



DM.11 11/12
Development Management Committee
21st September 2011

A

Subject: Planning applications for determination (Paper A)

Report by:	Rachel North (Director of Strategy and Regeneration)
Contact Officer:	Simon Sharp Development Management Team Leader 01427 676651
Purpose / Summary:	The report contains details of planning applications that require determination by the committee together with appropriate appendices.

RECOMMENDATION(S):
Each application has a recommendation within the report

IMPLICATIONS

Legal: Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Financial : None arising from this report.

Staffing : None arising from this report.

Equality and Diversity including Human Rights : Each planning application has been assessed to consider Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well-being of the community within these rights.

Risk Assessment : None arising from this report.

Climate Related Risks and Opportunities : None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:

Various planning applications available on-line at
<http://planning.west-lindsey.gov.uk/planning/>

West Lindsey Local Plan policies available at:-
http://www.west-lindsey.gov.uk/localplan/plan_index.htm

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

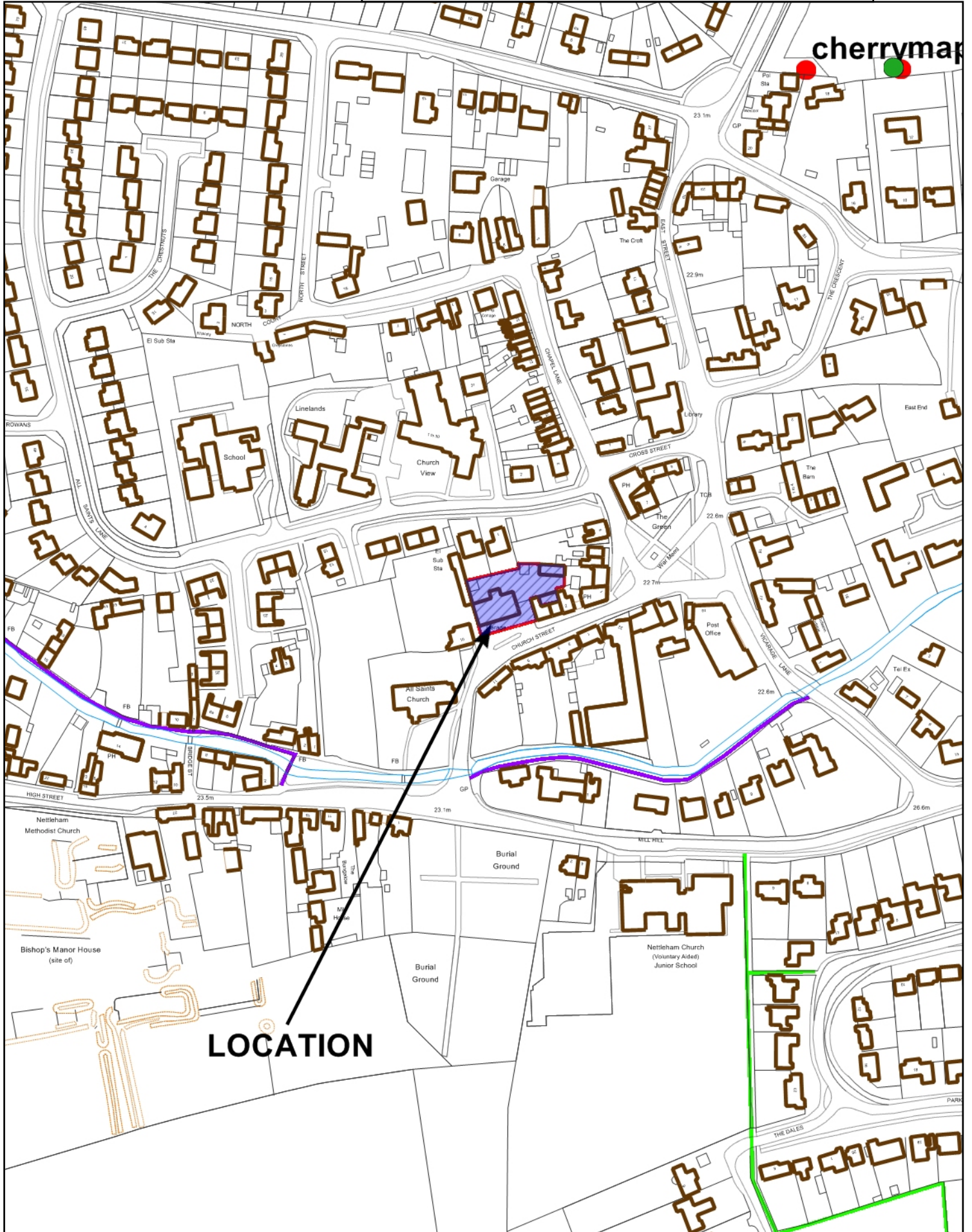
Yes

No

Key Decision:

Yes

No



LOCATION

Officers Report

Planning Application No: 126801

PROPOSAL: Planning application for proposed redevelopment of former petrol filling station and lawnmower repair centre to provide 10 no. dwellings.

LOCATION: Nettleham Garage 8 Church Street Nettleham Lincoln, Lincolnshire LN2 2PD

WARD: Nettleham

WARD MEMBER(S): Councillors Leaning & Sellars

APPLICANT NAME: Mr David Porter

TARGET DECISION DATE: 25/04/2011

DEVELOPMENT TYPE: Small Major - Dwellings

CASE OFFICER: Simon Sharp

RECOMMENDED DECISION: The decision to grant permission subject to conditions be delegated to the Planning & Development Services Manager upon the signing and completion of a section 106 agreement.

Description:

- **Site** – Vacant commercial garage site, the forecourt of which is used for informal off-street parking.
- **Proposal** – Demolition of existing buildings except for one barn and erection of 9 dwellings. Retention of retained barn and conversion to additional dwelling (10 dwellings in total). Amended drawings P40A Rev A, P41A Rev A and P42A Rev A received on 1st September 2011 and P2a Rev A, P10 Rev C, P11 Rev B, P15B Rev B, P16 Rev B, P17A Rev A, P18B Rev B, P45 Rev A, P51A Rev A, P52A, 151/P/B1, 151/P/B2 Rev A and 1:1250 location plan received 22nd June 2011 apply.

Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999:

The development has been assessed in the context of Schedule 2 of the Regulations and after taking account of the criteria in Schedule 3 it has been concluded that the development is not likely to have significant effects on the environment by virtue of its nature, size or location. Neither is the site within a sensitive area as defined in Regulation 2(1). Therefore the development is not 'EIA development'.

Relevant history:

125755 – Pre-application enquiry in 2010 for similar development.

Representations:

Chairman/Ward member(s): Councillor Sellars states

“Nettleham is in need of homes both affordable and those suitable for elderly residents and hope this will be considered. Also Church Street already has severe parking problems and the plans show inadequate parking for the proposed properties.”

Nettleham Parish Council:

- Support the development in principle.
- It is sensitive to its central village location and will result in a considerable visual improvement of the local village scene.
- Choice of materials and elevations are reflective of its immediate environment and it is a very good example of the impact of the Village Design Statement on a willing developer.
- The units themselves could meet an identified need in this village for manageable housing for the older generation, however we understand that this is not enforceable in law.
- There is a need to control the construction process in this sensitive environment.
- The issue of parking for both residents and visitors remains of considerable concern to the Parish Council

Local residents: Comments regarding the amended plans received from 4, The Green and 43, Highfields (both Nettleham):-

- Amended plans show the removal of Unit 9 which has been replaced with car parking only which is a great improvement, but
- The new Unit 9 is a two storey building that deprives the gardens of Nos. 3, 4 and 5, The Green to the right to light and will overshadow gardens. If this unit was single storey, as the other units are on the north side of the site, this would show continuity and clean lines and retain the current status quo in relation to light and no overshadowing.

Six objections were received for the original plans including from Nos. 3, 4 and 5, The Green, 43, Highfields and 10, Church Street.

Anglian Water (comments only on original plans and strategy)

- **Wastewater treatment** – Nettleham Works have capacity.

- **Foul sewerage network** – Development will lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared to determine mitigation measures.
- **Surface water** – Drainage to sewers as originally proposed is unacceptable. Suggest sustainable urban drainage system.

Anglian Water recommend that all of these matters can be effectively dealt with by conditions.

English Heritage: Advise that the materials, attention to detail and the quality of the architectural elements relating to the style for the new buildings and the conversion of the barn will be crucial in providing a development which enhances the character and appearance of the Conservation Area, the setting of the Grade I listed Church and the adjacent Grade II listed buildings.

Environment Agency: A significant amount of the surface water drainage for this site, currently and in the future, has an effect on highway drainage. Therefore, recommend that the County Highways Engineer be consulted.

LCC Archaeology: Although the development is within the medieval core of the village of Nettleham, the existing buildings on the site will have already drastically affected any potential archaeology. Therefore, there is no requirement for archaeological intervention during the groundworks for the proposed development.

LCC Education: The development would result in a direct impact on local schools. The level of contribution sought in this case equates to £11,276.

LCC Highways: Advise that:-

- Normally no more than 5 dwellings should be served from a private shared carriageway, half of that proposed here. Therefore, the access road should be designed to an adoptable standard; either a 5.5 metre shared surface carriageway with a 1.8 metre service margin (on one side), or a 5 metre carriageway with a 1.8 metre footway on one side.
- The adopted footway that currently exists on site appears to have been moved to the frontage of the proposed building. We have no objection to the addition of the frontage footway, but the existing footway arrangement should remain in place.
- Consideration should be given to a wheelie bin collection point

Lincolnshire Police – Lighting, landscaping and access control should all be considered carefully in the interest of crime reduction and community safety.

Lincolnshire Wildlife Trust: Strongly support the recommendation for the inclusion of enhancements within the development for bats and declining urban birds such as house sparrows, starlings, swifts and swallows.

Natural England: No objection

WLDC Conservation and Environment – In terms of general principle it is considered that the proposal has responded positively to the constraints of the site and the established context and design principle, scale, massing and form have taken account of the key architectural characteristics of the Conservation Area. Typical to Nettleham is a simple palette of materials and architectural detailing which reinforce the agrarian character of the village. The materials proposed respect this by utilising limestone rubble walls and clay pantiles as the roofing material. Overall the scheme has the potential to make a positive contribution to the Conservation Area by developing an unattractive derelict gap site and reinforcing a sense of place. The imposition of conditions in relation to materials, a sample panel of stonework, joinery details are also suggested.

WLDC Environmental Protection – The nature of the former use as a garage dictates that a contaminated land report is required.

Relevant policies:

The Development Plan

- East Midlands Regional Plan 2009

Policy 13a – Regional housing provision

http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf

- West Lindsey Local Plan First Review 2006

STRAT 1 Development Requiring Planning Permission

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm>

STRAT 3 Settlement hierarchy

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm>

STRAT 6 Windfall and infill housing developments in Primary Rural Settlements

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm>

STRAT 9 Phasing of Housing Development and Release of Land

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm>

SUS 7 Building materials and components

<http://www2.west-lindsey.gov.uk/localplan/written/cpt4.htm>

RES 1 Housing Layout and Design

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm>

RES2 Range of housing provision in all housing schemes

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm>

RES 5 Provision of play space/recreational facilities in new residential development.

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm>

ECON 9 Retention of employment land

<http://www2.west-lindsey.gov.uk/localplan/written/cpt7.htm>

CORE 10 Open Space and Landscaping

<http://www2.west-lindsey.gov.uk/localplan/written/cpt8.htm>

NBE 14 Waste Water Disposal

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm>

NBE19 Landfill and contaminated land

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm>

Other policy documents

- Draft National Planning Policy Framework (2011)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>
- PPS 1 Delivering Sustainable Development (2005)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf>
- PPS 3 Housing (2011)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918430.pdf>
- PPS 5 Planning for the historic environment (2010)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>
- PPS 9 Biodiversity and geological conservation (2005)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147408.pdf>
- PPG 13 Transport (2001, updated 2011)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1758358.pdf>
- PPS 25 Development and flood risk (2010)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement25.pdf>
- Circular 03/99 Planning requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147582.pdf>
- Nettleham Village Design Statement (2010)
http://parishes.lincolnshire.gov.uk/Files/Parish/9/VDS_September_2010_low_res.pdf
- Nettleham Conservation Area Appraisal (1985)
<http://www.west-lindsey.gov.uk/residents/planning-and-building/conservation-and-environment/conservation-areas/nettleham-conservation-area/104209.article>

Main issues

- Principle

- Housing mix, tenure, occupancy and affordability
- Visual impact including character and appearance of Conservation Area and setting of listed buildings.
- Impact on neighbouring dwellings in terms of overshadowing, overlooking and noise and disturbance
- Highway safety, parking and sustainability.
- Flooding and foul and surface water disposal

Other matters include, education contributions, contamination and ecology.

Assessment:

Principle - Policies STRAT 1, 3, 6 and 9 of the West Lindsey Local Plan First Review 2006 were saved in 2009 and remain part of the development plan for the purposes of development management. They collectively provide a policy umbrella for considering applications for residential development on unallocated land, such as the application site, within settlements such as Nettleham which are classified by policy STRAT3 as Primary Rural Settlements. Certain levels of residential development in such settlements have, for many years, been considered favourably due to the wide range of services that can be accessed by foot or by public transport. In the context of part (viii) of policy STRAT 6 such development was needed to maintain the 5 year deliverable housing supply as required by PPS 3.

However, the acceptability of the principle of such housing was also subject to the caveat that it did not undermine the Council's housing strategy. This strategy is based upon the delivery of 480 units per year outside of the principle urban area (PUA) of Lincoln as detailed in policy 13a of the Regional Plan. Against this policy, the Council currently has a 7.5 year supply as of 1st April 2011 as reported in our own Annual Housing Supply Assessment. In this context, given the up to date nature of the suite of development plan policies, the need to maintain a 5 yr deliverable housing supply (as advised by PPS3) cannot be a reason for supporting this development (even when taking into account the additional 20% buffer above the 5yr supply cited by the draft National Planning Policy Framework).

However, in the absence of this justification, it is still considered that there is a reason for supporting the principle of housing development on this site. Specifically, although the redevelopment would result in the loss of a potential employment site (policy ECON9 refers), this is an unsightly site within the historic core of the village. It has been actively marketed for some time for the current use by an agent with a local office (Chesterton Humberts for £500,000) but with no take up. Furthermore, there are now sites such as the business park on Deepdale Lane and the undeveloped allocation on Lodge Lane which are better suited to providing employment in the village away from the historic core. Indeed, the current use would have the potential to result in considerable nuisance to neighbouring residential properties if resurrected.

The village also has other existing employment provision and sustainable transport links to Lincoln.

Finally, the site is within the main heart of the settlement and on previously developed land as defined by Annex B of PPS3. Therefore, its character and location accord with the sequential approaches to release of housing land detailed in policy STRAT9 of the Local Plan Review and PPS3.

In summary, the principle of the development can be supported.

Housing mix, tenure and affordability – The development includes a mix of single and two storey two and three bedroom dwellings. This should foster a mix of age groups within the development and compliment the already diverse community in this area of Nettleham characterised by dwellings of all sizes, terraced and detached.

Representations have been received about the potential for affordability and occupancy by the elderly. However, as Nettleham exceeds 3,000 inhabitants, a requirement for some or all of the dwellings to be affordable cannot be enforced as the threshold in policy RES6 of the local Plan Review for requiring a provision in such settlements is 15 units or above.

In summary occupation and tenure should not be restricted by condition or section 106 agreement.

Visual impact including Conservation Area and listed building considerations – The Conservation Area appraisal dates from 1985 and does not explicitly mention the garage site. However, despite this omission and the age of the document, it nevertheless identifies a character of Church Street which is evident today, most notably the back edge of highway development, the prevalence of traditional stone buildings, the bustling activity and function as a conduit between two of the main focal points of the village, those of the Church and The Green. Such a character defines the setting of the listed buildings within the area.

The Appraisal does recognise that there have been some unsympathetic interventions into the streetscene, not only in terms of the use of painted brickwork and render, but also changes to the building line which have not followed the back of edge line mentioned above. The application site displays all of these unsympathetic characteristics. As a remedy the Appraisal suggests that new development should respect the traditional building line and that render and painted brickwork are avoided. The Nettleham Village Design Statement, which post-dates the Appraisal by 25 years and provides a more accurate portrait of the village as it is now, suggests that all developments and extensions should respect the separate definable areas within the village (in this case the area being the historic Conservation Area core), any new buildings should be of similar proportions to houses in their vicinity and buildings should reflect design styles and features such as walls, doors, windows and roofs of other buildings nearby.

The amended proposal responds to all of this guidance as follows:-

- There is an appropriate hierarchy of scale with buildings towards the rear of the site being generally subordinate in height and detailing to the Church Street frontage development. This echoes the traditional layout of the main buildings along the main arteries in the historic core of the village with outbuildings and other subservient structures to the rear (the properties to the east of the site displaying these characteristics)
- A roofscape of different gabled roofs that effectively reduces the overall mass of the development and provides an organic feel to the proposal. Catslide dormers are used appropriately to provide first floor space within roofs, a feature that is very prevalent in the area; the nearest example being the house opposite.
In this context, the two storey scale of the new Unit 9 assist in bookending what would otherwise be a long range of single storey buildings (Units 6, 7 and 8).
- A materials palette that includes natural limestone as the primary building material which will be randomly coursed and bonded with a lime based mortar, painted timber windows on the public frontages and natural clay pantiles
- Response to views from All Saints Lane to rear, the scale and detailing of the roofscape and north elevations ensuring that views from this highway towards the Church are typified by traditional forms and materials.
- A layout which ensures that there is off street car parking and bin storage which do not dominate the buildings within the site nor the public domain and wider Conservation Area.
- A building line that preserves the vista westwards along Church Street to the Church and that part of the listed gable end of No. 10 Church Street bookends the street as it does at the moment.
- A layout that includes landscaped communal amenity space which, whilst modest in scale, is usable, a focal point to which the development addresses and provides necessary greenery within the site. This space is not intended to be publicly accessible, but the green sward across the site frontage does provide some public amenity value and greenery where there is currently none. The laying out, maintenance and management of both the green sward and the communal space will need to be agreed by condition.

In summary this detailing will ensure that the setting of the listed buildings of the Church and Nos. 10 and 11, Church Street will be preserved and the character and appearance of the area enhanced.

Impact on neighbouring dwellings – The considerations of overlooking, overshadowing and noise and disturbance are considered separately below:-

- *Overlooking* – The introduction of street frontage development within the site will introduce a degree of overlooking from the proposed south facing windows towards the existing dwellings opposite. However, this is not considered to be a reason for withholding permission given the

desire to create a street frontage in this historic environment and the fact the existing dwellings opposite are already overlooked from the street and therefore the overlooking will not increase significantly.

To the west, some of the garden of No.10, Church Street is projected to be overlooked by the first floor dormer windows of unit 5. The larger dormer serves a bathroom and is likely to be obscure glazed irrespective of whether any restrictive planning condition is imposed. The smaller window serves a bedroom. Obscure glazing could restrict light into this room but, on balance, it is considered necessary to restrict both the bathroom and bedroom windows on this plot which face westwards to be obscured glazed and with opening limiters.

To the north, the issue of overlooking of the bungalows at Nos. 1 and 3 All Saints Lane is avoided by the amended plans proposing a single storey building to accommodate Units 6, 7 and 8; the bungalows will be shielded from the ground floor windows of these units by an existing 1.8m high close boarded fence.

The north facing dormer windows of the two storey Unit 9 will overlook the rear gardens of Nos. 3, 4 and 5 The Green, but only the rearmost sections of these gardens which are already overlooked from All Saints Lane (Members are advised that there is a complicated subdivision of the land ownership between the site and All Saints Lane which is not completely apparent from an Ordnance Survey map or indeed photographs).

- *Overshadowing* - The introduction of street frontage development within the site will introduce a degree of overshadowing to the existing dwellings on the opposite side of Church Street. There is a similar consideration here to that of the overlooking issue. Specifically, the introduction of frontage development is desirable in this historic setting and the relatively modest two storey scale of the dwellings and separation distance across the road should ensure that any overshadowing is not significant.

The only other dwellings with the potential to be overshadowed are the bungalows to the north (Nos. 1 and 3 All Saints Lane) but the single storey scale of Units 6, 7 and 8 respond to this issue despite being to the south.

Unit 9 does have the potential to overshadow some of the gardens of Nos. 3, 4 and 5 The Green, but sunlight will still permeate into this space over the roof of Units 6, 7 and 8 from the southwest and over No. 1 All Saints Lane from the west.

Finally, it is considered necessary to withdraw all permitted development rights for alterations, extensions and outbuildings from all the units given that the insertion of windows and extensions, could result in unacceptable levels of overshadowing (and overlooking). These restrictions will also assist in preventing unsightly alterations and

extensions which could adversely affect the character and appearance of the Conservation Area.

- *Noise and disturbance* – The existing use, if resurrected, has the potential to create substantial levels of noise and disturbance from motor vehicles and other machinery being tested and serviced. In contrast, ten dwellings are unlikely to create similar levels of noise and disturbance. However, the Parish Council raise a valid point that the demolition and construction process could result in an unacceptable impact in terms of noise and creation of dust, especially given the high density of existing residential development in the vicinity and that the noise of plant and machinery is likely to reverberate off the many solid walls in the area. In this context, whilst acknowledging that the demolition and construction phases will only be temporary, it is considered necessary for a construction management plan (to include the demolition phase) to be in place before development commences and thereafter adhered to.

Highway safety, parking and sustainability – The site, by reason of its close proximity to the village centre and bus stops served by a regular service into Lincoln, is in a sustainable location which provides great potential for future occupants to avoid having to make trips by car to access employment, medical, educational and other facilities as well as shops. However, it is recognised that trips by car are part of modern day living and, whilst being discouraged by the site location and design, will be an inevitable feature of the site. Nine spaces are proposed within the site for the ten dwellings, but in practice it is likely that a car will be able to park in front of unit 10 without impeding the safe manoeuvring of cars and service vehicles. This one for one ratio is considered acceptable in this sustainable location.

Notwithstanding the comments from the County Highways Authority, the access does allow vehicles to pass, avoiding the need for vehicles to wait within the highway and for the safe manoeuvring of vehicles within the site so that they can enter and exit in forward gear. Pedestrians travelling to and from Units 4 to 10 will need to use the vehicular access, but the vehicle flows associated with ten dwellings is likely to be low and the layout will mean that pedestrians will be sighted by drivers. Furthermore, the grass sward along the site frontage will permit an acceptable level of visibility to the west (the direction of oncoming traffic). The plans could be revised to accommodate a road to an adoptable standard but the imposition of the widths specified by the County Highways Authority would result in an increase of 2.5m in the opening to the detriment of the character and appearance of the area.

A condition will be required to ensure that the access and parking is implemented before first occupation of any of the dwellings and that there is a management plan in place for its future maintenance

Finally, it is acknowledged that site forecourt is currently being used as an informal car park for the village centre and this would be lost as a result of the redevelopment. However, the current authorised use does not convey these

rights and nor would continued off street public car parking visible from the highway be desirable in this historic setting.

Flooding and foul and surface water disposal – These issues are considered separately below:-

- *Fluvial flooding* – The site is within flood zone 1 as defined by the Environment Agency's flood zone maps. This is the sequentially preferred location for more vulnerable uses such as the dwelling proposed. The proposal therefore passes the sequential test detailed in annex D of PPS25.
- *Surface water disposal* – The bedrock beneath the site has been confirmed as limestone which due to its weathering properties and fractures has a good level of natural permeability. However, most of the site is covered by impermeable surfaces such as the buildings, the forecourt and rear yard. Investigations have confirmed that the reduction in the area of impermeable surfaces, such as through the provision of the communal amenity space, and the ability for water to percolate through the limestone, will provide the potential for a 75% reduction in water draining off the site onto the highway. The submitted strategy also proposes rainwater harvesting. This sustainable technique with dealing with water is commendable but the storage facilities for this water will need to take into account storm water events. The layout provides the ability for such attenuation. The strategy also acknowledges that rainwater harvesting affects run-off rates but not the overall volume of water exiting the site (whether by foul sewer or percolation from soakaways). Nevertheless, the strategy has demonstrated that an improvement to existing conditions can be attained and permission should not be withheld on these grounds. The details can therefore be agreed by condition.
- *Foul water* – The proposed connection to mains sewer accords with the sequential test contained within circular 3/99. However, Anglian Water indicated that there are foul sewer capacity issues within the area. A subsequent e-mail from Anglian Water appears to contradict this original advice stating that there are no capacity issues. In this context it is suggested that a negatively worded condition is imposed stating that none of the dwellings are occupied until there is capacity within the foul sewer.

Other issues – The introduction of the mix of dwellings proposed is likely to result in demand for school places. Lincolnshire County Council has advised that the level of **education** contribution required equates to £11,276. The section 106 agreement includes an obligation to secure this contribution, the level of which is not being contested (no evidence has been submitted to counter the County Council's calculations nor question the viability of the scheme with the contribution in place). The Council's Environmental Protection Officer has advised that **contamination** is inevitable as a result of the previous use of the site, but the levels are such that permission need not

be withheld and the matter can be dealt with by the imposition of a pre-commencement condition requiring further investigations. The results of such investigations may influence the final details of the surface water disposal scheme, but the preliminary findings have concluded that the soakaway method is possible on site.

Finally, the submitted **ecological survey** reveals little of ecological value, but PPS9 encourages enhanced biodiversity and the provision of boxes to nesting birds is considered reasonable.

Conclusion

The development will see the removal of an unsightly and vacant employment site from the historic core of the village. There are existing and allocated employment sites elsewhere in the village and also employers accessible by public transport. The site has also been vacant for some time despite active marketing and a residential use is more appropriate than the existing use in terms of residential and visual amenity. The proposal scheme will, subject to conditions, enhance the character and appearance of the Conservation Area and preserve the setting of nearby listed buildings including the Church. The scale and outlook of the dwellings proposed will ensure no significant detriment to residential amenity in terms of overlooking and overshadowing although this issue is balanced against the desire for frontage development on Church Street and is subject to conditions restricting permitted development rights and the obscure glazing of westward facing, first floor windows to unit 5. The drainage strategy has demonstrated the potential for improvements to surface water drainage disposal and a condition can ensure that none of the dwellings are occupied until the foul sewer has capacity to deal with the development.

Recommendation

The decision to grant permission subject to the following conditions be delegated to the Planning & Development Services Manager upon the signing and completion of a section 106 agreement.

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development commenced:

2. No development of any of the dwellings hereby approved shall take place until the details of the rainwater goods, bonding, mortar mix and sourcing of the stone to be used in the external facing elevations and the colour finishes and framing of the external doors and windows to be used in the development have been first submitted to and agreed in writing by the local planning authority.

Reason: In the interests of the visual amenity of the area, given the prominent position near to listed buildings and within a designated Conservation Area and to preserve the character and appearance of that Conservation Area and to accord with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006 and national policy contained within PPS1, PPS3 and PPS5.

3. No development shall take place until a 1m square stone sample of the proposed walling material has first been erected on site for inspection and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area, given the prominent position near to listed buildings and within a designated Conservation Area and to preserve the character and appearance of that Conservation Area and to accord with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006 and national policy contained within PPS1, PPS3 and PPS5.

4. No development shall take place until a sample roofing tile has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area, given the prominent position near to listed buildings and within a designated Conservation Area and to preserve the character and appearance of that Conservation Area and to accord with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006 and national policy contained within PPS1, PPS3 and PPS5.

5. No development shall commence until a scheme for surface water disposal for the whole development reflecting the principles of sustainable drainage detailed in section 6 of Version 2 of the submitted Drainage Strategy dated August 2011 and received on 1st September 2011 have been submitted to and approved in writing by the local planning authority.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, ensure future maintenance of the surface water drainage system and to accord with the provisions of Planning Policy Statement (PPS) 25 (2010).

6. No development shall take place until details of the finished floor levels for the ground floors of all the dwellings hereby approved have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory relationship with adjoining developments and to preserve the character and appearance of the designated Conservation Area in accordance with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006 and Planning Policy Statement (PPS) 5.

7. No development shall take place until, a contaminated land assessment and associated remedial strategy, together with a timetable of works, have been first submitted to and approved in writing by the Local Planning Authority

Reason: In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration in accordance with policies STRAT1 and NBE19 of the West Lindsey Local Plan First Review 2006.

8. No development shall take place, including any works of demolition, 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 demolition and construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of noise, dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii. The means of access and routeing for demolition and construction traffic.

Reason: To ensure appropriate mitigation for the impact on residential amenity caused by the demolition and construction phases of the development and to accord with policy STRAT1 of the West Lindsey Local Plan First Review 2006.

Conditions which apply or are to be observed during the course of the development:

9. The dwelling marked as plot 5 on the approved drawing P41A received on 1st September 2011 shall not be first occupied until a scheme has been first submitted to and approved in writing by the local planning authority for the obscure glazing and limiting of the opening of the windows marked X on the

same said plan. The windows shall be installed as per the agreed details before first occupation of Unit 5 and thereafter retained.

Reason: To prevent an unacceptable level of overlooking to No. 10, Church Street and to accord with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006.

10. The development shall be carried out using the external facing and roofing materials and window frames as agreed by the local planning authority and referred to in conditions 2, 3 and 4.

Reason: In the interests of the visual amenity of the area within a designated Conservation Area and to preserve the character and appearance of that Conservation Area and to accord with policies STRAT1, RES1 and RES3 of the West Lindsey Local Plan First Review 2006 and national policy contained within PPS1, PPS3 and PPS5.

11. The finished floor levels for ground floors for all of the dwellings shall be as per the levels agreed by the local planning authority as referred to in condition 6.

Reason: To ensure a satisfactory relationship with adjoining developments and to preserve the character and appearance of the designated Conservation Area in accordance with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006 and Planning Policy Statement (PPS) 5.

12. None of the dwellings hereby approved shall be first occupied until the surface water drainage scheme agreed in writing by the local planning authority as referred to in condition 5 has been fully completed and it shall thereafter be retained.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, ensure future maintenance of the surface water drainage system and to accord with the provisions of Planning Policy Statement (PPS) 25 (2010).

13. Foul water from the development shall drain to the mains foul sewer and none of the dwellings hereby approved shall be first occupied until those mains foul sewer serving the development has capacity to deal with this development.

Reason: To ensure that foul drainage from the development is via the mains sewer in accordance with the sequential approach advocated by Circular 3/99.

14. The development shall be carried out in accordance with any remedial strategy for dealing with contamination as referred to by condition 7.

Reason: In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration in accordance with policies STRAT1 and NBE19 of the West Lindsey Local Plan First Review 2006.

15. None of the dwellings hereby approved shall be occupied until the pedestrian and vehicular accesses including the pavement serving the front doors of Units 1, 2 and 3, and the manoeuvring and parking areas detailed on the approved drawing P10 Rev C received on 22nd June 2011, including the works within the existing highway, have been surfaced and completed in accordance with a specification to have been first submitted to and approved in writing by the local planning authority. These areas shall thereafter be retained.

Reason: In the interests of highway safety and to accord with policy STRAT1 of the West Lindsey Local Plan First Review 2006.

16. None of the dwellings hereby approved shall be occupied until a landscaping, implementation, maintenance and management scheme for the communal amenity space marked hatched on the approved drawing P10 Rev C received on 22nd June 2011 has been first submitted to and approved in writing by the local planning authority. The area shall thereafter be maintained and managed in accordance with the approved scheme.

Reason: In the interests of the amenity of future occupiers of the dwellings hereby approved and to accord with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006.

17. The development shall be carried out in accordance with drawings P40A Rev A, P41A Rev A and P42A Rev A received on 1st September 2011 and P2a Rev A, P10 Rev C, P11 Rev B, P15B Rev B, P16 Rev B, P17A Rev A, P18B Rev B, P45 Rev A, P51A Rev A, P52A, 151/P/B1, 151/P/B2 Rev A and 1:1250 location plan received 22nd June 2011.

Reason: In the interests of the visual amenity of the area within a designated Conservation Area and to preserve the character and appearance of that Conservation Area and to accord with policies STRAT1, RES1 and RES3 of the West Lindsey Local Plan First Review 2006 and national policy contained within PPS1, PPS3 and PPS5.

18. Demolition and/or Construction works shall only be carried out between the hours of 07:30 and 18:00 on Mondays to Fridays; and at no time on Saturdays, Sundays and Bank Holidays unless specifically agreed in writing by the local planning authority beforehand.

Reason: To protect the amenity of the occupants of nearby dwellings and in accordance with policy STRAT1 of West Lindsey Local Plan First Review 2006.

Conditions which apply or relate to matters which are to be observed following completion of the development:

19. Notwithstanding the provisions of Classes A, B and E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) Order 2008, or any Order revoking and re-enacting that Order, the dwellings hereby approved shall not be extended or alterations consisting of the insertion or alteration of a window carried out and no buildings or structures shall be erected within their curtilage unless planning permission has first been granted by the Local Planning Authority.

Reason: In the interests of the residential amenity of future occupiers of the permitted houses, specifically to ensure no overlooking or overshadowing of adjoining dwellings within the development and to preserve the character and appearance of the designated Conservation Area in accordance with policies STRAT1 and RES1 of the West Lindsey Local Plan First Review 2006.

Notes.

1. It is advised that the County Highways Authority are contacted prior to development commencing as separate approval under the Highways Act will be required for work approved by this permission within the adopted highway.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Representors to be notified -

(highlight requirements):

Standard Letter **Special Letter** **Draft enclosed**

Prepared by : Simon Sharp

Date : 2nd September 2011

Signed:

Authorising Office **Date:**

Decision Level (tick as appropriate)

Delegated

Delegated via Members

Committee

DATED

2011

PLANNING AGREEMENT

between

(1) WEST LINDSEY DISTRICT COUNCIL

and

(2) LINCOLNSHIRE COUNTY COUNCIL

and

(3) DAVID AMBROSE PORTER, JACQUELINE ANN FLETCHER, JUDITH
ELIZABETH BAULF AND CAROLINE JASMINE PRICE-THOMAS

Agreement under
Section 106 Town & Country Planning Act 1990

relating to land at

8 Church Street, Nettleham Lincolnshire

Legal Services Lincolnshire
County Offices
Newland
Lincoln
LN11YS

THIS DEED is made the _____ day of _____ 2011

BETWEEN

- 1) WEST LINDSEY DISTRICT COUNCIL of THE GUILDHALL, MARSHALL'S YARD GAINSBOROUGH ("the Council")
- 2) LINCOLNSHIRE COUNTY COUNCIL of COUNTY OFFICES NEWLAND LINCOLN LN1 1YQ ("the County Council")
- 3) DAVID AMBROSE PORTER, JACQUELINE ANN FLETCHER, JUDITH ELIZABETH BAULF AND CAROLINE JASMINE PRICE-THOMAS ("the Owner")

RECITALS

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the area within which the Land is situated and by whom the obligations and covenants contained in this Deed are enforceable
- (B) The Council is the housing authority for the purposes of the Housing Act 1985 and a local authority for the purposes of the 1972 Act and the 2000 Act
- (C) The Owner is the freehold owner of the Site
- (D) The Owner has submitted a Planning application to the Council
- (E) The County Council is the local education authority for the purposes of the 1990 and the highways authority for the area in which the Land is situated
- (F) To facilitate the Development the parties have agreed to enter into this Deed in respect of a Financial Contribution

OPERATIVE PART

NOW THIS DEED WITNESSETH AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1. In this Deed the defined terms shall have the same meaning as in the Previous Council Agreement and the Previous County Council Agreement with the following exception and additions: -

“1972 Act”	The Local Government Act 1972
“ 1990 Act”	The Town and Country Planning Act 1990 (as amended)
“ 2000 Act”	The Local Government Act 2000
“Commencement of Development”	of means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and the laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements
“Completed” and ”Completion”	in respect of a Dwelling, the issue of a Final Certificate under the Building Act 1984
“ Development”	means the development the subject of the Planning Application
“Education Contribution”	means the sum of £11276 [eleven thousand two hundred and seventy six pounds]

“Index”	means the All Items Retail Prices Index issued by the Office of National Statistics
“Interest”	2% above the base rate published by the Bank of England from time to time
“ Planning Application”	means as application for planning permission for a residential development validated on the 24 January 2011 and allocated the Council’s reference number [126801]
“Planning Permission”	the planning permission granted by the Council pursuant to the Planning Application in the form of the draft attached to the Second Schedule

- 1.2. Where in this Deed reference is made to any clause paragraph schedule plan or recital such reference (unless the context otherwise requires) is a reference to a clause paragraph schedule recital or plan in this Deed
- 1.3. Where in any Schedule or part of any Schedule reference is made to a paragraph such reference shall (unless the context requires otherwise) be to a paragraph of that Schedule or (if relevant) part of that schedule
- 1.4. References to any party to this Deed shall include reference to their successors in title and assigns and to persons claiming or deriving title through or under them and in respect of the Council and/or the County Council shall include the successors to their respective statutory functions
- 1.5. Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 1.6. Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner

1.7. Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise

1.8. Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it

2. LEGAL BASIS

2.1. This Deed is made pursuant to Section 106 of the 1990 Act Sections 111 and 120 of the 1972 Act and Section 2 of the 2000 Act

2.2. The covenants restrictions and requirements imposed upon the Owner and the Applicant under this Deed create planning obligations pursuant to Section 106 of the 1990 Act and are intended to be enforceable (where appropriate) by the Council and the County Council as local planning authority and local education authority respectively .

3. CONDITIONALITY

3.1. This Deed is conditional upon:

3.1.1. the grant of the Planning Permission substantially in the form as annexed in the Second Schedule; and

3.1.2. the Commencement of Development

SAVE FOR the provisions of clauses 4.1.3 4.1.6 6.1.2 and 6.1.5 which shall come into effect immediately upon completion of this Deed

4. AGREEMENTS AND DECLARATIONS

- 4.1. The parties agree and declare that:
 - 4.1.1. the provisions of this Deed shall not be enforceable by any person who is not a party to this Deed by virtue of the Contracts (Rights of Third Parties) Act 1999
 - 4.1.2. The covenants given in this Deed shall cease to have effect if
 - 4.1.2.1. the Planning Permission is quashed revoked or otherwise withdrawn at any time; or
 - 4.1.2.2. the Planning Permission expires prior to the Commencement of Development; or
 - 4.1.2.3. the Planning Permission is modified by any statutory procedure without the consent of the Owner
 - 4.1.3. this Deed shall be registrable as a land charge by the Council as local planning authority
 - 4.1.4. Following the performance and satisfaction of all of the Owner's obligations contained in this Deed the Council shall at the Owners expense effect the cancellation of all relevant entries made in the Register of Local Land Charges in respect of this Deed;
 - 4.1.5. no person or party shall be liable for a breach of the restrictions and obligations contained in this Deed after that person or party has parted with all of his interest in the Land or the part in respect of which the breach occurs but without prejudice to any liability for any breach committed prior to such parting
 - 4.1.6 the Owner agrees to give the Council immediate written notice of any change in ownership of its legal interest in the Land occurring before all the Owner's obligations under this Deed have been discharged
 - 4.1.6. nothing contained in this Deed shall prejudice or affect the rights powers duties and obligations of the Council or the County Council in the exercise of their respective functions as local authority and the local education

authority and their rights powers duties and obligations under all public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council and the County Council were not parties to this Deed;

- 4.1.7. if any severable provision of this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired
- 4.1.8. no waiver unless in writing by the Council or the County Council of any breach or default by the Owner in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing the said terms or conditions of the Deed which are relevant to them or from acting upon any subsequent breach
- 4.1.9. the obligations in this Deed shall not be enforceable against a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense or against any purchaser of a completed Dwelling on the Land
- 4.1.10. where the agreement approval consent or expression of satisfaction is required by the Owner from the Council or the County Council under the terms of this Deed such agreement approval consent or expression of satisfaction shall not be unreasonably withheld or delayed
- 4.1.11. any notices requests demands or other written communications pursuant to this Deed shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party

4.1.12. if any payment due under this Deed is paid late Interest will be payable from the date payment is due until the date payment is made

4.1.13. any sum referred to in this Deed shall be increased by an amount equivalent to the increase in the Index from the date of this Deed until the date on which such that sum is payable;

5. THE COUNTY COUNCIL'S COVENANTS

The County Council covenants to comply with the obligations (on their part to be observed and performed) set out in the Schedules to this Deed

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6. OWNER'S COVENANTS

6.1. The Owner covenants with the Council and the County Council so as to bind the Land into whosoever hands the same may fall to comply with its obligations as set out in the Schedules to this Deed.

6.1.3 The Owner covenants with the Council to pay to the Council on the completion of this Deed the sum of £1500 [one thousand five hundred pounds] as a contribution towards the reasonable administration enforcement and monitoring costs in respect of the obligations created by this Deed.

6.1.4 The Owner covenants with the County Council to pay the County Council the Education Contribution prior to the Commencement of Development.

6.1.5 The Owner covenants with the Council to notify the Council of the Commencement of Development within 7 days of the same occurring.

7. JURISDICTION

This Deed shall be governed by and interpreted in accordance with the law of England and Wales

8. WAIVER

No waiver (whether expressed or implied) by the Council the County Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

9. DISPUTE RESOLUTION

9.1. In the event of there being a dispute arising out of this Deed or the subject matter thereof the following provisions shall apply:

9.1.1. The parties shall use their reasonable endeavours to resolve the dispute by agreement

9.1.2. If agreement cannot be reached the matter in dispute shall be referred to and settled by a single expert to be nominated by the President of the Royal Institution of Chartered Surveyors on the application of any party after giving notice in writing to the other parties to this Deed

9.1.3. The person to be appointed pursuant to clause 9.1.2 shall be a person having ten years or more post qualification experience of projects comprising works of the scale and nature of the Development

9.1.4. Reference to the expert shall be on terms that determination shall take place within 28 working days of the expert accepting his instructions

9.1.5. The expert shall have the power to award costs of the determination in favour of either party to the dispute at the expense of the other party and

failing such determination such costs shall be borne by the parties in equal shares

9.1.6. The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision

9.1.7. The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute

10. **VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

11. **EXECUTION AND DELIVERY**

This document is executed as a deed and is delivered on the date stated at the beginning of this Deed

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written

FIRST SCHEDULE

DETAIL OF THE OWNER'S TITLE AND DESCRIPTION OF THE LAND

The land known as 8 Church Street, Nettleham, Lincolnshire, shown edged red on the Plan
and registered at the Land Registry under title numbers LL209795 and
LL 322547

SECOND SCHEDULE

DRAFT PLANNING PERMISSION

THIRD SCHEDULE
EDUCATION CONTRIBUTION

1. The Owner covenants with the County Council to pay to the County Council prior to Commencement of Development the sum of eleven thousand two hundred and seventy six pounds

2. The County Council covenants with the Owner;
 - 2.1 to use the Education Contribution only for the purposes of Educational provision at Nettleham Infant or Junior Schools.

 - 2.2. In the event that all or any part of the Education Contribution paid to the County Council is either not used or is not used in its entirety for the purpose for which it is designated in paragraph 2.1 above then such Education Contribution or part thereof as it has not been used for their designated purpose within five years from the date of payment shall be returned to the party who made the payment together with Interest thereon

THE COMMON SEAL OF)
WEST LINDSEY DISTRICT COUNCIL)
was affixed in the presence of:)

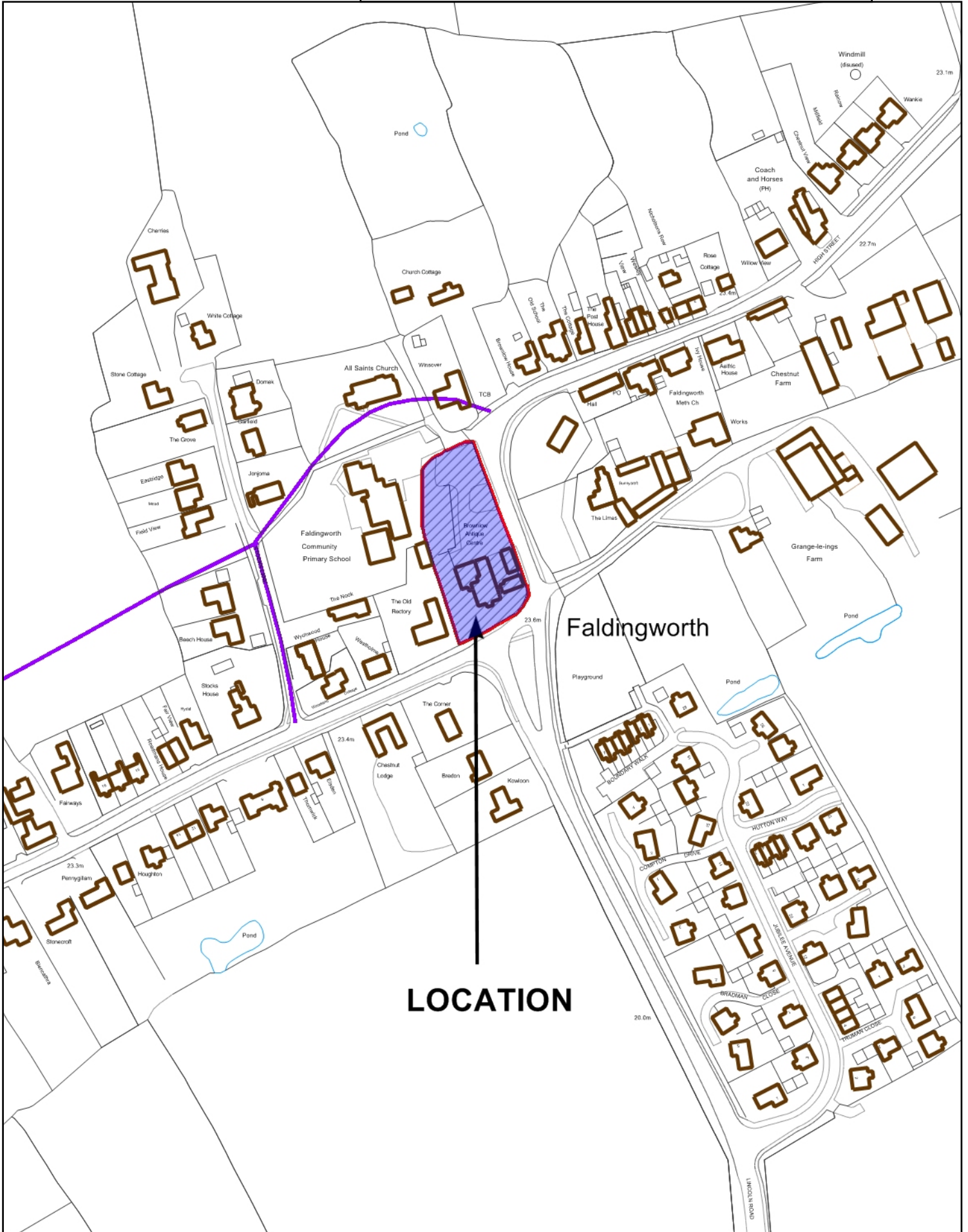
Authorised Signatory:

THE COMMON SEAL OF)
LINCOLNSHIRE COUNTY COUNCIL)
was hereunto affixed in the presence of:)

Authorised Officer:

EXECUTED AS A DEED by)
DAVID AMBROSE PORTER)
JACQUELINE ANN FLETCHER)
JUDITH ELIZABETH BAULF)
CAROLINE JASMINE PRICE-THOMAS)

in the presence of:



LOCATION

Officer's Report

Planning Application No: 127576

PROPOSAL: Planning application for change of use from domestic dwelling to residential care home, including alterations to provide 10no. bedrooms, some external alterations and reinforcement of boundaries - resubmission of 127085

LOCATION: The Brownlow Arms Faldingworth

WARD: Welton

WARD MEMBER(S): Cllrs Mrs D M Rodgers and Cllr M J W Parish

APPLICANT NAME: Kisimul Group Ltd

TARGET DECISION DATE: 27/09/2011

DEVELOPMENT TYPE: Change of Use

CASE OFFICER: Kirsty Catlow

RECOMMENDED DECISION: Grant planning permission for the reasons outlined below, subject to conditions.

Reason for Referral:

This application is a re-submission of a planning application previously refused by the Development Management Committee in June 2011. A copy of the previous Committee report is attached as appendix A to this report.

Site Description:

The application site comprises of a large detached dwelling positioned within a large garden plot, located on the corner of Lincoln Road and Spridlington Road in the centre of Faldingworth village. A 1 metre high wooden picket fence forms the boundary with Spridlington Road. A 1.5 metre high wooden picket fence has been erected around the rear car parking area.

The surrounding area is predominantly residential in nature. Faldingworth Primary School is located to the north and west of the application site.

Access into the site is to the north off Lincoln Road, through the school car park, over which the applicant has a right of access.

The agent has stated that since the previous application was considered the property has been occupied by no more than six persons, in accordance with Class C3 (Dwelling House) which does not require planning permission. The proposal seeks a change of use to Class C2 (Use for the provision of residential accommodation and care for people in need of care), and if granted the total occupation will be a maximum of ten persons.

Description of Proposed Development:

The application seeks planning permission for a change of use from dwelling house (C3) to a 10 bedroomed residential care home (C2), including minor alterations to the building and reinforcement of the site boundaries comprising of hedge planting and 1.5m high trellis panels.

The proposed use will provide residential accommodation and care for young adults with learning difficulties who will live together as a family unit. The proposed use therefore falls within Use Class C2 – Residential Institutions. The unit will not be a secure unit, therefore it would not fall in Use Class C2a – Secure Residential Institution, nor would it be within Use Class C4 – House of Multiple Occupation.

Constraints:

The site contains three trees protected by a Tree Preservation Order. All Saints Church, a Grade II Listed building, is located to the north west of the site. A public footpath runs from east to west beyond the northern boundary of the site, but its setting is not affected by the proposed development.

Relevant history:

Until the mid 1990's the property was a public house when planning permission was granted to convert its use for residential and commercial purposes. In 2010 planning permission was granted for a change of use of the commercial part of the property to domestic use.

More recently a planning application (127085) for a change of use from domestic dwelling to residential care home, including minor alterations, to provide 10 no. bedrooms and new boundary treatment comprising of 1.5 – 1.8 metre high close boarded fencing was refused at the Development Management Committee for the following reason;

'The proposal is not located close to existing services and facilities as there is a lack of such services and facilities, including health facilities, in the village of Faldingworth. As such it would not accord with saved policy CRT14(ii) of the West Lindsey Local Plan First Review 2006 which states that all developments for residential and nursing homes shall be located close to existing services and facilities, including public transport and health services.'

An appeal against the refusal of this application has been logged with the Planning Inspectorate.

A pre-application enquiry relating to minor building alterations and erection of boundary treatments was also been submitted. The agents were advised that the proposals were either maintenance or permitted development.

Representations:

Chairman/Ward member: Councillor Rodgers asked to be kept informed of progress on the application.

Faldingworth Parish Council: As nothing has changed in Faldingworth with regard to its suitability as a location for the proposed care home, the Parish Council reaffirm their comments made on the previous application;

Raise serious concerns regarding the application and feels strongly that the location of Faldingworth and The Brownlow site would not be in the best interests of the welfare, development and safety of the care home residents and raise the following issues; highway safety relating to busy A46, vehicular access and pedestrian safety; alterations have been undertaken prior to planning permission being issued and pre-application consultation did not take place; proximity to school; wish to restrict use to a care home for residents with learning difficulties only.

And make the following additional comments;

For clarification the facilities in Faldingworth are; Village hall, Church, Chapel, Public House (open 5 days per week) and an outreach Post Office service (operating 2 mornings per week).

The bus service through Faldingworth is operated by Stagecoach and is a subsidised route by LCC. Subsidies were reduced in April 2011 resulting in a reduction of service to Mon-Sat only between the hours of 07.30 and 19.15. A bus trip to Lincoln would involve a round trip of at least 90 minutes.

Transport for residents will be provided by 2 Kisimul mini buses, which will not support the local bus service or satisfy sustainability requirements.

Faldingworth is a Subsidiary Rural Settlement in the Local Plan with very limited facilities. Faldingworth cannot be considered as a service centre. The proposed development does nothing to remedy any deficiencies in the local shopping or other facilities within this location.

Local residents:

8 letters of representation have been received from Forge House, Hawthorne House, Blencartha, The Old Rectory, 1 Compton Drive and Rainow objecting to the application on the following grounds;

- Works to the property have been completed and is now occupied.
- There has been no change in circumstances since the previous application was refused. Faldingworth remains an unsustainable location.
- There is a shortage of services and facilities in Faldingworth for a large care home accommodating young adults with learning disabilities and challenging behaviour.
- Highway safety; the proximity of the A46 and the nature of the narrow footways all pose a risk to future residents.
- The nature of a large residential care home is different in character to a large residential dwelling.

- The proposal would bring limited benefits to the village of Faldingworth.
- Previous report was inaccurate with regards to the facilities in Faldingworth.
- Bus services through the village are limited.
- Lighting which has been installed result in light pollution through the night and additional planting has been requested.
- Local residents may be at risk from future residents.
- A tree has been removed from the garden area.
- The boundary treatment will result in the loss of the open character frontage to the property.

LCC Highways: No objections. The highways authority does not consider that the proposal will be detrimental to highway safety or traffic capacity.

Archaeology: The buildings associated with this development proposal are recorded on the 1883 to 1888 and 1902 to 1906 Ordnance Survey maps in their current layout and form. However, the alterations proposed in the application are relatively minor and are well documented on the survey plan and proposed plan. As a result, no archaeological input is required on this application.

Relevant Planning Policies:

The Development Plan

East Midlands Regional Plan

Weight afforded to the Regional Plan is tempered by the intentions outlined in the Chief Planning Officer's letter of May 2010 which proposed the abolition of the regional spatial strategies and the subsequent Localism Bill of December 2010.

http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf

West Lindsey Local Plan First Review 2006

STRAT 1 – Development Requiring Planning Permission

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm>

CRT 14 – Residential and Nursing Homes

<http://www2.west-lindsey.gov.uk/localplan/written/cpt9.htm>

CORE 10 – Open Space and Landscaping within Developments

<http://www2.west-lindsey.gov.uk/localplan/written/cpt8.htm>

Other Relevant National Guidance

Draft National Planning Policy Framework (2011)

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>

Planning Policy Statement 1 – Delivering Sustainable Development

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf>

Planning Policy Statement 4 – Planning for Sustainable Economic Development; supports the re-use of buildings in rural locations for economic purposes, particularly those in existing settlements where the benefits outweigh the harm.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>

11/95 The Use of Conditions in Planning Permissions

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/324923.pdf>

Main issues

The previous application was considered at the Development Management Committee on 01.06.2011, where it was refused due to a lack of services and facilities, including health facilities, in Faldingworth. Since that decision there have been no material changes in circumstances or relevant planning policy, save for the release of the Draft National Planning Policy Statement which has endorsed a presumption in favour of sustainable development.

Members are therefore advised that the only issue to consider is whether this re-submission has overcome the previous reason for refusal.

Assessment:

The recent application was refused on the grounds that there is a lack of services and facilities, including health services, in the village of Faldingworth and would not accord with policy CRT14(ii) of the Local Plan.

Policy CRT14 states;

Development proposals for residential care homes or nursing homes including change of use of an existing building, extension or associated development will be permitted provided that the home is located within a settlement in a predominantly residential area. In all the cases the development shall;

ii. Be located close to existing services and facilities, including public transport and health services.

The justification for this policy is as follows;

'It is expected that all residential and nursing homes will be located close to existing community facilities. This means that isolated developments, which may involve the conversion of older country homes outside settlements, are only likely to be acceptable with strong and exceptional justification. Many

residents in such homes are without personal transport, therefore it is reasonable to expect homes to be located on good public transport routes.'

The aim of the policy is to ensure that future occupiers of such care homes do not feel isolated and are unable to access public services and facilities.

The services and facilities which are currently available in Faldingworth village are; Village hall, Church, Chapel, Public House (open 5 days per week) and an outreach Post Office service (operating 2 mornings per week). A bus service operates through Faldingworth between the hours of 07.30 and 19.15.

In assessing the application, it is important to acknowledge the 'fallback' position, in that as a lawful dwelling house, the Brownlow Arms can be occupied by up to 6 persons living together as a single household with (non-residential) care provided (albeit 24 hour care). The proposed use will comprise of up to 10 persons living together as a single household with (non-residential) care provided (albeit 24 hour care).

The issue is therefore, would the increase in the number of residents by 4 result in any material harm.

It is acknowledged that the site is located within a rural settlement with no health services and limited services or facilities. As a result, residents of the care home will need to travel to other settlements including Market Rasen and Lincoln to access health care, shops, banking facilities, libraries and leisure activities.

In terms of access to public transport, the property is located on a bus route and bus trips may well be an activity that future residents partake in whilst being accompanied by a carer. However, it is likely that the majority of trips to access services will be undertaken in the dedicated mini buses.

With regards to accessing health care facilities, the agent has made the following comments;

'Whilst it may reasonably be expected that residential homes providing care for the elderly may place additional demands upon the health care facilities in a locality, there is no evidence to suggest that young adults suffering from severe learning difficulties place any greater demands upon the general health care system than other young adults of a similar age. In common with all other residents of Faldingworth, they will need to travel to Market Rasen to access health care facilities. It is also relevant to note that the future residents of the home are presently based at Acacia Hall, Friesthorpe, about 1.5km south of Faldingworth. Thus there are no additional demands placed upon the health care system by residents, as they are already accessing the health care system in Market Rasen.'

Future residents of The Brownlow will not be prejudiced by the rural location of the property as they will still be able to access public services and facilities either by public transport or by travelling in the dedicated mini buses.

The proposal to increase the number of residents by 4 residents would not result in a significant increase in the number of private mini bus trips to access services and facilities. As a result the proposal would not undermine the principle of sustainable development.

For the reasons outlined above, it is not considered that the proposal would result in material harm and a refusal on the grounds that the property is not close to services and facilities would be unreasonable.

Other Issues

The proposed 1.5 metre high trellis fencing along the southern boundary of the site will be set back 300 – 500mm from Sprindlington Road behind the existing picket fence. A section of the proposed fencing would be located within the root protection area of one tree and close to another. Following discussions with the Council's Tree Officer, it has been confirmed that the erection of a fence in the positioned proposed would not harm the health of the trees, providing no roots are severed when the holes for the fence posts are dug. A condition will therefore be attached to any approval requiring a method statement for the digging of the fence posts to be submitted to and approved in writing by the Local Planning Authority.

In terms of the tree which was removed, this was not covered by the Tree Preservation Order and its removal was only carried out after consultation with the Council's Tree Officer.

With regards to lighting, whilst a condition was previously suggested requiring lighting details to be submitted, the installation of lighting is not development and does not therefore require planning permission. A condition requiring additional planting to screen the lighting would not therefore meet the tests of Circular 11/95 The Use of Conditions in Planning Permissions.

Conclusion and Reason for Approval:

Having regard to policies STRAT 1 – Development Requiring Planning Permission, CORE 10 – Open Space and Landscaping within Developments and CRT 14 – Residential and Nursing Homes of the West Lindsey Local Plan First Review and guidance contained within PPS 1 – Delivering Sustainable Development and PPS 4 – Planning for Sustainable Economic Development; The proposed use of the site as a residential care home, together with the alterations to the building and grounds, would not have a detrimental impact on the character of the locality or residential amenity. Despite the absence of services and facilities in the village, residents would be able to access such services and facilities (including health care) in nearby Market Rasen either by public transport or the homes dedicated mini buses. The increase in the current number of permitted residents from 6 to 10 would not result in any material harm. The proposed change of use would not be harmful to highway safety, tree health or the setting of the nearby Listed Buildings.

Recommendation: Grant planning permission, for the reason above, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2. No development shall commence until a method statement for the digging of the fence post holes within the root protection areas of the protected trees has been submitted to and approved in writing by the Local Planning Authority. The fence shall only be erected in accordance with the approved method statement.

Reason: To ensure that adequate measures are taken to preserve protected trees and their root systems in the interests of visual amenity in accordance with West Lindsey Local Plan First Review Policies STRAT 1 and CORE 10.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Representors to be notified -
(highlight requirements):

Standard Letter **Special Letter** **Draft enclosed**

Prepared by : Kirsty Catlow **Date :** 1 September 2011

Signed:

Authorising Office **Date:**

Decision Level (tick as appropriate)

Delegated
Committee X

Officers Report

Planning Application No: 127085

PROPOSAL: Planning application for change of use from domestic dwelling to residential care home, including alterations to provide 10no. bedrooms, some external alterations and reinforcement of boundaries.

LOCATION: The Brownlow Arms Lincoln Road Faldingworth Lincoln LN8 3SF

WARD: Welton

WARD MEMBER(S): Cllrs Mrs D M Rodgers and Cllr M J W Parish

APPLICANT NAME: Kisimul Group Ltd

TARGET DECISION DATE: 16/05/2011

DEVELOPMENT TYPE: Change of Use

CASE OFFICER: Kirsty Catlow

RECOMMENDED DECISION: Grant planning permission, subject to conditions.

Description of Site:

The application site comprises of a large detached dwelling positioned within a large garden plot, located on the corner of Lincoln Road and Spridlington Road in the centre of Faldingworth village. A 1 metre high wooden picket fence forms the boundary with the adjacent highway.

The surrounding area is predominantly residential in nature. Faldingworth Primary School is located to the north and west of the application site.

Access into the site is to the north off Lincoln Road, through the school car park, over which the applicant has a right of access.

Description of Proposed Development:

The application seeks full planning permission for a change of use from domestic dwelling to residential care home, including minor alterations, to provide 10 no. bedrooms and new boundary treatment comprising of 1.5 – 1.8 metre high close boarded fencing.

For clarification purposes the proposed use will provide residential accommodation and care for young adults with learning difficulties who will live together as a family unit. The proposed use therefore falls within Use Class C2 – Residential Institutions. The unit will not be a secure unit, therefore it would not fall in Use Class C2a – Secure Residential Institution, nor would it be within Use Class C4 – House of Multiple Occupation.

The agents have provided the following background information in support of the application;

'The Kisimul Group provide residential care homes for young adults with severe learning difficulties and challenging behaviour. Its principal aim is to provide a home in the community in which they can be assisted to reach their full potential and to live as rich and rewarding a life as possible.....In our choice of home we always seek to provide small care homes for up to ten residents that achieve a domestic scale environment and do not have an institutional feel. Each disability has its own unique and complex need and Kisimul Group provide individually tailored service to suit the specific disabilities of our residents.'

'Kisimul Group has an Upper School based at Acacia Hall, Friesthorpe near Market Rasen. This is a special residential school educating pupils with severe learning difficulties and challenging behaviour. The age of pupils is from 14 years old to 18 years old. On attaining the age of 19 the pupils are considered to be 'adult'. At this point a place has to be found for that adult. Nationwide there is a shortage of suitable places with accommodation in the community and suitably trained care staff to meet the needs of the young adult. Kisimul Group seeks to make the transition from Residential Children's School to Adult Care Home in the community as seamless as possible. Our children may have been together as a unit for as many as 8 years during which time we have managed their individual and group disabilities. We specialise in the management of severe learning difficulties and its technical challenges. Such facilities are few and far between, many providers of care are unable to meet the requirements needed. As such the Kisimul Group try to locate homes in areas that can maintain links with the resident's former school and be in vibrant communities large enough to provide the essential facilities to allow for growth and development of the resident's life skills. The adults live as a family and are taught life skills to develop their abilities. They are supported in this by care workers who provide the individual support to meet each residents needs. The residents are aided to cook, clean and carry out day to day life skills. In addition they have opportunities to integrate into the community. Faldingworth meets these needs and the Kisimul School are purchasing The Brownlow and seek to convert it into a ten person Care Home.'

Constraints:

The site contains three trees protected by Tree Preservation Orders. All Saints Church, a Grade II Listed building, is located to the north west of the site. A public footpath runs from east to west beyond the northern boundary of the site, but it's setting is not affected by the proposed development.

Relevant history:

The property was formerly a public house until the mid 1990's when permission was granted to convert its use for residential and commercial

purposes. In 2010 planning permission was granted for a change of use of the commercial part of the property to domestic use.

Representations:

Chairman/Ward member(s): No comments received to date.

Parish Council Meeting: Raise serious concerns regarding the application and feels strongly that the location of Faldingworth and The Brownlow site would not be in the best interests of the welfare, development and safety of the care home residents and raise the following issues; highway safety relating to busy A46, vehicular access and pedestrian safety; alterations have been undertaken prior to planning permission being issued and pre-application consultation did not take place; proximity to school; wish to restrict use to a care home for residents with learning difficulties only.

Local residents: 14 letters of objection have been received from; 3 Trueman Close; The Limes, The Old Rectory, Forge House, Stonecroft, Rainow, Blencathra, Hawthorne House, 1 Compton Drive, 12 Jubilee Avenue and 3 other residents; and 1 letter of support have been received from 4 Trueman Close;

Grounds of Objection

- Wrong location for the proposed use
- Over development of the site in an unsustainable location
- Residential Amenity
- Highway Safety / Access
- Proximity to school
- Proposed fencing would detract from the character of the area
- Anti social behaviour
- Insufficient outdoor amenity space for future residents
- Lack of community facilities in Faldingworth
- Noise and disturbance from traffic, people, external lighting and plant equipment
- Shortage of appropriately trained staff
- Suggest restricting occupancy to people with learning difficulties and a maximum of ten 18 to 65 year olds
- Suggest a condition requiring the premises to be managed in accordance with the submitted Management Plan
- Applicants did not seek pre-application advice and have already purchased the property
- May lead to further development on the site

Grounds of Support

- A number of objections and fears are unfounded
- Requests that the change of use be conditional on the category of adults being cared for restricted to those with learning difficulties
- Requests that the high hedging which restricts sight lines at the junction be removed

- The applicant should work with County Highways on the provision of traffic speed reduction measures

LCC Highways: No objections. The highways authority does not consider that the proposal will be detrimental to highway safety or traffic capacity.

Archaeology: The buildings associated with this development proposal are recorded on the 1883 to 1888 and 1902 to 1906 Ordnance Survey maps in their current layout and form. However, the alterations proposed in the application are relatively minor and are well documented on the survey plan and proposed plan. As a result, no archaeological input is required on this application.

Building Control: Confirm that Building Regulations will be required.

Relevant Planning Policies:

The Development Plan

East Midlands Regional Plan

Weight afforded to the Regional Plan is tempered by the intentions outlined in the Chief Planning Officer's letter of May 2010 which proposed the abolition of the regional spatial strategies and the subsequent Localism Bill of December 2010.

West Lindsey Local Plan First Review 2006

STRAT 1 – Development Requiring Planning Permission

CRT 14 – Residential and Nursing Homes

CORE 10 – Open Space and Landscaping within Developments

Other Relevant National Guidance

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 4 – Planning for Sustainable Economic

Development; supports the re-use of buildings in rural locations for economic purposes, particularly those in existing settlements where the benefits outweigh the harm.

Main issues

- Principle of Proposed Development (including impact on character of area and amenity of neighbouring uses)
- Impact on Highway Safety
- Impact on Trees / Listed Building
- Other Matters

Assessment:

Principle of Proposed Development (including impact on character of area and amenity of neighbouring uses)

Policy CRT14 – Residential and Nursing Homes, is permissive of such proposals in principle, providing they are located within a settlement in a predominantly residential area, which the application site is.

The acceptability of detailed proposals in turn rests on meeting all of the 5 following criteria; not harm the amenities or character of the locality; be located close to existing services and facilities; not harm the character of the premises; provide suitable amenity space; and not harm the amenities of adjoining properties or residents.

The proposed conversion of the property does not involve any extensions, with only minimal external alterations for maintenance purposes. The proposed change of use will not therefore result in the loss of outdoor amenity space or harm the character of the property or surrounding area. The proposed 1.5 m high fencing to the public boundaries will be set behind the existing timber picket fence and planting and will not significantly detract from the visual amenities of the area.

In terms of proximity to existing services, the village of Faldingworth contains a Church, Chapel, post office, village shop, school, village hall and pub. The property is also located close to the Kisimul Groups school at Friesthorpe. The village is served by buses linking the site with Caistor, Grimsby and Lincoln and future residents will be transported to college, recreational venues and health services using the two dedicated mini buses.

The property benefits from large mature landscaped gardens which will provide future residents with a high level of on site amenity space.

The property will house up to 10 permanent residents, with between 3 and 6 staff on site at any one time. In terms of the amenities of surrounding residents, the property immediately to the west of the application site, The Old Rectory, is a residential property separated from the site by a 1.5 metre high brick wall, with partial hedging beyond. The property is positioned 4 metres from the boundary and the side elevation facing the site contains windows. Traffic movements will be limited to the two dedicated mini buses, and staff and visitor cars accessing the site off the A46. The potential for noise and disturbance from such a use, including the associated traffic movements and the number of people occupying the site, is commensurate with the previous use of the site as part residential and part antiques centre. Given the scale and residential nature of the proposed use, it is not considered that it would harm the residential amenities of neighbouring dwellings.

Impact on Highway Safety

The site will be accessed off the A46 road which links Faldingworth with; Lincoln 10 km to the south west; and Market Rasen 7 km to the north east. Separate 'in' and 'out' access points are proposed which will ensure vehicles will enter and exit the site in a forward gear. The applicant has confirmed that they have a right of access over the school car parking area to the north of the site. The property benefits from existing off street car parking which can accommodate the mini buses, staff and visitor parking.

Following consultation with County Highways they raise no objections to the proposal. They do not consider that the proposal will be detrimental to highway safety or traffic capacity.

The introduction of traffic calming measures are not therefore directly required as a result of the proposed development and conditioning their provision would not meet with the tests of Circular 11/95 – The Use of Conditions in Planning Permissions. The provision of traffic speed reduction measures would therefore be a separate matter for County Highways.

The proposed development will not impact upon the setting of the public footpath beyond the north western boundary of the site.

Impact on Trees / Listed Building

Three protected trees are located within the front garden area of the property. A section of the proposed fencing would be located within the root protection area of one tree and close to another. Following discussions with the Council's Tree Officer, it has been confirmed that the erection of a fence in the positioned proposed would not harm the health of the trees, providing no routes are severed when the holes for the fence posts are dug. A condition will therefore be attached to any approval requiring a method statement for the digging of the fence posts to be submitted to and approved in writing by the Local Planning Authority.

All Saints Church, a Grade II Listed Building is located 50 metres beyond the northern boundary of the application site. Given the minimal amount of proposed operational development at the site, there would be no detracting from the setting of this listed buildings.

Other Matters

Restricting the Use – Residents have raised concerns about possible alternative uses. As outlined above, the proposed use would fall within Class C2 – Residential Institutions of the Use Classes Order and any movement within this Class, for example to an elderly persons care home or residential education centre, would not require planning permission. The concerns raised seem to related to the potential uses that would be classed under Class C2A – Secure Residential Institutions, for example a young offenders institute, for which a formal planning application would be required, as it would also be required for any other use falling outside Class C2.

Proximity to School / Anti Social Behaviour – Although the perception of fear can be a material consideration, the level of perceived fear in this instance relating to how future residents' behaviour may impact upon school children and local residents, is not considered to be of a significant level to justify refusal on such grounds.

Number of Residents – The property would provide 10 en-suite bedrooms for residents, together with a managers office and staff room, laundry, kitchen, dining room and 2 lounges. The property could not therefore accommodate more than 10 residents and any extensions to the property would require a separate planning application. A condition restricting the number of residents is not therefore considered necessary.

Commencement of Works – The applicants wrote to the Council and the Head Teacher of the Primary School on 15th April 2011 to advise that repair and maintenance work would commence on 18th April 2011. Repairs and maintenance do not require planning permission. The purchase of the property prior to planning permission being forthcoming is at the risk of the applicants.

Pre-Application Consultation – Whilst the Council encourages pre-application consultation, this is not compulsory. The agents did however attend a Parish Council meeting on 12th April 2011 to discuss the proposal.

Future Development – Any future development proposals on the site would be subject to separate planning applications.

Conclusion and Reason for Approval:

The proposed use of the site as a residential care home, together with the alterations to the building and grounds, would not have a detrimental impact on the character of the locality or residential amenity. Despite the absence of health facilities in the village, residents would be able to access such facilities in nearby Market Rasen utilising the dedicated mini buses, and the re-use of the building for a community facility outweighs this. The proposed change of use would not be harmful to highway safety, tree health or the setting of the nearby Listed Buildings. The proposal therefore accords with policies STRAT 1 – Development Requiring Planning Permission, CORE 10 – Open Space and Landscaping within Developments and CRT 14 – Residential and Nursing Homes and guidance contained within PPS 1 – Delivering Sustainable Development and PPS 4 – Planning for Sustainable Economic Development.

Recommendation: Grant planning permission, subject to the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2. No development shall commence until a method statement for the digging of the fence post holes within the route protection areas of the protected trees has been submitted to and approved in writing by the Local Planning Authority. The fence shall only be erected in accordance with the approved method statement.

Reason: To ensure that adequate measures are taken to preserve protected trees and their root systems in the interests of visual amenity in accordance with West Lindsey Local Plan First Review Policies STRAT 1 and CORE 10.

3. No external lighting shall be erected until, details of the type, position and angle of glare of the lighting has first been submitted to and approved in writing by the Local Planning Authority. No external lighting, other than that comprised in the approved scheme shall be erected within the site.

Reason: In the interests of residential amenity in accordance with West Lindsey Local Plan First Review Policy STRAT1.

4. No plant or machinery (including extraction, ventilation and air conditioning units) shall be erected within the site until details of the nature, type and position of equipment has first been submitted to and approved in writing by the Local Planning Authority. No plant or machinery, other than that comprised in the approved scheme, shall be erected within the site.

Reason: In the interests of residential amenity in accordance with West Lindsey Local Plan First Review Policy STRAT1.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Representors to be notified -
(highlight requirements):

Standard Letter **Special Letter** **Draft enclosed**

Prepared by : Kirsty Catlow

Date : 9th May 2011

Signed:

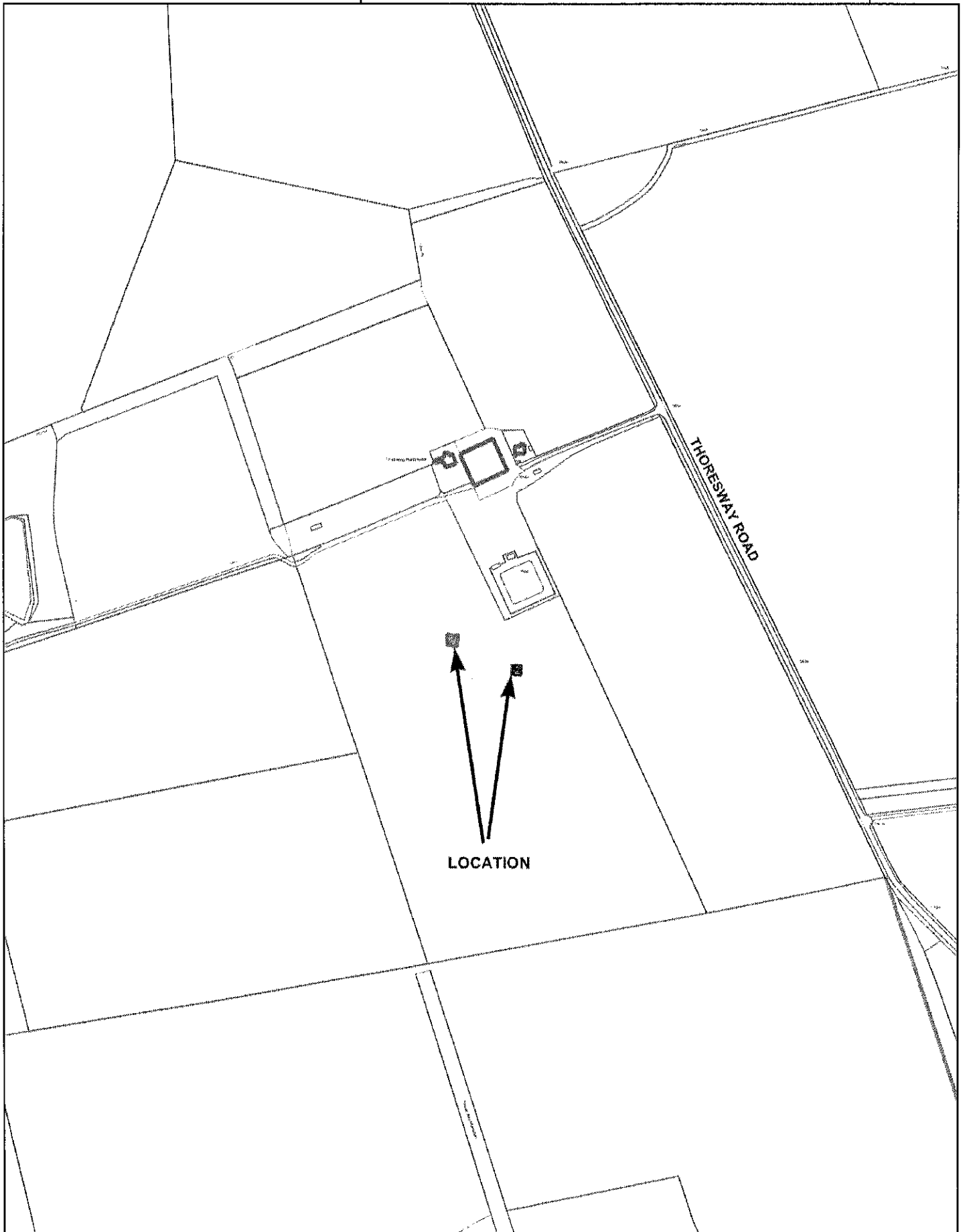
Authorising Office **Date:**

Decision Level (tick as appropriate)

Delegated

Delegated via Members

Committee X



Officers Report

Planning Application No: 127407

PROPOSAL: Planning application for installation of two wind turbines - 34.2m to blade tip - and ancillary development

LOCATION: Land Adjacent Northwold Farm Thoresway Market Rasen LN8 3UZ

WARD: Wold View

WARD MEMBER(S): Cllr. T Regis

APPLICANT NAME: Edwin H Davey (Limber) & Co

TARGET DECISION DATE: 02/08/2011

DEVELOPMENT TYPE: Minor - all others

CASE OFFICER: George Backovic

RECOMMENDED DECISION: Grant Planning Permission

Description:

Site and surroundings

The site is located in the open countryside between the villages of Rothwell and Thoresway. It is accessed by a farm track from the main road and forms part of the holding of Northwold farm.

To the north is a banked reservoir. Beyond this is a large corrugated steel agricultural storage shed approximately 12 metres high next to which is a series of stacked pallets rising to the same height. There is a vacant boarded up farmhouse to the east of the shed. The nearest dwelling is a bungalow some 200 metres to the north which shares the same access and also forms part of the farm holding. The nearest dwelling beyond the farm holding is Thoresway Grange Farm House 800 metres to the east.

Proposal

The proposal is for two three blade horizontal axis 50kW wind turbines, the hub heights of which would be 24.6m above ground level mounted on a tubular monopole tower. Each blade would be 9.6m long (radius from the hub) thereby giving a total height of the structure of 34.2m above ground level when a blade is in the vertical position above the hub. The turbines will be located 90 metres apart.

Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999

The development is within a 'sensitive area' as defined in Regulation 2(1) of the Regulations (the Lincolnshire Wolds Area of Outstanding Natural Beauty) and has therefore been assessed in the context of Schedule 2 of the Regulations. After taking account of the criteria in Schedule 3 it has been concluded that the development is not likely to have significant effects on the environment by virtue of its nature, size or location. Therefore the development is not 'EIA development'.

Relevant history: None

Representations:

Chairman/Ward member(s): No comments received

Parish/Town Council/Meeting: No comments received

Local residents: No comments received

Archaeology (LCC): The site lies in an area of archaeological sensitivity however the very small development proposed means that any type of archaeological intervention is unlikely to produce any meaningful results so no further archaeological input is required.

Lincolnshire Wildlife Trust (LWT): The primary concern of the Trust in connection with this scheme is to ensure works have no adverse effects on protected species; in particular in this case bats. It appears that the proposed turbines are located more than 50 metres from any features which could be used by commuting or foraging bats, such as the reservoir or hedgerows. We are therefore satisfied that the application meets guidance prepared in conjunction with Natural England and that no specific bat surveys are required

Conservation Team (WLDC): The proposed wind turbines will be visible within the protected landscape with some mitigation provided by the fact that they will, in some long views, be seen with the backdrop of substantial agricultural buildings which provide context and wooded landscape which provides screening. As a case by case assessment, the proximity of the obvious agricultural concern which will benefit from the energy generated does provide some justification and supports the theory that individual turbines in just such a working farm context can be considered as just one more element of the agrarian character of the Area of Outstanding Natural Beauty (AONB).

National Air Traffic Safety (NATS): No safeguarding objection

MOD (Defence Infrastructure): No objection

Lincolnshire Wolds Countryside Service(LWCS): The proposed development is clearly in a sensitive location within the AONB, on a high plateau top over 132 metres in height. Although the turbines will not be visible from the nearest settlements of Rothwell and Thoresway, both turbines will impact upon the Northwold Farm setting and a number of vantage points along the local road and public rights of way network, especially from the Caistor High Street and Croxby Top Road.

On balance we would strongly recommend that a revised proposal is explored, seeking to minimise any likely impact upon both the character and appearance of the Lincolnshire Wolds AONB.

Development Plan Policies

East Midlands Regional Plan

Policy 40 - Regional Priorities for Low Carbon Energy Generation

http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf

West Lindsey Local Plan First Review 2006

STRAT 1 Development Requiring Planning Permission

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm>

STRAT 12 Development in the Open Countryside

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm>

NBE 9 The Lincolnshire Wolds - Area of Outstanding Natural Beauty

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm>

Other guidance

Draft National Planning Policy Framework (2011)

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>

PPS 1 Delivering Sustainable Development (2005)

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf>

PPS - Planning and Climate Change (Supplement to PPS 1)

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/ppsclimatchange.pdf>

PPS 4 - Planning for Sustainable Economic Growth

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>

PPS 7 - Sustainable Development in Rural Areas

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147402.pdf>

PPS 22 – Renewable Energy

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147444.pdf>

Planning for Renewable Energy - A Companion Guide to PPS22

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147447.pdf>

Main issues

- The Principle of Wind Turbine Development in Areas of Outstanding Natural Beauty (AONB)
- Impact on the Landscape of the AONB
- Noise

Assessment:

The Principle of Wind Turbine Development in Areas of Outstanding Natural Beauty (AONB)

There is strong policy support cutting across national and regional levels for the development of renewable energy to help achieve the Governments' aim of cutting carbon dioxide emissions and tackling climate change.

There is a general presumption in favour of such development. Local Planning Authorities are expected to "promote the development of the renewable energy resources, and take climate change impacts into account."

Nationally Designated Areas (NDAs), however, which include National Parks and Areas of Outstanding Natural Beauty, are confirmed as having the highest status of protection by the government. Policy NBE 9 is a prohibitive policy towards proposals in the AONB and one which states that "development will not be permitted if it would harm or devalue the natural beauty of the landscape" and is explicit in stating that "Major development will not be permitted save in exceptional circumstances".

This follows the advice set out in PPS 7 - Sustainable Development in Rural Areas. The two turbines would not be classed as "Major" development and should be viewed as a small scale project.

PPS 22 – Renewable Energy, advises that in looking at projects in NDAs permission should only be granted where it can be demonstrated that the objectives of the designation would not be compromised by the development.

The NPPF advises refusal of Major developments in NDAs, but also the approval of applications for renewable energy, if, the impacts are, or, can be made acceptable.

There is a general presumption in favour of renewable energy, however within NDAs there is a specific presumption against Major development (except in exceptional circumstances) and general presumption against inappropriate development. As the application is not "Major" its acceptability in principle rests in part, on the impact of the proposed turbines in visual terms on the landscape of the AONB. As can be seen from the section below this is not considered to be negative.

STRAT 12 which is a prohibitive policy controlling development in the open countryside allows development which meets objectives supported by other plan policies as an exception.

There are no directly relevant policies in the Local Plan but policy 40 of the Regional Plan states that local authorities should promote the development of a distributed energy network using local low carbon and renewable resources.

Paragraph 3.3.89 of the supporting justification to the policy states that there are sites available for smaller scale wind development at farms in the Eastern Sub-area of the region. The application site is considered to be one such farm and the Department for Energy and Climate Change (DECC) wind database site (accessed by the case officer on 6th September 2011) indicates that the wind speed is suitable for turbines of this blade height above ground level.

The surrounding area is also free of natural or built obstructions, all factors pointing towards the suitability of the location for wind derived energy generation. The turbines are therefore considered to be able to contribute to the regional renewable energy targets.

Accordingly the principle of the proposal is accepted.

Impact on the Landscape of the AONB

The landscape is characterised by elevated relatively open rolling farm land on the dip slope of the Wolds. Inward facing valleys with woodlands, pastures and hedgerows contrast with exposed farmland. Small villages and farmsteads are located within valleys and almost invisible in views from the ridge top roads. This is typified by Rothwell to the north and Thoresway to the south which are located within valleys and from which no views of the proposed turbines will be available.

The turbines are located on a relatively flat plateau between the two valleys with mature tree belts to the north, east and south. The closest public view point would be from the access to Northwold Farm, between 3-4 metre high hedgerows either side at a distance of 300 metres. The turbines will be partially visible but this is not considered to be a negative impact. It is considered that the two structures proposed which are simple in form and not excessively high will not detract from the landscape. It should be noted that there are no other wind turbines in the vicinity so concern in relation to cumulative impact is not relevant.

The long distance views from Caistor Road/Rothwell Road (2.9 kilometres) to the north, due to the topography and trees would be limited to the tips of the blades if visible at all.

South of Thoresway from Smithfield Plantation (2.5 kilometres) the turbines would be visible but not prominent against the backdrop of tree belts and agricultural buildings within the landscape.

To the east views from Croxby Top (1.7 kilometres) would be seen through the filter of a line of telegraph poles that crosses the landscape in the foreground. The closer proximity of the poles to Croxby Top means that they would be a more prominent feature of the landscape than the turbines further away.

Views are available 2.2 kilometres to the west from High Street, Mount Pleasant, but due to distance separation and natural vegetation they will not be a prominent feature of the landscape.

Accordingly notwithstanding the concerns of the LWCS, officers are of the opinion that the two turbines for the reasons outlined above will not detract or devalue the Area of Outstanding Natural Beauty.

Noise

PPS22 advises that wind development should be considered against the Good Practice on Controlling Noise from Wind Turbines, itself derived from 'The Assessment and Rating of Noise from Wind Farms' (ETSU for DTI 1997). As the title suggests, this specifically deals with wind farm developments but can be used as a basis for individual turbines such as the ones under consideration here.

The only dwelling that will be affected by the proposals is the bungalow within the farm holding. Thoresway Grange is sheltered by trees and 800 metres away so noise from the turbines will not be perceptible.

In low noise environments such as for the current application the advice is that wind farm noise should be limited to an absolute level within the range of 35-40dB(A). At night time (defined as 11pm to 7am) 43 dB(A) is recommended in the PPS22 Companion Guide (this is based on a sleep disturbance criteria of 35 dB(A) with an allowance of 10 dB(A) for attenuation through an open window and 2 dB(A) subtracted to account for the use of LA90,10min rather than LAeq,10min).

The sound pressure level for the proposed turbines (a 50Kw with 19.2m diameter blade) assuming a wind speed of 8m/s at hub height is 42.6 dB(A). Such a wind speed is considered to be an acceptable standard given that the operational limit for the turbine is 9.5m/s and the wind speed database (DECC 2010) estimates an average speed of around 6-7m/s. The 42.6 dB(A) is the sound pressure created at a distance of 100 metres from the turbine. The dB(A) rating reduces as the distance from the turbine increases.

ETSU for DTI 1997 advises that where the dwellings are occupied by persons with a financial stake in the wind turbine development that a higher limit of 45 dB(A) can be applied. On this basis the noise impacts are judged to fall within acceptable levels.

Other Issues

Air Safety

The MOD and NATS have no safeguarding objections to the proposal.

Impacts on Protected Species

The siting of the turbines has followed guidance prepared by Natural England to avoid any adverse impacts on protected species.

Conclusion and reasons for Decision

This is a proposal that is not considered to devalue or cause harm to the Lincolnshire Wolds Area of Outstanding Natural Beauty, or to the living conditions of nearby dwellings and will positively contribute to meeting national and regional targets for reducing carbon emissions and the development of renewable energy sources. Accordingly it is considered to comply with PPS1, its supplement on climate change, , PPS7, PPS 9, PPS 22, policy 40 of the East Midlands Regional plan and Policies STRAT 1, STRAT 12 and NBE 9 of the West Lindsey Local Plan First Review 2006.

Recommendation: Grant permission subject to the following conditions:

Conditions stating the time by which the development must be commenced:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

Conditions which apply or require matters to be agreed before the development is commenced:

None

Conditions which apply or are to be observed during the course of the development:

None

Conditions which apply or relate to matters which are to be observed following completion of the development:

2. The planning permission is for a period from the date of this permission until the date occurring 25 years after the date of commissioning of the hereby approved development. Written confirmation of the date of commissioning of the development shall be provided to the Planning Authority no later than 1 calendar month after that event.

Reason: To ensure the turbine does not remain as a permanent feature in the landscape once it is no longer operational, in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

3. Not later than 3 months from the date that the planning permission hereby granted expires, all wind turbines, and ancillary equipment shall be dismantled and removed from the site and the land reinstated to its former condition.

Reason: To ensure the turbine does not remain as a permanent feature in the landscape once it is no longer operational, in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

4. The turbines shall be removed from the site if they are decommissioned or otherwise cease to be used to generate electricity for a continuous period exceeding six months, unless the local planning authority agrees in writing to any longer period, and the wind turbines and ancillary equipment shall be dismantled and removed from the site and the land reinstated to its former condition within a period of 3 months.

Reason: To ensure the turbine does not remain as a permanent feature in the landscape once it is no longer operational, in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Prepared by: George Backovic

Date : 07/09/2011

Signed:

Authorising Officer **Date:**

Decision Level

Committee