



Appeal Decision

Site visit made on 2 April 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 May 2025

Appeal Ref: APP/W2465/W/24/3355925

Old Humberstone Constitutional Club, 155 Humberstone Drive, Leicester LE5 0RF

- 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 Mr Shamir Khan against the decision of Leicester City Council.
- The application Ref is 20240170.
- The development proposed is erection of 5 new 2 storey dwellings.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has been taken from the application form, with matters which are not acts of development omitted therefrom.
3. The appeal site is within the Old Humberstone Conservation Area (CA) and adjacent to a grade II listed building at 3 Main Street. Therefore, I have had regard to the statutory duty under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in reaching my decision. These set out the need to have special regard to the desirability of preserving the setting of a listed building and that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
4. In December 2024, a revised version of the National Planning Policy Framework (the Framework) was published. The main parties had opportunity to comment on the updated Framework as part of their appeal submissions.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area, including the CA and the setting of a nearby listed building;
 - archaeology;
 - highway safety, and,
 - whether Plot 1 would provide suitable living conditions for its future occupiers, in particular regard to privacy.

Reasons

Character and appearance

6. The CA is part of a village suburb that dates back to at least Anglo-Saxon times. It covers a large area including the village core principally around Main Street and

open landscape areas to the north and west. There are a number of architectural, historical and archaeological features that add interest to the CA. The significance of the CA derives from its historical past, the linear and winding form of Main Street, various traditional buildings and the number and species of trees and open green land, which provide an attractive verdant appearance to the streetscape.

7. The appeal site including its access is within the CA and although it lies principally to the rear of other buildings, there are appreciable views of parts of the site through the gap between buildings on Humberstone Drive, including of the large trees on the edges of the site. Additionally, there are a number of historic buildings adjacent to the site, including the grade II listed 3 Main Street (No 3) and locally listed buildings at 1 Main Street, and 135 and 155 Humberstone Drive. While much of the site is overgrown and unkempt and it is surrounded by existing development, with more modern housing to some of its boundaries, such factors have a neutral effect on the significance of the CA, particularly as the open, verdant character of the site is currently maintained.
8. As a result of the adjacent historic buildings, together with its open aspect and periphery trees, the appeal site has a tranquil, open and verdant character, which positively contributes to the character and wider qualities of the CA as a whole.
9. Part of the proposed terrace block would be visible from public views, albeit the upper storey and roofscape only, through the gap between buildings along Humberstone Drive. The proposed design and layout of the development would have a modern design and urban form. The design includes the proposed use of modern materials, including UpVC doors and windows and an extensive area of tarmac hardstanding. This area of hardstanding would dominate one side of the site, and minimal landscaping relief is proposed in front of the new dwellings. This would not reflect the more traditional village built form and character of the CA and would appreciably reduce the verdant, open and tranquil character and appearance of the appeal site. As a consequence, the proposal would fail to preserve or enhance the character or appearance of the CA.
10. The new dwellings would be two-storey, in linear form and the density of the development would be fairly low, comparable to that of dwellings along Humberstone Drive. Furthermore, the scale of the scheme is reduced compared to a previous scheme proposed within the site. However, such factors would not appropriately ensure that the character or appearance of the CA would be preserved. The form and layout of the proposal takes greater cues from the more modern surrounding development, which lie outside the CA, rather than from the more traditional spacious form and verdant character typical of dwellings within the village CA. Therefore, while the Council may support the principle of new development within the site, the proposed scheme would have an unacceptable impact on the significance of the CA, due to its scale, form and layout.
11. Even though the proposed development would not harm the significance of nearby non-designated, locally listed buildings, this does not alter my findings on the impact of the proposal on the CA as a whole.
12. The adjacent listed building at No 3 is of red brick with tiled roof and was originally a house, built in the late 18th century. The significance of this listed building is derived from its scale, age and architectural design features, including its window and door design and external materials. It has attractive railings enclosing the front garden

area, characteristic of the buildings' era and form, which contributes to its setting. However, at the rear its setting has been diminished to an extent, by the extensive area of modern hardstanding used for parking and other nearby development. Therefore, the rear aspect of No 3 does not particularly make a positive contribution to its setting or significance.

13. There is intervisibility between the appeal site and the rear of the listed building over the tall, shared boundary fence. Although, the appeal site provides an open and verdant aspect beyond the rear boundary of No 3, it has a neutral effect on the setting of this adjacent listed building. This is partially due to the position of existing buildings either side of No 3, which limit views through and across to the rear of the listed building from Main Street. Furthermore, the end gable of the nearest proposed 2-storey dwelling would be located further away and principally behind 1 and 1a Main Street. Also, the gardens of the proposed dwellings would maintain the immediate open aspect and periphery large boundary trees would still be visible beyond the rear of No 3. Consequently, the proposed development would have neutral effect on the setting and significance of the adjacent listed building.
14. In view of the above, while I find the proposed development would have a neutral effect on the setting and significance of the adjacent listed building, the proposal would not preserve or enhance the character or appearance of the CA. As such, the proposed development would have a harmful effect on the character and appearance of the surrounding area, in conflict with Policies CS03, CS08 and CS18 of the Leicester City Core Strategy (July 2014) (CS) and, saved Policy UD06 of the City of Leicester Local Plan (January 2006) (LP), which require, amongst other matters, good quality design that positively contributes to the character and appearance of an area, including having regard to the protection and enhancement of the historic environment and landscape features.
15. Having regard to the scale and nature of the proposed development, in terms of the Framework and the Act, the harm caused to the significance of the CA would be less than substantial. Therefore, such harm needs to be weighed against the public benefits of the proposal.
16. The proposal would deliver 5 new dwellings on a site within an accessible location, providing some social and economic benefits. Also, the proposed development would utilise an unused piece of land that is overgrown, prone to anti-social behaviour. I give moderate weight to these considerations.
17. However, the scale of the proposed development is small. Also, the unkept nature of the site has a neutral effect on the character and appearance of the CA and I have not been provided with any substantive evidence with regard to anti-social behaviour. Therefore, even cumulatively, the public benefits associated with the proposed development would not be sufficient to outweigh the less than substantial harm to the significance of the CA, as a designated heritage asset. Consequently, the proposal conflicts with the historic environment protection policies within the Framework and the heritage balance therefore falls against the scheme.

Archaeology

18. In accordance with the Framework, in determining applications, it is necessary to identify and assess the significance of any heritage asset that may be affected by a proposal. The appeal site is located within the historic core of medieval Humberstone, where there is a historic environmental record. Therefore, there is

likely potential for archaeological remains within the site. The submitted heritage statement does not address the potential archaeological interests of the site and no desk-based assessment has been carried out in regard to such.

19. Even though the appellant is willing to accept a condition that further archaeological investigations are carried out prior to the commencement of development, the likely impact or otherwise of the proposal on the significance of any archaeological interests within the site is currently unknown. Subsequently, the impact of such on the deliverability of the proposed development is also unknown. In such circumstances, a condition requiring archaeological investigations to be carried out after the grant of planning permission would not be appropriate or reasonable.
20. In view of the above, the proposal would likely have a harmful effect on archaeology, in conflict with Policy CS18 of the CS, which sets out that the Council will protect and seek opportunities to enhance the historic environment including character and setting of designated and other heritage assets. Furthermore, it sets out that, an archaeological assessment will be required where a proposal would affect a site which is known to contain below ground and low level archaeological remains.

Highway safety

21. The proposed development would gain access to the appeal site via an existing vehicular access onto Humberstone Drive, which is close to a 4-arm road junction. The existing access previously served the former Club and its associated car park, which was located within the appeal site. The evidence demonstrates that the vehicular trips associated with the previous use of the access would have been higher than that of the proposed 5 dwellings. Also, the geometry of the access would meet relevant standards and adequate turning and parking facilities would be provided within the site to serve the proposed development.
22. However, while the appeal site and its ownership has been severed from the Club and the Club has remained vacant for some years, it could be re-used and would likely have demand for vehicular access for deliveries and parking associated with its use, as it did before it was vacant. This, in combination with the proposed housing development, would intensify traffic movement in the surrounding area, even if parking for the Club could no longer take place within the appeal site. Furthermore, it is not clear how the displaced Club parking could be accommodated elsewhere, without causing on-street parking pressures in the surrounding area.
23. Even though the proposed development would generate less daily vehicular trips using the existing access compared to the previous Club car park use, there would still be demand for parking and access associated with the Club, including for deliveries, drop-off and pick-ups close to the site access. This would likely cause some conflict of use at the site access between the comings and goings of the Club and the new housing development. Additionally, the combination of movements associated with the proposed development and the Club, when in use, would be greater than the previous Club car park use. This would likely cause unacceptable harm to highway safety, particularly in view of the close proximity of the site access to the busy 4-arm junction, with known previous accident records.
24. As demonstrated, the previous high record of road accidents at the nearby junction dropped following road improvements, with no recorded incidents in the vicinity since 2022 and that the previous accidents recorded related to the road junction,

rather than the appeal site access. However, the appeal site access and Club have also not been in use for some time, which will have reduced some traffic movement at the nearby junction during such period. Consequently, the re-use of the appeal site access and proposed increased traffic movement from the combined use of the proposed development and Club, so close to such road junction, has the potential to cause highway safety issues, even if the junction is currently working well.

25. It may be possible to put in place a package of measures, such as signage, markings and bollards to safeguard against parking on the footway or the private driveway and also policing measures could deter indiscriminate highway parking. However, substantive details of such have not been provided and this would not negate any likely future demand for parking and access associated with the Club, which could attract a high number of visitors, given the scale and use of the building. While the access to the proposed development may not be obstructed by parking and movement associated with the Club, it would likely reduce some visibility and cause conflict of use, albeit on occasion. Due to such matters, the proposal would likely cause harm to pedestrian and vehicular safety.
26. As the bin storage facilities for the proposed dwellings would be close to the site access with Humberstone Drive, it is likely that bin operatives could empty the bins along the kerbside. Therefore, it is unlikely refuse vehicles would need to enter the appeal site's driveway and refuse collection would be no different to that of other existing properties along Humberstone Drive. In such circumstances, there would unlikely be any undue conflict of vehicular movement or unacceptable harm caused to highway safety by the waste management of the proposed dwellings.
27. Even if boundary treatment between the Club and proposed development could be controlled and one unhindered existing parking space could be maintained in front of the Club, without causing vehicular conflict with the proposed development, this would not overcome my findings in regard to highway safety.
28. In view of the above, the proposed development would likely have a harmful effect on highway safety, in conflict with saved Policies AM01 and AM02 of the LP, which respectively set out that development with only be granted where the needs of pedestrians, people with disabilities and cyclists are considered. Also, there would be conflict with Section 9 of the Framework, which sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Living conditions

29. The distance separation between the rear first floor windows in the end property in Keyham Court to the rear garden of proposed Plot 1 would fall short of that normally required to protect privacy in the Council's adopted standards.
30. However, the first floor rear windows in Keyham Court would only directly face the end portion of the garden of Plot 1 and there would be an intervening narrow passageway to the side and wrapping around to the rear of the garden of Plot 1, providing access to the rear garden of Plot 2. This would provide further separation from the existing windows of the neighbouring property and the proposed rear garden of Plot 1. Therefore, the distance separation would only slightly fall short of that normally required. Notwithstanding such, the standards are guidelines only and

in view of the site context, relationship of neighbouring windows and slight variance to the recommended standard in this instance, there would not be any undue overlooking caused to the future occupiers of Plot 1.

31. Having regard to the above, the proposed development would provide suitable living conditions for the future occupiers of Plot 1 in particular regard to privacy. Therefore, there would be no conflict with Policy PS10 of the LP, which amongst other matters, requires new development to take into account privacy and overshadowing concerning the amenity of existing or proposed residents.

Other Matters

32. The proposed development would deliver 5 new houses, promoting the effective use of unused, brownfield land in a sustainable location. Furthermore, the proposed dwellings would provide social and economic benefits from their construction and occupation. However, such benefits would not be significant having regard to the small scale of the development. Also, while the site is unkempt and overgrown, this does not detract from the character and appearance of the surrounding area, due to its limited wider visibility from public vantage points.
33. The actions of the Council, land ownership considerations and the costs incurred by the appellant are neutral factors in regard to the merits of the appeal proposal and my findings on such.
34. Furthermore, even if the Council does not have a 5 year housing land supply, as disputed by the appellant, the harm caused to the character and appearance of the CA provides strong reason for refusing the development proposed. Therefore, in such circumstances where paragraph 11 d)i is of relevance, paragraph 11d)ii does not apply.

Conclusion

35. For the above reasons, the proposal would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
36. Accordingly, the appeal should be dismissed.

C Billings

INSPECTOR