



## Appeal Decision

Inquiry opened on 12 July 2017

Accompanied site visit made on 20 July 2017

**by Philip J Asquith MA(Hons) MA MRTPI**

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

**Decision date: 14 August 2017**

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**Appeal Ref: APP/E2530/W/16/3163514**

**Land on the north side of the A52 Somerby Hill, Bridge End Road,  
Grantham, NG31 7TS**

- 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 Balderson Farms and Persimmon Homes against the decision of South Kesteven District Council.
  - The application Ref. S16/0824, dated 23 March 2016, was refused by notice dated 29 July 2016.
  - The development proposed is described as residential development (outline) (up to 250 dwellings).
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. For the avoidance of doubt, I have determined the appeal on the basis that the application was in outline with all matters other than means of access reserved for subsequent approval. Drawing No. 1048-03-MPO1 Rev F, entitled Indicative Masterplan, was submitted with the application. I have treated this plan as for illustrative purposes only.

### Main Issues

3. The decision notice refusing planning permission included the reason that, in the absence of either a Unilateral Undertaking or an Agreement under Section 106 (s106) of the Town and Country Planning Act 1990 (as amended), the Council was not convinced that provision would be made for the infrastructure directly required for the proposed development. At the Inquiry a concluded and executed s106 Agreement was produced that would secure the provision of, or the financial contribution towards, varying matters. As a consequence, the Council did not contest this matter. The s106 Agreement is discussed below. In light of this, the main issues in this case are:
  - the effect of the proposal on the appearance and character of the area;

- the impact on the significance of designated heritage assets by reason of effects on their setting; and
- whether the proposal would provide acceptable living conditions for its future occupiers, with particular reference to noise.

### **Planning Policy Background**

4. The extant development plan for the area includes the Council's Core Strategy (CS), adopted in July 2010. Agreed relevant policies include CS Policy SP1. This states that the majority of all new development should be focused on Grantham, to support and strengthen its role as a Sub-Regional Centre. Development proposals are to be considered on appropriate sustainable and deliverable brownfield sites and appropriate greenfield sites to ensure the achievement of growth targets. The policy notes that details of specific sites were to be included in a Grantham Area Action Plan (GAAP). Work was started on a GAAP but was subsequently shelved after substantial concerns as to its soundness were expressed by the Inspector conducting an Examination into it. It is consequently an agreed position between the appellants and the Council that development on appropriate Grantham greenfield sites can be acceptable under Policy SP1 subject to compliance with other relevant CS policies.
5. CS Policy H1 sets targets for the minimum level of housing to be provided in the period 2006 - 2026 within the District, with housing growth focused on Grantham to consolidate its Sub-Regional Centre status. Although this policy has been referred to in each of the Council's reasons for refusal, in simply establishing targets for the minimum level of housing to be provided its relevance in terms of the issues in the present case is questionable.
6. Development should be appropriate to the character and significant natural, historic and cultural attributes and features of the landscape, and contribute to its conservation, enhancement or restoration, in accordance with CS Policy EN1. Proposals will be assessed against a range of specified criteria within the policy.
7. A draft replacement Local Plan has recently been published for consultation purposes. Given its very early stage in the plan-making process, neither the appellants nor the Council rely on policies within it.

### **Reasons**

#### *Appearance and character*

8. The appeal site of some 8ha comprises agricultural land fronting onto the A52 at Somerby Hill on the south-eastern edge of Grantham. The land forms an inverted U-shape on the rising valley side. This wraps around a commercial site operated by Andapak, a business manufacturing cardboard packaging as well as packaging machinery, and adjacent to which is a smaller business venture concerned with self-storage containers and the supply of logs. The appeal site's eastern limb abuts part of the Prince William of Gloucester Barracks, whilst the lower, north-west corner of the site lies next to part of the David Eatch 1970s residential estate.

9. Whether development on a site can be considered appropriate to the character and other attributes of a landscape in accord with CS Policy EN1 needs to be seen within the context of CS Policy SP1 which is permissive of development on appropriate greenfield sites. It is almost inevitable that development on any greenfield site will result in some degree of visual and landscape harm. The Council's landscape and planning witnesses agreed that Policy EN1 should not be interpreted as meaning that any landscape and visual harm would result in a breach of policy; development would have to reach a level of harm where it would become inappropriate in landscape or visual terms.
10. The application now the subject of this appeal was accompanied by a Landscape and Visual Impact Assessment, which has been critiqued on behalf of the Council, the main area of disagreement being in relation to the assessment of landscape effects. Within the context of both the application and the appeal there has been considerable reference to a range of differing studies and assessments conducted over the past ten years. These have considered the Grantham landscape and its suitability for further development. In their various assessments of the character, sensitivity and capacity of landscape to the east of Grantham these have not been consistent in looking either directly or indirectly at the appeal site.
11. The Council suggests that the importance of the appeal site lies in its contribution to the distinctive topography and rural landscape setting of the town, forming part of the 'green rim' of the rising land that surrounds the development of the urban form of Grantham sitting mainly within the valley of the River Witham. 'Green rim' was a term used in the Grantham Townscape Assessment of 2010 in which it described the landscape fringes of the town, noting that topography is a key characteristic of the fringe as it collectively forms a green rim of open countryside to the skyline around the town. This is not, however, a term or concept that is enshrined in policy.
12. This Townscape Assessment divided the 'landscape fringes' character area into six character types. It placed most of the appeal site within the same type (17f) as the higher land of Hall's Hill to the north but separated from this by the David Eatch residential estate so that there are two components of this particular character area. The Assessment noted that a key design principle was to maintain the open and green character of Hall's Hill.
13. A Landscape Sensitivity and Capacity Study of Specified Areas in Grantham (2013) noted that it was the main Hall's Hill's more steeply sloping and well-wooded landscape fringe that was of most importance to the setting of the town. This was rather than the land now comprising the appeal site, which the earliest of the various studies - the South Kesteven Landscape Character Assessment of 2007 - had placed within the Grantham Scarps and Valleys character area and had shown the site within an urban context. In this latter study the site was separated from land further to the north, which was deemed to be of medium to high sensitivity for development.
14. The most recent detailed study of relevance to have been carried out is the Grantham Capacity and Limits to Growth Study of 2015 and it is one on which the Council places considerable reliance and which is referred to within its first reason for refusal. It notes that "to avoid landscape impacts on the

green slope enclosing the eastern edge of Grantham would entail avoiding development around Hall's Hill and the land due west of the barracks (i.e. the land south of Cold Harbour Lane, north of Somerby Hill and east of the urban edge)". The study considered that this area consists of sloping land visible at a distance, forms the southern end of the 'green rim' and that a conclusion other than that the land has a low capacity for development is questionable.

15. However, I do not concur with this assessment as to likely impact on landscape character. In my judgement the appeal site is distinguished from the higher rising land to the north. It is separated by open fields which form part of the slope up to Cold Harbour Lane, which itself is on the rising land up to Hall's Hill. The appeal site therefore forms only part of the area that is described and considered in the 2015 study. This distinction is clearly appreciated from viewpoints along Cold Harbour Lane itself where it is apparent that the site, whilst rising from west to east, effectively sits further down within the landscape. Furthermore, in terms of its sensitivity, I do not consider this can be divorced from considering its immediately adjacent land uses; the residential development to the west, that (albeit well-landscaped) within the barracks further up the slope to the east and, between the two, the presence of the industrial/commercial site occupied by Andapak. Similarly, the site does not perform a significant function as an important or necessary open space separating the main urban form of the town and the existing development on the barracks site.
16. Consideration of the site also needs to be set within the context of the allocation within the CS of a large swathe of land to the southern side of the A52 as the Southern Quadrant Sustainable Urban Extension (SQ SUE). This would accommodate in the region of 3,500 – 4,000 new homes, with progress on this currently being actively considered by the Council. The SUE would stretch further up the rising slope to the east onto the flatter plateau beyond a level with the existing barracks site.
17. Development on the SUE would be likely to abut the A52 immediately facing the appeal site. It would considerably urbanise the character of this south-eastern part of Grantham and by doing so would reduce landscape and settlement character sensitivity. This would render the appeal site more readily able to accommodate development without undue adverse effect on the landscape setting of the town.
18. In the relatively limited number of public views of the appeal site that are available from the west and north-west, development would be partially framed by the backdrop of the well-treed barracks site further up the slope and would be seen in conjunction with the much more extensive and wide-ranging expanse of the SQ SUE. From views along Cold Harbour Lane and further to the north on Hall's Hill any development on the appeal site would be seen with the extensive background of development on the SQ SUE. Development on the appeal site, through a combination of layout and landscaping, could result in the partial screening from viewpoints to the north of the present industrial site, which currently provides a somewhat incongruous landscape feature.

19. Despite being separated from the SQ SUE by the A52, in visual terms when viewed from available public viewpoints to the west (for example Station Road East, and from near the Grantham Meres Leisure Centre), the site is in my judgement more closely perceived as an adjunct to the land to be developed as the SQ SUE. This is rather than being seen as associated with the higher rising land of the Hall's Hill area to the north, which I accept provides an important element of the 'green rim' landscape framing the town. This would also be the case when seen from available viewpoints approaching the town from the south along the B1174 and from where it is evident that, unlike potentially that on the SQ SUE, development would not breach the skyline.
20. The site does make a landscape and visual contribution by affording views across it towards the town, a matter further discussed below in relation to impact on the setting of heritage assets. However, public views of Grantham to the west across this open agricultural land are restricted to that from the field entrance at its south-east corner. Because of well-established and tall boundary hedging, views for road users are fleeting and those on foot limited. As such, I consider any present 'gateway' function on the entrance to the town that the site might be considered to play is overstated. This would, in any event, be further diminished by development on the SQ SUE since the integral built form of Grantham would extend much further eastwards along the A52. Development on the site would, on the other hand, potentially provide an enhanced ability to obtain limited panoramic views across the town, given that there would be public access where none currently exists.
21. There is a degree of force in the argument that, with the allocation of the SQ SUE, as well as the allocated SUE on higher land to the north-west of the town, the retention of the remaining open encircling land around Grantham takes on greater importance in terms of the maintenance of landscape character. Nonetheless, for the reasons set out above the appeal site only makes a modest contribution in this regard and this is not sufficient justification in its own right for rejecting the current proposal on this basis.
22. On this issue, I consider that development of the site would be appropriate in terms of the character and appearance of the area when seen within the context of the CS that is permissive of the identification of suitable greenfield sites for the outward expansion of Grantham. Overall, the proposal would not conflict with the thrust of CS Policy EN1.

#### *Heritage assets*

23. It is an agreed position between the appellants and the Council that development on the appeal site would impact on the setting of various designated heritage assets. The Council's reason for refusal refers to there being less than substantial harm to the settings of heritage assets. However, as discussed within the Inquiry, the correct assessment, as set out in paragraph 133 of the National Planning Policy Framework (the Framework), should be in respect of the question of harm to the significance of heritage assets. Whilst there would be no direct physical impact to any asset, it is an agreed position that effect on setting would result in less than substantial harm to the significance of assets.

24. In considering this issue I have had regard to both s66(1) and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The former requires that special regard be paid to the desirability of preserving the setting of listed buildings, whilst the latter requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
25. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The concept of setting extends to more than whether there is a physical or visual connection between a site and a particular asset, as recently confirmed in the judgement in the case of *Steer*<sup>1</sup>. In the case of all the heritage assets whose significance could be affected by development on the appeal site – the churches of St Wulfram and St John the Evangelist, St Vincent’s House, the Town Centre Conservation Area and the Guildhall within it – there are no specific direct functional or historic linkages between them and the appeal site.
26. St Wulfram’s is a Grade I listed building, dating in parts from the 12<sup>th</sup> century, but whose chief feature is its tall, crocketed, slender stone spire, one of the tallest in the country. It is a key historic and visual landmark, and a manifestation of the town’s medieval origins, which dominates the town within its valley ‘bowl’ setting. The church’s values in terms of heritage are evidential, historic, aesthetic and communal. The way in which the appeal site can contribute to the appreciation of these values is by providing a vantage point from which these values can be read or appreciated, or by providing a foreground or backdrop in views, thereby contributing to its aesthetic value.
27. As already noted above, there is currently only a limited view across the appeal site from its south-eastern field entrance onto Somerby Hill as one approaches the town, a view that is at best fleeting for road users and one which is available for around 30m for those using the roadside footpath. Within these views the upper part of the steeple is visible rising above a foreground of trees and buildings. In this view it is possible to appreciate the church’s communal value, and the present undeveloped foreground contributes to some degree to its aesthetic value.
28. The illustrative masterplan accompanying the application recognises the contribution of this view, suggesting that any residential layout could be set back to preserve it. Clearly there would be some change because of the presence of more immediate foreground housing where none presently exists. Equally, however, development on the appeal site would offer the potential for additional views. Communal value deriving, say, from an ability to hear its church bells, would not be impacted by the appeal proposal. Also, as already noted above, any gateway function that the site might possess in terms of providing appreciation or anticipation of the approach to Grantham, or the rural context of the town and its historic relationship with its surroundings, would be much reduced by the development of the SQ SUE to the opposite side of Somerby Hill.

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<sup>1</sup> *Peter Steer v Secretary of State for Communities and Local Government & Catesby Estates Ltd & Amber Valley Borough Council and Historic England* [2017] EWHC 1456 (Admin)

29. The appeal site is not visible on the approach down Gonerby Hill to Grantham from the north-west. From here the view of the setting of St Wulfram's within the town, with a backdrop of surrounding higher land, is perhaps one of the best that can be appreciated by road users and walkers. This setting would be much modified by future development on the SQ SUE since it would introduce a backdrop of development where currently open land exists. Historic England has not objected to the SQ SUE on the basis of how this might impact on the setting of the church.
30. In its consultation response on the appeal application, Historic England did not raise the issue of impact of the proposal on the setting of St Wulfram's Church. Whilst the Council plays down the significance of this response, I consider it carries considerable weight. This is particularly in the context of its response on the SQ SUE where, in my view, the SUE is likely to have a substantive impact on the church's setting when appreciated from Gonerby Hill.
31. The townscape setting of St Wulfram's is well seen when approaching the town by train on the east coast main line from the north. From here it is difficult to discern the appeal site as a background feature, the backcloth to the church being provided by the more elevated and closer Hall's Hill. Any 'drama of appreciation' of the church and its setting is in my judgement far better experienced from the approaches by train and on the road down Gonerby Hill than from the east down Somerby Hill. There are no other principal viewpoints where the church is visible with the appeal site making a meaningful contribution to its backdrop.
32. I consider the Council's suggestions that the church's heritage value would be diminished by the development on part of the 'green rim', thereby affecting the historic relationship between the church built within the bowl of Grantham and the surrounding elevated areas, to be overstated. This is particularly the case as development would not alter topography, any sense of containment of the town or, for the reasons set out above, materially impact on the town's eastern ridgeline.
33. The Church of St John The Evangelist is listed Grade II, dating from 1840-1, standing to the south of the modern centre of Grantham. It was built to serve the growing population of the Spittlegate hamlet at a time of industrial expansion. It is stone-built with its lower tower not competing for dominance with the spire of St Wulfram's. The church can be seen when approaching from the east on the A52 down Somerby Hill although, unlike St Wulfram's, views are not across the appeal site. As such, continuing views would be unaffected. Development on the appeal site would present the opportunity for public views to be gained from it in which both St Wulfram's and St John's could be seen together, thus aiding appreciation and understanding of their relationship and significance in the town's development.
34. The appeal site is visible as a distant background feature in certain views from the church's curtilage and its vicinity but these are tempered and much compromised by the modern foreground features of warehouse-type units and areas of car parking within its immediate setting. The appeal site provides some very minor incidental contribution to the church's setting in

providing part of a rural backdrop. Development on the appeal site would result in only a small reduction in the overall rural backdrop, which is more dominated by the higher land of Hall's Hill, with only a consequent very minor impact on setting.

35. The Grade II St Vincent's House is a Victorian villa built around 1868 for a prominent local industrialist who founded an engine and machinery manufacturing business in Grantham. Its historic interest and significance derives from this and also from its acting as the headquarters from 1937 to 1943 of No. 5 Bomber Command, and from where the 'Dambusters' raid on the Ruhr Dams by 617 Squadron was controlled. Its steeply-pitched viewing tower can be glimpsed emerging from surrounding trees at about 1km distance in the same view across the appeal site as to St Wulfram's. As with the church, views of the house could be retained.
36. The now privately-owned house lies within an immediate setting of more recent housing. There are no public views from St Vincent's House towards the appeal site. The Council's heritage witness considered that the appeal site contributes positively to the original intended setting of the house in open countryside, away from the industrial part of town, and that this adds to the significance of the asset. Whilst development on the appeal site would result in building on open land, St Vincent's House is already separated from it by the 1970s David Eatch residential estate and no longer sits within a rural setting. I consider impact on both the setting and the historic development of the house to be such that there would be a negligible adverse impact on the significance of this heritage asset.
37. The Conservation Area encompasses part of the town centre with distinct character areas within it. These include the medieval core with 14<sup>th</sup> – 19<sup>th</sup> century buildings clustered around St Wulfram's, the commercial area, and the civic area centred around the Grade II mid-Victorian red brick and slate-roofed Guildhall and Sessions Hall. The clock lantern of the Guildhall can be glimpsed in the existing view across the appeal site from Somerby Hill and, as with the view of St Wulfram's, this could be retained through appropriate layout and design.
38. There are no public views out from the Conservation Area towards the appeal site and there is no functional or historic relationship between it (or the Guildhall within) to the appeal site. Views obtained from the railway line across the conservation area towards the east are dominated by Hall's Hill as a backdrop of open land, rather than by the more peripheral appeal site. Lying about 1½ km from the appeal site at its nearest point, any change in the setting of the conservation area would not materially affect its character or appearance. Nor, in my view, would development on the site materially impact on the historic or architectural character or interest of the Guildhall through change in its setting. The significance of these heritage assets would not therefore be harmed.
39. Overall, I consider there would be some harm to the significance of the two churches and St Vincent's House by reason of development on the appeal site within their setting. This would be less than substantial harm. In terms of quantum, this lies very well down the scale of harm although, even so, it is necessary to give considerable weight and importance to it. Framework

paragraph 134 states that where a development would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. I address this in my consideration of the overall planning balance.

#### *Living conditions*

40. There are two principal existing sources of noise which could impact upon the living conditions of the future occupiers of residential development on the site: road traffic noise from vehicles on the adjacent A52; and noise generated from industrial processes and related activity at Andapak. Whilst two noise reports were produced in connection with the appeal application, two further assessments have been carried out in the context of the appeal. The one on behalf of the appellants (Cundall) sought to address acknowledged shortcomings of noise monitoring data which formed the basis of the noise assessment accompanying the application. The second was carried out on behalf of Andapak (NoiseAssess). It is these latter two assessments upon which the evidence at the Inquiry focussed.
41. I am satisfied from the evidence produced that through detailed siting, design and other measures, impact from road traffic noise could be suitably mitigated to ensure acceptable living conditions, both internally and externally, when assessed against BS 8233:2014<sup>2</sup>, an appropriate reference tool for this source of noise.
42. National Planning Practice Guidance (NPPG) notes that the potential effect of a new residential development being located close to an existing business giving rise to noise should be carefully considered; existing noise levels from the business may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such instances, appropriate mitigation should be considered, including optimising the sound insulation provided by any new building's envelope<sup>3</sup>.
43. Andapak has an established unrestricted B2<sup>4</sup> general industrial use. The business, employing 12 to 15 people, is currently in a transitional state and at the time of the Inquiry was awaiting the imminent outcome of a planning application for additional storage and warehousing accommodation. Given the business's unrestricted use, 24-hour working could take place. Indeed, this is an expressed intention of the business operator once the warehousing matter is resolved.
44. Noise surveys were undertaken separately by Cundall and NoiseAssess, with measuring locations either on or close to the boundary of the Andapak site. The business is not currently operating as intensively as it might. However, to try and measure what noise may be generated, machinery and processes were run (including shot blasting which takes place as part of the engineering operation) to enable the NoiseAssess survey to obtain source readings of what might be typical noise levels when fully operational.

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<sup>2</sup> 'Guidance on sound insulation and noise reduction for buildings'

<sup>3</sup> Noise paragraph 006 Ref ID: 30-006-20141224

<sup>4</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended)

45. Both assessments had regard to BS 4142:2014<sup>5</sup>, which provides methods for rating and assessing sound of an industrial and/or commercial nature. The magnitude of impact is assessed by subtracting the measured background sound level at a location representative of the nearest sound-sensitive receiver from the 'rating level'<sup>6</sup>. Adjustments can be made to specific sound levels to account for distinguishing acoustic characteristics such as tonal or impulsive sounds. BS 4142:2014 states that a difference between background level and the generated noise of +10dB or more is likely to be an indication of a significant adverse impact, though this should also be modified for context.
46. Both the Cundall and NoiseAssess surveys have made assessments of likely impact based on the illustrative masterplan which accompanied the application. This shows residential units either closely fronting or backing onto the Andapak site to three sides. Both assessments suggest that if dwellings were to be sited as per the masterplan, for some, the predicted noise levels at exposed residential façades resulting from Andapak activity would be considerably above background levels. For example, the unmitigated level could be in the order of up to +54dB at night according to the NoiseAssess measurements and +30dB in the Cundall assessment.
47. I consider it also likely, as claimed on behalf of Andapak, that the most recent noise modelling conducted on behalf of the appellants has underestimated the noise levels that could be experienced to the west of the Andapak site. This is on the basis that there was no long-term monitoring position used to the west of the main production building, calibration of the model used data from an earlier survey which did not adequately capture production noise, and noise break-out from the building (through opened high-level windows, and the roof) would not be mitigated by barrier fencing.
48. The Noise Policy Statement for England, as referred to in the NPPG, sets out effect levels. A Significant Observed Adverse Effect Level (SOAEL) is a level of noise above which significant adverse effects on health and quality of life occur. Although SOAEL is not defined numerically, I am in no doubt that the noise levels resulting from the Andapak operation would constitute a SOAEL. The NPPG notes that the planning process should be used to avoid such an effect occurring by the use of appropriate mitigation, such as altering the design and layout. Decisions must be made taking into account the economic and social benefit of the activity causing the noise, but it is undesirable for exposure at a SOAEL to be caused<sup>7</sup>.
49. The appellants accept that, if noise from the Andapak site was to be unmitigated, this would result in an unacceptable level of amenity because of noise in gardens and internally within some dwellings that would be closest to the site.
50. The question therefore arises as to whether it would be possible to provide acceptable residential development that would incorporate sufficient

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<sup>5</sup> 'Methods for rating and assessing industrial and commercial sound'

<sup>6</sup> A specific sound source, corrected for acoustically distinguishing characteristics which may make it more subjectively prominent

<sup>7</sup> Noise paragraph 005 Ref. ID 30-005-20140306

mitigation to ensure noise levels from the Andapak operation would not adversely affect the living conditions of its occupiers?

51. If permission was to be granted there is no suggestion that the form and layout of development would have to be tied to that shown on the masterplan; dwellings and associated gardens could be sited further from the Andapak boundaries. Indeed, I consider this would be necessary not only from the perspective of noise impact but also from the point of view of general amenity. This is as a result of the very close illustrated relationship of dwellings to the industrial site boundary and the extremely poor aspect that would be likely to exist for some because of proximity to the tall and somewhat forbidding stand of conifers on the Andapak site boundary and, beyond this, (should the trees be removed) the utilitarian factory buildings.
52. Detailed design could include acoustic glazing, insulation, and internal configurations that provide for no habitable rooms facing the Andapak site. It may be possible to provide long ranges of terracing of dwellings that would form acoustic barriers to mitigate noise for those properties in remoter parts of the site. Certainly, it is likely that such a form of development would be a necessity to achieve appropriate levels of mitigation.
53. If windows did need to be kept closed most of the time, the NPPG<sup>8</sup> specifically refers to the likely necessity of alternative means of ventilation, which can include the use of mechanical ventilation. The NPPG further notes<sup>9</sup> that where there is a SOAEL this can be noticeable and disruptive, causing a material change in behaviour and/or attitude, such as avoiding certain activities when there is intrusion or, in and absence of alternative means of ventilation, having to keep windows shut.
54. In this regard, I accept that if mitigation and design measures were to be incorporated from the outset to provide acceptable internal noise levels then noise from the Andapak site would be unlikely to result in material changes to residential behaviour in response since residents would already be within an internal environment adapted to cater. However, this is a somewhat different proposition to ensuring that an acceptable level of amenity is to be provided from the outset in the presence of an existing significant noise source.
55. From the evidence presented, it would be likely that to provide acceptable levels of protection from noise generated from the existing business, which can be both tonal and impulsive in nature and could be present 24 hours a day, some residential properties would require assisted mechanical ventilation to ensure windows did not require to be opened. This would need to include purge ventilation (for example, to allow summertime cooling or to remove obtrusive smoke or smells) to satisfy the relevant Building Regulations. It would be feasible to achieve this solely through mechanical ventilation and for completely sealed living units to be provided.
56. Nevertheless, this is a greenfield site on the edge of a rural town where I consider future occupiers could reasonably expect access to fresh air through the ability to open windows, the opening of which could therefore

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<sup>8</sup> Noise paragraph 006 Ref ID: 30-006-20141224

<sup>9</sup> Noise paragraph 005 Ref ID: 30-005-20140306

compromise the intended mitigation. On behalf of Andapak, its noise witness suggested that such purge ventilation would indeed be likely to be provided by openable windows.

57. BS 4142:2014 does not provide a standard for internal noise levels, expressly stating that the standard is not to be used for deriving indoor sound levels arising from sound levels outside, or the assessment of indoor sound levels. Nonetheless, there was no challenge to the appellants' claimed feasibility of achieving mitigated internal noise levels in line with BS 8233:2014 of 35dBA during the day and 30dBA at night. To achieve this it would be likely that mechanical ventilation would be necessary for some of the dwellings.
58. The appellants' noise witness accepted that assisted mechanical ventilation might be considered as something of a 'last resort' as a contribution to achieving the necessary level of mitigation. I consider this to be the case, particularly on a development on a greenfield site towards the edge of a settlement within a rural setting, as opposed to, say, a development on an urban-located site close to existing noise-generating uses.
59. Based on the illustrative masterplan, in terms of external amenity space, such as gardens for those dwellings closest to the Andapak site, it would not be possible to sufficiently acceptably mitigate noise levels generated from this neighbouring site. Nonetheless, it has not been suggested that gardens other than these need be unacceptably impacted. The NPPG notes that noise impact can be addressed by providing alternative nearby external amenity space for the sole use of a specific group of residents, or publically accessible amenity space<sup>10</sup>. There would therefore be the possibility of scope for such provision to be incorporated into a residential layout providing areas of quietude to offset potential adverse noise impact, with no policy preclusion against this.
60. Nevertheless, even if such areas could be provided, there would also be open areas associated with the residential development and which residents might expect to use, for example driveways, parking areas, areas for hanging washing etc. and which could be subject to highly intrusive noise levels. These would be likely to be encountered every time residents ventured from their homes and could impinge on their quality of life and general residential experience, which the availability elsewhere within the appeal site of an area of greater quietude and tranquillity may not sufficiently offset.
61. I am unconvinced that a development in the format shown on the illustrative masterplan would be acceptable although this is not to say that a satisfactory and imaginative scheme would necessarily be unachievable. Nevertheless, the detailing that could be acceptable in terms of providing adequate internal and external acoustic protection, as well as good design, as required by the Framework and CS Policy EN1, would prove very challenging in light of the noise environment created by the adjacent commercial site.
62. The application seeks a level of development up to 250 units. On behalf of the appellants it was suggested that a lesser number of units could be

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<sup>10</sup> Noise paragraph 009 Ref ID 30-009-20140306

accepted if constraints dictated this. To ensure the satisfactory incorporation of development onto the site the number of units may indeed ultimately have to be smaller than the maximum 250 units the present application seeks. This would be because of the need to take into account not only acoustic considerations but also other constraints, such as the need for the protection of views, the provision of sustainable drainage, landscaping and public amenity space. Nonetheless, if permission was to be granted on the basis as applied for, it would be reasonable for the appellants to expect that a level of development at or close to this figure could be provided and found acceptable.

63. The emphasis within the NPPG is providing acceptable mitigation to allow proposals to go ahead and it is necessary to consider whether the imposition of conditions could be imposed which would provide a potentially satisfactory development.
64. Various versions of conditions were discussed at the Inquiry, including one requiring a new noise assessment with the provision of mitigation appropriate to its findings. However, the appeal application seeks to establish the principle of development on the site. In the absence of firmer details at this stage that it would be feasible to devise a suitably designed residential scheme with the suggested potential quantum of housing providing the likelihood of acceptable living conditions for all its occupiers, the imposition of an appropriate condition(s) in respect of noise mitigation would not be sufficient to make the present application acceptable.
65. Reference has been made to a previous limited number of complaints about noise from the Andapak site from residents living beyond the appeal site, though these are not particularly recent and no details of the complaints or subsequent outcomes have been provided. I therefore give very little weight to this as evidence of the future likelihood of complaints.
66. However, I have also borne in mind paragraph 123 of the Framework. This notes that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
67. The safeguarding of the existing business's continuing operations is an important and weighty consideration. With appropriate design and acoustic mitigation of the proposed development the likelihood of legitimate complaints from future residents regarding the continuing industrial operation may be minimised. The business would also be required to comply with the provisions of the Environmental Protection Act 1990 in terms of its operations.
68. However, in the absence of a firm demonstration that a scheme providing an acceptable level of mitigation could be achieved, extra burdens and constraints could be placed on the business causing it to modify its operations and possibly impinge on productivity and viability.
69. Whilst the Council's reason for refusal on amenity grounds did not refer to impact from odour from the Andapak site this has been referred to on behalf of its operator. Odour is generated from the heating of paper in cardboard manufacturing when moisture is driven out as part of the process. A lengthy

bank of high-level windows in the main building are opened to allow water vapour to be expelled and, depending on the source of the paper used, differing non-toxic odours can be vented to the atmosphere.

70. On the accompanied site visit, when some processes were operating, I was aware of a degree of odour within the main building. Control of such emissions falls within the Environmental Permitting regime though I consider it likely that escapes of odour may be inevitable and could be noticeable on occasions beyond the Andapak site. It is difficult to know to what extent odour would be experienced by residents living in close proximity and whether they may find this unpleasant or oppressive. No evidence has been provided of complaints regarding odour, although the nearest existing residential properties to the site are for the most part much further from the source than would be new dwellings on the appeal site and in respect of which there would be less opportunity for odour to be dissipated.
71. In the absence of firm or quantifiable evidence as to its likely nature and frequency, the possibility of nuisance from odour would not in its own right be a reason for rejecting the proposal. Nevertheless, it does provide some further weight to my concerns about how a residential development in very close proximity to this existing industrial operation could ensure adequate living conditions for its occupiers.
72. Overall, from the evidence before me, I am not persuaded that, because of the noise climate resulting from the adjacent commercial operation, an appropriate scheme with acceptable living conditions for all its prospective occupiers could be provided. Whilst only an outline application, with matters such as design and layout reserved, I consider it would be wrong to sanction this development in the absence of further evidence that acceptable living conditions for all could be suitably provided. As such, the proposal would be contrary to CS Policy SP1 in that it has not been demonstrated this is an appropriate and sustainable greenfield site for residential development. There would also be conflict with the Framework core principle which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

#### *Other matters*

73. There is no disagreement that acceptable vehicular access could be gained to the site and that it could be adequately serviced by means of a suitable sustainable drainage scheme. There is a low probability that any archaeological remains on the site would be of national significance and there would be no adverse impact on biodiversity. There is also no disagreement that the site is in a sustainable location in terms of its relationship to Grantham and access to employment and services. I concur with these conclusions.
74. Within the context of the appeal a signed s106 agreement has been provided. In the event of planning permission being granted this would provide for not less than 35% of dwellings on the site to be affordable or, in lieu of this, for a specified affordable housing contribution to be paid to the Council. Other obligations within the Agreement would secure financial contributions towards educational provision (primary, secondary and sixth form), healthcare and bus service provision, and highway improvements. A

further obligation would secure the timely provision of open space within the site and a mechanism for its subsequent management. I consider all the obligations to be directly related to the development, necessary, and fairly and reasonably related in scale to it. There would therefore be compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Framework paragraph 204.

*Overall conclusions and the planning balance*

75. There would be some less than substantial harm to the significance of the designated heritage assets of St Wulfram's and St John's churches and St Vincent's House. I attach significant importance and weight to this harm even though it would be of a very low order of magnitude. Having regard to Framework paragraph 134, it is necessary to balance this against the public benefits of the scheme. These would include the contribution the site would make to the provision of housing, at least 35% of which could be affordable. This would assist in bolstering Grantham's role as a Sub-Regional Centre in terms of residential development.
76. Additionally, there would be some economic benefit from the scheme in terms of employment, both direct and indirect, additional expenditure in the local economy from residents on the site, the provision of public open space and the potential to enhance the ecological contribution to the surroundings through landscaping. Overall, the level of harm to the significance of heritage assets would be such that it would be outweighed by these potential benefits. There would be no material conflict with the relevant development plan policies to which attention has been drawn in this respect.
77. Relevant policies for the supply of housing land include CS Policy SP1. The appellants consider that the appeal proposal accords with this policy in its intent to secure a significant quantum of housing development concentrated in Grantham and the fact that such development is not precluded on greenfield sites such as the one in question. The policy is caveated in that a site should be considered appropriate. Appropriateness inevitably is based on factors such as whether development on it would provide satisfactory living conditions for future occupiers in light of constraints. I have concluded that, based on the evidence before the Inquiry, it is unlikely that this would be so. The proposal would therefore conflict with CS Policy SP1.
78. Only a limited number of relevant development plan policies have been brought to my attention and it is not therefore possible to conclude whether the proposal would conflict with the development plan taken as a whole. I have concluded that there would be no conflict with CS Policy EN1, and Policy H1, which the Council has quoted in its reasons for refusal, is not in my view relevant to the issues in question. No other development plan policy conflict is argued. Nonetheless, CS Policy SP1 is a fundamental strategic policy with which there would not be accord for the reasons given.
79. In the context of the Inquiry there was debate as to whether the Council could demonstrate a five-year supply of deliverable housing sites. The Council's position is that it could demonstrate this (irrespective of whether a 5% or a 20% buffer was applied), whereas the appellants argued to the contrary.

80. The importance of this debate in respect of the appeal proposal was that if there was no such five-year supply then, in accordance with Framework paragraph 49, relevant policies for the supply of housing should not be considered up-to-date. If development plan policies are out-of-date then paragraph 14 of the Framework indicates permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against Framework policies taken as a whole.
81. Even if I was to conclude that the Council could not demonstrate a five-year deliverable housing land supply, and therefore housing supply policies were out-of-date, the 'tilted balance' of the fourth bullet of paragraph 14 would not be engaged. This is because in my judgement the adverse impacts of granting permission in terms of ensuring acceptable living conditions would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a consequence, whilst having given due consideration to the arguments advanced by both the appellants and the Council, I have not considered further within the context of this appeal whether or not the Council can demonstrate a sufficient supply of deliverable housing land.
82. The purpose of the planning system is to contribute to the achievement of sustainable development. The Framework carries a presumption in favour of sustainable development. There are economic, social and environmental dimensions to sustainable development which should be sought jointly and simultaneously. I have found that the proposal would not adversely impact on the appearance and character of the area and the harm to the significance of heritage assets through impact on their setting would be outweighed by the public benefits of the scheme. There would be broad accord with the environmental and economic dimensions.
83. Nevertheless, the current proposal would fail to meet the social dimension. This is because that, in respect of noise impact, it has not been demonstrated that a high quality built development, supportive of health and social well-being by providing a good standard of amenity for all, would be capable of being created. There would therefore be a failure to result in an overall sustainable form of development and the proposal would conflict with the thrust of the Framework, to which I give significant weight. The conflict identified would not be outweighed by the benefits that could flow from the proposal enumerated in paragraphs 75 and 76 above. For these combined reasons I find, on balance, the proposal to be unacceptable.
84. I have taken account of all other matters raised but there are none that alter the balance of my conclusions that the appeal should be dismissed.

*P J Asquith*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Clover, of Counsel      Instructed by John Armstrong, Business  
Manager, Legal and Democratic Services, South  
Kesteven District Council (SKDC)

She called

Peter Rogers  
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Clara Turlington  
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LMRTPI      Principal Heritage Consultant, AECOM

Jon Rooney  
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Samantha Brooman  
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Philip Moore  
MSc MRTPI      Principal Planning Officer SKDC

### FOR THE APPELLANT

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of Counsel      instructed by Michael Robson, Cerda Planning

He called

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BSc(Hons) MIA      Principal Acoustic Consultant, Cundall

Duncan Bromley  
BA Dip LA MLI      Principal Associate Landscape Architect, RPS  
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Thomas Copp  
BA(Hons) MA Assoc IHBC      Associate Director of Built Heritage, CgMs

Michael Robson  
BA(Hons) DipTP MRTPI      Director, Cerda Planning Limited

### FOR ANDAPAK SUPPLY COMPANY LTD

Matthew Gascoigne      Director, NoiseAssess Ltd  
BSc(Hons) CEng MICE MIOA

## **DOCUMENTS**

1. Signed Statement of Common Ground between the appellants and the Council
2. Updated s106 Agreement (unsigned)
3. Core Documents Nos. 1 – 48
4. Appellants' opening submissions
5. Opening statement on behalf of Andapak Supply Co. Ltd
6. Council's opening submissions
7. Council's letter of notification of the appeal and list of those notified
8. Composite plan of relevant heritage assets
9. Design and Access Statement for Spitalgate Heath (development on the Southern Quadrant at Grantham)
10. Consultative Draft of the South Kesteven Local Plan 2017
11. Appendix A to Mrs Brooman's Proof of Evidence
12. Replacement Appendix B to Mrs Brooman's Proof of Evidence
13. Plan of suggested viewpoint locations
14. Plan of viewpoints referred to in Mr Rooney's evidence
15. E-mailed representations from Fred Jones, dated 19 July 2017
16. Replacement table of the supply of housing sites to accompany Mrs Brooman's evidence
17. Schedule of larger housing sites within the district discussed between Mrs Brooman and Mr Robson
18. Signed s106 Agreement
19. Revised list of suggested conditions
20. Community Infrastructure Levy compliance statement
21. Suggested noise condition (Mr Rogers)
22. Suggested noise condition (Mr Gascoigne)
23. Copy of emailed customer services enquiry regarding land off Dysart Road, Grantham
24. Closing submissions on behalf of Andapak Supply Co. Ltd
25. Closing submissions on behalf of the Council
26. Closing submissions on behalf of the appellants