



Appeal Decision

Inquiry held on 21-23 January 2025

Site visit made on 23 January 2025

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2025

Appeal Ref: APP/E2001/W/24/3350835

Land East of Rolston Road, Hornsea, HU18 1XG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Keepmoat Homes against the decision of East Riding of Yorkshire Council.
 - The application reference is 22/02891/STPLF.
 - The development proposed is a residential development including access, parking, open space, landscaping and infrastructure at land east of Rolston Road, Hornsea.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development including access, parking, open space, landscaping and infrastructure at land east of Rolston Road, Hornsea HU18 1UH in accordance with the terms of the application, reference 22/02891/STPLF, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. A Case Management Conference was held on the 18 November 2024, dealing only with procedural matters. The Inquiry then sat for 4 days (21 to 23 January 2025).
3. There have been some amended plans submitted with the appeal. The Council conducted a consultation on these amended plans prior to the Inquiry and the amended plans were considered in full with this Appeal.
4. A number of additional documents and submissions were made at the Inquiry. These are listed at Annex B. I am satisfied that in all cases the material was directly relevant to, and necessary for, my Decision.
5. A completed S106 Agreement accompanies the proposals and was dated 4 February and received on 5 February 2025. This was based on the draft considered at the Inquiry.

Main Issues

6. Following consideration of all the evidence, written and verbal, the following are considered the main issues for this appeal:
 - Whether the number of dwellings, the density, layout, mix and overall design of the scheme would result in an overdevelopment of the site. As

such, for this main issue the question is whether the proposed development would respect the context and character of the area.

- Whether the provision of no affordable housing is justified on viability grounds.

Reasons

Character and Appearance

Existing and Proposed

7. The site fronts the B1242, also known as Rolston Road, which is a north-south road connecting Hornsea to the south of the town. It is a field of roughly a rectangle form. To the north is Tansley Lane, which is a relatively modern residential street which forms the southern edge of a high density housing area. However, to the west and south of the site, fronting Rolston Road, are generally large detached dwellings in spacious plots with a high degree of verdancy. The dwellings to the south and west are examples of older dwellings of ribbon development and of much lower density than those north of the site such as those on Tansley Lane for example.
8. From my site visit and the plans of the area, Tansley Lane appears as the edge of the settlement, with areas to the south being a mix of low density dwellings and agricultural land with a semi-rural character. The site is an example of this as it is undeveloped, though with low density housing adjacent to it, to the south and west along Rolston Road. As such, there is a distinct change in character when approaching Hornsea from the south along Rolston Road, going from the looser form of large dwellings in spacious plots, with surrounding or interspersed agricultural land, to a more sub-urban character as Rolston Road reaches Tansley Lane.
9. The proposal is to develop the field that forms the site for 158 dwellings in a layout which would form two access points off Rolston Road and use perimeter blocks and straight roads within the site, with an area of public open space positioned centrally.

Policy Context

10. For policy context, the development plan comprises the East Riding Local Plan Strategy Document (ERLP SD) and the East Riding Local Plan Allocations Document (the ERLP AD) (both adopted 2016). Firstly, in the ERLP SD Policy S3 Hornsea is considered to be a 'town' in its defined Settlement Network. Towns in this policy are explained as following:

Towns will provide the local focus for housing, economic development, shopping, leisure, transport, education, health, entertainment, tourism, recreation and cultural activities for the town and its rural hinterland.
11. Within the ERLP AD, policy HOR-I allocates this site for housing, with the policy also requiring additional landscaping on the southern and eastern boundaries; and to incorporate comprehensive Sustainable Drainage Systems. The supporting text (Para 27.19) states that the site has an estimated capacity of 121 dwellings.

12. The Council have explained that the East Riding Local Plan Update (LPU) is at an advanced stage and it anticipates it being adopted in Quarter 1 of 2025. This LPU is currently an emerging Local Plan Strategic Document Update (eERLP SD) and an emerging Allocations Document Update (eERLP AD). I am not aware of any unresolved objections to relevant policies in the LPU. The Council stated at the Inquiry that the emerging LPU would have significant weight attached to the relevant policies in the updated emerging ERLP SD and ERLP AD due to its advanced stage.
13. The corresponding emerging allocation policy, also HOR-I keeps the site as allocated for housing. However, in this case the supporting text (Para 27.37) states that the site has an estimated capacity of 149 dwellings. The difference relates to the emerging policy considering a greater developable area being possible at the site and also an increase from 30dph to 35dph for the site.
14. Also relevant to the quantum of housing to be delivered on a site is policy H4 in the eERLP SD. This policy includes the requirement for developments to take into consideration the character of the surrounding area, as well as the identified need for different types of housing. Due to the distance from Hornsea centre and also the fact that the bus services along Rolston Road is not classed as a core route, H4 suggests 30 dwellings per hectare (dph) to be the appropriate minimum density for housing development, taking into consideration the character of the surrounding area for example.
15. Policy H4 does suggest 30dph based on its criteria, though this is for housing developments across the East Riding of Yorkshire rather than specifically for this site. Given that the site has specifically been allocated for housing, with the emerging policy HOR-I calculating an estimated capacity of 149 dwellings based on 35dph, it is appropriate that this estimated capacity and density of dwellings should be the starting point for consideration. However, the estimated capacity is not within the wording of the policy itself and is an 'estimate'. As such, it is correct to consider the proposed development against the full suite of policies relating to character, appearance and design quality, with it possible that the appropriate housing density could go either up or down from the 35dph used to come to the 149 dwelling figure.
16. As such, it is not necessarily contrary with policy to propose a housing development of 158 dwellings with a circa 39dph. Neither would it have been necessarily contrary to policy to have a proposed development of under 149 or even 121 dwellings total. Essentially, the principle of a housing development is accepted with the allocation and the merits of the proposed development having to be considered taking into account all material considerations including the effect on the character and appearance of the area.
17. In this regard, policy ENV1 is relevant as this requires new developments to be of a high quality of design that optimises the potential of the site and contributes to a sense of place, amongst other things. ENV1 (B1) also requires that developments should have regard to the specific characteristics of the site's wider context and the character of the surrounding area; (B2) that it incorporates an appropriate mix of uses on the site; and (B3) the development should have an appropriate scale, density, massing, height and materials. The emerging policy ENV1 also generally reflects the requirements for new developments of the adopted ENV1.

18. However, whilst the allocation policy HOR-I does not set a minimum or maximum density level or housing number for the site, this should be considered within the context of both policy H4 and the NPPF (Para 129), both requiring that development make the most efficient use of land.
19. The following sections focus on the design and layout of the proposed development and the effect it would have to the character and appearance of the area, rather than the advisory capacity figures or density calculations.

Transitional Character

20. The Council explained at the Inquiry that there is a change in character from the existing urban edge to the north of the site and the rural character of the site and the countryside to the south. Furthermore, the Council explained that, in their view, due to the changes in character to the immediate north and south of the appeal site, the site itself is in a transitional location between the looser ribbon development to the south and the denser residential developments to the north. The evidence before me suggests that Tansley Lane to the north has a density of approximately 27 dph, whereas the development to the immediate south of the appeal site is roughly 9.5 dph.
21. The current transition is approximately 27dph to the north, 0dph for the undeveloped site, and 9.5dph for the ribbon development to the south. On this basis, I would not consider the site so much of a transitional space, but an area of undeveloped land adjacent to the edge of settlement (Tansley Lane), as the density abruptly changes from being quite high to zero. The southern side of Tansley Lane is visually the hard edge to the town in this location.
22. The proposed development would essentially move the town's urban edge further to the south to meet with the edge of the ribbon development on the eastern side of Rolston Road. There would be the significant drop in density between the proposed development and the loose knit houses to the south, but there already is a stark drop in housing density between Tansley Lane and the site itself. As such, there is no current gradual transitional change in density or character.
23. For these reasons, I do not regard there to be a need to somehow contrive a density for the proposed development to step down from the existing density of houses to the north to the very different and low density houses to the south. Once constructed, the proposed development would appear simply as the new urban edge of Hornsea in this area, with the existing low density housing further south and on the western side of Rolston Road providing the visual transition in character between the urban town to the semi-rural and open countryside.
24. There can also not be any transition in density expected from the west to east, as this currently consists of the large dwellings in spacious plots on the western side of Rolston Road (at circa 4.7dph) to the site and agricultural land further towards the coast at 0dph. It would be impractical to try to achieve a housing density transition west to east without having a density the same or lower than 4.7dph, which could not be considered an efficient use of land in any way.
25. Whilst I am of the opinion that there is no need to provide a transitional density level between the housing characters to the north and south of the site, the density as proposed is higher than the capacity suggested in the emerging ERLP AD

policy HOR-I, and could have an effect on the character and appearance of the area. This will be the focus of the next sections.

Rolston Road character

26. Whilst I have concluded that the proposed development does not have to incorporate a lower density to provide a transitional character, the proposals should still be of a quality of design which reflects the character of the area. In this regard, policy ENV1 (B1) states that new development should have regard to the specific characteristics of the site's wider context and the character of the surrounding area. Similarly, the NPPF requires that development is sympathetic to local character, including the surrounding built environment (Para 135).
27. The site is an undeveloped field. As such, any major housing scheme on this site would substantially alter its character. As an allocated site for housing, this would have been expected by the Council. The proposed development would be seen as a modern housing development with a density comparable with the housing estate development of Tansley Lane and beyond. It would appear very different from the older ribbon style properties along Rolston Road, to the west and south of the site, but this is to be expected as this housing is of a very different era.
28. There are, however, some proposed design responses to the larger and spacious dwellings opposite on Rolston Road. To the site frontage fronting Rolston Road the proposal includes a set back building line and substantial planting. This includes heavy standard trees, hedgerows and shrubs. The proposed landscaping to the site frontage goes some way to respond to the high levels of verdancy on the older properties opposite the site. Furthermore, there are some detached houses proposed on the site frontage, which again does respond to the detached houses that exist on the western side of Rolston Road.
29. The houses as proposed along the Rolston Road frontage would be smaller and have much less spacious plots than the existing houses opposite, but the proposed development would sufficiently respond through its design and landscaping. There is not the requirement either in local or national policy to mimic the surrounding built environment, but to have regard to it (as set out in policy ENV1). Furthermore, it is important to acknowledge that Rolston Road does not just currently include large houses in spacious plots, with the wider Rolston Road character including sections of higher density housing and other semi-detached houses, similar to those proposed at the site.
30. It is my view that as a modern housing development the proposal would be visually read as part of the sub-urban housing to the north rather than the low density ribbon development to the west and south. The proposed development would not be a ribbon development with a semi-rural character and so it would be much more reflective of the estate housing to the north. There is already a contrast in housing types and styles between the larger loose form older properties and the more modern higher density housing along Rolston Road. As such, the contrast with the larger detached housing to the west of Rolston Road is not harmful to the character of the area.
31. The proposed development does generally follow the building lines from the existing houses to the north and south. There is a single dwelling proposed (No 141) which does appear to be forward of that line, but the frontage of the site is not straight and this dwelling is positioned centrally on the slightly curved frontage. As

such, the position of this dwelling would not have a harmful effect on the Rolston Road street scene. The building lines proposed are suitable in their context.

32. As noted on my site visit, currently the view across the site towards Tansley Lane from Rolston Road is not visually positive, as it is mainly a view of rear fences and the rear of houses. Landscaping to this boundary is sporadic which allows views across the field. However, the proposed development includes significant boundary treatment, including to the southern and eastern boundaries. This should result in a softening of the appearance of the proposed housing estate and an improvement over the visual impact of the existing urban edge at the rear of Tansley Lane when viewed from Rolston Road.
33. Overall, with regard to Rolston Road, the proposed development would have a well designed and some landscaping to the frontage. It does respond to some degree to the large and spacious houses opposite, but also the frontage design and layout would be similar to the character of the more modern housing which fronts Rolston Road to the north of the site. Given the mixed character of Rolston Road in the wider context of the site, the proposed development would not be out of character with the street scene.

Housing Mix

34. The proposed development includes a range of dwellings, from bungalows to rows of three-dwelling terraces for example. Most of the dwellings proposed are smaller types, such as one or two bedrooms, which the appellant in the Inquiry stated was the housing need for the area. Also, it was stated that there is a need for bungalows as part of the proposed development. These are not points contested by the Council.
35. The Council suggested at the Inquiry the use of more detached dwellings to the frontage, to better reflect the detached dwellings opposite. However, as stated in the section above there are some detached houses proposed on the site frontage. There are also some semi-detached dwellings proposed, but there are other existing semi-detached houses further north on Rolston Road and so this type of dwelling is not out of keeping with the wider street scene.
36. The Council raised the matter of terraced houses proposed within the development. These are blocks of three-dwelling terraces towards the southern edge of the site. Whilst it is acknowledged that there are no other terrace houses in the surrounding area and they are not typical of neighbourhoods on the edge of settlements, the proposed terraces would be short blocks and so would not appear substantially different within the street scenes to semi-detached dwellings. Furthermore, they would be set well back from the site frontage adjacent to a boundary with private land, with this boundary set to have enhanced landscaping which would help mitigate the visual impact of these new buildings. On this basis the terraces as proposed would not be harmful when viewed from outside the site or when viewed from within the proposed development. They also further add to the mix and variation of dwellings proposed.
37. Overall, the housing mix and the layout of house types is appropriate and would not be harmful to the character and appearance of the wider area, whilst also positively responding to the housing needs for Hornsea.

Visual Permeability

38. The site is currently undeveloped, with some of the frontage open to views across it from Rolston Road towards the coast to the east. There is no actual view of the coast, but the flat horizon does give some sense of it being close. The proposed development would mostly block off views across the site, due to either dwellings or landscaping. There may be some views from the northern access through to the rear of the site, but again proposed landscaping may screen views through. As such, there would be a lack of visual permeability.
39. The Council at the Inquiry highlighted the ribbon development along Rolston Road being of dwellings in spacious plots as allowing views through either towards the coast or the countryside beyond. This is true in some circumstances, however even on spacious plots the large houses and outbuildings, together with mature landscaping often means there is no view through from street level. As such, I do not consider visual permeability through built development as being a key characteristic of this part of Rolston Road. Furthermore, there are no views through Tansley Lane or the other streets to the north of the site from Rolston Road to the coast, due to the depth and density of development for example.
40. For these reasons, the reduction of visual permeability through the site towards the coast or countryside from Rolston Road, is not an indicator of poor design in this case.

Internal Layout and Design

41. At the Inquiry the Council criticised the development for its formal layout with use of perimeter blocks, straight roads, frontage parking and roof heights, among other things. The Council suggest a lower density (less number of dwellings within the site area) would free up space to allow for an internal layout more appropriate for the edge of settlement location.
42. The site is roughly of a rectangular shape, with boundaries that almost appear straight. In developing such a site, which is mainly open and quite flat, there are not the constraints that may require an informal layout or curved roads. Such an informal layout would appear overly contrived as it would not be necessary in responding to the site shape and characteristics. The rectilinear form of the site lends itself to a more formally planned layout as proposed, with straight roads and the use of perimeter blocks. This layout also avoids dwellings backing onto roads, thereby ensuring active frontages.
43. An informal layout for this site would likely result in wastage of space and an inefficient use of land. The proposed layout does not contrive to incorporate an informal type and has therefore been planned to be an efficient use of land. That is not to say, however, that the efficiency of the layout results in a poor design. Well planned dwellings, especially on corner plots, with good quality and sufficient levels of landscaping, as proposed in this case, allows the formal layout to be a well-rounded proposed design for the housing scheme.
44. Relevant to this assessment is the emerging Design Code (eDC), which is stated to be in its final design stage and round of consultation. As this is close to adoption I give this document significant weight in my consideration of this appeal. Within the eDC the site location is considered to be an 'Outer Neighbourhood' place type. Table 6 of the eDC suggests that perimeter blocks and irregular blocks are

suitable. From my reading of the eDC it does not state that there should be a mix of both necessarily, but a case of either or both types of blocks would be suitable. On this basis, the use of perimeter blocks in this Outer Neighbourhood development, with no informal blocks, would be in accordance with this guidance.

45. The proposed layout responds to the dwellings of Tansley Lane to the north, by backing onto these neighbouring properties and therefore avoiding undue levels of privacy loss for occupiers. The layout also achieves a set back with good levels of landscaping to the frontage with Rolston Road.
46. The public open space (POS) is proposed to the centre of the site. This is the optimum position for the POS, being a focal point central to the development. It is of a proposed rectangular shape, which is a consequence of the streets surrounding it. However, this does not mean that it would be set out and maintained as an overly formal open space. This would be down to the final design, which is controlled by condition and subject to the Council's approval.
47. The Council raised the emerging eDC and guidance point G21 of this document. This advises that there should be a range of roof types and heights, whereas the Council argued that this is not achieved due to an absence of roof design variation. However, from my viewing of the drawings submitted I am satisfied that there is sufficient variation with the dwellings proposed with differing heights. Also, whilst much of the site is quite flat there is a raised central area which will also vary the roof heights due to the difference in levels.
48. There are a number of plots proposed with frontage parking. Parked vehicles would therefore be a characteristic of the development, but this is the same for most modern housing developments. Furthermore, I am satisfied that the planting and landscaping proposed, including on individual plots, would adequately soften the appearance of parked vehicles within the proposed development.
49. In terms of materials the proposals include a mixed palette including a mixture of red bricks, buff brick and render, with grey tile or rustic red pantile roof tiles. From my observations of the wider area this is a suitable mix which is varied throughout the proposed development. Furthermore, if the render is suitably maintained then there is no reason to conclude that such a material finish would be of a poor appearance in the future.
50. There are properties proposed without garages, but there is no substantive evidence to demonstrate that this would lead to a lack of storage for the dwellings or that there would be substantial items stored outside.
51. Though some of the dwellings are of a smaller type, this does not necessarily mean they would need to be extended. If they were extended, then planning permission may be required which would mean that the Council would have control over their size and appearance.
52. Overall, the internal layout is a suitable and positive approach to the site and its surroundings. The individual dwellings proposed are appropriately designed and of a good mix. I would regard the proposed development to be in general accordance with the eDC.

Design and Layout Conclusion

53. The proposal is for a 158 dwelling development on this site. As set out above, the emerging allocation policy, to which I place significant weight due to its advanced stage, does not set a minimum or maximum number of dwellings that should be delivered at the site. However, the estimated capacity of 148 and the density of 35dph used by the policy is a starting point and indicates what sort of housing number and density should be achieved. However, ultimately the allocation policy sets the principle for a housing development on the site, with the final design and layout needing to be considered on its own merits.
54. Policy ENV1 of the ERLP SD requires that development has regard to the site's wider context, which the proposed development achieves for the reasons I have explained above. The proposed housing development would also have a scale, density, massing, height of dwellings and materials considered as appropriate. The layout is considered to be suitable for its location and the type and shape of site, with the POS positioned positively where it can be a central focus of the development. As such, the proposal accords with ENV1 of both the current and emerging ERLP SD.
55. I also conclude that the proposed development accords with policy H4 of both the current and emerging ERLP SD, as it would make the most efficient use of land, in this case being above the minimum of 30dph, whilst taking into consideration the character of the surrounding area and the need for different types of housing.
56. The NPPF (para 129) requires that decisions should support development that makes an efficient use of land, taking into account such matters as the desirability of maintaining an area's prevailing character and setting and also the importance of securing well-designed, attractive and healthy places. It is my view that this balance of ensuring an efficient use of land while also securing a well designed scheme within its setting is achieved by the proposals. On this matter, the proposed development is in accordance with the NPPF. However, if the development were to incorporate a more irregular layout and significantly less dwellings overall then it is likely that it would not achieve the objective of being an efficient use of land.
57. With regard to the National Design Guide (NDG), the proposal accords with this guide as it would respond to existing local character and identity and would be of a well designed development. The proposed development would also be an example of a well-designed scheme which would be an efficient use of land, with an amount and mix of development and open space that optimises density (Para 65 of the NDG). The Council has also criticised the Design and Access Statement, in that it does not demonstrate the design evolution as the NDG advises, but ultimately the design as before me does accord with the guidance set out in the NDG. Overall, I find no conflict with the guidance as set out in the NDG.
58. For the above reasons, the proposed development would accord with the current and emerging ERLP SD policies, including ENV1 and H4, on the matters of character, appearance and layout. The proposal would also accord with the NPPF and the NDG on these matters.

Affordable Housing Provision/Viability

59. Policy H2 of the ERLP SD and the Council's Affordable Housing Supplementary Planning Document (SPD) states that affordable housing will be required as part of housing development, with the Holderness Housing Market Area requiring 15% of proposed dwellings to be made available as affordable housing. This is unless it can be demonstrated that this would have an unacceptable impact on the economic viability of the proposed scheme, as set out in policy H2 (B1).
60. Prior to the inquiry the Council reviewed the Appellant's latest Financial Viability Appraisal (FVA) which was submitted with this appeal. Following review of the FVA the Council no longer sought the on-site provision of affordable housing. Furthermore, the Council no longer concluded that the provision of no affordable housing would breach Policy H2 of the adopted ERLP SD, due to the negative impact the provision of affordable housing would have on the economic viability of the proposed scheme.
61. In the SOCG on viability both main parties agreed a 17.75% profit on Gross Development Value as appropriate. This would result in a substantial deficit. The Council originally stated that whilst they agreed that the development with on-site affordable housing was unviable there should be a review mechanism within the legal agreement, which could have resulted in a financial contribution towards off-site affordable housing if the viability improved in the future. However, during the Inquiry the Council decided against presenting oral evidence or submissions on this matter at the Inquiry. As such, the Council had submitted detailed evidence and proofs on this matter, but due to their change of position this evidence was untested at the Inquiry and therefore carried less weight.
62. Whilst there is no mention of the use of review mechanisms within the current ERLP SD policy H2, the emerging version of this policy states that the Council will consider using review mechanisms to reassess viability over the lifetime of a development project. The supporting text to this policy states that:

"A review of viability will be carried out on a case by case basis based on the potential timescale of the development. A review is likely to be justified for large schemes or those with multiple phases delivered over a long time."
63. It is my view that the shortfall is not marginal, but a significant amount. The chance of the viability of the development with affordable housing changing in the coming years would appear unlikely. The appellant also explained at the Inquiry that the development would be a single phase scheme which will be delivered in approximately 2.5 years with a 2025 start likely. This is much different from some larger multi-phase schemes which would likely take several years to deliver. The single phase development would also differ from the example of a large scheme with multiple phases that emerging policy H2 uses to describe cases where a review mechanism may be necessary.
64. This demonstrates that there would be little chance of the viability situation changing substantially over this relatively short period. The review mechanism would be a costly process for the developer and crucially could delay the delivery of the housing, as was stated by the appellant at the Inquiry, with it unlikely in my view to result in any affordable housing contributions.

65. On this basis, I would regard the review mechanism to be not necessary to make the development acceptable in planning terms. This obligation within the legal agreement should be deemed null and void and severed from the remainder of the Deed.
66. For these reasons, the proposed development would not be viable with the provision of any affordable housing. As such, even though policy H2 and the Affordable Housing SPD requires 15% of proposed dwellings to be made available as affordable housing, the lack of provision in this case, due to viability reasons, means there is no conflict with the policy or SDP. Furthermore, there is no conflict on this matter with the NPPF, such as that set out in paragraph 59.

Other Matters

Hornsea Mere

67. There is the matter of the potential effect of the proposals on the integrity of Hornsea Mere Special Area of Protection (SPA) and Site of Special Scientific Interest (SSSI). Natural England set out that:

"It is Natural England's advice that the proposal is not directly connected with or necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out."

68. The Council responded with a screening exercise that concluded that there would be no likely significant effects with all water generated from the development to drain into the combined sewer and then to the North Sea. NE stated in a subsequent correspondence that the Council assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, NE concurred with this view. NE considered that the proposed development would not damage or destroy the interest features of the Mere designations. This is on the basis that the foul and surface water would discharge from the site into a public combined sewer. A condition can be imposed to require the developer to submit details of both foul and surface water drainage to the Council. As such, the Council would have control over the final drainage scheme and to ensure it would not result in harm to the Hornsea Mere.
69. I understand that pollution from the site could connect with Hornsea Mere, but there is no evidence to show this is likely. Indeed, conditions can be imposed to control the drainage and the construction process.
70. I also understand that the Mere is well managed from a tourist/visitor perspective, with no significant disturbance issues to associated wildlife.
71. On the basis of the evidence before me, relating to the drainage from the site as proposed and also other factors such as the separation distance of the site to the Mere, I am satisfied that there would be no likely significant effects to Hornsea Mere SPA qualifying features or conservation objectives, and/or the SSSI. Such issues considered include nutrient pollution or increased recreational activity for example. This is on the basis of this proposed development alone, or in combination with other developments nearby.

Nature/Wildlife Impacts

72. The proposal would develop a field surrounded on most sides by hedgerows. Whilst undeveloped the field has been assessed to be of low ecological value. There would be some loss of hedgerow, but the proposed landscaping would sufficiently compensate for this. There is a pond nearby with evidence of Great Crested Newts, though the appellant has addressed this by submitting a signed impact assessment and conservation payment certificate. Furthermore, there should be sufficient separation distance to ensure that trees in other nearby properties are not adversely impacted.
73. The imposed conditions (as advised by the Council) requires the developer to submit a Wildlife Enhancement Plan (WEP) and a Landscape Environmental Management Plan (LEMP), which would secure appropriate levels of nature and wildlife features and enhancements within the site.
74. Overall, with the assessments undertaken and the conditions to be imposed, the development would not have an adverse impact to biodiversity and local wildlife.

Flood Risk and Drainage

75. Concerns from some local residents have been raised with regard to flood risk from the site. This includes some photographs of the site being partially flooded, for example. However, flood risk has been considered in detail at the planning application stage, with there being no objection raised on this issue from Yorkshire Water or the Council's Land Drainage Team or the Lead Local Flood Authority. Furthermore, conditions can be imposed to ensure that the appropriate flood mitigation is incorporated as part of the overall development, with a condition also requiring the Council to agree any final foul and surface water drainage detail. On this basis, I am satisfied that the proposed development should not be at any significant risk of flooding or would cause flooding to other properties in the area.
76. Concerns have been raised with regard to sewer capacity, but there has been no issue raised regarding this from Yorkshire Water and there is no substantive evidence that this would be an issue with this proposed development.

Traffic Issues

77. There have been numerous written submissions together with concerns raised verbally in the Inquiry about the effect that traffic generation from the additional housing would have on existing highways within the town. This is especially the case for Westgate, which is a street that connects the village to the countryside towards the west. As one of the main routes in and out of the town it is busy and also often includes larger vehicles like buses and HGVs. The issue, which was evident to me on site, was that there are points on Westway in Hornsea where the carriageway is narrow. From driving the route, it seemed sufficient for two cars to pass each other, but it would be difficult if a larger vehicle was in one or both of the lanes. Photographic and video evidence was submitted showing vehicles mounting the footways on either side of Westgate (A1035) to allow for vehicles to pass. It is acknowledged that this is illegal and is not condoned in any way. There have been accidents on this road, such as vehicles colliding with front boundary walls.

78. It is important to note that Westgate is not near the site, being further away in the town. It is accepted that vehicles from the site would likely use this road, but the degree of additional vehicles generated by the development using Westgate would not discernibly increase traffic numbers from the existing level, based on the evidence before me. Furthermore, this is an existing issue, with the Council already aware of the situation. This is not an issue that is created by the proposed development, but by the historically narrow street form.
79. Bollards were seen on my site visit at Westgate which could help prevent vehicles mounting the footways, but there has seemingly been no further Highways Authority intervention. This may be due to the low level of accidents reported at this street. However, as was expressed by the appellant's Highways Witness at the Inquiry, Westgate is generally quite straight and does allow for good levels of forward visibility, as I also observed on site. As such, if there was a larger vehicle approaching in the opposite direction a driver could possibly slow or even stop in a wider section of road until the larger vehicle has passed. Even with the narrowness of Westgate within Hornsea, it is my view that there should not be the necessity to drive on the footway or for any illegal manoeuvres.
80. Overall, I would regard Westgate as having a narrow width which does cause traffic problems, but this is an existing issue which would not be worsened to any discernible amount by the proposed development. Moreover, from evidence presented and my own observations on site, driving on footpaths can be (and should be) avoided by all vehicles on Westgate in Hornsea. Furthermore, I do note that the Highways Authority raised no objection to the development on this issue or any other. For all these reasons, there is not the substantive evidence to demonstrate that this proposed housing development should be prevented on the basis of the narrowness of Westgate.
81. There are other narrow roads and some tight corners and junctions I travelled on within Hornsea, but in my view they were all of a suitable standard. I also travelled on some of the approach roads to Hornsea, including along the A1035 through the countryside. There were also some tight corners in some of the nearby villages, but none that persuaded me that some additional traffic on these roads would be hazardous. There was not the substantive evidence before me to demonstrate otherwise.
82. In terms of parking provision, the proposed development has sufficient provision, taking into account also the accessible location of the site.
83. Whilst the feelings and opinions on this matter from many members of the public are acknowledged, the proposed development would not result in substantive highway safety issues. It is not necessary for improvement works to highways such as Westgate, away from the site area, to make the development acceptable in highway safety terms. The proposed development would not result in unacceptable impacts to highway safety and is not contrary to the NPPF or the ERLP on this issue.

Local Infrastructure

84. The proposed development would result in 158 new dwellings within Hornsea and therefore a significant increase in the population for the town. This would increase the number of people using local services in Hornsea and the surrounding areas. Concern has been raised as to the lack of capacity within the town for extra

residents, with it noted that other housing developments have been approved and are built or being built currently. However, Hornsea is considered a 'town' in the ERLP SD, with policy S3 stating that towns "*will provide the local focus for housing, economic development, shopping, leisure, transport, education, health, entertainment, tourism, recreation and cultural activities for the town and its rural hinterland.*" Indeed, there is a good level of shops and services within Hornsea, which I observed at my site visit, as is indicated by the fact that this is an allocated site for housing. I also note the bus routes, with bus stops near the site, providing some sustainable transport links.

85. Evidence from the Council has shown the need for more provision for school places, which is being addressed through a financial contribution as secured through a planning obligation in the signed legal agreement.
86. It could also be that the additional people moving to Hornsea may be the catalyst for more services being located to this town in the future, though it is considered that there are currently sufficient services within the town to support the proposed 158 dwellings. There is no substantive evidence to demonstrate otherwise.

Neighbour Amenity

87. The proposed dwellings would include some positioned near the boundary of the site with other dwellings, such as those fronting Rolston Road and also those fronting Tansley Lane (which generally back onto the site). In all cases I am satisfied that the separation distance between proposed and existing dwellings, and also the height of the proposed dwellings near the boundary (some of which include bungalows), would sufficiently safeguard privacy for existing neighbours. Furthermore, for these same reasons, there would be no significant overshadowing of neighbouring properties.
88. There would be some level of disruption through the construction process, though this is the same for any new build development with other houses nearby. However, the conditions imposed, such as the requirement for a Construction Method Statement and also a restriction on work and delivery hours to the site, would safeguard neighbour amenities sufficiently through this process.
89. Overall, there would be no significant impact to neighbour amenities as a result of the proposed housing development

Remaining Matters

90. There have been numerous concerns raised by local residents to the proposed development, most of which have been directly addressed in this Decision. However, all other points raised are considered to be minor issues and do not result in the proposed development being in conflict with either national or local policy.

Other Benefits

91. I have found compliance with all relevant development plan policy, as set out above. In addition to this, the appellant set out other economic, environmental and social benefits which are not disputed by the Council. The development would clearly generate substantial benefits, such as the provision of housing. In light of my conclusions, I do not need to undertake a formal planning balance where such

benefits would be material considerations. However, as these benefits were before me, they also lend weight to the case to be allowed.

Planning Obligations

92. With regards to the S106 agreement, in summary it makes provision for the following specific obligations:

- An educational financial contribution of £260,000, for new or improved education facilities.
- An outdoor sports contribution of £195,585, for new or improved outdoor sports facilities.
- A financial contribution towards a Public Spaces Protection Order of £527 for the protection of the equipped play area within the provided public open space.
- The provision of on-site public open space with a delivery scheme.
- The maintenance and management of the on-site public open space.
- The protection of street trees within the development.
- The provision of an off-site landscaping strip.
- A viability mechanism, to review the development's viability in connection with a possible future affordable housing financial contribution.

93. It is Schedule 4 which includes a viability mechanism relating to the possible provision of a contribution towards affordable housing. For the reasons set out above, this planning obligation is not necessary and should not be imposed on the developer. As such, as set out in Section 2 of the legal agreement (Legal Basis), the viability mechanism is not necessary to make the development acceptable and so is to be deemed null and void and severed from the remainder of the Deed.

94. The Council's CIL Compliance Statement sets out the detailed background and justification for each of the obligations. Other than the viability mechanism, I agree with the conclusions of the statement and following discussions at the Inquiry I am satisfied that the provisions of the submitted documents would meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at paragraph 58 of the NPPF.

Conditions

95. A condition schedule agreed between the main parties was discussed at the Inquiry. I have revised the wording to a number of the suggested amended conditions in light of that discussion, and also with consideration of Government guidance on the use of conditions in planning permissions.

96. In addition to the standard condition regarding the time limit for the commencement of development there is a condition specifying the relevant drawings, which provides certainty.

97. The ground floor levels condition is necessary to ensure the proposal would not harm the character and appearance of the area.

98. The Landscape Ecological Management Plan (LEMP) and the Wildlife Environmental Plan (WEP) are both necessary conditions to ensure the proposal does not unacceptably harm, and where possible enhances, the natural environment.
99. A condition is imposed to require the public open space to be developed prior to occupation of the dwellings, as shown on the submitted plans.
100. The drainage details condition and the condition requiring the development to be in accordance with 'Flood Risk & Drainage Assessment' are necessary to adequately control surface water drainage and to effectively mitigate flood risk.
101. The archaeology condition is necessary to protect archaeology on the appeal site from harm during construction.
102. There is a condition imposed which requires that development shall be undertaken in strict accordance with the findings and recommendations within the Arboricultural Report, Impact Assessment and Method Statement, to safeguard existing trees near or at the site.
103. The Construction Management Statement condition is necessary to ensure the effects of construction on the highway network are acceptable, and to protect the living conditions of existing neighbouring occupiers from the potential effects of construction. The condition limiting the hours of construction and deliveries/removal to and from the site would also safeguard neighbour amenities whilst also helping to minimise environmental impacts.
104. In the interests of the living conditions of both neighbours to the site and future occupiers of the dwellings which are proposed there are conditions to ensure mitigation from noise (such as traffic along Rolston Road), mitigation from dust emissions during construction, and remediation measures to address existing site contamination.
105. In the interests of highway safety and parking provision there are included conditions requiring the formation of the access and junction off Rolston Road, details of the internal roads within the development (including their maintenance), and for parking spaces to be provided for each new dwelling prior to occupation. The condition imposed to restrict permitted development rights and also limit any obstruction within the key vision splays is considered necessary to ensure highway safety. There is a clear justification for this condition to be imposed.
106. The conditions included which require an action from the developer prior to the development starting are necessarily worded as pre-commencement conditions as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Conclusion

107. I have had regard to all other matters raised, including the points put forward in opposition to this proposal by local residents and other interested persons, but find nothing sufficient to outweigh the considerations and benefits which have led me to conclude that this appeal should be allowed.

Mr S Rennie

INSPECTOR

Richborough

APPENDIX A - APPEARANCES

FOR THE APPELLANT:

Mr Giles Cannock KC of Kings Chambers

He called:

Mr Philip Jones BSc (Hons) CEng FICE FCIHT FIHE of PJA

Ms Annabel Keegan BA(Hons) MA MCHIT of PJA

Mr Alyn Nicholls BA(Hons) MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Henderson of Landmark Chambers

He called:

Mr Thomas Jack Parker MEnv MA – Principal Planning Officer at East Riding of Yorkshire Council

INTERESTED PARTIES:

Mr and Mrs McCarthy Local Residents

Mr and Mrs Coggrave Local Residents

Ms Hillary Rose Local Resident

Appendix B: DOCUMENTS SUBMITTED TO THE INQUIRY

- INQ1 – Opening Submission from the Appellant
- INQ2 – Opening Submission on behalf of East Riding Of Yorkshire Council
- INQ3 – Photographs (x3) of flooding within the site, submitted by interested party Ms Hillary Rose
- INQ4 – Council's Closing Statement
- INQ5 – Appellant's Closing Statement

Richborough

ANNEX C: SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:

- Site Layout 101.2021.001.REV.P18, 01.08.24
- Engineering Layout 23M.1016.0000 March_2023
- Landscape Masterplan 108050-L-3000-P03, 19.11.24
- Landscape Planting Details 08050-L-3001-P03, 19.11.24
- Central Amenity Greenspace Plan 101.2021.002.REV.A Dec 2023

- Boundary Plan 101/2112/006 Rev F, 11.11.24.
- Materials Layout 101.2112.005.REV.E, 11.11.24
- Buffer Section Elevations 5996.SK.01 02.08.23
- Buffer Section Elevations B 5996.SK.01 02.08.23
- Buffer Section Elevations C&D 5996.SK.02 02.08.23
- 08050-L-3100 RevP01, Landscape Planting Details, Condition 19, dated 28.1.25.

House Type Drawings:

Ashburn

- Ashburn Buff Brick 5230.201.REV.3, 05.06.23
- Ashburn Red Brick 5230.201.REV.3. 05.06.23

Covenham

- Covenham Red Brick 5030.201.REV.2, 05.06.23
- Covenham Buff Brick 5030.201.REV.2, 05.06.23

Darracott

- Darracott Buff Brick 5040.201.REV.4, 05.06.23
- Darracott Red Brick 5040.201.REV.4, 05.06.23

Eldwick

- Eldwick Red Brick 5230.201.REV.3, 06.05.23
- Eldwick Buff Brick Render 5230.201.REV.3, 05.06.23

Esthwaite

- Esthwaite Red Brick with Chimney 5011.REV.2.201, 28.02.24
- Esthwaite Buff Brick 5210.201.REV.3, 31.7.24
- Esthwaite Buff Brick Side Window 5210.201.REV.2, 31.7.24
- Esthwaite Red Brick 2010.201.REV.3, 05.06.23

Longford

- Longford Buff Brick with Chimney 5281.REV.2.201, 28.02.24
- Longford Buff Brick no Chimney 5280.REV.2.201, 05.06.23
- Longford Red Brick with Chimney 5280.201.REV.2, 05.06.23
- Longford Red Brick no Chimney 5280.201.REV.1, 31.10.22

Oldbury

- Oldbury Buff Brick Render 5310.201.REV 3, 05.06.23
- Oldbury Red Brick Render 5310.201.REV.3, 05.06.23

Padbury

- Padbury Red Brick 5220.201.REV 2, 05.06.23

Pepper

- Pepper Buff Brick Render 1500.201.REV.4, 06.06.23
- Pepper Red Brick 1400.201.REV.4, 06.06.23
- Pepper Red Brick Render 1500.201.REV.4, 06.06.23

Prenton

- Prenton Buff Brick with Chimney 5272.REV.2.201, 28.02.24
- Prenton Red Brick with Chimney 5271 REV 2 201, 28.02.24
- Prenton Red Brick 5270.201.REV.3, 05.06.23
- Prenton Red Brick Render 5270.201.REV.3, 05.06.23

Selset

- Selset Buff Brick 5090.201.REV.2, 06.06.23
- Selset Red Brick 5090.201.REV.2, 06.06.23
- Selset Red Brick Render 5190.201.REV.2, 05.06.23

Thirlmere

- Thirlmere Red Brick Render 5340.201.REV.3, 05.06.23

Garages

- Detached Double Garage 9070.201.REV.1, 22.01.2020
- Detached Single Garage 9050.201.REV.1, 21.01.2020

- 3) No development shall take place on site until full details of the layout, details of the proposed floor levels of the building(s) in relation to the existing and

proposed levels of the site and the surrounding land, drainage, construction, services and lighting of the proposed residential streets including the junctions with Rolston Road have been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be carried out in accordance with the agreed details.

- 4) No development shall take place on site 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:
- i) A scheme for the parking, loading, off-loading, manoeuvring, wheel cleaning for site operatives, delivery and construction vehicles, office and storage compounds for contractors' equipment and materials within the site during the entire construction period;
 - ii) Details of the erection and maintenance of security hoarding including decorative displays;
 - iii) Details of any lighting during construction;
 - iv) Details of any piling activities;
 - v) Provision to be made for the control of noise, dust and fumes emanating from the site during site clearance and construction works;
 - vi) Confirmation of no burning of any waste material within the site during the entire construction period;
 - vii) A scheme for fuel/oil storage including portable containers, proprietary tanks, bunding, impervious hard standing, replenishment of tanks and refuelling procedures;
 - viii) A scheme for recycling/ disposing of waste resulting from construction works;
 - ix) Abnormal Load information; and
 - x) A complaints procedure in respect of complaints by members of the public and a complaints resolution process.
- 5) No development shall take place on site until full surface water and foul drainage details (including hydraulic calculations) have been submitted to and approved by the Local Planning Authority. No dwelling shall be occupied until the approved drainage scheme has been installed and is operational in accordance with the approved details.

- 6) No development shall take place above damp-proof course until details of the construction and future maintenance schedule of the internal highway infrastructure has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be carried out in accordance with the agreed details.
- 7) No dwelling on the site shall be occupied until the access road, including the junctions with Rolston Road, have been constructed to at least base course level and lit from the junctions with Rolston Road up to the access to that dwelling, in accordance with the details approved pursuant to Condition 3.
- 8) No dwelling shall be first occupied until a scheme for the provision of the open space as shown on the Site Layout 101.2021.001.REV.P18, 01.08.24 and Central Amenity Greenspace Plan 101.2021.002.REV.A Dec 2023 (unless the developers have previously entered into a binding agreement with the Council to secure the adoption of the required open space), has been submitted to and agreed by the Local Planning Authority. The scheme shall include details of the laying out and construction of the open space, the equipment to be provided on the open space, a timetable for its provision, and arrangements for its future maintenance. The open space shall then be provided and maintained in accordance with the approved scheme.
- 9) No dwelling shall be occupied until the remediation measures identified in Sections 15.3 (Hazardous gas) and 15.4 (Contamination and Remediation) of the Geoenvironmental Appraisal by Lithos (dated September 2022, report ref: 4270/2), have been implemented. Within two weeks from the completion of these measures a timetable for the submission of a verification report shall be submitted to and approved by the Local Planning Authority. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority in accordance with the agreed timetable for its submission. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any additional monitoring or sampling, evidence that any imported soil is from a suitable source, and copies of relevant waste documentation for any contaminated material removed from the site.
- 10) No development shall take place beyond damp proof course level until a Wildlife Enhancement Plan (WEP) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide:
 - i) Detailed scale drawings of proposed biodiversity enhancement measures to provide no net loss in biodiversity.
 - ii) An assessment of post development biodiversity using the most recent Defra metric (calculations to be submitted).
 - iii) A timetable for implementation.
 - iv) A minimum of 50% ecological features to dwelling ratio shall be provided. The range of features shall be designed to provide a mix of species enhancements, which may include but not be restricted to, the following features:
 - Bee bricks

- Insect boxes
 - Hibernacula
 - A minimum of 20% (features to dwelling ratio) of bird nesting boxes in buildings or trees.
 - A minimum of 20% (features to dwelling ratio) of bat boxes in buildings or trees or bat access tiles.
- v) Details of means of enclosure to demonstrate that boundary treatments will not result in a loss of habitat connectivity through the development, by creating 'hedgehog highways' which provide holes under boundary features for hedgehogs to pass through.
- vi) Details of tree, hedgerow, shrub and wildflower species, planting and establishment as appropriate. Habitat enhancements shall use species that are native to the UK and be of local provenance wherever possible.

The development shall be carried out in accordance with the approved details and the enhancement measures shall thereafter be retained.

- 11) No dwelling shall be occupied until a Landscape Ecological Management Plan (LEMP) has been submitted to, and be approved in writing by, the Local Planning Authority. The LEMP shall detail how landscape enhancements for all landscape areas, other than small, privately owned, domestic gardens, are to be installed, managed and maintained. The content of the LEMP shall include a description and evaluation of features to be managed and a timetable for its implementation. The details of the LEMP shall be carried out in full, in accordance with the agreed timetable.
- 12) No dwelling shall be occupied until the vehicular access to it has been provided and space has been laid out within the curtilage of that dwelling for at least two motor cars to be parked in accordance with the details hereby approved. These vehicle parking facilities shall thereafter be retained.
- 13) The development shall be carried out in accordance with the mitigation measures set out in Section 5 and Appendix C of the Noise Impact Assessment (NIA) prepared by Environmental Noise Solutions Ltd. The plots specified as requiring mitigation measures shall not be occupied until the approved mitigation measures have been implemented.
- 14) The development shall be carried out in accordance with the details shown on the submitted plan, 'Flood Risk & Drainage Assessment' JAG/ AD/JD/46462-Rp001_Rev G prepared by Alan Wood, dated 23/2/24', unless otherwise agreed in writing with the Local Planning Authority.
- 15) The development shall be carried out in strict accordance with the mitigation measures outlined in Table 19 - Fugitive Dust Emission Mitigation Measures in Section 5.2.16 of the Air Quality Assessment by Redmore Environmental (dated 5th April 2023, report ref: 6584r2).
- 16) No construction, including site deliveries or removal of materials from the site, should take place except between the hours of 08:00 and 18:00 Monday to

Fridays or 08:00 and 14:00 on Saturdays, and at no time on Sundays or Bank Holidays, without prior written consent of the Local Planning Authority.

- 17) Development shall take place in accordance with the written scheme of investigation (MAP Archaeological Practice Ltd - Land East of Rolston Road, Hornsea, East Riding of Yorkshire, Written Scheme of Investigation Archaeological Strip, Map & Record; Ref. 05.51.21, Vers.A-14.10.22).

This shall include the nomination of a competent person or persons/organisation to undertake any archaeological work. The Local Planning Authority must be informed of the competent person or persons/organisation at least two weeks before the commencement of archaeological field work on the site.

There shall be no less than two weeks notification and allowance of time to be given to archaeological contractors nominated by the developer prior to the commencement of development, to ensure that any archaeological fieldwork is completed prior to the commencement of development.

Within two weeks after the end of the excavation assessments, a timetable for the submission to the Council of a Post-Excavation Assessment Report shall be submitted to and agreed thereafter by the Council. The Post-Excavation Assessment Report, as described in the Written Scheme of Investigation, shall be submitted in accordance with the agreed timetable.

- 18) Development shall be undertaken in strict accordance with the findings and recommendations within the BS 5837:2012 Arboricultural Report, Impact Assessment and Method Statement Keepmoat Homes Rolston Road Hornsea version 4 (ECUS, August 2023) and Preliminary Ecological Appraisal Report Rolston Road, Hornsea Keepmoat Homes Ltd Report Reference: ER-5838-01A (Brooks Ecological, 2021).

- 19) Nothing shall at any time, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 or not, be erected, retained, planted or allowed to grow, over 1.05 metres in height above the level of the adjoining carriageway on all plots adjacent to the highway on Rolston Road identified as being within the highway visibility splay on drawing 08050-L-3100 RevP01, Landscape Planting Details, Condition 19, dated 28.1.25.

END OF CONDITIONS