognised by the CS Inspector<sup>72</sup>. These are all wider policy objectives contemplated by PPS3 paragraph 69, fifth bullet point.
71. These references indicate the importance of the provision of the two main elements of the highway infrastructure to the vision and objectives of the CS. Given this importance, it follows that if the effect of allowing the appeal would be to retard the speed at which either road scheme comes forward, that constitutes a strong consideration against the grant of permission because the proposal would thereby conflict with the fundamental strategy of the plan. This was agreed by the appellants' planning witness<sup>73</sup>.
72. The appellants' main argument is that there is no evidence that a grant of permission for the proposal would, or might, have those undesirable consequences. That is wrong. The objection letter from the SUE landowners and the Inspector's conclusions on the CS constitute strong, authoritative, opinion-based evidence, added to which are the opinions of the Council's policy and planning witnesses<sup>74</sup>. There are some things which are obvious and it is not necessary to adduce evidence to prove them. The appellants' planning witness agreed that were permission to be granted for 50,000 houses in Grantham that would deter or frustrate the development of the SUEs and (since the provision of the highway infrastructure is wholly dependent on the development of the SUEs) frustrate the provision of the roads<sup>75</sup>. Having agreed this he then said it was all a question of judgment and balance. That balance has already been struck in the CS, taking into account all of the appellants' representations. The appellants are clearly unhappy with the outcome of the CS process and are using this appeal as a means of trying to re-run or re-open the CS debate. The Secretary of State should not tolerate that approach in a plan-led system.
73. It is not incumbent on the Council to achieve a position of certainty on the impact of granting permission, since it is sufficient to establish that the proposal may frustrate the timely provision of the road infrastructure. The Secretary of State should not take an unnecessary risk given the importance attached to the central objective of a recently adopted development plan.
74. To conclude on this matter, the appeal proposal is in clear conflict with the fundamental strategy of the recently adopted development plan, and therefore its rejection is required as there are no other material considerations which indicate a contrary conclusion<sup>76</sup>.

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<sup>71</sup> CD21 p28 paragraph 3.3.6

<sup>72</sup> CD23 paragraph 3.78

<sup>73</sup> Cross-examination of Mr Aspbury

<sup>74</sup> Ms Sinclair and Mr Middleton

<sup>75</sup> Cross-examination of Mr Aspbury

<sup>76</sup> Section 38(6) Planning and Compulsory Purchase Act 2004

## Prematurity

75. The advice in PPS1: General Principles on prematurity clearly applies here in relation to the GAAP. The plan is well advanced, the proposal is very large and to approve it would pre-determine decisions about the scale, phasing and location of development which ought properly to be taken within the context of the development plan. The advice in PPS1 paragraphs 17-19 could have been written with the appeal proposals in mind. Prematurity clearly and obviously provides an independent justification for the rejection of the appeal.
76. In the recent Cala Homes (South) Ltd case in Winchester the Secretary of State found that:

*“...to allow the appeal proposal now would fly in the face of local democracy and undermine the very process of localism that the Government is advocating”<sup>77</sup>.*

There that reasoning applied to a development plan document (DPD) which was at the earliest stages of preparation. The GAAP is entering its final stages of preparation. This implies a much higher degree of public participation and therefore ownership of the DPD than was the case at Winchester. The above proposition therefore applies with greater force in this case.

77. That decision and another recent decision<sup>78</sup> reveal a consistent thread. The prematurity principle is aligned with the localism agenda to provide a powerful obstacle against large ad hoc proposals which come forward outside (and in contravention of) the forward planning process.
78. The appellants' planning witness had to acknowledge this framework, leaving him to make the weak suggestion that the appeal proposal is not in conflict with the GAAP because the growth agenda requires many more houses and there is no phasing policy<sup>79</sup>. This is equivalent to saying there is now a free-for-all on greenfield sites outside the urban area. However:
- (i) There is clearly a conflict between the appeal proposal and the GAAP. This explains why the appellants are presently objecting to the GAAP on the grounds that the DPD itself is unsound without the specific identification of the appeal site<sup>80</sup>.
  - (ii) The GAAP has made a decision about the scale and location of housing and the appeal site forms no part of those arrangements. The appeal proposal is not needed to meet levels of housing provision above the figure of 7,680 set in policy H1 of the CS<sup>81</sup>. It would result in the figure in policy H1 of the CS of houses to be built over the plan period to 2026 being exceeded by around 1,500 houses<sup>82</sup>. The CS Inspector

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<sup>77</sup> CD43a p10 paragraph 37

<sup>78</sup> CD42 paragraph 20

<sup>79</sup> Cross-examination of Mr Aspbury

<sup>80</sup> APP10 Appendix 5

<sup>81</sup> SK12 paragraph 9.2

<sup>82</sup> SK12 pp14-15 and paragraph 7.34

anticipated the GAAP making choices in the balance of sites including the appeal site<sup>83</sup>.

- (iii) Policy HS1 in the GAAP<sup>84</sup> is clearly a phasing policy. The appeal proposal “flies in the face” of that phasing policy, the obvious purpose of which is to concentrate market attention (or, in the CS Inspector’s word, “focus”) on bringing forward the SUEs in the first five years of the plan.
- (iv) The appeal proposal disrupts the mechanism for bringing forward additional housing to address any identified shortfall in the five year housing land supply which is embedded in both the CS and the GAAP<sup>85</sup>.

79. For these reasons the appeal proposal conflicts with the fundamental aims, objectives and strategy of the GAAP and should be rejected on prematurity grounds.

### **The Balance of Harm and Benefit**

80. The accumulated harm associated with the proposal in terms of the impact on the development plan strategy and on the Heritage and Highways issues (both dealt with below) is very considerable. In contrast the benefits are spurious and limited and come nowhere near matching the harm.

81. The appellants’ planning witness described<sup>86</sup> the benefits of the scheme as amounting to:

- (i) A 0.3 year supply of housing land;
- (ii) Affordable housing;
- (iii) Elderly care; and
- (iv) Delivery beyond the 5 year horizon.

82. On (i), the proposal would raise the five year supply (making every assumption in favour of the appellants) from 4 years to 4.3 years<sup>87</sup>. The deficit below a five year supply is not extreme (many authorities reveal a two year supply in current conditions), and the appeal site would make only a modest contribution to rectifying the shortfall. The CS Inspector accepted that there would be a shortfall in the early part of the plan period<sup>88</sup>. In an appeal case in Swindon<sup>89</sup> an Inspector determined that harm to a Grade II heritage asset was too high a price to pay for adding to a supply which was somewhere between two and four years. There is no rational basis to reach a different conclusion here.

83. On (ii), at 21% the affordable housing contribution is modest compared with, for example, 40% at Winchester<sup>90</sup>. In any event, that provision is a necessary concomitant of open market housing and cannot be regarded as an independent

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<sup>83</sup> SK13 paragraphs 3.10-11; CD23 paragraph 3.94

<sup>84</sup> CD50 p52

<sup>85</sup> CD21 paragraph 5.1.7 and CD50 paragraph 3.6.8

<sup>86</sup> Cross-examination of Mr Aspbury

<sup>87</sup> CD49

<sup>88</sup> SK13 paragraph 5.4; CD23 paragraph 3.48

<sup>89</sup> SK2 Appendix 6

<sup>90</sup> CD43a

benefit of the scheme. Further, in assessing this benefit regard must be had to the possibility that the appeal proposal would delay or prevent the rapid development of the SUEs, thereby retarding or removing the affordable housing contribution of those sites. It is therefore probable that the appeal development would displace affordable housing provision rather than provide a net increase. That is no benefit at all.

84. On (iii), accommodation for the elderly is to be welcomed but is only a recognisable benefit if it addresses an acknowledged deficiency in existing provision. The question of need was not addressed in any document supporting the application<sup>91</sup>. A document submitted at the inquiry<sup>92</sup> discusses demand, but was agreed by the appellants' planning witness not to provide any evidence of existing supply<sup>93</sup>. There is therefore no evidence about residual need beyond existing supply.
85. On (iv), the appellants take a pessimistic view of the prospects for Grantham beyond the five year time horizon<sup>94</sup>. A more balanced view is to be preferred. The best evidence in this regard is the Highways Statement of Common Ground in which the appellants have agreed that a range of development in Grantham to 2018 is realistic for assessment purposes<sup>95</sup>. If this is realistic for one index of analysis it cannot then be disregarded as unrealistic for another. The figures have their own objective status and reveal a projected increase in completed units of nearly 1,400 in the two to three year period beyond 5 years in Grantham<sup>96</sup>. That rate of development accords with the published trajectory in the CS<sup>97</sup> and contradicts the appellants' view. The further contribution of the appeal site to the supply beyond the five year time horizon is therefore noted but does not serve any identifiable strategic purpose.
86. A number of other identified<sup>98</sup> site specific aspects of the development, including open space, retail provision, and highway improvements, are all incidental features of the appeal proposal rather than clearly identifiable public benefits.
87. Thus a review of the real (as opposed to illusory) benefits of the scheme reveals that the modest increase in the housing land supply is the only benefit of the proposal. Even this must be understood in the context of the development plan which has already established a mechanism for addressing a shortfall<sup>99</sup>, which the CS Inspector found to be effective<sup>100</sup>. That mechanism involves a sequential process in which *"...the Council will re-prioritise the phasing of allocated sites..."* before granting permission at greenfield locations outside the urban area. The phasing policy of the GAAP identifies three sites with, between them, a capacity of 510 units<sup>101</sup>. The development plan requires them to be brought forward before the appeal site. The current proposal contradicts that strategy by trying

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<sup>91</sup> Inspector's questions to Mr Aspbury

<sup>92</sup> CD85

<sup>93</sup> Cross-examination of Mr Aspbury

<sup>94</sup> APP8 pp23-24

<sup>95</sup> CD17a paragraph 3.2

<sup>96</sup> Evidence in chief of Mr Middleton

<sup>97</sup> CD21 p51

<sup>98</sup> Cross-examination of Mr Aspbury

<sup>99</sup> CD21 paragraph 5.1.7

<sup>100</sup> CD23 paragraph 3.25

<sup>101</sup> CD50 p52. Total incorrectly given as 610 in SK16.

to leapfrog the allocated sites in a way which was not contemplated or allowed by the CS. This heavily dilutes the benefit of an additional 0.3 years in the housing land supply.

### The Heritage Question

88. The written evidence of the appellants' heritage witness contains an acceptance that the appeal proposal would cause some harm to the heritage asset which would need to be outweighed<sup>102</sup>. This is despite his reluctance to agree this at the inquiry<sup>103</sup>. His approach discredits his evidence.
89. The heritage asset in question is of the highest importance<sup>104</sup>. English Heritage have taken the unusual step of providing a qualified expert witness to appear in person to robustly oppose the appeal proposal because of the harm it believes would be caused to the asset<sup>105</sup>. The importance of the heritage asset is also reflected in the English Heritage objection letter of March 2010<sup>106</sup> which pointed out that the Environmental Statement had failed to recognise its true value as of international importance. A feature of the appellants' whole approach has been to continually underestimate the importance of the heritage asset or the severity of the proposal's impact upon it.
90. The same letter from English Heritage states:

*"Belton Park is of immense importance as a heritage asset. The late seventeenth century designed landscape, with its avenues and belts of trees, is one of the finest of its type surviving in England".*

The approach to the decision on this proposal should be, first and foremost, to avoid any harm to the heritage asset. Such an approach would apply PPS5 policy HE9.1, which advises that the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.

91. The setting of the heritage asset is fragile because it is so vulnerable to modern, unsympathetic encroachment. The registered Park and Garden are now on English Heritage's Heritage at Risk Register because of concerns regarding development in this location and the impact on the Park's setting<sup>107</sup>. This concern is echoed by the National Trust, whose statement of significance identifies that the estate is lapped around at its southern extremity by the encroaching suburbs of Grantham<sup>108</sup>.
92. These concerns have their own policy context:

*"Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with PPS5 policies, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset."*

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<sup>102</sup> APP1 paragraph 4.29

<sup>103</sup> Cross-examination of Dr Doggett

<sup>104</sup> SK2 pp31-55, where the individually designated assets within the Park are identified

<sup>105</sup> Evidence of Ms Evans, appearing for the Council.

<sup>106</sup> CD53

<sup>107</sup> SK2 p21 and Appendix 2

<sup>108</sup> SK2 Appendix 4



*Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing views of a building.*<sup>109</sup>

93. Based on these initial points, the approach on the Heritage question should be to recognise:
- (i) The extraordinarily high importance of the heritage asset in question, which represents an historic assemblage<sup>110</sup>;
  - (ii) The corresponding importance which national policy applies to its protection;
  - (iii) The fragility of the setting owing to the unsympathetic encroachment of suburban development; and
  - (iv) Guidance recently published by English Heritage<sup>111</sup> which requires decision makers to avoid causing negative impacts on the setting of heritage assets.
94. The English Heritage guidance should be treated with the highest weight. It explains that the notion or concept of a setting is deep, wide and varied<sup>112</sup>. In addition to rejecting any fixed delineation on the ground, the guidance also expands the consideration of setting to non-physical and non-visual elements. Its importance lies in what it contributes to the significance of the heritage asset. The guidance gives a list of factors to consider which might impact on setting, which is useful in this case<sup>113</sup>.
95. The Setting Study<sup>114</sup>, prepared for the Council and the National Trust, has the limitation that it restricts its consideration to visual impacts alone. It nevertheless advises that the visible areas of flat ground within 2km of the asset (which include the appeal site) are sensitive to major development and such development would detract from the significance of the views<sup>115</sup>. Bellmount Tower enables the Park to borrow landscape from beyond the Park, creating tangible connections with this wider area. The intrusion of the development into mid ground views from the Tower would reduce the experience of the Park's setting and compete with Belton House for dominance, thereby undermining its significance. Great Gonerby would in effect be removed from the setting of the Park by separating the Park from the landscape behind. From the south avenue, the view would be compromised by losing the rural form and reducing any sense of setting beyond the immediate boundary of the Park.<sup>116</sup>
96. The question of harm is wider than inter-visibility. The Park was designed as a working landscape, with sheep grazing and other husbandry within the boundaries of the Park emphasising the relationship with the agricultural land
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<sup>109</sup> CD34a p8

<sup>110</sup> SK2 section 7

<sup>111</sup> CD34a

<sup>112</sup> CD34a paragraph 2.2

<sup>113</sup> CD34a p21

<sup>114</sup> CD26

<sup>115</sup> CD26 paragraph 3.4.1 and Figures 11-14

<sup>116</sup> SK2 Section 8

- beyond the boundary within the setting<sup>117</sup>. That functional relationship is still evident as between the appeal site and the Park and would be utterly destroyed by the appeal proposal<sup>118</sup>.
97. Also relevant here as a non-physical aspect of setting is the idea of the enlightenment. It is clear that the House and Park were deliberately and ostentatiously designed to dominate the surrounding landscape<sup>119</sup>. This reflects a central theme of the Age of Reason; that Man shall have dominion over nature because he has a rational mind. With the building of the Tower this evolved to include designed views. The Tower brought the wider landscape within the experience of the Park, and there are also designed views beyond the Park from the south avenue<sup>120</sup>.
98. The appellants' approach is flawed because their analysis of impact and harm has been confined to questions of inter-visibility<sup>121</sup>. It has thereby disregarded all the other ways in which harm might arise from this type of juxtaposition; associational, perceptual, intellectual.
99. Within this confined approach they have further limited their consideration of visual impacts to those inside the Park looking out, barely mentioning the significance of views outside the Park looking in and of the Tower, which would be fragmented<sup>122</sup>. That might explain why they alone consider a major development within the immediate setting of the Park to be acceptable, contrasting with English Heritage, the National Trust, the Council, the Setting Study and a whole range of well informed local people who say otherwise.
100. The appellants propose dense screen planting on the edge of the appeal site closest to the Park<sup>123</sup>. However, the appeal site rises up beyond the trees which would be planted at the lowest part of the site, which would therefore be ineffective as a screen<sup>124</sup>. This type of planting would also confine and isolate the heritage asset, contrary to both non-physical interests discussed above. Such independent harm from screening was found by an Inspector in another case<sup>125</sup>, and a similar conclusion should apply here. Significant structures to deal with noise impact from the railway could add to the harm<sup>126</sup>.
101. It is noteworthy that the appellants have tried three separate versions of the Masterplan in trying to overcome the objection of English Heritage, no doubt recognising the weight and potential importance of this to the Secretary of State's decision<sup>127</sup>. Despite this, English Heritage has maintained a consistent objection including to the third Masterplan which is put forward for determination

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<sup>117</sup> SK2 Section 7

<sup>118</sup> SK2 Section 8

<sup>119</sup> SK2 plates at DE21

<sup>120</sup> SK2 Section 7

<sup>121</sup> Cross-examination of Dr Doggett

<sup>122</sup> SK4 (produced in response to Inspector's request to Ms Evans to identify references to views of the Tower in her proof).

<sup>123</sup> APP4 Appendix 6, which was accepted in cross-examination of Mr King to fairly reflect the type of planting proposed.

<sup>124</sup> SK2 pp59-63

<sup>125</sup> SK2 Appendix 6 paragraph 24

<sup>126</sup> SK12 paragraphs 11.27-28

<sup>127</sup> SK2 Figures DE2, DE3 and DE6

at the inquiry. Its view remains that the appeal proposal would cause "*substantial harm*", and it is obvious why that expression has been deployed<sup>128</sup>.

### **PPS5**

102. Policy HE9 of PPS5 offers two routes to the decision depending on the initial judgment about whether the harm is "*substantial*". The harm in this case is substantial. A major suburban housing development within the immediate setting of a fragile Grade I heritage asset which is included on the At Risk Register cannot sensibly be described in any other way.
103. With substantial harm, permission should only be granted if the benefits of the scheme are "*wholly exceptional*". It is disappointing that the appellants' planning witness felt able to say that the accumulated benefits of the scheme meet this test<sup>129</sup>. They clearly do not, but this is an issue for judgment and assessment.
104. What is not at issue is that Policy HE9.2, applicable to substantial harm, imports a test of necessity. The proper approach, provided by the Practice Guide<sup>130</sup>, is that for the loss to be necessary there will be no other reasonable means of delivering similar public benefits. The policy puts the burden of proving this firmly on the appellants, as agreed by their planning witness<sup>131</sup>. Paragraph 5.1.7 of the Core Strategy provides a mechanism by which other land may be brought forward to meet the identified shortfall in the housing land supply. The appellants have failed to adduce any evidence that the shortfall may not be met in this way, and have thereby demonstrably failed to discharge the burden of proof.
105. It is accepted that harm, even to a Grade I heritage asset, may be adjudged to be less than substantial. In that circumstance policy HE9.4 requires a balance to be struck having regard to the consideration expressed in HE9.4(ii). Here it is reiterated that the accumulated benefits of the appeal proposal are trivial and, even in this analysis, cannot outweigh harm to the heritage asset, especially in the light of the fact that those benefits may be brought forward on other sites which would not cause such harm.
106. The conclusion on this matter is that the accumulated benefits of the appeal proposal fall short of justifying any harm to the precious and irreplaceable Grade I heritage asset. The only reason the appellants believed such harm might be justified is because they have failed to understand the concept of setting and have presented a limited visual analysis which inadequately assesses only one aspect of harm to the setting.

### **The Highways Question**

107. The appellants' methodological approach is fundamentally flawed. Their highways witness agreed that her analysis was of no value if she had failed to

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<sup>128</sup> SK2 Appendix 3

<sup>129</sup> Cross-examination of Mr Aspbury

<sup>130</sup> CD60 paragraph 91

<sup>131</sup> Cross-examination of Mr Aspbury

- conduct it on a worst case basis<sup>132</sup>. She later changed this to “*robust*” but the terms are effectively interchangeable.
108. The appellants have manifestly not presented their evidence on this basis. The Transport Statement of Common Ground notes that the SATURN model runs have been carried out assuming that all of the extra capacity of both SUE highway schemes is fully in place, but that only 1056 units from Poplar Farm and none at all from the Southern Quadrant are present<sup>133</sup>.
109. As these road schemes are wholly dependent upon the development of the SUEs, that is an unrealistic and untenable assumption which cannot form the basis of a “*robust*”, reliable or worst case exercise. The consequence is that it undermines all of the remainder of the evidence of the appellants’ highways witness. For example, she agreed that if the two major road schemes were not in place the figures in the table showing increases in queues<sup>134</sup> would change, but she could not say what the change might be<sup>135</sup>. She was a proper witness who did her best to assist the inquiry process, but that basic methodological failure infected the remainder of her evidence, which is therefore discredited and may be ignored.
110. It may or may not be the case that the County Council suggested the modelling parameters<sup>136</sup>. However, that is irrelevant to the analysis of these issues. The evidence of the Council’s highways witness on congestion<sup>137</sup> is clearly to be preferred (although this also makes the favourable assumptions of all of the highways infrastructure but only 1,000 units in place). He points out that, with the development, traffic conditions as measured by a range of indicators would generally worsen across Grantham town centre<sup>138</sup>.
111. The submitted Transport Assessment<sup>139</sup> gave little attention to the town centre<sup>140</sup>. More work was subsequently undertaken but the modelling initially contained inaccuracies<sup>141</sup>. There remain concerns with the TRANSYT model analysis<sup>142</sup>. Some of the appellants’ junction modelling results are counter-intuitive and may not provide a true like for like comparison<sup>143</sup>.
112. With the development in place the SATURN model shows there would be increases in journey times across town of up to 4 minutes<sup>144</sup>. This would be a significant deterioration in traffic conditions across the network. The TRANSYT model indicates that additional links would operate at or above a 90% degree of saturation and excess queues would be produced at a number of links, indicating

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<sup>132</sup> Cross-examination of Ms Baker

<sup>133</sup> CD17a Section 3. Poplar Farm is part of the North West Quadrant SUE

<sup>134</sup> APP7 p17

<sup>135</sup> Cross-examination of Ms Baker

<sup>136</sup> Suggested by appellants’ advocate

<sup>137</sup> SK5-SK11

<sup>138</sup> SK7 paragraph 6.4

<sup>139</sup> CD6

<sup>140</sup> SK5 p7

<sup>141</sup> SK5 p8

<sup>142</sup> SK10 Section 2

<sup>143</sup> SK7 paragraphs 3.21-22; SK10 section 2

<sup>144</sup> SK7 paragraphs 3.9-11

- that congestion would generally increase<sup>145</sup>. In practice there would be longer queues on external links and from internal zones<sup>146</sup>. There would be increased delays and reduced journey speeds<sup>147</sup>. Overall the TRANSYT model analysis shows that the proposal would be detrimental to the efficient operation of the traffic system in Grantham<sup>148</sup>.
113. That conclusion is robust and should be contrasted with the central aim of the CS and Local Transport Plan of relieving traffic congestion within Grantham.
114. The appellants' proposed mitigation of adjusting the signal timings to enable more traffic to pass through would only favour traffic, to the disadvantage of all other road users (pedestrians, cyclists, buses)<sup>149</sup>. This runs counter to the highway authority's policies as well as all national policies to encourage sustainable transport. Good practice guidance points to a need for shorter rather than longer cycle times to reduce pedestrian delays and discourage risk taking<sup>150</sup>.
115. Town centre junctions already operate under a SCOOT traffic control setting system. This is currently optimised, and nothing is offered that could not be achieved under the current system<sup>151</sup>. With additional traffic the overall performance must be worse<sup>152</sup>. The system gates traffic, and there would be increased queues at many external links.
116. These findings back up those of work undertaken for the CS, based on the peripheral nature of the site and the absence of new road infrastructure other than for access<sup>153</sup>. The site is too far from the town centre for the majority to walk there, and it is unlikely that a high proportion of cycling would be achieved. Only a low proportion of public transport journeys is expected<sup>154</sup>. The main employment locations are to the west and south of the town centre, increasing the likelihood of through town movements<sup>155</sup>.
117. The North West Quadrant and Southern Quadrant developments would be linked to new road infrastructure bringing wider benefits<sup>156</sup>. This is consistent with policy SP3 and would enable other transport management measures<sup>157</sup>.
118. The issue of safety on Belton Lane requires discrete mention. The road exhibits a poor accident record<sup>158</sup>. The local highway authority is also very concerned about bridge strikes, which can cause significant delays and costs to operation of the East Coast Main Line. It was initially agreed that the proposal

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<sup>145</sup> SK7 paragraphs 3.23-74; SK10 section 3

<sup>146</sup> SK7 paragraphs 3.37-40

<sup>147</sup> SK7 paragraph 3.74

<sup>148</sup> SK10 section 3

<sup>149</sup> SK10 sections 4 and 5

<sup>150</sup> CD78-81

<sup>151</sup> SK10 section 6

<sup>152</sup> SK5 p9

<sup>153</sup> SK5 p10; SK7 paragraph 3.6.

<sup>154</sup> SK5 pp11-12

<sup>155</sup> SK5 p20

<sup>156</sup> SK5 p16

<sup>157</sup> SK10 sections 8 & 9

<sup>158</sup> SK7 section 4

would result in only a limited amount of additional traffic on Belton Lane<sup>159</sup>, but the later modelling results suggested otherwise, with the development adding traffic both directly and indirectly. There are no proposals for improvement other than to change the geometry of the western end, which would encourage rat-running and make matters worse. This is a clear, site specific disadvantage of the appeal site.

### **Mitigation**

119. The Council accepts that, if permission is granted, the agreed planning obligations and conditions would mitigate both internal and external impacts.

### **Conclusion**

120. PPS3 paragraph 71 provides qualified support for proposals where there is a shortfall in the housing land supply. This is qualified by paragraph 69. The appellants do not pass the third bullet point in view of the Heritage and Highway questions. They also do not pass the fifth bullet point in view of the adverse impacts on the wider objectives of the development plan. For either or both of these reasons the appeal proposal is not supported by PPS3 and the appeal should be dismissed.

## **THE CASE FOR THE APPELLANTS**

121. The main points are:

### **Introduction**

122. The Council has repeatedly over-stated and over-emphasised certain propositions<sup>160</sup>.

123. Firstly, that every previous decision maker at every stage of the CS process has judged the appeal site to be inferior to other candidates, with the site always the decisive loser<sup>161</sup>. The reality is that the site has hitherto been assessed in a comparative context only by one independent person, namely the CS Inspector. For the Council to otherwise pray in aid its own decisions in respect of the site is, at best, self-serving. The CS Inspector was far from dismissive of the site, recording that the Council itself ranked it third out of 8 possible SUE locations with all 3 locations having positive and negative effects<sup>162</sup>. She concluded:

*"Suffice to say at this point, based on the evidence presented this location does not appear to have such significant advantages in terms of wider sustainability or contribution to the overall spatial strategy as to outweigh the selection of the North West Quadrant and the Southern Quadrant as preferred options".*<sup>163</sup>

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<sup>159</sup> SK5 paragraph 4.21

<sup>160</sup> SK15 and evidence in chief

<sup>161</sup> SK15 paragraph 2

<sup>162</sup> CD23 paragraphs 3.78-79 and 3.92

<sup>163</sup> CD23 paragraph 3.79

This is not the language of somebody who thinks the site lacks merit. On the contrary, she stated:

*“This is not to rule out development in this location completely. The principle of extending the urban area of Grantham is compatible with the spatial strategy”.*<sup>164</sup>

Thus the only independent decision maker to look at the site went out of her way to recognise its potential. At that stage the site promoters had not properly engaged with traffic and heritage issues and the CS was sound without it being identified as a SUE. Its potential merits were however clearly recognised in a non-CS context.

124. Secondly, the Council asserts that the development is massive in the context of Grantham<sup>165</sup>. That is simply wrong. It equates to 13% of the minimum requirement for Grantham 2006 - 2026 (or 1½ years of the District’s minimum requirements 2006 - 2026)<sup>166</sup>.

125. Thirdly, it is argued that this appeal is simply an attempt to rerun the CS Examination<sup>167</sup>. Leaving aside the tendering of new heritage and transport evidence to address the reservations expressed by the CS Inspector, the point is misconceived. The Council’s policy witness accepted that the CS Inspector was concerned only with whether the CS was unsound without the allocation of the site<sup>168</sup>. In this appeal the site falls to be looked at on its merits by reference to PPS3 paragraphs 71 and 69, which in turn bring into play a range of other issues including compliance with the development plan. The witness agreed that with satisfactory evidence in respect of heritage and transport issues the site could potentially have been included in the submission version of the GAAP<sup>169</sup>.

126. The Council, understandably, makes repeated references in the submitted evidence to the observations of the CS Inspector, almost seeming to treat them as if they are part of the CS itself. Moreover, there seems to be an assumption that everything the CS Inspector said is correct and beyond question. This approach is dangerous for two reasons:

- (i) At the time the CS Inspector wrote her report she noted that the housing trajectory showed the Grantham housing target being met<sup>170</sup>. That was about 2 years ago and the world economic crisis has since become significantly worse. In planning terms that has meant an increased emphasis on encouraging economic activity through Planning for Growth<sup>171</sup>. Moreover, the assumptions of the housing trajectory that the Grantham SUEs would deliver 610 units (to 2015/16) with 900 units from other sites have been shown to be significantly in error. The 5 year housing land supply to 2015/16 reveals 175 units from the SUE

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<sup>164</sup> CD23 paragraph 3.94

<sup>165</sup> SK15 paragraph 5

<sup>166</sup> Calculated from CD75

<sup>167</sup> SK1; SK12; evidence in chief of Mr Middleton

<sup>168</sup> Cross-examination of Ms Sinclair

<sup>169</sup> Cross-examination of Ms Sinclair

<sup>170</sup> CD23 paragraph 3.89

<sup>171</sup> CD30

and 774 from other sites, i.e. the trajectory is 560 units adrift<sup>172</sup>. That is no small matter in a Growth Point such as Grantham. It is not known what the CS Inspector would have said or concluded with this information, but on any rational view it is quite wrong to keep referring back to her report as if it sets an unquestionable baseline against which to assess this proposal.

- (ii) Each side can draw things from the CS Inspector's Report to support their case. It is in reality a document that represents a series of important judgements that were made in a fast changing world.

### **PPS3 and the Development Plan**

127. PPS3 paragraphs 54 and 71 create a continuing obligation to maintain a 5 year housing land supply. In the absence of a 5 year housing land supply local planning authorities are obliged to consider planning applications for housing favourably "*having regard to the policies in this PPS including the considerations in paragraph 69*". To suggest that if paragraph 69 is offended in any way then the benefit of paragraph 71 is not to be applied goes beyond the plain wording of paragraph 71, which is "*have regard to*".

128. In this case the agreed position is that the local planning authority has a 4 year housing land supply and that it is 2.3 years in Grantham<sup>173</sup>. Paragraph 71 therefore bites. It is fully accepted that the 5 year requirement is on its face a District-wide requirement. However, the extent of the shortfall in Grantham is a clear material consideration simply because the development plan itself looks to 56% of the supply coming from Grantham due to its Growth Point status<sup>174</sup>. The materiality of this point was accepted by the Council's planning witness, albeit reluctantly<sup>175</sup>. This all leads to the conclusion that the shortfall is both a significant and serious matter, not least because the CS in this regard is failing<sup>176</sup>. The position is exacerbated by the critical shortage of both affordable housing in Grantham<sup>177</sup> and of specialist accommodation for the elderly<sup>178</sup>.

129. In its response to this the Council asserts that there is no pressing need to act now to remedy the shortfall. It draws attention to the difficult conditions facing the housing industry in Grantham by reference to the under performance vis-à-vis the trajectory<sup>179</sup>. However, challenging economic conditions are a fact of national economic life. The national policy response, as expressed through Planning for Growth<sup>180</sup>, is to exhort both the development industry and local planning authorities to do ever more to help kick start the industry<sup>181</sup>. In these circumstances more weight, rather than less, should attach to shortfalls in the 5 year housing land supply.

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<sup>172</sup> APP8 p39; CD75

<sup>173</sup> CD75

<sup>174</sup> APP8 p48

<sup>175</sup> Cross-examination of Mr Middleton

<sup>176</sup> APP8 p24

<sup>177</sup> APP8 p49 and APP10 Appendix 6

<sup>178</sup> CD 85 section 4.7

<sup>179</sup> SK12 paragraphs 10.19-21

<sup>180</sup> CD30

<sup>181</sup> Accepted by Mr Middleton in cross-examination



130. That the contribution from the appeal site would only increase the supply from 4 years to 4.3 years<sup>182</sup> is to some extent a function of the large requirement placed on the Council by reason of Grantham being a Growth Point. The reality is that around 200 houses<sup>183</sup> (of which 43 would be affordable) would be a valuable and significant contribution. PPS3 does not state that the favourable treatment should only apply if the shortfall in the 5 year housing land supply is to be substantially satisfied itself by any particular scheme.
131. Paragraph 5.1.7 of the Core Strategy<sup>184</sup> has to be read in a manner consistent with PPS3<sup>185</sup>. While it sets out a sequential mechanism, it assumes the existence of an adopted Grantham Area Action Plan. There is currently no such document. It also assumes that the GAAP has a phasing policy. It does not have such a policy; rather the proposed allocations save for the SUEs are all simply earmarked for development from 2016 onwards. While the approach may accurately identify the limits of what a local planning authority can achieve, a re-prioritisation of sites in itself will not bring them forward. That can only happen if a planning application is submitted and granted and a developer is prepared to start on site. At a minimum that would take a significant period of time. The PPS3 obligation is to maintain a continual 5 year housing land supply, and in any event there is no suggestion at all that the Council is actually moving towards seeking to modify the submitted GAAP to bring the 2016 sites forward. The simple truth is that the Council is in a state of inertia, with its focus fixed very clearly on the SUEs.
132. Paragraph 5.1.7 itself provides that, if there are insufficient sites allocated available to be brought forward, consideration will be given to granting planning permission for non-allocated sites. The current situation is that there is no adopted GAAP and no plans to bring forward the 2016 sites, and no certainty that they will survive the Examination process given that there are objections to the allocations<sup>186</sup>. In these circumstances there is something of a policy vacuum. PPS3 paragraph 71 is explicit - the duty is to consider planning applications favourably subject to the well known caveats. The Council's policy witness had no difficulty with that proposition<sup>187</sup>.
133. In summary therefore Grantham is suffering significant housing market failure. It has affordable needs it cannot hope to meet and there are clearly expressed needs for specialist accommodation for the elderly. It is to be noted that there are no proposals for the SUEs or any other allocated sites to address specialist elderly needs. This site is ready to go; its viability and deliverability are not questioned and it could make a significant contribution to the 5 year housing land supply (as well as beyond) while providing a much-needed boost to economic activity.

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<sup>182</sup> Evidence in chief of Mr Middleton

<sup>183</sup> APP8 p47

<sup>184</sup> CD21

<sup>185</sup> Accepted by Ms Sinclair in cross-examination

<sup>186</sup> Cross-examination of Ms Sinclair

<sup>187</sup> Cross-examination of Ms Sinclair

**PPS3**

134. There is no issue between the parties in respect of PPS3 paragraph 69 bullet points 1, 2 and 4. That should not be glossed over; it is no small thing that it is accepted that the site could achieve high quality housing with a good mix and meet the needs of the elderly and those in need of affordable accommodation. The District has had year on year shortfalls in affordable housing<sup>188</sup>, and the GAAP expressly acknowledges the high levels of affordable housing needs<sup>189</sup>. It also recognizes that because of viability 21% is as much as likely to be achievable in sites in Grantham. Comparison<sup>190</sup> with the Cala Winchester case<sup>191</sup> is unhelpful and misleading, since in this authority in this location 21% is the maximum likely to be achievable.

**Relationship to the Spatial Vision and Wider Policy Objectives for the Area**

135. The RSS identifies Grantham as a Growth Point<sup>192</sup>. Policies 13(a) and 14 set open market and affordable housing targets but neither is expressed as a maximum. The CS at policy H1 expressly sees the RSS figures as minima<sup>193</sup>. As the CS Inspector noted, the policy itself contemplates housing provision in excess of the target figures<sup>194</sup>. The Council's planning witness accepted there is no policy ceiling on housing numbers, while sensibly noting that this did not mean anything could happen<sup>195</sup>. In this case were the appeal to be allowed and all the GAAP sites and SUEs to be fully built out, then the minimum housing requirements would be exceeded by around 20%<sup>196</sup>. Nobody has argued that in itself this would breach policy H1. Allowing the appeal would therefore not offend the numeric housing policies of the development plan.

136. The proposition that a large planning permission on a non-allocated site is contrary to the CS balance is bizarre<sup>197</sup>. The CS does not purport to identify all necessary housing land. The suggested absence of job creation does not sit well with the CS approach, and was not articulated by the Council's planning evidence.

137. Policy SP1 of the CS identifies the Spatial Strategy of the Plan<sup>198</sup>. Grantham is to bear the burden of housing provision in order to consolidate its position as a sub-regional centre. The policy expressly looks to provision from beyond the SUEs, and the CS Inspector did not see any self-evident conflict between the CS spatial strategy and development on the appeal site<sup>199</sup>. The Council's planning witness stated that: "*There is nothing to stop the Council consenting greenfield*

<sup>188</sup> APP10 Appendix 6

<sup>189</sup> CD50 paragraph 3.6.10

<sup>190</sup> SK16 paragraph 32

<sup>191</sup> CD43a

<sup>192</sup> CD20 paragraph 2.4.4 and Policy 4

<sup>193</sup> CD21

<sup>194</sup> CD23 paragraphs 3.35-36

<sup>195</sup> Cross-examination of Mr Middleton

<sup>196</sup> APP8 paragraph 44 as revised (APP9) says the excess would be 1390 dwellings, amounting to 25% of the requirement.

<sup>197</sup> SK16 paragraph 10

<sup>198</sup> CD21

<sup>199</sup> CD23 paragraph 3.94

*sites on the edge of Grantham*"<sup>200</sup>. No greenfield site point is taken by the Council against the proposal. Development in this location would therefore not offend policy SP1. The proposal would provide for significant employment in its non-residential uses, and the site is strategically well-located within the town and its wider confines<sup>201</sup>

138. The reality is that the Council's concern lies primarily with policy SP3 in terms of the aim of ensuring that the objectives of the Grantham Transport Strategy<sup>202</sup> are met. That includes the desirability of achieving the East/West relief road and the Pennine Way Link. The former is reliant upon the Southern Quadrant while the latter is reliant upon the North West Quadrant (Poplar Farm). The principal concern again seems to be the East/West link given that it would enable HGVs to bypass the town centre. The Council's case is simply put, which is that the development on the appeal site could deflect attention away from the SUEs. This in turn is based on an unqualified concern articulated in a single sentence by the CS Inspector<sup>203</sup>.

139. This begs a series of questions:

- (i) Is there a real risk that the appeal site development would delay delivery of the road works?
- (ii) If so, by how much?
- (iii) If such risks are real do those risks outweigh the clear benefits of allowing development on the appeal site, comprising quality housing in an SP1 compliant location within a Growth Point that meets a variety of recognised needs? The proposal should not be rejected on a theoretical possibility that there may be a delay caused by the proposal<sup>204</sup>.

140. The simple fact is that there is no evidence to support the proposition. The Council's planning witness could do no more than repeatedly refer back to the comment of the CS Inspector<sup>205</sup>. The suggestion that the CS Inspector could have been influenced by a market desire to give the SUEs a head start arose only as a leading question<sup>206</sup>. The CS itself does not say anything about a need to hold back significant development elsewhere to give the SUEs a clear run. It would moreover have been an extraordinary thing to do given the recognised challenges to delivery of those sites, for example Poplar Farm was first permitted in 1988<sup>207</sup>.

141. Much reliance is placed by the Council on the written objection of the SUE landowners to the appeal proposal<sup>208</sup>. That document does not argue at any point that if the appeal scheme goes ahead then the SUEs would not proceed, but rather that "*... as a result of the additional supply of housing in Grantham there*

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<sup>200</sup> Cross-examination of Mr Middleton

<sup>201</sup> APP8 p57

<sup>202</sup> CD29

<sup>203</sup> CD23 paragraph 3.92

<sup>204</sup> SK16 paragraph 21

<sup>205</sup> Evidence in chief of Mr Middleton

<sup>206</sup> Re-examination of Mr Middleton

<sup>207</sup> APP8 p39

<sup>208</sup> INSP1 Paragraph 8 of the Ancer Spa letter of 6 July 2011

*will be a considerable risk of reduction in house sales prices and rates of sale".* This in turn would, it is said, delay delivery of the relief roads by an unspecified period. Leaving aside the obvious competition objection point (considered below), the concern should carry very little weight for the following reasons:

- (i) There is the inevitable question of why the appeal site would necessarily delay delivery but the non-SUE GAAP sites (totalling 819 units) would not<sup>209</sup>. Neither the objectors nor the Council have engaged with the question.
- (ii) A further question is why the SUEs, assuming they were to be developed in parallel, would not delay delivery? The reality is that the SUEs will probably not be developed at the same time since this would involve a landowner competing with himself<sup>210</sup>.
- (iii) Also to be asked is why the landowners did not give evidence to this inquiry. Their interest in the outcome is self-evident. The suspicion that this was to avoid questioning on the point cannot be avoided.
- (iv) The proposition of delay does not sit easily with the Council's contention that the appeal site is poorly placed to compete effectively with Poplar Farm in any event<sup>211</sup>.
- (v) The proposition of delay never moves beyond simple assertion. Moreover, it is based upon a remarkable concern, which is that the presence of the appeal site development would reduce sales prices by reason of competition. Increased competition and subsequent reductions in sales prices to improve access to the market have been at the heart of national policy objectives ever since the Barker Report. Such an effect cannot be a reason to reject the appeal proposal in the context of a Growth Point that is failing. Moreover, if there is a risk of delay, there is no evidence which seeks to demonstrate that it would be significant, much less that it would be so significant it could justify rejecting the appeal proposal with its raft of benefits.

### **Prematurity**

142. "The Planning System: General Principles" states that it is for the local planning authority to demonstrate "*clearly*" how the grant of planning permission would prejudice the DPD process. The Council has not done this. The proposal offends neither policy SP1 nor H1 of the CS. At no point has the Council sought to argue that were the appeal allowed then it would either be required to delete GAAP sites or that GAAP sites would somehow be unlikely to be developed. Exceeding minimum housing requirements within a Growth Point by around 20% does not necessitate either outcome. The Council is silent as to what is being prejudiced<sup>212</sup>. Attempts to rely on the Cala Winchester decision<sup>213</sup> are misguided since:

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<sup>209</sup> CD50 p52

<sup>210</sup> APP8 p13

<sup>211</sup> SK12 paragraph 10.22.

<sup>212</sup> SK16

<sup>213</sup> CD43a

- (i) The site in that case was subject to a policy requiring a "*compelling justification*" for its release<sup>214</sup>, but the appeal site is not. On the contrary it is compliant with policies SP1 and H1 of the CS.
- (ii) In Cala there was an important question outstanding as to the appropriate future levels of housing in Winchester, with reductions in historic RSS levels an option<sup>215</sup>. Here the level of future housing requirements is not only fixed but it is fixed to a minimum level with exigencies permissible in principle.
- (iii) On one measure the Cala site would have accounted for 7½ years of future housing requirements. It was of a completely different order of magnitude to the current proposal.

143. With respect to the possibility acknowledged in paragraph 17 of General Principles that prematurity might arise if to allow a proposal would potentially rob a planning policy of its effect, the following points arise here<sup>216</sup>:

- (i) There are objections to the various GAAP allocations and therefore little weight can be attached to them;
- (ii) The GAAP has no phasing policy in the time sense;
- (iii) There is no evidence at all that the Council is even considering advancing the release dates of the non-SUE GAAP sites, although this was agreed in theory to be possible<sup>217</sup>. If the 5 year housing land supply is to be addressed, as matters stand this can only be done by granting planning permission on non-GAAP sites. Moreover, there is no evidence of any intention on the part of landowners/developers to bring any GAAP sites forward at the present time with the possible exception of Dysart Road<sup>218</sup>. Were the latter to occur, this would not, even in combination with the appeal site, make up the shortfall.

## Heritage

144. It appears that the Council sees the heritage case as the primary objection to the proposal<sup>219</sup>. The heritage asset in question is principally the Grade I Listed Belton Parkland, although the Council's heritage witness seemed to suggest a consequential harm to the House by the simple fact of it being in the Park<sup>220</sup>. That was not a point taken by English Heritage in their representations<sup>221</sup>.

145. The policy position is quite straightforward:

- (i) There is a presumption in favour of the conservation of heritage assets and the more significant the asset then the more compelling the presumption (see PPS5 HE9.1);

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<sup>214</sup> CD43a paragraph 13

<sup>215</sup> CD43a paragraph 16

<sup>216</sup> Inspector's questions to Mr Aspbury

<sup>217</sup> Cross-examination of Mr Middleton

<sup>218</sup> Cross-examination of Mr Middleton

<sup>219</sup> SK15 paragraph 4(iv)

<sup>220</sup> Ms Evans

<sup>221</sup> CD53

- (ii) Where harm to the asset is substantial then the harm must be necessary in order to deliver substantial benefits;
- (iii) Where harm is less than substantial then it is for the decision maker to weigh the benefits of the proposal against the harm; there is a sliding scale in policy HE9.4 such that the greater the harm the greater the benefits will need to be.

While substantial harm is not defined in PPS5, policy HE9.2 brackets the concept with the notion of loss of the asset. The approach in policy terms is pithily stated at paragraph 85.

146. Such harm that would arise to the setting of Belton Park is much less than substantial, indeed the appellants' heritage witness states that it is marginal<sup>222</sup>. The implication of the Council's planning witness<sup>223</sup> that even minor harm to a Grade I asset must be seen as a substantial for PPS5 purposes is rejected. Its heritage witness<sup>224</sup> did not appear to wish to adopt such an approach and it was not pursued<sup>225</sup>. The suggestion has no express articulation in policy and no decisions were placed before the inquiry which would begin to support it.
147. The issue of assessing setting is addressed in English Heritage's "Guidance on the Setting of Heritage Assets"<sup>226</sup>. The document notes that the approach is essentially one of "*informed judgement*" (page 2). Insofar as development on the appeal site is potentially capable of affecting the appreciation or the significance of Belton Park, then the site forms part of the setting. However, it is important to understand that the contribution a site may make to the setting of an asset can be high, neutral or low (or anywhere along that spectrum).
148. The starting point must be to consider the significance of the asset. The original House was built in the 17th century with the intention of emphasising the wealth and power of the owner. The Park and Garden were laid out to ensure the visual centrality of the house<sup>227</sup>. As explained in the Setting Study<sup>228</sup>, the Park and Garden have changed over time. It notes that:

*"The significance of Belton's setting is therefore chiefly aesthetic and visual and the definition and delineation of its setting is chiefly based on the definition of the significant views and the landscape that is visible beyond the boundaries of the Park, within those views"*<sup>229</sup>.

While not all of the Setting Study is endorsed, that seems sensible.

149. The Council's heritage witness sought to suggest that the Park somehow borrowed the landscape beyond it<sup>230</sup>. There is no evidence for this at all<sup>231</sup>. The

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<sup>222</sup> APP1

<sup>223</sup> SK14

<sup>224</sup> Ms Evans

<sup>225</sup> It is not part of the Council's closing SK16

<sup>226</sup> CD34a

<sup>227</sup> CD74 p252

<sup>228</sup> CD26

<sup>229</sup> CD26 paragraph 2.2

<sup>230</sup> SK2

<sup>231</sup> APP1 pp9-11, 13-14

National Trust Parklands Plan suggests the very reverse<sup>232</sup>, while the Setting Study similarly suggests otherwise. Other aspects of the Council's case put in this regard are simply not credible<sup>233</sup>. For example, the suggestion that Belton's church spire was added to enhance views from within the Park has no evidential basis. It is quite correct that historically panoramic 360° views existed from the Tower itself and its base, and certainly panoramic views exist today albeit not over 360°. It is not denied that the views from the Tower to the west are the most important of the views of the Park and its setting. However, that of itself cannot automatically confer special significance in the context of setting upon everything that the eye can see<sup>234</sup>.

150. English Heritage's letters of objection<sup>235</sup> are illuminating. They are concerned expressly with views from the Tower and otherwise from the south avenue. Clearly these views are important but a number of points can fairly be made:

- (i) From the Tower the original purpose of the views was to focus along the eastern avenue to the house. To this day the eye is still so drawn from there to the wider Park<sup>236</sup>. The accuracy of photomontage no. 18<sup>237</sup> has not been disputed. This represents the high watermark of the Council's case, with no more sensitive viewpoint identified<sup>238</sup>. That montage therefore shows the worst case. In looking at the montage the Inspector's test in the Thacksons Wells decision<sup>239</sup> should be applied - would the proposal have a significant adverse impact on setting? The answer is plainly that it would not<sup>240</sup>. With the montage one's eye would still be drawn to the House and into the Park. While the new housing is visible it is at a distance and far from prominent, being located within what is already perceived as the built area of Grantham. The Council's heritage witness did not seek to argue particular prominence but rather simply that the site could be seen<sup>241</sup>. From the base of the Tower an oak tree, in summer at least, screens the site from view<sup>242</sup>.
- (ii) The Council's heritage witness argued that the south avenue was designed to "invite" views out towards the agricultural land beyond<sup>243</sup>. There is no evidence for this. The National Trust's Parkland Plan<sup>244</sup> suggests the reverse, namely that the avenue was designed to focus views from Lion Lodge Gate to the House and vice versa. Indeed it is difficult to imagine why the landscape architect would have wanted to draw views out towards a working agricultural landscape. Moreover, as the appellants' photo views reveal, views of the site from the south

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<sup>232</sup> CD74 p218

<sup>233</sup> SK2

<sup>234</sup> APP1 pp18-19

<sup>235</sup> CD53

<sup>236</sup> APP1 p33

<sup>237</sup> APP4

<sup>238</sup> Cross-examination of Ms Evans

<sup>239</sup> CD41

<sup>240</sup> APP1 p36-41

<sup>241</sup> Cross-examination of Ms Evans

<sup>242</sup> APP1 p38

<sup>243</sup> SK2

<sup>244</sup> CD74 pp113-114

avenue, despite its proximity, are minimal<sup>245</sup>. They are of a kinetic nature, and already affected by traffic and noise disturbance on the A607<sup>246</sup>. With landscaping the views of the development would be all but non-existent, whether from the south avenue<sup>247</sup> or the A607<sup>248</sup>. Moreover, the loss of the pylons would be a positive benefit<sup>249</sup>.

151. The Council avoids any discussion of key viewpoints, making broad-brush assertions<sup>250</sup>. Cross examination of the appellants' witnesses did not engage with specific viewpoints at all. The Council's heritage witness did, but only by using 200mm lens photographs to illustrate her points<sup>251</sup>. The Council knows its case is weak, and so it engaged with everything other than the detail of critical viewpoints. It is easy to assert that placing 1,000 houses in relatively close proximity to the Park must have a substantial impact on setting. The Council's case went no further. The truth is that the topography, distances, masterplanning and nature of the critical viewpoints would combine to reveal a far more complex picture<sup>252</sup>. The realisation of this led the Council's heritage witness to complain that the planting itself would be incongruous<sup>253</sup>. However, the view points and montages show the landscape to be well treed<sup>254</sup>. The appellants' landscape witness<sup>255</sup> was, quite properly, not cross-examined to test the Council's proposition in this regard.

152. His material<sup>256</sup> shows the relationship of Poplar Farm and Peachwood Close to the Park<sup>257</sup>. English Heritage has clear concerns about these developments<sup>258</sup>. However, the Council is apparently content with such large developments which would crest the rising land to the west of the Park. Against this it is very difficult to understand its concern regarding the appeal site. Plainly two wrongs do not make a right, but inconsistency on the part of the Council cannot be ignored, nor can the effect the Poplar Farm development would have in urbanising that part of the landscape. The same point is not made on Peachwood Close as this is the subject of objections to the GAAP.

## Highways

153. The Council sought and achieved Growth Point status for Grantham, with a significant increase in housebuilding being aimed for. Notwithstanding this, one of its objections to development on the appeal site is that it would increase traffic in the town centre and on certain external links. The same can inevitably be said of the two SUE sites and the GAAP sites, but they are apparently acceptable. No sensible explanation has been advanced for the inconsistent approach.

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<sup>245</sup> APP4 views 20 and 21 in particular

<sup>246</sup> APP1 pp33-35

<sup>247</sup> APP4 photomontages 24.0-24.2

<sup>248</sup> APP4 photomontages 3.0-3.2

<sup>249</sup> APP1 p35

<sup>250</sup> SK16

<sup>251</sup> SK2 figures DE31, DE37

<sup>252</sup> APP1 pp33-34; APP3

<sup>253</sup> SK2

<sup>254</sup> APP4

<sup>255</sup> Mr King: his evidence is at APP3 and APP4

<sup>256</sup> APP4 Appendix 8 Plate C

<sup>257</sup> APP1 p41

<sup>258</sup> Cross-examination of Ms Evans



154. The following points show the Council's case on highways to be negative and misconceived:

- (i) It was alleged that the appellants had not presented "like-for-like" comparisons, so as to minimise the impact of development<sup>259</sup>. This led to a late rerun of the TRANSYT model for the Harlaxton Road network in the AM peak. The implication was that errors allegedly exposed here were the "tip of the iceberg". In fact the rerun, while producing a superficially attractive result, was flawed by giving an unworkable outcome i.e. a queue length of 70 cars on link 204 (St Augustine Way South)<sup>260</sup>. The Council's highway expert acknowledged the error<sup>261</sup>, and the allegation of a "sub-optimal" approach to modelling was, quite properly, not put to the appellants' highway witness<sup>262</sup>. The exercise showed an unattractive enthusiasm to seek to find fault.
- (ii) It was suggested that the levels of traffic growth on Belton Lane would be as much as 99% in the PM peak<sup>263</sup>. The reality is very different, with flows with and without the development very similar<sup>264</sup>. The model appears to be under estimating the "do nothing" flows without the development. The suggestion of such a level of increase was not seriously pursued with the appellants' highways witness<sup>265</sup>.
- (iii) It was suggested that left and right turns from Belton Lane having a ratio of flow to capacity of 0.929 (i.e. a 7 vehicle queue) was a cause for concern on the basis of exceeding the "rule of thumb" of 0.85 ratio of flow to capacity<sup>266</sup>. However the Transport Assessment<sup>267</sup> had proceeded on the basis of a ratio of flow to capacity of 0.905 (i.e. a 6 vehicle queue), and this was not suggested to be any cause for concern. The Council's highways witness was clear that he did not wish to suggest that queues of 7 vehicles in the peaks on B roads such as Belton Lane were unusual or necessarily dangerous but simply to note the potential for "instability" in the model once 0.85 ratio of flow to capacity is exceeded<sup>268</sup>. This was another attempt to "muddy the waters" that went nowhere.
- (iv) The criticism that the TRANSYT model had not been validated<sup>269</sup> was surprising as the Highway Authority had agreed it need not be validated and no such concern had ever been communicated to the appellants. Further, the model runs were used by the Council's highway witness himself<sup>270</sup>. The criticism ultimately went nowhere.

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<sup>259</sup> SK10 section 2

<sup>260</sup> CD82 p4

<sup>261</sup> Cross-examination of Mr Billington

<sup>262</sup> Cross-examination of Ms Baker

<sup>263</sup> SK7 pp 15-16

<sup>264</sup> APP7 p2; SK6 Appendix A

<sup>265</sup> Cross-examination of Ms Baker

<sup>266</sup> SK7 pp16-17

<sup>267</sup> CD6

<sup>268</sup> Cross-examination of Mr Billington

<sup>269</sup> Evidence in chief of Mr Billington

<sup>270</sup> SK7

- (v) It was suggested that the SATURN model runs were suspect because they assumed the existence of the SUE link roads<sup>271</sup>. Again, this model was provided by the Highway Authority and initial flaws in it were resolved by Mouchel (the Council's consultant) who themselves used it to prepare evidence for this case. The Council's highway witness did not say in his written evidence that it did not provide a basis for a robust analysis<sup>272</sup>. In response to the suggestion that it did not demonstrate a worst case, the appellants' highway witness stated that it provided "*a fair and reasonable*" basis for assessment which assumed significant levels of development based on RSS figures and an additional growth factor<sup>273</sup>. No evidence has been presented by the Council to demonstrate that SATURN does not provide this.
- (vi) Belton Lane's accident record was emphasised by the Council's highways witness<sup>274</sup>, but he readily accepted that the site is not regarded as a high risk accident location by the Highway Authority<sup>275</sup>. This is unsurprising because apart from a cluster of 5 accidents in 2005 the accident figures are low, i.e. 1 in 2006; zero in 2007 and 2008; 1 in 2009 and 2010 respectively<sup>276</sup>. There is no evidence which demonstrates by reference to any recognised criteria that this rate is high or even a cause for any statistical concern.
- (vii) Reliance was placed by the Council on its consultant's observations in work for the CS regarding the potential impact of the site in relation to the A607<sup>277</sup>, but these were using a different model and assumed the development of 1,600 units on the appeal site.
- (viii) It was argued that the TRANSYT indices used by the appellants' highways witness were limited in that she had not looked at journey times<sup>278</sup>. Again, neither the Highway Authority nor Mouchel had ever asked that this be looked at, and it was not used in modelling to inform the CS. Moreover, the Council's use of journey times is not helpful since the approach averages increases across the network, whereas the reality is that the delays are focused on limited links, i.e. 11, 93, 94 and 54 in particular<sup>279</sup>. Link 11 is Barrowby Road and has no relationship to the appeal proposal. Moreover, if looking at average journey times then a fairer approach is to look at the increases experienced per vehicle. Thus the delay in the without development scenario for Premier Court is 51 seconds; with the development it is 59, i.e. an 8 seconds increase. The other gyratories show similar increases per vehicle<sup>280</sup>.
- (ix) Another criticism was that mean journey speed increases has not been looked at. However, it achieves little to do this in the way that the

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<sup>271</sup> Cross-examination of Ms Baker

<sup>272</sup> SK5-SK11

<sup>273</sup> Cross-examination of Ms Baker referring to CD6 Appendix 1

<sup>274</sup> SK7 section 4

<sup>275</sup> Cross-examination of Mr Billington

<sup>276</sup> SK9 appendix C

<sup>277</sup> SK7 paragraphs 3.5-3.7

<sup>278</sup> SK10 section 3

<sup>279</sup> SK7 section 3; SK9 appendix B

<sup>280</sup> Evidence in chief of Ms Baker, untested by cross-examination.

Council has, with figures of 6.3km/h down to 5.6km/h AM and 2.7km/hour down to 2.6km/hour PM<sup>281</sup>. From a driver's point of view the differences would be imperceptible<sup>282</sup>.

155. It is inevitable that if one builds significant numbers of houses, as expected in a Growth Point, certain links will experience increases in queue lengths and journey times. The worst added delays taken as an average of around 3-4 minutes<sup>283</sup> are not significant. The figures for increases in the queue lengths<sup>284</sup>, which were not challenged, in abstract mean little. In practice there is no evidence that the internal links would block back to cause problems within the town centre. External link queues would lengthen but that is inevitable due to the "gating" system of traffic control. Again there is no evidence that this would, of itself, cause problems.
156. Degrees of saturation and queue lengths on town centre approaches based on the TRANSYT runs reveal that, with development, the Manthorpe/Belton Lane approach operates significantly better than the other town centre approaches<sup>285</sup>. This is even without increasing light cycle times to 120 seconds<sup>286</sup>. The Council has no answer as to why, given the realities of how traffic operates in Grantham, the traffic consequences of this development, as opposed to any other, are unacceptable. It has avoided the issue of comparative analysis with other town centre approaches.
157. Belton Lane itself would experience relatively modest increases in traffic, and the suggestion that development would lead to incremental rat running<sup>287</sup> is pure speculation. There is little evidence of any now; far from harming Belton Lane, the proposal, by introducing a roundabout, would improve highway safety for the benefit of all users of the junction. The Section 106 packages<sup>288</sup> would ensure that the site otherwise operates, so far as possible, in a sustainable manner in transport terms.

## Conclusion

158. The proposal accords with the development plan<sup>289</sup>. The clear benefits of the development outweigh its disadvantages, and planning permission should be granted.

## THE CASE FOR LINCOLNSHIRE COUNTY COUNCIL

159. Lincolnshire County Council was granted Rule 6 status with respect to its interest as Education Authority<sup>290</sup>. Its concern related to the impact of the development on schools. During the inquiry a statement of common ground was

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<sup>281</sup> SK7 section 3; SK9 appendix B

<sup>282</sup> Evidence in chief of Ms Baker

<sup>283</sup> SK7 paragraphs 3.9-11

<sup>284</sup> APP7 p16

<sup>285</sup> APP7 paragraphs 4.2-4.4

<sup>286</sup> APP7 p14

<sup>287</sup> SK10 section 7

<sup>288</sup> CD18

<sup>289</sup> APP8 p41

<sup>290</sup> LCC2

agreed between the County Council and the appellants on education matters<sup>291</sup>. This sets out agreement on the methodology of assessing impact and on mitigation, and that this can be achieved by way of the submitted section 106 Agreement<sup>292</sup>. As a result the County Council's education witness was not called to give evidence<sup>293</sup>.

## **THE CASES FOR OTHER PARTIES WHO GAVE EVIDENCE AT THE INQUIRY**

### **Georgina Lock**

160. Ms Lock is a local resident.

161. A public meeting held 2 years ago was unanimously against the proposal. Transport is a concern. The proposal is not needed since enough houses are already being built. It has caused anger.

### **Sheila Garrick**

162. Ms Garrick is a local resident.

163. People who already live in the area matter. Traffic is getting worse, and Belton Lane is dangerous. Most traffic heads towards Grantham or beyond for work, and development on the other side of the town would be better.

164. Manthorpe is a conservation village, and its separation would be reduced by sprawl. Many new units are unoccupied. There is concern about employment opportunities.

### **Jacqueline Smith**

165. Ms Smith is a resident of Manthorpe village and a District Council member, but not for Manthorpe. She has lived in the area for lengthy periods since the 1960s.

166. Traffic is getting worse, and it can take 40-50 minutes to reach the town. The Manthorpe Road tailback is often to Belton, and not just at peak times. There is heavy traffic from other housing developments. Air quality is an issue, and affects the young and elderly especially.

167. There would be an effect on Belton and Manthorpe conservation villages, which have many listed buildings. Existing houses are difficult to sell. Agricultural land is needed for food.

168. The proposal does not accord with localism.

### **Trevor Scott**

169. Mr Scott is a local ward councillor.

170. The growth of Grantham is not opposed, but there are better locations. Manthorpe is a lovely old village, and this a beautiful unspoilt site. Manthorpe would be surrounded.

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<sup>291</sup> CD86

<sup>292</sup> CD18

<sup>293</sup> Written evidence at LCC1

171. Traffic is often at gridlock. The railway bridge is a pinchpoint. The proposed roundabout would improve flow as traffic is now, but this benefit would be negated by the development. The extra traffic would be a disaster.

172. Nobody favours the proposal.

### **Dr Garrick**

173. Dr Garrick is a long term resident of the area, and until recently was an Accident and Emergency consultant at Grantham Hospital.

174. The proposal would have health and safety implications as a result of congestion. The A607 is often blocked up to Belton Hotel. It can now take up to 35 minutes to reach the Hospital, but 5 minutes at night.

175. With respect to the proposed healthcare centre, it is difficult to attract GPs to work in Grantham.

176. It is questioned who would occupy the houses. Jobs are needed before expansion. Grantham has lost some major stores and needs new shops.

### **Tony Hopwell**

177. Mr Hopwell is a Belton and Manthorpe Parish Councillor and a long term resident.

178. Grantham Area Action Plan is supported, but this proposal is opposed.

179. There would be a detrimental impact on traffic due to the peripheral nature of the site and absence of new infrastructure. Existing delays are exacerbated by any problems such as on the A1, with gridlock at times and queuing back to Belton. Rat running already takes place.

180. The landscape has high sensitivity and value. The Belton House study<sup>294</sup> identifies the importance of views and rural character. This is a rising site overlooking Belton Park. Mitigation would not be effective. There would be an effect on the rural character of the Park setting.

### **Anne Bramley**

181. Ms Bramely is a local resident

182. The area has many children. Manthorpe village and estate would be harmed by some 2,000 additional cars. It is questioned where the residents would work.

183. There is historic open land between Manthorpe and Belton<sup>295</sup>. The house and its approach are very important to local people. Local roads are already used for rat running.

184. The Council is to be congratulated on the amount and design of new housing built in Grantham.

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<sup>294</sup> CD26

<sup>295</sup> TP1

**Jonathan Bishop**<sup>296</sup>

185. Mr Bishop is a long term local resident.
186. Manthorpe has always had its own sense of identity which is separate from Grantham. The proposal would destroy that and engulf the village in urban sprawl.
187. The A607 would be unable to cope with the increased volume of traffic. At peak times traffic already backs up beyond Manthorpe towards Belton.
188. Beautiful countryside affording the setting and views of Manthorpe village and Belton Park from Great Gonerby and Gonerby Hill Foot would be destroyed.

## **WRITTEN REPRESENTATIONS**

### **Representations Made at Appeal Stage**<sup>297</sup>

#### ***Network Rail***

189. The proposed Sustainable Urban Extensions to Grantham are supported. As both would provide alternative traffic routes for the town, there would be benefits in terms of reduced HGV bridge strikes. The new road bridges across railways included in these proposals are complex projects but deliverable schemes. There are no reasons why property issues could not be resolved satisfactorily to allow the schemes to go ahead within the next 5 years.

#### ***CABE (Part of the Design Council)***

190. Comments made at the application stage are reiterated. It is for the design team to put forward a robust case for release of the site. There is nothing in the proposed Masterplan that either distinguishes the proposal as a good place to live or as a sustainable development in social, economic or environmental terms. The design team's analysis of the site's qualities is welcomed, but the failure to translate this into a credible Masterplan is disappointing.
191. Whilst the challenges of the context are acknowledged, the focus on creating an unobtrusive development is the biggest failing. This would produce an inward-looking development that is disconnected from adjacent communities and a weak northern gateway to Grantham. This is reflected in the provision of only pedestrian and cycle links to the Manthorpe estate, where it would seem that a vehicular connection could also be established, which would also increase the viability of a future bus route. Proposed landscape buffers and the siting of the main access reveal the priority to disengage with the surroundings. The failure to locate the neighbourhood centre alongside Manthorpe village is perhaps the main lost opportunity. It is questioned whether the development represents an efficient use of land. It is unclear how urban form across the site would help create a bespoke settlement for a new type of community. The proposal cannot be supported in its current form.

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<sup>296</sup> TP2

<sup>297</sup> INSP1

### ***English Heritage***<sup>298</sup>

192. The attempt in the amended Masterplan to try and reduce the impact of the proposal on the historic environment is acknowledged. However, the efforts to further hide the development from view only underlines the negative impact this type of development in this location would have on the significance and setting of Belton House. The appellants continue to focus on views as the only element of setting, ignoring other elements such as noise, lighting, dust and the historical relationship of Belton House with its surroundings.

193. The appellants continue to downplay the value of the registered Park and Garden. They have international (very high) importance. The significance of the impact is increased by the importance of the asset. The visual impact from key viewpoints would cause substantial harm to the setting and significance of Belton House, including the registered Park and Garden, notwithstanding the introduction of additional landscaping. Photoviews 17 and 18<sup>299</sup> demonstrate the visual relationship of the site to the heritage assets of Belton House and the likely degree of harm that would be caused. The further information provided does not resolve previously raised concerns. The development, despite landscaping, would cause substantial harm to the heritage assets.

### ***Anglian Water***

194. No approach has been made to connect surface water to the public system and this would not be permitted.

### ***Upper Witham Internal Drainage Board***

195. Conditions are suggested with respect to drainage.

### ***National Trust***<sup>300</sup>

196. The development is strongly opposed. It is contrary to the development plan and national policy. The applicant has not demonstrated that the development would deliver substantial public benefits which outweigh the substantial harm to the significance of the heritage assets including the changes to their setting.

197. The revisions to proposed structural planting and phasing are welcomed at the margins, but do not alter the fundamental concerns. The need for these measures emphasises the adverse visual impact the development would have on views to and from Belton and the current rural nature of the surroundings on the primary visitor approach along Belton Lane. The appellants do not recognise the full importance of the heritage assets and continue to underplay the extent of the adverse impact.

### ***Grantham Growth Point Strategic Board***

198. The site is not considered to be a strategic priority. The Southern Quadrant and North West Quadrant are preferred locations for two sustainable extensions with appropriate employment uses and infrastructure. They would provide significant benefits to Grantham including reduction in traffic congestion. This is

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<sup>298</sup> Also CD53

<sup>299</sup> CD11

<sup>300</sup> Also CD52

not a viable alternative SUE, and there is no evidence to indicate that it could be delivered any more quickly.

***Cllr Ray Wootten (Lincolnshire County Council) - Petition***

199. A 400 name petition against the proposal on grounds of increased highway congestion, the single point of access, disposal of waste and sewage, and impact on Belton House has been presented by Cllr Wootten.

***Ancer Spa on behalf of the Buckminster Trust Estates and Norwich Hub Ltd***

200. Representations are made as joint owners of the first phase of the North West Quadrant SUE (Poplar Farm) and majority owner of the Southern Quadrant SUE.

201. The proposal should not be granted permission. It would undermine the Core Strategy. The two SUEs would create significant benefits to Grantham as a whole including relief of traffic congestion. The appeal scheme would create no such benefits. It is not argued that, if it went ahead, Poplar Farm and the Southern Quadrant would not also proceed, but that with the additional supply of housing there would be a considerable risk of reduction in house sales prices and rates of sales. The build rates on all three schemes would slow, meaning delivery of the Pennine Way Link and the south Grantham relief road would be delayed. These 2 roads are critical pieces of new infrastructure and efforts should be made to accelerate rather than delay their provision.

202. The scale of development proposed is insufficient to bring the full range of community benefits that would be expected of an SUE. The development would be little more than a large suburban housing estate.

203. The site has not had the benefit of future planning for sewerage capacity.

204. Work on both SUE sites is proceeding according to plan. None of the development issues are incapable of resolution; solutions are being identified, programmed and costed. There are questions about the deliverability of the appeal site proposal and no clear evidence to substantiate the assertion that it could be delivered quickly.

***SSR on behalf of Linden Homes and Jelson Ltd***

205. Representations are made as owners of part of the North West Quadrant SUE.

206. Demonstrable progress is being made towards delivery of the SUE. If the appeal is allowed there is a real risk that this could undermine the projected delivery. The right forum for assessing the merits of the appeal site is through the emerging GAAP.

***Belton and Manthorpe Parish Council***

207. The proposal does not comply with the development plan and is opposed. The proposed roundabout would not work but would distort traffic flow towards Grantham on an already highly congested route. Belton Lane would not cope with the extra traffic. The majority of the traffic would have to travel through the town, increasing congestion and causing air pollution. The sewerage system would not cope.



208. The development would impact on Belton House, which should remain in a rural environment and not an urban one. The conservation area of Manthorpe Village would become part of an urban area. Listed buildings and wildlife would be damaged. Extra housing is not needed.

### **Western Power Distribution**

209. There is no objection to the development but attention is drawn to overhead network which would require diverting.

### **Others**

210. There are around a further 22 individual written representations which contain objections to the proposal. These are principally on grounds involving traffic, heritage and development plan issues, with other concerns relating to site specific aspects of the development including impact on wildlife and loss of countryside and views.

### **Representations Made at Application Stage**

211. The representations received by the Council as a result of its consultation on the planning application were attached to its questionnaire and summarised in the Committee report<sup>301</sup>. Around **60 individual letters of objection** generally raised grounds which have been repeated at appeal stage and are set out in the above reporting of the cases. Those from bodies which have not made further representations are briefly summarised as follows.

212. The **East Midlands Regional Assembly** considered that the Core Strategy was the appropriate place for consideration of the merits of the development.

213. **Natural England** objected to the proposal on the basis of lack of clarity and detail about the green infrastructure<sup>302</sup>.

214. The **Environment Agency** initially raised objections relating to sewerage and flooding but withdrew these subject to conditions.

215. **Sport England** had no objection subject to appropriate sport and recreation provision being made.

216. **NHS Lincolnshire** set out its expectations on healthcare provision as part of the development.

217. The **Ministry of Defence** had no objection.

218. **Lincolnshire Police** recommended a condition on crime and security.

219. The **Campaign to Protect Rural England** opposed the proposal as being out of accord with the development plan and encroaching on an area of high landscape quality and historic importance.

220. **Lincolnshire Wildlife Trust** generally supported the green infrastructure proposals.

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<sup>301</sup> CD8

<sup>302</sup> SK12 paragraph 12.14 advises that the objection was withdrawn on the basis of the amended illustrative Masterplan and Supplementary Design and Access Statement.

221. ***Belton and Manthorpe Parish Council, Great Gonerby Residents' Association and Manthorpe Residents' Association*** all opposed the development on grounds covered in the above cases against the proposal.

## CONDITIONS

222. The main parties put forward at the inquiry a set of agreed suggested planning conditions in the event of the appeal being allowed<sup>303</sup>. These were discussed, and a number of changes agreed in response to points I raised. A set of conditions thus revised is attached as an Annex. There were no matters of disagreement on these.

## PLANNING OBLIGATIONS

223. The submitted legal agreement is between the District Council, the County Council and the appellants as landowners<sup>304</sup>. The planning obligations are set out at the third schedule, as follows.
224. ***Affordable housing (Part I)*** 21% of the first 200 dwellings constructed are to be affordable units. The proportion to be provided in subsequent phases is to be determined later based on financial viability assessment, with a maximum of 35%. Provisions are included relating to specifications, tenure, triggers, nomination rights, cascading, price, and protection of mortgagee and individual occupier interests.
225. ***Public recreational open space (Part II)*** Such space is to be provided on site equivalent to 80m<sup>2</sup> per dwelling. Within this space, there are specific requirements for local areas of play, locally equipped areas of play, neighbourhood areas of play, a multi use games area and playing fields. Specifications are to be agreed. The space is to be for eventual transfer to the Council with a commuted sum for maintenance or to a management company/community trust.
226. ***Education (Part III and Part VIII)*** One hectare of the site is to be transferred to the County Council at no cost for use as a one form entry primary school. No more than 250 dwellings are to be occupied before the offer of transfer. A financial contribution (maximum £2,519,907) towards construction and provision of equipment is to be calculated at the time according to a formula which is set out, payable in instalments. A contribution towards Secondary School/Sixth Form education is also payable with a formula for calculating this and triggers for payment. An early years contribution of £104,162.40 is payable at occupation of the 500<sup>th</sup> dwelling.
227. ***Community Hall (Part IV)*** A hall is to be provided within the site in accordance with a specification to be agreed. It is to be offered to the Council or a management company, with provision for financial contributions towards future maintenance.

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<sup>303</sup> CD87

<sup>304</sup> CD18 summarised at APP13 (which updated AP12)

228. **Healthcare (Part V and Part VIII)** Land is required to be made available for healthcare facilities. No more than 350 dwellings may be occupied until transfer is offered to the Primary Care Trust or other nominated body. Provision is made for a staged financial contribution of £475 per dwelling towards facilities.
229. **Highways (Part VI and Part VIII)** This requires a section 38/278 highways agreement to be entered into prior to commencement of development to carry out specified highway works. No more than 175 dwellings are to be occupied until the works to the Longcliffe Road/Manthorpe Road junction are complete, and not more than 250 until those to the Sandcliffe Road/Manthorpe Road junction are complete. A further highways contribution of £400,000 is payable toward improvements at the Belton Lane/Newark Hill junction in the event that evidence is provided that the ratio flow capacity is exceeded by a specified amount.
230. **Air Quality (Part VIII)** A contribution of £50,000 in phases is payable to the Council towards air quality monitoring over a 20 year period.
231. **Community safety (Part VIII)** A contribution of £65,000 is payable to the Council towards necessary works and services on occupation of the 400<sup>th</sup> dwelling.
232. **Waste and recycling works (Part VIII)** This provides for a payment of £46,000 in 10 tranches towards recycling bins.
233. **Public transport provision (Part VIII)** This requires the owner to use reasonable endeavours to either enter into necessary arrangements to facilitate the provision of a bus service to serve the site prior to the occupation of the 150<sup>th</sup> dwelling or to pay £100,000 to the County Council prior to that. Five further annual payments of £100,000 are payable to the County Council towards the cost of providing the service less any additional revenue from its operation.
234. **Footway/cycleway contribution (Part VIII)** This provides for a total payment of £500,000 in five stages.
235. The agreement contains usual provisions relating to indexation, interest, restrictions on use of contributions and repayments. The obligations are conditional upon the Secretary of State being satisfied that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related to the development in scale and kind.
236. An agreed statement of justification for the obligations having regard to the local and national policy framework and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations (2010) was submitted<sup>305</sup>.

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<sup>305</sup> CD19

## CONCLUSIONS

237. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

### Main Considerations

238. Having regard to the Council's reasons for refusal of the application, the relevant policy context and the evidence to the inquiry, the main considerations that need to be addressed are as follows:

- (i) the relationship of the proposal to the development plan;
- (ii) whether and to what degree the proposal is supported by the housing land supply situation in the District;
- (iii) whether approval of the proposal would be premature in relation to the emerging Grantham Area Action Plan;
- (iv) the impact the proposal would have on the settings of heritage assets and the landscape;
- (v) the impact the proposal would have on the highways network;
- (vi) whether the proposal would be a sustainable form of development;
- (vii) whether any permission should be subject to planning conditions and planning obligations including with respect to mitigation of impacts.

#### (i) The Development Plan

239. The development plan comprises the East Midlands Regional Plan (EMRP), the South Kesteven Core Strategy (CS), and saved elements of the South Kesteven Local Plan [24].

240. A significant amount of new development at Grantham is anticipated under both policies 3 and 4 of the EMRP and policy SP1 of the CS. This emphasis on expansion is reinforced by the Growth Point status of the town. In order to deliver this growth the CS envisages greenfield development as well as brownfield, and the Council does not suggest that the greenfield status of the site is in itself a factor against the proposal. As described by the CS Inspector, the principle of extending the urban area of Grantham is compatible with the spatial strategy. [60,137]

241. The Council's closing case included a reference to the CS's vision of a balance of jobs, housing and infrastructure, with the suggestion that the quantitative aspect of the proposal would disrupt this balance [65]. Some third parties have also raised concern about the need for job opportunities in conjunction with new housing [176,182,210]. However, this point did not form part of the Council's planning evidence or reasons for refusal [136]. In numerical terms, the housing figures included in the development plan are minimum levels of provision rather than ceilings, with scope for provision in excess of these. Taking the proposal together with the Sustainable Urban Extensions (SUEs) and other sites in the emerging Grantham Area Action Plan (GAAP), the minimum would be exceeded by some 25%. The proposal equates to 13% of the minimum requirement for

Grantham over the period 2006-2026. At this relative scale the proposal would not result in an excessive level of housing provision such as to fundamentally undermine or distort the strategy, especially bearing in mind the pro-growth context. [28,37,124,135,136]

242. Nevertheless, there are important qualifications to the policies that provide this context. The EMRP in policies 26 and 27 emphasises the need to avoid or minimise damage to heritage assets, and these are given protection by policy EN1 of the CS [29,35,60]. Under CS policy SP1, greenfield sites should be 'appropriate', and paragraph 5.1.5 sets out a number of criteria which include accessibility and potential impact on historic assets [32]. Findings on the heritage and sustainability considerations, dealt with below, will therefore need to be taken into account in assessing the proposal against these policies.
243. In addition, policy SP1 also contains the provision that details of specific sites (including urban extension sites) will be included in a Grantham AAP, and that permission will only be granted on a less sustainable site where it has been proven that there are no other more sustainable options available or there are other overriding material considerations. Paragraph 5.1.6 indicates that the allocation of additional appropriate and sustainably located sites both within and on the edge of the built up area of the town to ensure that a range of sites is available throughout the plan period will be through the GAAP. This process was anticipated by the CS Inspector. The appeal site is not included for development in the emerging GAAP. To that extent, the proposal cannot be said to have the full support of policy SP1, and any support would be reduced by adverse findings on sustainability and heritage impact. [32,63,78]
244. A specific area of concern that has been raised is the potential impact of the proposal on the transport elements of the spatial strategy. The two road proposals of the East-West (Southern) Relief Road and the Pennine Way Link are clearly identified as important infrastructure elements of the Core Strategy (policy SP3), which are seen as potentially bringing wider benefits including reduced congestion, modal shift, employment, and reduced bridge strikes. These objectives are reflected in the Local Transport Plan. The benefits of these projects and that their delivery is closely linked to the Southern Quadrant and North West Quadrant SUEs were points recognised by the CS Inspector. She set out a concern that a further strategic housing location could inhibit the delivery of the roads and the consequent benefits. The SUE landowners argue that prices and rates of sale could be adversely affected by allowing the appeal proposal, thus slowing build rates and delaying delivery of the roads. [33,39,66-73,138-141,189,200-206]
245. There is no definitive evidence to demonstrate that the proposal would actually affect the progress of the SUEs [140]. Indeed, the Council's concern is couched in terms of possibility and risk rather than certainty [73]. The appellants reasonably point out that the emerging GAAP envisages other non-SUE sites coming forward in parallel with the SUEs during this period with similar numbers of units, and that wider access to the housing market is a national objective [141]. Nevertheless, in the appellants' evidence there was an acceptance of the principle of such an impact from allowing further residential development outside the SUEs, thereby limiting the question to the scale of development that might give rise to this effect [72]. The scale of the appeal proposal is such that a relationship with the rate of development on other large greenfield sites

elsewhere on the outskirts of Grantham could reasonably be anticipated on the basis that they would be likely to occupy an overlapping market. The importance given to the road schemes in the CS supports a cautious approach. The degree of risk to early delivery of the SUEs is sufficient for this to be a material factor against the proposal.

246. To summarise on the development plan, the principle of the growth of Grantham and its expansion onto greenfield sites accords with the spatial strategy. However, an adverse impact on heritage assets would conflict with important policy objectives, and a site is required to perform well in terms of sustainability in order to comply with the strategy. In addition, this site has not been identified through the development plan as the strategy expects, and the development would give rise to a material risk to the early delivery of identified SUEs and the associated important road proposals.

## **(ii) Housing Land Supply**

247. Government guidance in PPS3 requires a continuous 5 year supply of deliverable housing sites to be maintained. Paragraph 71 indicates that, where a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, planning applications for housing should be considered favourably, having regard to the other policies and considerations in PPS3. [127]
248. The District's agreed supply for the purposes of the current appeal is a period of 4 years, thus triggering paragraph 71 [56,128]. The shortfall below 5 years, while not marginal, is not so severe as to represent a clear failure in supply. The CS Inspector anticipated some shortfall in the early years of delivery of the SUE sites [82]. Understandably, reference is also made by the Council to the effects of economic conditions [82,129]. Supply has nevertheless fallen significantly below the trajectory [126]. Moreover, the emphasis of current Government policy as expressed in Planning for Growth is to improve the potential for delivery of new development. While the 5 year requirement applies to the whole District, the supply of only around 2.3 years in Grantham is also a factor to be taken into account given the emphasis on supply from the town in the development plan and its Growth Point status. [128,129]
249. Although the proposal at most would contribute around 0.3 years to the 5 year supply, the provision of up to 200 units over that period would be a significant number. The addition to supply beyond 5 years is also not to be discounted given the Growth Point status. The provision of affordable housing on the site is unlikely to be only a displacement from elsewhere, and is to be welcomed given the demonstrated shortage of such housing. While the evidence on need for elderly persons housing is sparse, the specialist provision for this within the development would appear to amount to a particular benefit of the scheme. [82-85,130,133,134]
250. Turning to the considerations set out in paragraph 69 of PPS3, to which paragraph 71 requires there to be regard, there is no dispute by the Council on the scheme's successful compliance with factors 1, 2 and 4 (achieving high quality and a good mix of housing, and using land effectively and efficiently) [134]. Factor 3, the suitability of the site for housing, raises the issues of heritage and highways impact and environmental sustainability. These are to be considered below. The findings on these are also relevant to the last factor, which is the relationship with the wider objectives and spatial vision for the area.

Two further matters arise on this: the mechanisms set out in the CS for dealing with a housing land supply shortfall, and whether the proposal is premature in relation to the emerging GAAP.

251. The approach of the CS (in paragraph 5.1.7) for dealing with a shortfall was endorsed by the CS Inspector. It is of a sequential nature [38,87,131]. The first step is to re-prioritise the phasing of allocated sites. This refers to the GAAP, which includes a number of sites for development in the post-2016 period. The GAAP is not yet adopted. There are objections to the site allocations and this reduces the weight it carries. There is no evidence of scope to bring sites forward through this mechanism or an intention to do so. As a result there is no immediate prospect of the 5 year supply being addressed in this way [78,131,132,143]. However, this is a matter that remains to be explored by way of examination of the GAAP. Similarly, although there is also no evidence of sites being brought forward by way of a partial review of allocations, which is the second step, this is also related to progression of the GAAP [78]. The third step is the grant of permission for additional sites. In principle the development of an un-allocated site is therefore in line with the CS, subject to meeting requirements on appropriateness and location (addressed below), but the expectation is that this would follow consideration of site phasing and allocations in the GAAP. This leads on to the question of prematurity.

### **(iii) Prematurity**

252. The advice in paragraphs 17 to 19 of 'The Planning System: General Principles' is that refusal of planning permission on grounds of prematurity may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A clear demonstration of how the grant of permission would prejudice the outcome of the DPD process is required.

253. Certain relevant matters with respect to such decisions have already been established by the EMRP and CS. In particular, these are the acceptability in principle of substantial development at Grantham, including on greenfield sites; that housing provision numbers are minima; and the identification of the SUEs together with the accompanying road schemes set out in the CS. This approach does not rule out further greenfield development including at Manthorpe, as acknowledged by the CS Inspector [123]. However, she expected this to be considered through the GAAP [78]. In part this reflected a need for further work to be undertaken on highways and heritage matters, which the appellants have sought to address with the current application [123]. There was also concern about the potential impact on the SUE schemes (as considered above).

254. In addition, with the provision in the CS for further allocations to be dealt with through the GAAP, there remain matters involving the location, scale and phasing of development to be considered in relation to these. This includes the adequacy of allocations to meet strategic objectives. [75,78]

255. Examination of the GAAP, and of the Site Allocation and Policies DPD for non Grantham sites, is imminent [47,76]. Government guidance emphasises the importance of the plan-led system and local involvement in this. The GAAP is at an important stage and granting permission for the proposal now would involve

material prejudice to the GAAP process by predetermining the addition of a currently unallocated large greenfield development for immediate release. Such prejudice does not depend on a demonstration that, were the appeal allowed, currently identified GAAP sites would have to be deleted or would be unlikely to be developed. Although the GAAP, as with the CS, contemplates the possibility of housing development on unallocated sites, the allocated sites are clearly a fundamental element in its policy response to housing requirements and are built in to the sequential process of dealing with any housing land shortfall. While important concerns have been raised about the scope to bring sites forward in accordance with the initial steps of the CS paragraph 5.1.7 approach, that is a matter which can be expected to be addressed through the examination. [75,78,79,131,132,142,143]

256. The prematurity issue in this case is naturally to be assessed on the basis of the particular circumstances rather than being bound by previous decisions taken in different contexts [76,77,142]. Having regard to the above identified degree of prejudice to the GAAP policy on housing development, it can be concluded that prematurity arises as a valid concern.

#### **(iv) Heritage Assets**

257. The site is relatively close to the designated heritage assets of Belton House and Belton Park and Garden [16]. These assets are of great importance, as demonstrated by their Grade I status. Within the Park, Bellmount Tower is listed at Grade II\*. National policy sets out a presumption in favour of the conservation of designated heritage assets, and that the more significant the asset the greater the presumption should be. It also indicates that significance can be harmed or lost through alteration or destruction of the asset or development within its setting. [89,90,93,145]

258. There is no dispute that the site is within the setting of the Park [147]. The proposal would have no direct effect on the fabric of the House, but the Park and House together provide an ensemble of assets which are closely related. The westward view from Bellmount Tower, agreed to be important, is towards the House, and the site is visible in that panorama. On this basis at least, the site is within the settings of the Park, the House and the Tower by virtue of being part of the surroundings in which the assets are experienced (which is the definition of setting given in PPS5) [95,149,150]. The main parties make frequent reference to the singular Belton 'heritage asset', but this comprises individual designated assets which share elements of setting.

259. Setting involves more than a visual relationship, with useful advice on this matter provided in recent English Heritage guidance [93,94,147]. The Park and Garden of the 17<sup>th</sup> century Belton development were originally laid out to emphasize the centrality of the House. As these evolved, the relationship to areas beyond the Park became important, with an emphasis on appreciation of the House within the context of the surrounding agricultural land. While there is debate over the degree to which elements of the wider landscape were deliberately altered to enhance longer views, the notion of borrowed landscape is a reasonable one in this case based on an informed assessment. This is most obvious with the westward view from the Tower, in which a vista of extensive areas outside the Park appears to have been deliberately provided. Views beyond the Park to the west from the south avenue also seem intentional despite



- the main orientation between the Lion Lodge Gate and House. In addition, there are views from the surrounding countryside towards the Park and Tower in which these are seen within a wider agricultural landscape. These aspects of the setting contribute positively in historic and aesthetic terms to the significance of the assets. [96,97,148,149]
260. With respect to the visual impact of the proposal, the effect that it would have on the westward view from the Tower is identified as the most adverse in the Council's case [150]. In this view the focus is towards the House at the end of the avenue of trees, with the Park forming the immediate foreground. The site is visible from some positions near the Tower at ground level, although from others it is hidden by vegetation. More of it is seen from the first floor gallery of the Tower with the added height. It currently appears as open fields near to the horizon to the left of the House and therefore part of the countryside. With the proposal the appearance would change to an area of built development, thus eroding part of the countryside setting. However, the site is not especially prominent in this view, and is only one part of a large vista. As an extension of the visible built up area of Grantham it would also not appear noticeably out of place, albeit intruding on the open area towards Great Gonerby. [95,150,151]
261. In the view from the south avenue, the main focus is again towards the House. However, the site forms part of the longer distance views of agricultural land beyond the Park to the west. These are dynamic in nature while moving along the avenue, and are to some extent currently marred by the visibility of the open Belton Lane junction with the A607, with the appearance and noise of traffic. There would be some benefit from the removal of visible pylons within the site. The initial open views of the new development would in the longer term be increasingly screened by the proposed mitigation planting. There is criticism of this planting, but blocks of trees are not out of keeping with the existing landscape. In time the main adverse effect as seen from the south avenue would be a curtailing of the view beyond the Park. [95,100,150,151]
262. The development would intrude on some views towards the Park and Tower from beyond the site to the west. The site itself would no longer be agricultural land but housing and infrastructure development. There would be a more urban feel in the immediate surroundings of the Park, which to a degree would be apparent in the approaches towards it, including along Belton Lane. The dominance of the assets over the countryside in historic and aesthetic terms would be materially reduced. [98,99,149,150]
263. The susceptibility of heritage assets to harm from change relates to their sensitivity rather than just their designation status. The vulnerability of the assets in question has been formally identified by English Heritage and the National Trust [91]. Existing damage does not justify further harm [92,152]. In this case there is no dispute that harm would arise from the proposal [88,146]. Nevertheless, harm even to the most important assets can be less than substantial. Although English Heritage and the National Trust, in addition to the Council and others, consider the harm to be substantial, assessing the degree of harm is a matter of judgement [102,105,145,146,193,196].
264. Factors considered particularly relevant in this case are the relatively limited prominence of the site in the key views, together with the proposed mitigation planting and the beneficial impact of pylon removal. Added to these are that

fairly extensive areas of other land in the vicinity of the assets would remain in agricultural use and that the site forms only part of the historic and aesthetic relationship between the Park and the surrounding countryside. Having regard to these factors it is considered that the harm to the significance of the assets by reason of impact on their settings would be an important consequence but that the degree of harm would be less than substantial.

265. Where the identified harm is less than substantial, the requirement under policy HE9.2(i) of PPS5 to demonstrate that the harm is necessary in order to deliver substantial benefits that outweigh the harm or loss does not arise (since this policy deals with proposals that would involve substantial harm to or total loss of significance of a designated asset). However, under policy HE9.4, there is a requirement to: (i) weigh the public benefit of the proposal against the harm; and (ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Such a balancing is also required by policy HE10 which deals specifically with the setting of designated assets. This exercise will form part of the overall conclusion below. [103-105,145]
266. In terms of the development plan, the harm to heritage assets at Belton gives rise to a conflict with policies 26 and 27 of the EMRP and policy EN1 of the CS. It also limits the suitability of the site for development under policy SP1 of the CS. [29,32,35,60]
267. There is no reason to disagree with the view of both main parties that other heritage assets in the vicinity would be preserved with the proposal, and that there would be no harm to the immediate landscape around the site [53].

#### **(v) Highways**

268. New development on the scale of the appeal proposal can be anticipated to generate a significant amount of additional traffic [153,155]. While reliance on the findings of earlier traffic modelling for the South Kesteven Core Strategy has been criticised on the basis that this assumed a substantially larger development on the site [116,154], there is no dispute that the current proposal would increase traffic in Grantham town centre and on certain external links [112,155].
269. The scheme would provide for a new roundabout access at the junction of Belton Lane with the A607 and signalisation of the junctions of Longcliffe Road and Sandclife Road with the A607 [23]. The access strategy and its capacity and the appropriateness of the mitigation works for the A607 junctions are agreed matters [55]. A planning obligation provides scope for improvements at the Belton Lane/Newark Hill junction as a reserve position should these be necessary [118,229]. No other new highways infrastructure would be provided in conjunction with the development [116].
270. The town centre currently operates under an optimised traffic light control setting system. It is unlikely that this could be adjusted in a way that would avoid an overall worsened performance as a result of additional traffic from the proposal [115]. Increasing light cycle times to 120 seconds at certain junctions as suggested by the appellants would not be desirable due to the adverse effects of longer wait times on pedestrian movements and safety [114,156].

271. The SATURN traffic model used to assess the proposal with an assessment year of 2018 is set out in the Transport Statement of Common Ground. Additional more detailed modelling of town centre junctions has been carried out [111,154]. This work gave rise to debate on technical issues of consistency and questions on the reliability of the outcomes. The points at issue appear to reflect the complexity of modelling linked junctions and the sensitivity of the models to inputs and assumptions [111,112,154].
272. Overall the modelling evidence indicates a deterioration in efficiency of operation of the system with the proposal. The outcome is likely to be a lengthening of queues on external links with the town centre because of the gating nature of the system. Quantitatively, the increase in average journey times across the town centre is a reasonable indicator of adverse impact, with an average increase in delays of up to around 4 minutes. In terms of other indicators, mean journey speeds would reduce and per vehicle delay increase, but the changes in absolute terms are relatively small, with the delays restricted to limited links. With the development in place, the modelling indicates that the Manthorpe/Belton Lane approach would continue to perform significantly better than other town centre approaches, even without increasing light cycle times. [112,154-156]
273. The potential impact on Belton Lane is raised as a particular issue. The accident record of this road does not substantiate a significant existing safety issue. There is no objective evidence to support a concern that the proposal would lead to a material increase in risk of East Coast Main Line bridge strikes in this location. An original agreement in the Transport Statement of Common Ground about the traffic outcome of the development on Belton Lane was retracted on the basis of later modelling results. However, the scale of increase in traffic and queuing associated with this do not appear to demonstrate a significant adverse impact. While an increase in use of the road for 'rat running' is suggested, with the benefit of the new roundabout it is likely that there would be an overall improvement in safety. [118,157]
274. The parameters of the SATURN model with its assumptions on future development, infrastructure provision and general growth were suggested by the highway authority. It was used as the basis of the Council's own highways evidence, with no suggestion within this that the model did not constitute a robust assessment. Nevertheless, it is clear that it does not provide for a worst case analysis, in particular with respect to the assumptions that both the SUE highway schemes would be carried out but new development on these sites would be limited to 1,000 units at Poplar Farm. The appellants fairly point out the absence of an evidential basis for the late claim that this is not a fair and reasonable basis for assessment. However, it also has to be recognised that there is no evidence to demonstrate the likely highways outcome were these assumptions to be incorrect, and clearly this could be expected to be different. Rather than undermining all of the above findings on the likely impact of the proposal, the implication of this is to require acknowledgement of a degree of risk in relying on the assumptions. [107-110,154]
275. In summary, the proposal would give rise to additional traffic which would have a negative impact on the operation of the highways network. Based on reasonable assumptions, it is likely that the magnitude of this would amount to a moderate adverse effect, with no significant increased risks to safety. However,

there has been no assessment based on worst case assumptions regarding other future development and new infrastructure.

### **(vi) Sustainability**

276. The description of the development includes an implied claim regarding the sustainability credentials of the proposal [8]. The site ranked third out of eight possible SUE locations and it was not ruled out in absolute terms on grounds of sustainability by the CS Inspector [123].
277. There is agreement that the development could achieve an appropriate standard of sustainability within the site, in compliance with policies EN3 and EN4 of the Core Strategy [53].
278. No development specifically for employment use is included within the proposal, but some employment would be provided by the non-housing uses including retail, health and education. Having regard to its concern on the heritage impact of built development, the Council's case does not advocate a larger provision for employment use within the site. In its favour, the proposal would result in locally accessible community facilities as part of the development. [8,19,134]
279. Planning obligations and conditions are put forward on bus service, footway/cycleway, and travel plan measures, which would assist promotion of sustainable travel [157,222,233,234]. However, the distance of the site from the town centre would be too great to encourage walking, and the anticipated proportion of public transport trips is low. The location of the town's main employment areas would increase the likelihood of through town movements. [116,207]
280. There is agreement between the main parties that the criticisms of the scheme by CABI are not supported [54]. The rejection is on the basis of a suggested insufficient regard by CABI to the context of the site in relation to heritage assets. However, there is some force to CABI's concerns that certain layout and boundary aspects of the scheme would inhibit a successful engagement with the surroundings in a way that could be expected of a fully sustainable development. [190,191]
281. Although the parties agree that the proposed hotel is acceptable within the overall context of the scheme, this element of the proposal does not follow the guidance in national policy set out in PPS4 in terms of preference for a town centre location for such a use [57].
282. There are therefore some significant reservations about the degree to which the proposal would be a sustainable development. This limits the appropriateness of the site for development under policy SP1 of the CS.

### **(vii) Conditions and Obligations**

#### ***Conditions***

283. Suggested conditions in the event of the appeal being allowed have been agreed between the main parties [222] and are included in an Annex. The conditions fall to be considered against the advice in Circular 11/95.

284. Conditions are needed to reflect the outline nature of the application and the need for subsequent approval of reserved matters (nos. 1-4). A 10 year period for final submission for approval is reasonable given the scale of the development. Again given its scale, and to reflect variation across the development, a requirement for a phased approach is warranted (no. 5). In order to ensure that the development achieves the anticipated quality in terms of internal environment, an overarching requirement for approval of a development brief comprising a masterplan and design code to provide guidance for the detailed elements is needed (no. 7).
285. Further controls are necessary on the scale and phasing of elements of the development. This is to ensure that the development as proposed and assessed, incorporating a mix of uses and facilities, is implemented in accordance with the submitted information and in a timely way. These controls cover the residential content (no. 25), the neighbourhood centre, including the size and nature of the shop uses (nos. 14, 26, 27, 28), and the sports and open space facilities (nos. 15, 16).
286. Landscaping is an important aspect of the proposal including with respect to mitigation of impact on the Belton heritage assets and to ensure that biodiversity objectives are met. Although landscaping is a reserved matter, specific requirements are needed for those elements that are not restricted to individual phases as an extension of the principles to be contained in the development brief (nos. 17-21).
287. Various highway conditions are warranted in order to ensure provision of the necessary infrastructure both within and outside the site in the interests of safety and traffic movement (nos. 8, 11, 12, 13). Travel plans, to build on the work on these already undertaken, should be required in the interests of sustainable travel (no. 9).
288. Requirements on other elements of infrastructure provision and design standards are needed to control impact and ensure that the development's needs are properly met including with respect to sustainability. These cover refuse storage and recycling (no. 10), sewerage (no. 22), surface water drainage (no. 23), renewable energy (no. 29) and noise mitigation (no. 30).
289. Identified potential archaeological interest justifies a requirement for this to be addressed (no. 6). Other impacts of implementation of the development warrant control of the works through a construction method statement in view of its scale and location (no. 24). A requirement on recruitment and training is warranted to meet local employment objectives (no. 34).
290. The live/work units justify controls to ensure that these are provided and occupied as proposed (nos. 31-33).

### ***Obligations***

291. Circular 05/2005 sets out policy tests for the seeking of planning obligations, and there are similar statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations (2010) which must be met for obligations to be given weight. Policy SP4 of the Core Strategy reflects these requirements [34]. Policy 3 of the EMRP includes a need to take into account the capacity of existing infrastructure to absorb further development [26]. The

- submitted obligations [9,223-236] have been considered in the light of these requirements and the joint evidence put forward in support of them. The Council's Planning Obligations Supplementary Planning Document, while not yet adopted, provides an up to date basis for the calculation of contributions [48].
292. The commitment on affordable housing provision responds to policy 18 of the EMRP, policy H3 of the CS and national policy in PPS3. The proportion of 21% in the first phase reflects the current viability expectation of the emerging GAAP, with scope for further regard to viability at subsequent stages.
293. The proposed open space provision responds to needs likely to arise from occupiers of the development as well as layout considerations. The standards applied based on the SPD appear to be reasonable.
294. Similarly, the obligations on education, healthcare, a community hall, waste and recycling, and community safety also all respond to future needs that could be expected to arise from the development, and appear to be based on robust and reasonable calculations and allowances.
295. Off-site highway works are necessary to deal with the traffic generated by the development. Obligations on footway/cycleway provision and for public transport are justified in order to improve sustainable travel. The contributions appear to reflect likely actual costs.
296. A contribution towards the costs of air quality monitoring is consistent with the scale of the development with respect to likely traffic generation and the proximity of the site to Air Quality Management Areas.
297. The submitted obligations are all considered to meet the relevant policy and statutory requirements and can be given weight in the decision.
298. Any permission should be subject to the above conditions and obligations as appropriate means to mitigate the impact of the development.

### **Overall Conclusion**

299. The proposal is consistent with the principle established in strategic policy of substantial new development at Grantham, including its outward growth on greenfield sites. The size of its residential content in conjunction with other allocated development would not be such as to fundamentally undermine or distort the spatial strategy.
300. The proposed development would, however, give rise to harm to the settings of highly graded designated heritage assets at Belton. Although this harm would be less than substantial, it would nevertheless be a serious adverse consequence and conflict with objectives of the development plan. There is a requirement in national policy to weigh the benefit of the proposal against the harm, and recognise that the greater the harm to the significance of heritage assets the greater the justification that will be needed. In the circumstances of the current identified harm, this means that a strong degree of justification is required.
301. The proposal would generate increased traffic which would have a negative impact on the operation of the highway network in the area. On a fair and reasonable basis of assessment, and within the context of the scale of development, this could be expected to amount to a moderate adverse effect,

- with no major safety implications. However, the available modelling evidence does not represent worst case assumptions, and there is a degree of risk in relying on these findings.
302. Some aspects of the development would comply with sustainability objectives. These include internal design features, the incorporation of elements of mixed use, and securing of bus service, footway/cycleway and travel plan measures. In other respects it would be less successful, having regard to the location relative to the town centre and other uses and the degree of engagement with the surroundings.
303. There is an expectation in the development plan that details of urban extension sites will be brought forward through the GAAP. The site is not included in the emerging version. The proposal also gives rise to an unquantifiable but nevertheless tangible concern about risk to the timely delivery of the identified SUEs and hence important associated road proposals. In these respects, together with the harm to heritage assets and reservations about sustainability, the proposal is therefore not fully in keeping with the spatial vision for the area as expressed in policy SP1 of the CS.
304. The absence of a 5 year housing land supply in the District indicates in favour of the proposal. Although the shortfall is not extreme, Government policy and the expectations for Grantham give emphasis to delivery of economic growth. The addition to the 5 year supply would at most be 0.3 years, but a significant number of units together with affordable housing and specialist housing for the elderly would be provided by the scheme.
305. In some respects the development would perform well on the factors identified in national housing policy. The shortcomings with respect to heritage and highways impact and sustainability are not so extreme as to establish that the site is unsuitable for housing, but give rise to conflicts with the spatial vision for the area as set out above.
306. The emerging GAAP takes forward a mechanism in the CS for dealing with a shortfall in housing land supply. There are important concerns raised about the scope to bring additional land forward through the initial steps of reviewing site allocations. The final step allows consideration of granting permission for additional sites. The matter is not clear cut, but it is considered that it would unreasonably stretch the implied flexibility in the CS to find that the proposal is in accordance with the development plan in this respect. This is because the process assumes the existence of further DPDs which currently do not exist in adopted form.
307. Furthermore, there are matters relating to the scale, location and phasing of housing development at Grantham that remain to be determined through the GAAP. This is at an advanced stage, and allowing the proposal would predetermine the addition of a currently unallocated large greenfield development for immediate release. This prejudice to the DPD warrants a genuine concern about prematurity.
308. In the overall balance, the proposal would provide the benefit of up to 200 units added to the 5 year housing land supply, together with a gain to the longer term supply and specific provision of affordable and specialist elderly housing, and is in accordance with elements of the spatial vision. Set against this are the

heritage and highways harm and the conflicts that arise with the development plan, including the risk to delivery of the CS road schemes and reservations about sustainability, together with prejudice to the emerging DPD. In conclusion it is considered that the factors in favour are insufficient to outweigh those against granting permission.

**RECOMMENDATION**

309. That the appeal be dismissed.

*T G Phillimore*

INSPECTOR



## **ANNEX: RECOMMENDED CONDITIONS**

1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.
2. Approval of the details of the layout, scale, appearance, and the landscaping of the development (hereinafter called the reserved matters) for each of the phases of the development (see condition 5) shall be obtained from the local planning authority in writing before any development on that phase is commenced. The reserved matters shall accord with the Post-Determination Masterplan (APDM1) and parameters set out in 'The Parameters Plan' (Plan nos: APP1A; APP2A; APP3A; APP4A; APP5A; APP6A; APP7A; and APP8A) and the Application (Amended) Scheme Parameters Schedule of the Supplementary Design and Access Statement.
3. Plans and particulars of the reserved matters referred to in condition 2 above, relating to the layout, scale, appearance, and the landscaping of that phase of the development (see Condition 5), shall be submitted in writing to the local planning authority and shall be carried out as approved.
4. Application for approval of reserved matters for the first phase of the development (see Condition 2) shall be made to the local planning authority before the expiration of three years from the date of this permission. Application for approval of reserved matters for all subsequent phases of the development shall be made to the local planning authority before the expiration of ten years from the date of this permission.
5. The development hereby permitted shall be implemented in phases as defined on the Parameters (Phasing) Plan (APP4A) of the Supplementary Design and Access Statement. Notwithstanding that Plan, no reserved matters application shall comprise more than 200 dwellings.
6. Development shall not begin until a written scheme of archaeological investigation/mitigation has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with details or conditions set out in the programme.
7. Development shall not begin until a Development Brief (comprising a detailed Masterplan and a Design Code) setting out guidance for the layout and detailed design of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the terms of the Development Brief. The plans and particulars submitted in accordance with this condition shall encompass:
  - a. layout, masterplanning and townscape, including: street, footpaths and open space hierarchies; street grain; permeability; landmarks; nodes and focal points; closure and enclosure within the public domain; the relationships of buildings to streets and to plots;
  - b. built-form strateg(y)(ies), including, density, massing, height;

- c. an open space strategy, including open space needed to accommodate sustainable urban drainage;
  - d. conservation of flora and fauna interests;
  - e. principles for hard and soft landscaping, including the retention and incorporation within the development of important existing trees, shrub groups and hedgerows;
  - f. design of the public realm, including layout and design of public squares and other communal spaces, of areas for active and passive recreation and for play and of allotments;
  - g. integration of utilities, statutory undertakers' equipment, and highway design requirements;
  - h. street furniture and other structures (including street lighting, floodlighting, boundary treatment to public areas, play equipment and public art);
  - i. strateg(y)(ies) for the design and external appearance of buildings;
  - j. principles for determining quality, colour and texture of external materials and facing finishes for roofing and walls of buildings and structures (including opportunities for using locally sourced and recycled construction materials);
  - k. accessibility to buildings and public spaces for the disabled and physically impaired;
  - l. a parking strategy, including on- and off-street car parking and commercial parking and deliveries/collections, cycle parking and storage and regulatory/enforcement measures;
  - m. sustainable design and construction;
  - n. measures to show how energy efficiency is being addressed to reflect national and local policy and to accord with Condition 29 below;
  - o. noise mitigation.
8. Development shall not begin until details of the off-site works to the public highway described in the Section 106 Agreement dated 15 November 2011 (including the access roundabout and associated works on Belton Lane), including the phasing and implementation thereof, have been submitted to and approved in writing by the local planning authority. The works shall be carried out and completed in accordance with the approved details including the phasing and implementation.
9. No part of the development shall be occupied until Residential, Workplace and School Travel Plans, setting out the framework within which the developer will seek to reduce the number of private car trips to the site and encourage the use of non-car modes of transport, have been submitted to and approved in

writing by the local planning authority. The provisions of the approved plans shall thereafter be implemented in full including with respect to the timetable for provision.

10. No part of the development shall be occupied until a scheme for the storage and recycling of refuse has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details on a phase-by-phase basis. No building, including dwellings, shall be occupied until the approved refuse storage and recycling facilities for that building have been provided and made available for use.
11. No building, including dwellings, shall be occupied until the specifications for the construction of any vehicular service road, cycleway or footpath which provides access to it have been submitted to and approved in writing by the local planning authority. The construction of the service road, cycleway or footpath shall be in accordance with the approved specifications. They shall be constructed to at least base course level before the first occupation of the building.
12. No building, including dwellings, shall be occupied until space has been laid out for cars to be parked in accordance with the approved plans.
13. Development shall not begin in a phase until details of the bus stops and other bus infrastructure to be provided within that phase have been approved in writing by the local planning authority; and no building within that phase shall be occupied until those stops and other infrastructure have been constructed in accordance with the approved plans.
14. Before the first occupation of the 400<sup>th</sup> dwelling, the Neighbourhood Centre, comprising the local shopping, commercial and community buildings (together with ancillary car and bicycle parking and landscaping) identified in the Post-Determination Masterplan (Drawing: APDM1) and described in the Supplementary Design and Access Statement shall be completed in accordance with the Development Brief (see Condition 7) and approved plans and made available for occupation.
15. Before the occupation of the 100<sup>th</sup> dwelling, full details of the playing fields, sports pitches, allotment land and the informal open space relating to the whole of the development (including a phasing plan for their delivery) shall be submitted to and approved in writing by the local planning authority. These playing fields, sports pitches, allotments and open space shall be laid out in accordance with the approved plans and made available for use in accordance with the approved details including phasing for delivery.
16. No more than 75% of the open market dwellings in any phase of the development shall be occupied until those areas within that phase identified as play areas, recreation areas and other informal and amenity open space have been laid out in accordance with the plans and other particulars constituting the approved reserved matters for that phase.
17. No development shall take place until full details of both hard and soft structural landscape works (that is landscape works relating to the whole development and not to any separate phase thereof) have been submitted to

and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: proposed finished levels or contours; earthworks or bunds: means of enclosure/boundary treatment; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. street furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.

18. Soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate); and an implementation programme.
19. The plans and particulars submitted in accordance with condition 17 above shall include:
  - a. a plan showing the location of, and allocating a reference number to, each existing tree on site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
  - b. details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
  - c. details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
  - d. details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site;
  - e. details of the specification and position of fencing and of any measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with paragraph (a) above.

20. All hard and soft structural landscaping works approved in accordance with Conditions 17, 18 and 19 above shall be carried out in accordance with the approved details. The works shall be carried out in accordance with a programme agreed with the local planning authority.
21. No development shall take place until a landscape and biodiversity management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas, wildlife

habitats, playing fields/ sports pitches and informal recreational open space, other than small, privately-owned, domestic gardens, has been submitted to and approved in writing by the local planning authority. The landscape and biodiversity management plan shall be carried out as approved in accordance with a programme agreed in writing with the local planning authority.

22. No development shall take place until details of the design, implementation and management (including phasing) of a scheme for foul sewage disposal have been submitted to and approved in writing by the local planning authority. Thereafter these arrangements shall be implemented in accordance with the approved details including phasing.
23. No development shall take place until details of the design, phasing, implementation and management of a scheme for the disposal of surface water, incorporating sustainable urban drainage, have been submitted to and approved in writing by the local planning authority. No new development above greenfield runoff rates in any phase shall be commenced until the approved drainage works for that phase have been implemented. Following implementation the drainage works shall be managed and maintained in accordance with the approved details. Those details shall include a management and maintenance plan for the lifetime of the development which shall incorporate the arrangements for adoption by any public body or statutory undertaker, or any arrangements to secure operation of the sustainable urban drainage scheme throughout its lifetime.
24. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - a. working hours;
  - b. traffic management, including: the provision of temporary construction accesses; traffic control; the routing of construction traffic travelling to and from the site and signage connected therewith;
  - c. the parking of vehicles of site operatives and visitors;
  - d. the loading and unloading of plant and materials;
  - e. the storage of plant and materials;
  - f. piling techniques;
  - g. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - h. construction and security lighting;
  - i. wheel washing facilities;
  - j. measures to control the emission of dust and dirt during demolition, reclamation remediation and construction;

- k. measures to control the emission of noise during demolition, reclamation remediation and construction;
  - l. a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - m. Protection of trees, hedgerows and other natural features.
25. No more than 1,000 (UCO Class C3) dwellings shall be developed on the site.
26. The shopping element of the Neighbourhood Centre shall not exceed 800 square metres gross internal floor area (GIFA) overall. The size of the largest single unit shall not exceed 400 square metres GIFA and no other unit shall exceed 80 square metres GIFA.
27. The shopping element of the Neighbourhood Centre shall be confined to uses falling within Classes A1, A3 and A5 and of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that order with or without modification, and to a bookmakers shop (Class A2) or a laundrette (sui generis).
28. Not more than 20% of the gross internal floor area of the shops in the Neighbourhood Centre shall be used for the sale of clothing and footwear; jewellery and fashion accessories; furniture and carpets; lighting; electrical goods and 'white ware' (including computers and telephones); and DIY goods.
29. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement 1: Planning and Climate Change December 2007). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the local planning authority as part of the reserved matters application for each phase of the development. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
30. Before each phase of the development is commenced, a scheme identifying the Noise Exposure Categories (NEC) (as defined by Annex 1 to Planning Policy Guidance Note 24) within which the dwellings and related private gardens proposed in that particular phase would be located, together with measures to mitigate noise (where necessary), shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the measures to mitigate unacceptable noise levels inside that property or within its private garden have been implemented.
31. The business floorspace of the live/work units shall be finished and ready for occupation before the residential floorspace is occupied and the residential use shall not precede commencement of the business use.
32. The business floorspace of the live/work units shall not be used for any purpose other than purposes falling within Class B1 in the Schedule to the Town & Country Planning (Use Classes) Order 1987, or in any provision

equivalent to that Class in any statutory instrument revoking and re-enacting that order with or without modification.

33. The residential floorspace of the live/work units shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the business floorspace of that unit, a widow or widower of such a person, or any resident dependents.
34. No development shall take place until a Recruitment and Training Agreement has been submitted to and approved in writing by the local planning authority. The approved Agreement shall be implemented in accordance with the approved details.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Anthony Crean QC	Instructed by Legal and Democratic Services, South Kesteven District Council
He called:	
Karen Sinclair BSc(Hons) MRTPI	Planning Policy and Partnerships Service Manager, South Kesteven District Council
Deborah Evans BA(Hons) MA PGDipLA CMLI	Landscape Architect, East Midlands and East of England, Historic Buildings and Monuments Commission for England (English Heritage)
Gary Billington PhD MICE	Technical Director, Mouchel
Clifford Middleton BSc(Hons) MRTPI	South Kesteven District Council

### FOR THE APPELLANTS:

David Manley QC	Instructed by Shoosmiths Solicitors
He called:	
Nicholas Doggett BA PhD CertArchaeol MIFA IHBC	Director and Head of Asset Heritage Consulting
Jonathan King BSc MLD CMLI	Technical Director, Wardell Armstrong LLP
Jennifer Baker BSc(Hons) MSc DIC IEng AMICE	Technical Director, SKM Colin Buchanan
Antony Aspbury BA MRTPI	Director, Antony Aspbury Associates Limited

### FOR LINCOLNSHIRE COUNTY COUNCIL:

Stuart Timm	Solicitor, Lincolnshire County Council
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### INTERESTED PERSONS:

Georgina Lock	Local resident
Sheila Garrick	Local resident



Jacqueline Smith	Local resident and South Kesteven District Councillor
Trevor Scott	South Kesteven District Councillor
Dr Garrick	Local resident
Tony Hopwell	Belton and Manthorpe Parish Council
Ann Bramley	Local resident
Jonathan Bishop	Local resident

## **CORE DOCUMENTS**

### SUBMITTED APPLICATION DOCUMENTS

CD1	Site location plan – Drawing No. B4723 – PL – 001 Rev A
CD2	Illustrative Masterplan – Drawing No. B4723 – PL – 003 (superseded)
CD3	Design and Access Statement
CD4	Grantham North Statement of Community Involvement
CD5	Environmental Statement
CD6	Transport Assessment
CD7	Landscape Framework Statement

### DECISION DOCUMENTS

CD8	Committee Report (including Addendum) and Minutes dated 4 January 2011
CD9	Decision Notice dated 12 January 2011

### APPEAL DOCUMENTS – APPELLANTS

CD10	Appellants' Statement of Case
CD11	Supplementary Environmental Statement
CD12	Supplementary Design and Access Statement
CD13	Post Determination Masterplan APDM1
CD14	Parameters Plans

### APPEAL DOCUMENTS – LOCAL PLANNING AUTHORITY

CD15	Local Planning Authority's Statement of Case
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### APPEAL DOCUMENTS – LINCOLNSHIRE COUNTY COUNCIL (RULE 6 PARTY)

CD16	Lincolnshire County Council's Statement of Case
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### APPEAL DOCUMENTS – JOINTLY SUBMITTED BY APPELLANT AND LPA

CD17	Agreed Statement of Common Ground
CD17a	Agreed Transport Statement of Common Ground
CD18	Section 106 Agreement dated 15 November 2011
CD19	Planning Obligations Statement prepared by South Kesteven District Council

### POLICY AND GUIDANCE DOCUMENTS

CD20	East Midlands Regional Plan 2009
CD21	South Kesteven Core Strategy (adopted July 2010)
CD22	South Kesteven Local Plan saved policies [Also see CD45]
CD23	South Kesteven Core Strategy Inspector's Report (2 volumes)
CD24	Grantham Area Action Plan (Consultation March 2011) [Also see CD50]
CD25	South Kesteven Site Allocation and Policies Development Plan Document (Consultation October 2009)

- CD26 Belton House and Park – Setting Study and Policy Development (January 2010)
- CD27 Manthorpe Conservation Area Appraisal (August 2007)
- CD28 Lincolnshire County Council 3<sup>rd</sup> Local Transport Plan 2011/12 to 2012/13
- CD29 The Transport Strategy for Grantham 2007 to 2021
- CD30 Ministerial Statement – Planning for Growth (23 March 2011)
- CD31 Draft National Planning Policy Framework
- CD32 White Paper “Local Growth: Realising Every Place’s Potential”, presented to Parliament on 28 October 2010
- CD33 English Heritage - Conservation Principles: Policies and Guidance
- CD34 English Heritage - The Setting of Heritage Assets: Guidance (consultation draft 2010)
- CD34a English Heritage - The Setting of Heritage Assets
- CD35 South Kesteven 6<sup>th</sup> Annual Monitoring Report (December 2010)
- CD36 The Landscape Institute and Institute of Environmental Management - Guidelines for Landscape and Visual Impact Assessment (2002)
- CD37 Landscape Character Assessment – Guidance for England and Scotland (The Countryside Agency and Scottish National Heritage) (2002)
- CD38 Photography and Photomontage in Landscape and Visual Impact Assessment (Landscape Institute Advice Note 01/11)
- CD39 South Kesteven Landscape Character Assessment (2007)
- CD40 Countryside Agency - Countryside Character Vol 4: East Midlands

#### APPEAL DECISIONS

- CD41 Thackson’s Well Farm, Long Bennington – APP/E2530/A/08/2073384
- CD42 Land to North of Mowbreck Lane, Wesham – APP/M2325/A/10/2127459
- CD43 Land at Todenham Road, Moreton in Marsh, Gloucestershire – APP/F1610/A/10/2130320
- CD43a Land at Barton Farm, Andover Road, Winchester - APP/L1765/A/10/2126522

#### ADDITIONAL INFORMATION

- CD44 [Unused]
- CD45 South Kesteven Local Plan Written Statement and Proposals Map
- CD46 Planning (Listed Building and Conservation Areas) Act 1990
- CD47 Register Entry Listed Buildings and descriptions for Belton House
- CD48 Register for Historic Parks and Gardens
- CD49 South Kesteven Five year Housing Land Supply 2011- 2016
- CD50 Grantham Area Action Plan Submission October 2011 (2 volumes)
- CD51 Commission for Architecture and the Built Environment letter dated 11 January 2010
- CD52 National Trust Letters dated 22 March 2010 and 30 August 2011
- CD53 English Heritage Letters dated 19 March 2010, 24 November 2010 and 26 August 2011
- CD54 PPS1: Delivering Sustainable Development
- CD55 The Planning System: General Principles
- CD56 Planning and Climate Change – Supplement to PPS1
- CD57 PPS3: Housing
- CD58 PPS4: Planning for Sustainable Economic Growth
- CD59 PPS5: Planning for the Historic Environment
- CD60 PPS5: Planning for the Historic Environment Planning Practice Guide
- CD61 PPS7: Sustainable Development in Rural Areas

- CD62 PPS9: Biodiversity and Geological Conservation
- CD63 PPS12: Local Spatial Planning
- CD64 PPS22: Renewable Energy
- CD65 PPS23: Planning and Pollution Control
- CD66 PPS13: Transport
- CD67 PPG17: Planning for Open Space, Sport and Recreation
- CD68 PPG24: Planning and Noise
- CD69 PPG25: Development and Flood Risk
- CD70 [Unused]
- CD71 [Unused]
- CD72 MAS Environmental - Preliminary findings in relation to the need for noise mitigation at a proposed development north of Grantham (30 September 2011)
- CD73 Network Rail letter dated 4 October 2011
- CD74 Hilary Taylor Landscape Associates Ltd - Belton Parkland Plan May 2011 (2 volumes)
- CD75 Agreed tables of housing requirements and supply
- CD76 Representations by Antony Aspbury Associates Limited on South Kesteven Local Development Framework Core Strategy Preferred Options dated June 2007
- CD77 Agreed list of planning application material
- CD78 Royal Society for the Prevention of Accidents Road Safety Engineering Manual (extract)
- CD79 Department for Transport Traffic Advisory Leaflet 5/05
- CD80 Transport for London Design Standards for Signal Schemes in London
- CD81 Transport Research Laboratory Overseas Road Note 13
- CD82 Additional TRANSYT model runs
- CD83 Grantham Wastewater Growth Strategy Report – Non-technical Summary November 2011
- CD84 Appellants' Submissions on South Kesteven Local Development Framework Core Strategy Preferred Options dated June 2007
- CD85 Lincolnshire County Council Commissioning Plan for Older People and their Carers 2008-2011
- CD86 Statement of Common Ground concerning education matters between the Appellants and Lincolnshire County Council
- CD87 Planning conditions agreed between the Council and the Appellants
- CD88 South Kesteven District Council Planning Obligations Supplementary Planning Document - consultation version December 2011
- CD89 South Kesteven District Council Amenity Facility Adoption Standards/Requirements July 2010
- CD90 Sport England Design Guidance Note on Village and Community Halls

## **INQUIRY EVIDENCE AND SUBMISSIONS – LOCAL PLANNING AUTHORITY**

- SK1 Ms Sinclair's Proof
- SK2 Ms Evans's Proof, Figures and Appendices
- SK3 Ms Evans's Rebuttal (with appendix)
- SK4 Ms Evans's Note on views towards Bellmount Tower
- SK5 Mr Billington's Proof
- SK6 Mr Billington's Appendices
- SK7 Mr Billington's Supplementary Proof
- SK8 Mr Billington's Erratum to Supplementary Proof

- SK9 Mr Billington's Appendices to Supplementary Proof
- SK10 Mr Billington's Discussion Note
- SK11 Mr Billington's email dated 9 November 2011 with corrections to Supplementary Proof
- SK12 Mr Middleton's Proof and Appendices
- SK13 Mr Middleton's Rebuttal of Mr Aspbury (with appendices)
- SK14 Mr Middleton's Rebuttal of Dr Doggett
- SK15 Opening Submissions
- SK16 Closing Submissions

### **INQUIRY EVIDENCE AND SUBMISSIONS – APPELLANTS**

- APP1 Dr Doggett's Proof and Photographs
- APP2 Dr Doggett's Appendices
- APP3 Mr King's Proof
- APP4 Mr King's Drawings, Photoviews and Appendices
- APP5 Ms Baker's Proof
- APP6 Ms Baker's Appendices
- APP7 Ms Baker's Supplementary Proof and Appendices
- APP8 Mr Aspbury's Proof
- APP9 Mr Aspbury's corrections to proof
- APP10 Mr Aspbury's Appendices
- APP11 Opening Submissions
- APP12 Position Statement on Section 106 Planning Obligations
- APP13 Summary of Agreed Section 106 Planning Obligations
- APP14 Closing Submissions

### **INQUIRY EVIDENCE AND SUBMISSIONS – LINCOLNSHIRE COUNTY COUNCIL**

- LCC1 Mr Mason's Proof and Appendices [not called at the inquiry]
- LCC2 Opening Submissions

### **INQUIRY EVIDENCE AND SUBMISSIONS – THIRD PARTIES**

- TP1 Ms Bramley's photograph
- TP2 Mr Bishop's statement and photographs

### **INSPECTOR'S DOCUMENTS**

- INSP1 Folder of appeal representations
- INSP2 Pre-inquiry meeting notes
- INSP3 Regulation 19 direction

## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.