



DM.09 11/12
Development Management Committee
24th August 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?

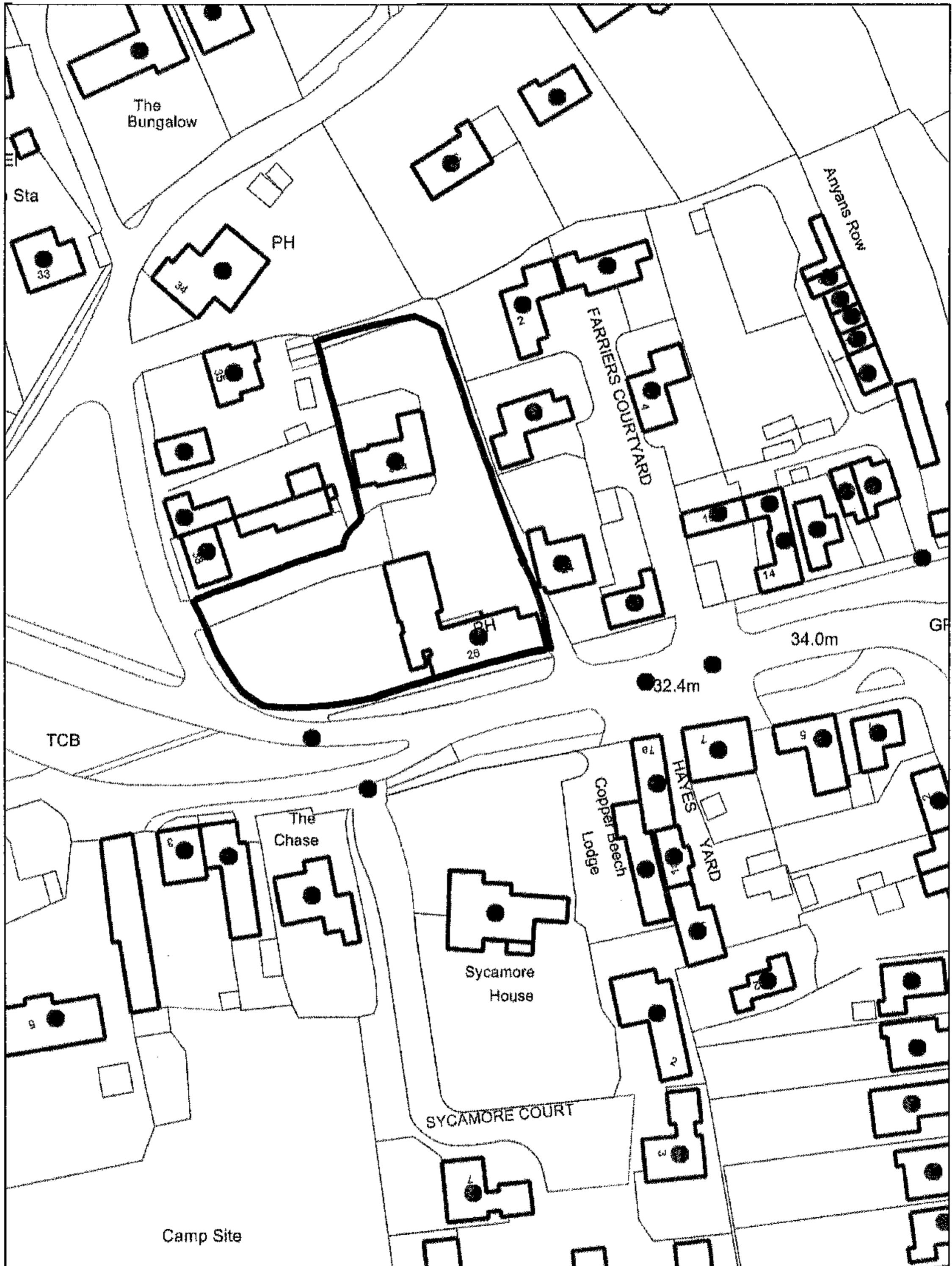
Yes

No

Key Decision:

Yes

No



Planning Application No: 127402

PROPOSAL: Application to vary condition 19 of planning permission M06-P-1082 granted 24 January 2007 - re: brick wall between dwelling and restaurant

LOCATION: Black Horse Inn 26 High Street Ingham Lincoln, Lincolnshire LN1 2YW

WARD: Scampton

WARD MEMBER(S): Councillor Patterson

APPLICANT NAME: Mr P Smith

TARGET DECISION DATE: 01/08/2011

DEVELOPMENT TYPE: Minor - all others

CASE OFFICER: Simon Sharp

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

Description

The application site comprises of an area to the rear of the Black Horse Inn, Ingham. The site is located within the Ingham Conservation Area.

Relevant history

The application seeks permission for the variation of condition 19 of planning approval M06/P/1082 relating to extensions to the pub and a new dwelling, which was worded as follows;

“19. Prior to the first occupation/use of either the dwelling or the extension hereby permitted the brick wall between the front wall of the dwelling's garden and the restaurant extension shall be provided in accordance with the approved plan and retained thereafter unless express planning permission is granted for its alteration or demolition.

Reason; For the avoidance of doubt and to allow the consideration of changes to this key feature within the public domain in the interests of the amenity of the locality in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review.”

This wall effectively would prevent vehicular or pedestrian access from the green lane that currently links The Green to the site (the alternative main access being from High Street).

Members may recall that a fresh permission has subsequently been granted in May of this year (WLDC ref 126723). It is advised that, at the time of the officer's site visit for the current application, the wall has not been constructed to comply with either condition 19 of the original permission or the alternative condition (1) applied to permission 126723 which read as follows and also ensured that there was no gap for vehicles to pass through:-

“Notwithstanding the details shown on the approved plan E-10-433 002 received on 25 November 2010 showing a 750mm high boundary wall, within 3 calendar months of the date of this approval, a 1500mm high wall (measured from ground level) shall be erected between points B and C on the same said plan and retained as such thereafter

Reason; In the interests of the residential amenity of No.38, The Green, responding to the additional noise and disturbance from the site and the access as a result of the extension to the public house hereby approved and in accordance with West Lindsey Local Plan Policy STRAT 1.”

Proposal

The application seeks planning permission to vary condition 19 of the original permission (M06/P/1082) to allow for:-

- A realignment of the wall to provide for a turning area for vehicular traffic using the green land adjacent to No. 38, The Green (access from The Green). This achieved by a 45 degree return into the site.
- A height of 1.5m.
- A gap of 1.1m to permit pedestrian access from the beer garden through to the car park.

Drawing LK/11/433-011 dated May 2011 and received 6th June 2011 depicts these amendments.

Representations

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

Ingham Parish Council: “No objection.”

Local residents: Representations have been received from 37 and 38 The Green:-

- Support and no serious issues with the application.
- Supplied plan is incorrect in that it shows No. 35 as No. 37 and neighbour of No. 38 which is not indicated, is in fact No. 37. Therefore, the proposed turning area is for both Nos. 35 and 37.
- The pedestrian gap should be 1.1m.

LCC Highways: No comments received.

Relevant Planning Policies:

Development Plan

- East Midlands Regional Plan

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 (saved policies)

STRAT 1 - Development Requiring Planning Permission

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

RES1 – Residential layout and design

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

National guidance

- Draft National Planning Policy Framework
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>
- PPS 1 – Delivering Sustainable Development
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf>
- PPS 4 – Planning for Sustainable Economic Development
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>
- PPS 5 – Planning for the Historic Environment
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>
- Circular 11/95 – The Use of Conditions in Planning Permissions
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/324923.pdf>

Main issues

- Assessment of Condition 19
- Assessment of Remaining Conditions
- Other Issues

Assessment

Introduction

An application under Section 73 is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This section provides a different procedure for such applications from that applying to applications for planning permission, and requires Members to consider only the question of the conditions subject to which planning permission should be granted. This does not prevent Members from looking also at the wider considerations affecting the original grant of permission: the words simply make it clear that whatever decision is reached on the condition, the existing permission itself should be left intact. In other words, the principle cannot be revisited and therefore assessment against housing supply, policy 13a of the Regional Plan and the Strategic housing policies of the Local Plan Review is not relevant and the options are as follows:-

1. Grant permission subject to conditions differing from those subject to which the previous permission was granted. The new conditions cannot be any more onerous than the existing permission.
2. Grant permission unconditionally if it is considered that the existing conditions are no longer relevant, necessary or reasonable.
3. Refuse permission if it is considered that the permission should be subject to the existing conditions.

Assessment of Condition 19

Guidance contained within Circular 11/95 ([hyperlink in policy section](#)) advises that conditions should only be imposed which satisfy six tests, condition 19 is assessed against this criteria below;

- i) Necessary; the aim of the condition was to separate the application site from the surrounding residential dwellings and to prevent vehicular access off The Green, in the interests of both residential amenity and highway safety. As such the condition was necessary.
- ii) Relevant to planning; the condition was attached to protect residential amenity and highway safety, which are material planning considerations.
- iii) Relevant to the development hereby permitted; The condition required a wall to be constructed on the application site between the approved dwelling and the public house extension, and was therefore directly relevant to the development permitted.
- iv) Enforceable; As the condition does not specifically state between which two points on the approved plan the wall should be provided between, enforcing the condition would be difficult.
- v) Precise; As the condition does not specifically state between which two points on the approved plan the wall should be provided between, the condition is not precise.

- vi) Reasonable in all other respects; In terms of what the condition was trying to achieve (protect residential amenity and highway safety) the condition is considered to be reasonable.

By allowing a realignment of the wall (albeit with a 1.1m gap) would still result in some form of physical barrier between the site and the surrounding residential properties. The adjacent residential property at No. 38, The Green is bounded by a 1.8 metre high close boarded fence and is therefore already well screened from the application site. The realigned wall would therefore provide an appropriate and necessary level of acoustic attenuation between the car park and this nearest residential property thereby preserving the residential amenity of No. 38, The Green (in terms of from noise and disturbance emanating from the car park as a result of the new development).

The limited width of the gap would prevent most motor vehicles, such as cars, vans and lorries, from entering the car park from The Green via the green lane adjacent to No. 38. This would respond to Members concerns minuted at the April 2011 Committee (when assessing the previous application) where it was considered that the restriction of the access was required in the interests of residential amenity (noise and disturbance from vehicles using the lane accessing the public house car park). Officers do not consider that vehicular access should be prevented for this reason given, as stated in their report for that application, that this access has always been used to access the application site whether by vehicle (including delivery vehicles) or pedestrians. Inspection of historical maps and aerial photographs appears to confirm this. The issue is, therefore, whether the addition of the new dwelling and the extension to the public house have created additional movements of vehicles, the engine noise of which would be detrimental to the amenity of residents bordering the access, and/or disturbance from the raised voices of pedestrians using this same access. It is not considered that a single house has created a significantly higher level of movements than those associated with the public house before it was extended. The extension of the public house has had the potential to increase movements along the access, but again, it is considered that this has not created a material change in terms of the level and character of the noise and disturbance.

In summary, whilst there may be noise and disturbance created by the use of this access, the requirements for the provision of the wall as proposed should be limited to the necessity to respond to noise and disturbance coming from the public house car park (created as a result of the new development) rather than that coming from the green lane.

If Members considered it necessary that noise and disturbance from the green lane was also a reason for the wall needing to be constructed and retained thereafter, then the reason for any condition should be amended to reflect this consideration. The reasons for granting permission should also be changed.

Assessment of Remaining Conditions

There were a number of conditions attached to the original application. A number of the conditions relating to the commencement of the development

and pre-commencement conditions requiring details of materials are not considered necessary, given the development has been substantially completed. However, there are a number of remaining conditions relating to the availability of the parking and turning areas, the installation of noise emitting equipment, occupation of the public house and the removal of permitted development rights, which are still considered necessary, in the interests of highway safety and residential amenity. The condition referring to “the playing of music e.g. a disco, band or karaoke, with the exception of low background music” is, however, imprecise and requires rewording to be afforded precision without being more onerous and addressing the reasoning for its imposition; namely the protection of residential amenity.

Other Issues

Inaccurate numbering of houses on submitted plan – This point raised in the representations received from neighbours is noted but it has not prejudiced the officer’s ability to fully and accurately assess the application against material planning considerations.

Planning / Enforcement History - This application has been assessed on its own merits.

Access - The ownership / maintenance responsibilities of the access off The Green are civil matters and not material planning considerations. The attachment of weight and width restrictions is the responsibility of LCC Highways. Furthermore the access of The Green is not adopted.

Conclusion and reasons for granting permission

It is considered, that the variation of condition 19 and other conditions of planning approval M06/P/1082 are necessary, relevant to both planning and the development, enforceable, precise and reasonable. The construction of the wall along the proposed new alignment is necessary in the interests of residential amenity, specifically to protect No. 38, The Green from noise and disturbance emanating from the car park as a result of the new development. The proposal therefore accords with policy STRAT 1 of the West Lindsey Local Plan First Review, guidance contained Circular 11/95 The Use of Conditions in Planning Permissions, Draft National Planning Policy Framework, Planning Policy Statements 1 and 3.

Recommendation

Grant planning permission for the reasons outlined above, subject to the following conditions;

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

1. Within 3 calendar months of the date of this approval the proposed 1500 mm wall, between points A, B, C and D and points E and F (leaving a maximum gap of 1100mm between points D and E) on the approved drawing LK/11/433-011 received on 6th June 2011 shall be constructed and completed in accordance with the details on the said plan and retained as such thereafter.

Reason; In the interests of residential amenity and highway safety in accordance with West Lindsey Local Plan Policy STRAT 1.

2. The arrangements shown on the approved plan LK/390 103 received 20th October 2006 for the parking/turning/loading/unloading of vehicles, subject to the revisions detailed on drawing LK/11/433-011 received on 6th June 2011, shall be available at all times when the premises are in use.

Reason: To allow vehicles to enter and leave the highway in a forward gear in the interests of highway safety in accordance with policy STRAT1 of the West Lindsey Local Plan First Review.

3. No noise omitting equipment (refrigeration cooling units, air conditioning units, music equipment) shall be installed to the extension of the public house hereby permitted unless a scheme for the location and enclosure of any such equipment has been first submitted to and approved in writing by the District Planning Authority. Any noise omitting equipment shall be installed in accordance with the approved scheme and retained and maintained as such thereafter.

Reason: To protect the amenities of occupiers of nearby properties from excessive noise in accordance with policy STRAT1 of the West Lindsey Local Plan First Review.

4. The playing of music shall not take place within the extension of the public house hereby approved except when all external doors and windows within the extension are closed.

Reason: To protect the amenities of occupiers of nearby properties from excessive noise in accordance with policy STRAT1 of the West Lindsey Local Plan First Review.

5. The occupancy of the dwelling hereby permitted shall be limited to a person solely or mainly working in the business of managing/running the Black Horse Public House in the village of Ingham and to any resident dependants.

Reason: The dwelling is located within the car park to the Black Horse Public House and its juxtaposition to the operation of this business is such that if occupied by a person not managing/running this public house normal outlook, amenity and privacy could not be safeguarded for the dwelling in accordance with policy STRAT1 of the West Lindsey Local Plan First Review.

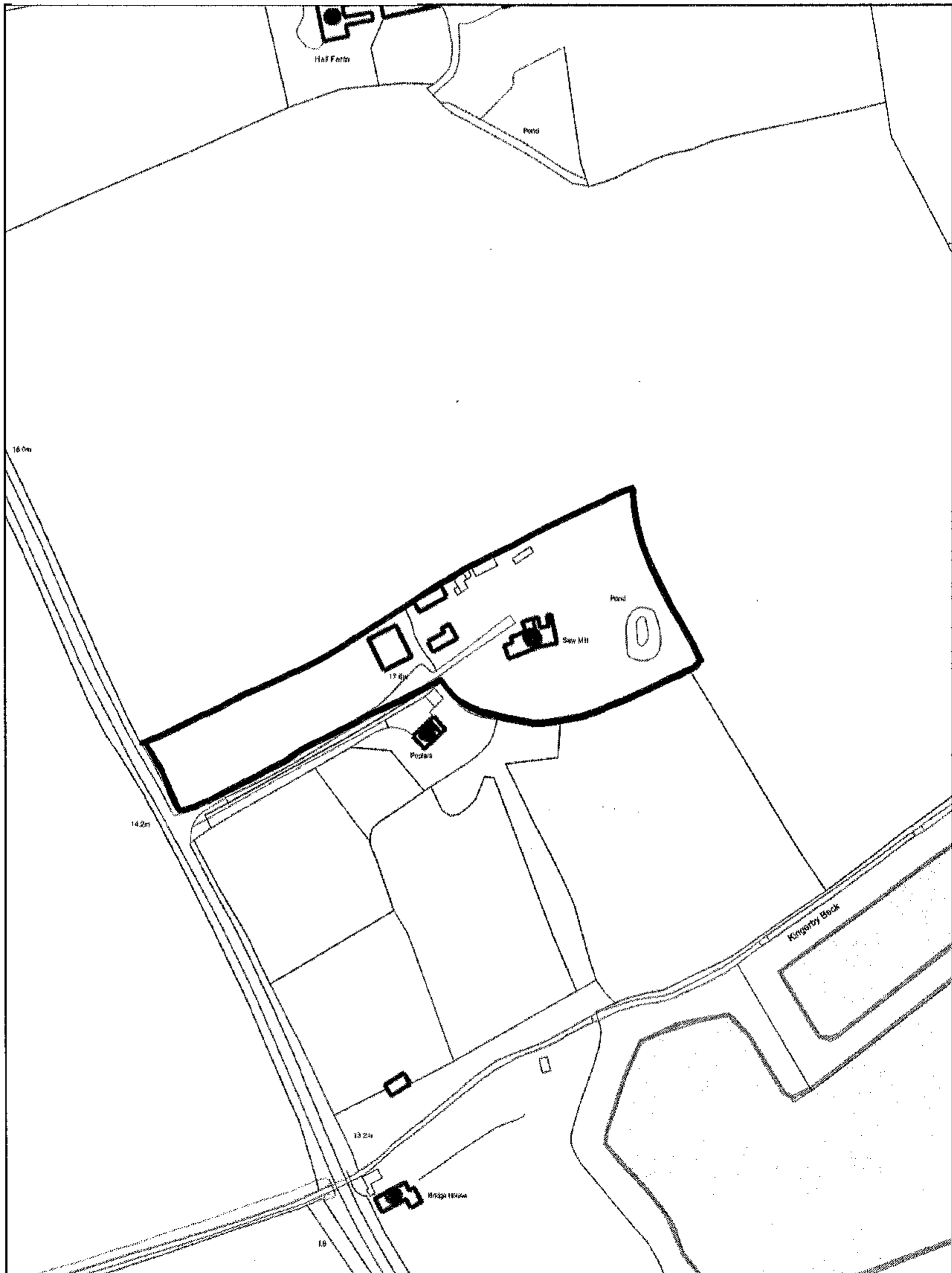
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 Classes A, B, C, E and G of Part 1 and

Class A of Part 2, Schedule 2 (or any order revoking and re-enacting that Order with or without modification), no building, extension or structure shall be erected or placed within the curtilage of the dwelling hereby permitted without express planning permission from the District Planning Authority.

Reason: Due to the nature and limited extent of the site, and in order that the District Planning Authority may assess the acceptability of such proposals in the interests of amenity in accordance with policy STRAT1 of the West Lindsey Local Plan First Review.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows shall be constructed in the east or west gable walls of the building hereby permitted without express planning permission from the District Planning Authority.

Reason: To ensure that the dwelling has a satisfactory relationship with its neighbours in accordance with policy STRAT1 of the West Lindsey Local Plan First Review.



ITEM 2

Planning Application No: 127501

PROPOSAL: Planning application to replace existing bungalow, 2no. mobile homes and other detached buildings and structures with 1no. dwelling and garage

LOCATION: Bungalow Farm Osgodby Road South Owersby Market Rasen, Lincolnshire LN8 3PJ

WARD: Middle Rasen

WARD MEMBER(S): Cllr G M Wiseman

APPLICANT NAME: Mr S Kinch (Councillor Kinch)

TARGET DECISION DATE: 30/08/2011

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Kirsty Catlow

RECOMMENDED DECISION: Grant planning permission for the reasons outlined below, subject to conditions and the signing of a unilateral undertaking.

Reason for Referral

This application is referred to the Development Management Committee as the applicant is an elected District Councillor.

Description

The application site comprises of part of a former sawmill site located off Osgodby Road, South Owersby. The application site currently houses a bungalow, two mobile homes and a number of workshops, all of which are to be demolished. The site is bounded by native hedgerows.

To the immediate west of the site is a glasshouse on land within the applicant's ownership. To the south of the access is a two storey dwelling known as Poplars. To the north of the site, beyond an agricultural field, is Hall Farm, a grade 2 listed building. To the immediate south and east of the site is the remaining former sawmill site which is in the applicant's ownership. The wider surrounding area comprises of open countryside in agricultural use, identified as North Lincolnshire Coversands and Clay Vales. A public footpath (Ower/89/4) runs through the access of the site in a north south direction.

Proposal

The application seeks planning permission for the erection of a two storey detached dwelling and double detached garage with a total floor area measuring 152 m².

A Unilateral Undertaking (attached as appendix) accompanies the application which secures;

1. The demolition and clearance of all buildings, structures and footings listed 2-8 on the existing block plan, prior to construction of the dwelling commencing.
2. The clearance of all rubbish and waste material, prior to the occupation of the dwelling.
3. The levelling and seeding of the site in the first planting season following completion of the dwelling.

The total floor area of the buildings to be removed is 397 m².

Relevant history

There is evidence that planning permission to erect a pre-fabricated dwelling on the site was granted in 1956, followed by planning permission in 1964 for a replacement dwelling.

124349 - Planning application for change of use of site currently having B2 use to C3 use. Construction of a detached single family dwelling, detached garage and storage buildings with home office over and walled kitchen garden. Appeal against non determination dismissed.

Representations

Chairman/Ward member: No representations received to date.

Owersby Parish Council: Object to these plans on the grounds that there is no provision made for this site as a whole. There is no provision on these plans for further development of the site and this is questionable as it would appear that further development will be made.

Local residents: A letter of objection has been received from J E and I J Wilmot on the grounds that the proposed drawings show land in their ownership/occupation and that the proposed plans are unclear as to the actual intentions of the application in relation to access and use of land to the south and east of the building site.

LCC Footpaths: No response to date.

LCC Archaeology: The settlement of Owersby has its origins in the Anglo Saxon period and survives to the present day. Owersby is recorded in the Domesday survey (1086AD) which records six separate manors, two watermills and a minimum population of 90 taxable men. Medieval Owersby had two foci, one centring around the church, and the second in the vicinity of

Bungalow Farm down to the stream. Archaeological earthworks associated with the medieval village have been identified on aerial photographs in the adjacent fields. However the proposed development includes demolition of existing buildings and the erection of a new dwelling on the site of these buildings. This means that the excavation of the footings for the new building will be through previously disturbed ground. There is no further archaeological input required for this application.

Environment Agency: Do not wish to make any comments on the application.

Relevant Planning 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 12 Development in Open Countryside

<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>

RES 1 Housing Layout and Design

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

RES 8 Replacement Dwelling in the Open Countryside

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

CORE 10 Open Space and Landscaping

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

NBE 10 Protection of Landscape Character in Development Proposals

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

NBE 14 Waste Water Disposal

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

National Planning Guidance

- Draft National Planning Policy Framework
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>
- PPS 1 Delivering Sustainable Development

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

- PPS 3 Housing
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918430.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>

Main issues

- Principle of a Dwelling (including Impact on Open Countryside)
- Residential Amenity
- Impact on Listed Building
- Public Right of Way
- Drainage
- Other Matters

Assessment:

Principle of a Dwelling (including Impact on Open Countryside)

The site is located within the open countryside where Policy STRAT 12 of the Local Plan states that planning permission will not be granted unless it is for a specific use identified as being appropriate in an open countryside location or is otherwise supported by other plan policies. Residential development is not one of the types of development identified as being appropriate unless there are exceptional circumstances (such as need related to an countryside based use).

Policy support for such proposals is provided by Policy RES 8 of the Local Plan which states that planning permission will be granted for replacement dwellings in the open countryside providing they meet a number of criteria which are assessed below;

- i. The Planning Inspector who considered a previous appeal on the site in November 2009 was satisfied, on the information provided, that whilst the bungalow was no longer occupied it appeared to have a lawful residential use. In other words it has not been abandoned. The Council has no reason to, or evidence which, disputes this view.
- ii. The proposed two storey dwelling and double garage are not similar to or smaller than the existing modest bungalow which it seeks to replace.
- iii. The proposed dwelling is of a traditional Lincolnshire farmhouse design and would not appear out of character with dwellings in the wider locality.

- iv. The existing access arrangements will remain unchanged and will therefore have no greater impact on the appearance or character of the surrounding area than at present. Whilst the proposed dwelling is larger in size and scale than the existing dwelling, the site is screened from the surrounding area by native tree and hedge planting which is to be improved (secured by condition), and the proposal will see the demolition and removal of 6 other structures within the site (secured through a unilateral undertaking). As a result the proposed dwelling would not be more visually intrusive or harmful to the appearance of the surrounding countryside than the existing dwelling.
- v. The site is served by an existing access onto Osgodby Road which has good visibility in both directions. The replacement of one dwelling would not result in any increases in traffic which would be detrimental to highway safety.
- vi. The demolition of the existing dwelling (together with 6 other structures) prior to construction of the dwelling commencing will be secured through the signing of a unilateral undertaking.
- vii. The existing bungalow on the site is in a poor condition and not currently fit for occupation, and its retention is not desirable.
- viii. The existing bungalow is not of historic or architectural interest.

The proposed replacement dwelling therefore accords with Policy RES 8 apart from criteria ii, as the size of the replacement dwelling is not similar to or smaller than the existing bungalow to be replaced. It is therefore necessary to consider if there are any other material considerations which outweigh this conflict with Policy RES 8 ii.

As outlined above, the site currently houses a number of structures in addition to the existing bungalow, including a shed, 2 workshops and two mobile homes, all of which are in a poor state of repair and appear unsightly. The replacement of these structures (secured through the signing of a unilateral undertaking) with the proposed dwelling would result in an overall reduction in the amount of development on the site and introduce a dwelling of a traditional design more in keeping with the character and appearance of the area. It is considered that this carries significant weight in the consideration of the application which outweighs the conflict with Policy RES 8 ii and provides the justification for allowing development in the open countryside as required by Policy STRAT 12.

Given that the proposal involves replacing one lawful dwelling house with another lawful dwelling house, there will be no impact on the housing supply figures in the District and therefore there is no need to justify the proposal in relation to Policy STRAT 9 of the Local Plan or policy 13a of the Regional Plan.

Residential Amenity

There is only one dwelling house in close proximity of the application site, Poplars, a two storey dwelling located to the south. The proposed dwelling will be over 30 metres from Poplars and this separation distance, together

with the orientation of the proposed dwelling house will result in there being no detrimental impact on residential amenity.

Impact on Listed Building

A grade II listed farm house is located to 245 metres to the north of the application site. Given the separation distance, the orientation of the dwelling, the lowered northern elements of the dwelling, the presence of existing boundary screening and the gentle sloping of the land away from the listed building down to the application site, it is not considered that the proposed development would impact on the setting of the listed building.

Public Right of Way

A Public Right of Way runs through the access of the site in a north south direction. There will be no direct obstruction to this public right of way as a result of the proposed development. Views from the public right of way across the site will be improved as a result of the removal of a number of structures and their replacement with one traditional dwelling and garage.

Drainage

The agent states that surface water drainage will be disposed of via soakaway and that foul, in the absence of mains drainage, will be dealt with by way of a package treatment plant. Whilst there is no reason to doubt that soakaways are not viable in this locality, a condition will be attached to any approval requiring the details of both the soakaways and package treatment to be submitted for approval to ensure that suitable and sustainable drainage is secured which does not pollute the local environment.

Other matters

As no specific construction **materials** have been stated on the application form, these will be conditioned for approval, in order to protect the character and appearance of the site and the surrounding open countryside.

This application has been assessed on its own merits. The possible **future development of land** within the applicants ownership is not material to the consideration of this application. Any further development would require a separate planning application to be submitted.

With regards to **land ownership** the agent has submitted a revised location plan which shows the 'other land' owned by the applicant as outlined in blue amended.

Conclusion and Reason for granting permission

Having regard to development plan policies STRAT 1 Development Requiring Planning Permission, STRAT 12 Development in Open Countryside, STRAT 9 Phasing of Housing Development and Release of Land, RES 1 Housing Layout and Design, RES 8 Replacement Dwelling in the Open Countryside,

CORE 10 Open Space and Landscaping, NBE 10 Protection of Landscape Character in Development Proposals and NBE 14 Waste Water Disposal of the West Lindsey Local Plan and East Midlands Regional Plan 2009 - policy 13a – Regional Housing Provision as well as all other material considerations including policy contained within Draft National Planning Policy Framework, PPS 1 Delivering Sustainable Development, PPS 3 Housing and Circular 03/99 Planning requirement in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development;

The removal of the existing bungalow together with the other structures on the site carries weight in the determination of this application and provides the justification for allowing a dwelling on the site which is larger in size and scale than the existing dwelling it replaces. The replacement of one dwelling for another, albeit larger in size, will not have an impact on housing supply in the District. Subject to a condition relating to additional tree and hedge planting, the proposed development would not detract from the character or appearance of the area. In fact the removal of several structures on the site and their replacement with a traditionally designed dwelling, which respects the character of the area, will improve the overall appearance of the site and its surroundings. The proposed dwelling would not result in harm to residential amenity, pollute the water environment or impact on the setting of the listed building or public right of way. The proposed development is therefore considered acceptable.

Recommendation:

Grant planning permission for the reasons outlined above, subject to the following conditions and the signed of a unilateral undertaking.

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:

2. No development shall take place until details of all external and roofing materials to be used have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the dwelling and its surrounding open countryside location in accordance with West Lindsey Local Plan First Review Policy STRAT 1.

3. No development shall take place until, a scheme of landscaping including details of the size, species and position or density of all trees and hedges to

be planted as indicated on the proposed Block Plan TMA/1001/01 have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that a landscaping scheme to screen the development from the surrounding open countryside is provided in accordance with West Lindsey Local Plan First Review Policy STRAT 1, CORE 10 and RES1.

4. No development shall take place until, a scheme for the disposal of foul via package treatment plant and surface water via soakaways has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate drainage facilities are provided to serve the development and to prevent pollution of the water environment in accordance with West Lindsey Local Plan First Review Policies STRAT1, RES1, NBE14 and NBE15.

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

5. The development shall only be carried out using the materials approved as per condition 2.

Reason: To safeguard the character and appearance of the dwelling and its surrounding open countryside location in accordance with West Lindsey Local Plan First Review Policy STRAT 1.

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

6. The development shall not be brought into use until the foul and surface water drainage has been completed in accordance with the details approved as per condition 4.

Reason: The development shall only be carried out in accordance with the approved details.

7. All planting comprised in the scheme of landscaping approved under condition 3 of this approval shall be carried out in the first planting season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

Reason: To ensure that a landscaping scheme to screen the development from the surrounding open countryside is provided in accordance with West Lindsey Local Plan First Review Policy STRAT 1, CORE 10 and RES1.

West Lindsey District Council

08 AUG 2011

POST ROOM

DATE: 5th. July, 2011

STUART FRANCIS KINCH AND SARA JAYNE KINCH

AND

WEST LINDSEY DISTRICT COUNCIL

UNILATERAL UNDERTAKING

**SECTION 106
TOWN AND COUNTRY PLANNING ACT 1990**

RELATING TO:

OWERSBY SAWMILL, OSGODBY ROAD, SOUTH OWERSBY LN8 3PJ

REF()

Planning Application Ref. 127501

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THIS UNDERTAKING is made as a deed the 5th (Fifth) day of July 2011

1 PARTIES

- 1.1 **STUART FRANCIS KINCH AND SARA JAYNE KINCH** of L'Ecole Main Street
Torksey LN7 2EE ("the Owner").
- 1.2 **WEST LINDSEY DISTRICT COUNCIL** of Guildhall, Marshall's Yard,
Gainsborough, Lincolnshire, DN21 2NA ("the Council").

2 DEFINITIONS

In this Undertaking (except where the context otherwise requires):

- 2.1 **“the Act”** The Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991).
- 2.2 **“the Application”** planning application number 127501 dated 5th. July, 2011
- 2.3 **“ the Application Site”** The land edged red on the Plan
- 2.4 **“Commencement of the Development”** The earliest date upon which any material operations are begun in accordance with the provisions of Section 56(4) of the Act save for the purposes of this Undertaking none of the following operations shall constitute a material operation:
- 2.5.1 site preparation works;
 - 2.5.2 archaeological investigations;
 - 2.5.3 site investigation works (including environmental investigations);
 - 2.5.4 works of demolition;
- 2.5 and “Commence the Development” shall be construed accordingly.
- 2.6 **“Completed” or “ Completion”** In respect of a Dwelling, the issue of a Final Certificate under the Building Act 1984
- 2.7 **“the Development”** The development authorised by the Planning Permission.
- 2.8 **“Dwellings”** A dwelling (including a house flat apartment or maisonette) to be constructed pursuant to the Planning Permission
- 2.9 **“the Development Services Manager”** The person the Council shall appoint as the Head of the Department responsible for Planning Services for the time being.
- 2.10 **“the Land”** The Land shown for the purposes of identification only edged red on Plan Number TMA/1001/01 known as Owersby Sawmill South Owersby.
- 2.11 **“Occupation of the Development”** The beneficial occupation of any part of the

Development for any purpose other than the carrying out of the Development and **“Occupy the Development”** shall be construed accordingly.

- 2.12 **“Plan Number”** The plan annexed to this Undertaking of that number.
- 2.13 **“Planning Permission”** The planning permission to be granted by the Council pursuant to the Application in substantially the form of the draft annexed to this Undertaking.

3 INTERPRETATION

In this Deed

- (a) Words in the singular include the plural and vice versa
- (b) A reference to a person includes companies and all other legal entities
- (c) Wherever there is more than one person named as a part and where more than one party undertakes an obligation all their obligations can be enforced against all them jointly and against each party individually unless there is an express contrary provision
- (d) References to clauses and schedules are to clauses and schedules of this Deed unless stated otherwise
- (e) Reference to a paragraph is to a paragraph of the schedule to which the reference is made unless stated otherwise
- (f) The headings and table of contents of this Deed are for convenience only and shall not affect its interpretation
- (g) Unless this Deed states otherwise any reference to a statute or any other legislative provision includes any amendment extension modification or re-enactment of it for the time being in force

- (h) References to the Council's Corporate Director of Regeneration and Culture shall include any successor office holders arising through any Council internal reorganisation
- (i) References to Council Departments shall include successor departments arising through any Council internal reorganisation
- (j) References to the Council and the Owner shall include their successors in title and assigns

4 INFORMATION

- 4.1 The Owner owns the freehold interest in the Land and is registered as proprietor of it with Title Absolute at H M Land Registry free from incumbrances other than those matters contained or referred to in the Property and Charges Registers of Title Number LL301880.
- 4.2 The Council is the local planning authority for the purposes of the Act for the Land.
- 4.3 The Owner has by the Application applied to the Council for planning permission for replacement of existing bungalow, two more mobile homes and other buildings and structures with one new dwelling and garage.
- 4.4 The Council is satisfied that the Development is such as may be approved by the Council under the Act and planning permission granted (subject to conditions) subject to the Owner covenanting in the terms of this Undertaking.

5 STATUTORY AUTHORITY AND LEGAL EFFECT

- 5.1 This Undertaking shall constitute a planning obligation for the purposes of and made pursuant to Section 106 of the Act.
- 5.2 The obligations of the Owner in this Undertaking are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as local planning authority.
- 5.3 Subject to clause 5.4, the Owner covenants with the Council to the intent that this Undertaking shall be enforceable without limit of time (other than as expressly mentioned in this Undertaking) against the Owner and any person deriving title through or under it to the Land or any part or parts of it as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.
- 5.4 No person shall be bound by any obligations, rights and duties contained in this Undertaking and/or be liable for any breach of a covenant and/or obligation contained in this Undertaking after they shall have parted with all interest in the Land or the part in respect of which such obligation relates or such breach occurs PROVIDED THAT they shall remain liable for any subsisting breach of covenant prior to parting with their interest.
- 5.5 No statutory undertaker shall be bound by any obligations, rights and duties contained in this Undertaking and/or be liable for any breach of a covenant and/or obligation contained in this Undertaking in respect of any site used only as an electricity substation, gas governor or pumping station.

- 5.6 If the Planning Permission expires (within the meaning of Sections 91, 92 or 93 of the Act) or is revoked or otherwise withdrawn before Commencement of the Development, this Undertaking shall forthwith determine and cease to have effect.
- 5.7 Nothing in this Undertaking shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Undertaking.
- 5.8 Nothing in this Undertaking shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other Act or any statutory instrument, order or byelaw in the exercise of their functions as a local authority.

6 CONDITION PRECEDENT

The planning obligations contained in this Undertaking shall not be enforceable by the Council until the grant of the Planning Permission by the Council.

7 OBLIGATIONS

The Owner further covenants, agrees and declares in respect of the Land as set out in the Schedules.

8 COSTS

- 8.1 Prior to the execution of this Deed the Owner shall pay to the Council the sum of £1500 being its reasonable costs in relation to the Council's administrative costs in connection with the enforcement and monitoring of this Deed

9 INVALIDITY

It is agreed and declared that if any clause or sub-clause of this Undertaking shall be deemed to be unenforceable or ultra vires the remainder of this Undertaking shall remain in full force and effect provided severance from this Undertaking is possible.

10 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Nothing contained in this Undertaking shall give, or be construed as giving, any rights, privileges, powers or enforceability other than to the Council and to the specific person executing this Undertaking as the Owner and its successors (if any) as defined in this Undertaking and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise from it are expressly excluded to the intent that no other third party within the meaning of that Act shall have any rights of enforcement in respect of any matter contained in this Undertaking.

11 OTHER MATTERS

- 11.1 The Owner shall indemnify the Council for any expenses or liability arising to [it/them]in respect of breach by the Owner of any obligations contained in this Undertaking.
- 11.2 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval to be served under or in connection with this Undertaking and any such notice or approval shall be in writing and shall specifically refer to the name, date and parties to this Undertaking and shall cite the number and clause of this Undertaking to which it relates.
- 11.3 Payment of any money under this Undertaking shall be made by the Owner sending the full amount payable in the form of a Banker's Draft or Solicitors' client account cheque within the time specified in this Undertaking together with a letter specifically referring the name, date and parties to this Undertaking and

citing the number and clause of this Undertaking to which the relevant sum relates.

- o This Undertaking shall be registered as a Local Land Charge.

IN WITNESS of which the Parties have executed this Undertaking as a deed and have delivered it upon dating the day and year first before written.

SCHEDULE 1
General Obligations

The Owner covenants with the Council with the intent that these are planning obligations for the purposes of Section 106 of the Act:

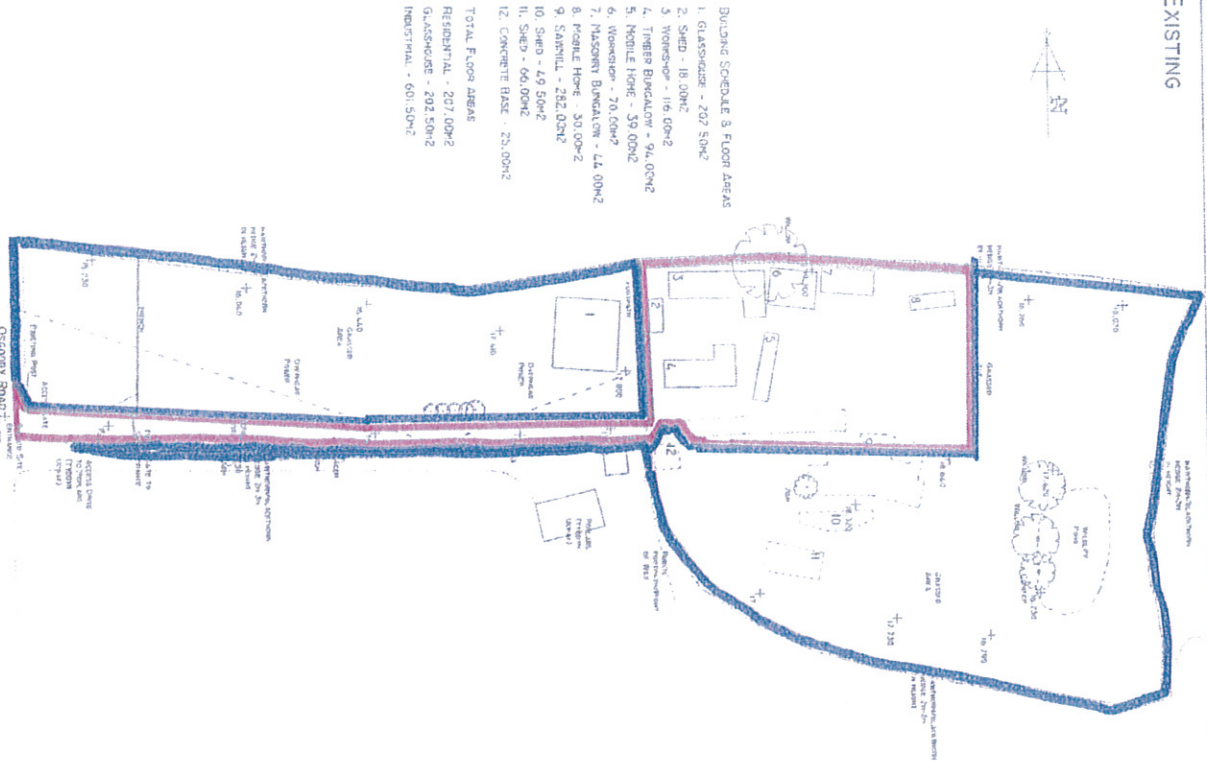
1. To permit the Development Services Manager and any person or persons authorised by him access to the Land or any part of it at all reasonable times, on reasonable notice and in compliance with the Owner's reasonable requirements, and to permit him or them to inspect the Development and all materials intended for use in it.
2. To give the Council notice in writing no later than 7 days prior to the anticipated Commencement of the Development.
3. To give the Council notice in writing of the Commencement of the Development within 7 days of Commencement of the Development.
4. To give the Council notice in writing no later than 7 days prior to the anticipated Occupation of the Development.
5. To give the Council notice in writing of the Occupation of the Development within 7 days of Occupation of the Development.

Schedule 2

The owner covenants with the Council to

- Prior to commencing construction of the residential unit to demolish and clear all buildings, structures and footings listed 2-8 in schedule 3 layout drawing including the removal of all demolished materials from the site.
- Prior to occupation of the residential dwelling to clear all rubbish and waste materials currently deposited on the site and remove them from the site.
- Level the cleared site and re-seed at the in the next planting season following completion of the dwelling.

EXISTING



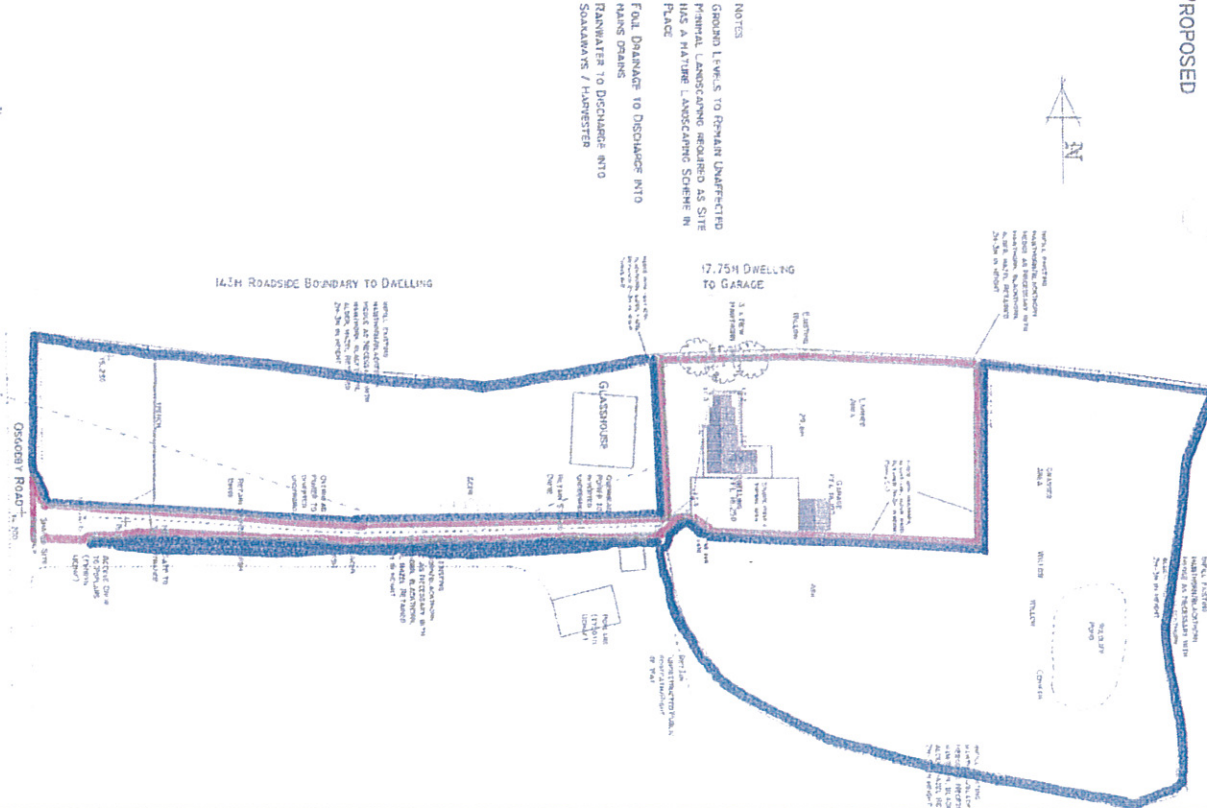
- BUILDING SCHEDULE 3 FLOOR AREAS**
- 1. GLASSHOUSE - 207.50M²
 - 2. SHED - 18.00M²
 - 3. WAREHOUSE - 116.00M²
 - 4. TIMBER BUNGALOW - 94.00M²
 - 5. HOUSEHOLD - 59.00M²
 - 6. WAREHOUSE - 70.00M²
 - 7. THESSEY BUNGALOW - 44.00M²
 - 8. HOUSEHOLD - 30.00M²
 - 9. SHED - 22.00M²
 - 10. SHED - 49.50M²
 - 11. SHED - 66.00M²
 - 12. CONCRETE BASE - 23.00M²
- TOTAL FLOOR AREAS**
- RESIDENTIAL - 207.00M²
 - GLASSHOUSE - 202.50M²
 - INDUSTRIAL - 601.50M²

All details and legends to be checked on site prior to commencement.
 If it is found that the details do not conform to the above details,
 Do not start work until all details are checked on site.
 Existing House
 Site Area - 11720sq (2.83hectares 1:17ha)
 Access Drive - 780sq (0.18hectares 0.07ha)

Revisions:

- A
- B
- C
- D

PROPOSED



NOTES

GROUND LEVELS TO REMAIN UNAFFECTED
 INITIAL LANDSCAPING REQUIRED AS SITE
 HAS A HAYRIGG LANDSCAPING SCHEME IN
 PLACE

FULL DRAINAGE TO DISCHARGE INTO
 MAINS DRAINS
 RAINWATER TO DISCHARGE INTO
 SOAKAWAYS / HARVESTER

Date

Scale: 1:500

Date: 08/03/11

Drawn: TA

Issue: Reserve App

Project: Proposed two storey dwelling and detached
 code garage, Osceola Road, Orono, Qld.

Client:

Drawing Title: Existing & Proposed Block Plans

Drawing No: TA/11/001

Revised:

Paper Size: A1

SCHEDULE 3: LAYOUT DRAWING

Prepared by:
 Checked by:
 Drawn by:
 Date:
 Scale:
 Drawing No:



ITEM 3

Planning Application No: 127588

PROPOSAL: Planning application for change of use of public house to office accommodation - amendment to previously approved scheme 126621

LOCATION: Plough Inn 37 Church Street Gainsborough Lincolnshire DN21 2JR

WARD: Gainsborough South West

WARD MEMBER(S): Cllr Mrs J A Rainsforth and Cllr T V Young

APPLICANT NAME: West Lindsey District Council

TARGET DECISION DATE: 23/09/2011

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 referred to the Development Management Committee as West Lindsey District Council is the applicant.

Site Description:

The site adjoins a Conservation Area (to the south and on the opposite side of Church Street), All Saints Church, a Grade 1 listed building and there are several other listed buildings diagonally opposite on the east side of Church Street. The surrounding area comprises of a mix of commercial and residential properties, with a three storey block of flats to the immediate north of the site. The site is located within flood zones 2 and 3. A flood risk assessment and an archaeological evaluation have been submitted with the application as well as the required Design and Access Statement.

Relevant history:

The Plough Inn has been closed for some time and has been acquired by the Council with a view to converting it to provide work space and meeting rooms for new businesses:-

125174 - Planning permission for a change of use from A4 (pubs and bars) to B1 (Offices, Research and Light Industry) was originally granted in February 2010. The scheme included a single storey rear extension to provide 3 workshop units, a two storey rear extension to incorporate a lift and a side entrance canopy.

126621 – Planning permission for revisions to the original scheme was granted in December 2010. This scheme showed the deletion of the single storey rear extension as well as alterations to the design of the two storey lift extension, rear window treatment and the side entrance area.

Current Proposal:

The current application sees the removal of the two storey rear lift extension and the side entrance canopy, alterations to the rear window openings and changes to the vehicular access arrangements resulting in the site retaining its current access between The Plough and block of flats to the immediate north of the site.

Representations

Chairman/Ward members: No representations received to date.

Town Council/Meeting: No representations received to date.

Local residents: No representations received to date.

LCC Highways: No representations received to date.

English Heritage: No representations received to date.

Environment Agency: Previously raised no objections subject to a condition requiring the recommendations in the Flood Risk Assessment to be incorporated into the development.

LCC Archaeology: Previously advised that archaeological evaluation was undertaken on this site in October 2009 and late post medieval features were revealed and have been sealed. No further archaeological input required.

Any further representations received before the publicity expires on 23rd August will be verbally reported to the Committee.

Relevant policies

Development Plan

- East Midlands Regional Plan

Policy 19 Regional priorities for regeneration

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

Policy 22 Regional priorities for town centres and retail development

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

Policy 27 Regional priorities for the historic environment

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>

MT 1 Market Towns

<http://www2.west-lindsey.gov.uk/localplan/written/cpt5.htm>

CRT 4 Protection of Community Post Offices, Convenience Stores and Public Houses

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

RTC 1 Town Centre Development

<http://www2.west-lindsey.gov.uk/localplan/written/cpt10.htm>

Other Policy Guidance:

- Draft National Planning Policy Framework
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>
- PPS 4 Planning for sustainable economic growth
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>
- PPS 5 Planning for the Historic Environment
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>
- Gainsborough Regained – The Masterplan (2007)
<http://www2.west-lindsey.gov.uk/upload/public/attachments/1242/GainsboroughRegainedExecutiveSummary.pdf#>

Main Issues:

Since planning permission was granted for the latest scheme in December 2010, there have been no changes in circumstances or material planning considerations which would affect this proposal and as a result the principle of the development remains acceptable. This current extant consent provides a 'fall back' position and carries significant weight in the consideration of this application.

It is considered that the main considerations in determining this application are;

- Does the removal of the two storey rear extension and porch together with the alterations to the rear elevation affect the setting of the nearby Grade I Listed Building or the adjacent Conservation Area?
- Do the alterations to the access arrangements have a detrimental impact on highway safety?

- Do the alterations to the access arrangements have a detrimental impact on residential amenity?
- Other Matters

Assessment:

Does the removal of the two storey rear extension and porch together with the alterations to the rear elevation affect the setting of the nearby Grade I Listed Building or the adjacent Conservation Area?

The Church of All Saints, a Grade 1 Listed Building, is located directly to the south of the application site. The Church is surrounded by generous grounds which contain a number of trees.

The Conservation Area boundary runs along the south side of the property. As well as the Church there are numerous listed buildings in the Conservation Area on the east side of Church Street.

The Church stands in a landscaped setting. It dominates this side of the street and, by comparison, the other buildings opposite and beyond are smaller in scale, even though some of them are three storeys high. The Plough stands tight on the pavement edge in contrast to the Church which is set back and on raised ground. The outbuildings behind the pub are single storey in red bricks covered in tiles and slates, but a 2m high wall on the common boundary means that only the roofs and the section of one end wall above the eaves are readily visible in the street scene. The trees in this part of the church yard also mask these in street views.

The proposal will remove the unsightly outbuildings and see The Plough refurbished and brought into a use which will see it retained and maintained. As a result, it is considered that the proposal will not have a detrimental impact on the setting of the Listed Building and will preserve the character and appearance of the adjacent Conservation Area.

However, in the context of such interests, it is still considered necessary to condition construction materials and boundary treatment to be submitted for approval.

Do the alterations to the access arrangements have a detrimental impact on highway safety?

The Plough is served by a vehicular access to the north of the site adjacent to 1-11 Church Street, a three storey block of flats built up to the pavement edge. The previous scheme included a new vehicular access off Church Street to the south. However due to financial constraints, the construction of this new access is no longer viable. This part of Church Street, from its junction with New Street northwards, is one way with traffic flowing in a northerly direction. Whilst it is accepted that the flats to the immediate north of the access are built up to the pavement edge and therefore visibility at the junction is reduced, given that traffic will only be flowing from the right when exiting the premises, it is not considered that the proposal would have a

significant detrimental impact on highway safety. It should also be noted that this is an existing access which previously served a public house and the proposed office development is unlikely to result in significant increases in traffic than the current permitted use. The proposal would not therefore have a detrimental impact on highway safety.

A condition will be attached to any approval requiring the access, car parking and service areas to be laid out in accordance with the proposed site layout plan before the development is brought into use, to ensure there is a safe access and adequate off street car parking and servicing areas to serve the proposed office development.

Do the alterations to the access arrangements have a detrimental impact on residential amenity?

As outlined above, the block of flats to the north of the site are built up to the pavement edge facing Church Street and adjacent to the existing access to The Plough. As a result the amenity of residents is already compromised to a certain extent by noise and disturbance from traffic and passers by. The side elevation of this block of flats facing the application site is also blank. The use of the access to serve the proposed office block is unlikely to result in a significant intensification of its use which would result in unacceptable noise and disturbance to residents of 1-11 Church Street. The proposal would not be harmful to residential amenity.

Other Matters

The Council's Environmental Protection Officer previously advised that there is potential for the land to be contaminated. A Site Investigation Report has since been submitted to the Council and approved by the Environmental Protection Officer.

The site is located within Flood Zones 2 and 3 and whilst no objections were raised by the Environment Agency, it is considered necessary to condition that the development is carried out in accordance with the previously submitted Flood Risk Assessment to protect future occupiers from the risks of flooding and minimise the impacts of the development on flooding downstream. Sequentially, the vulnerability of the use to flood risk would not increase.

Conclusion and Reason for Approval

The existing extant consent on the site to convert The Plough to offices is a material consideration in the determination of this application which carries significant weight. The removal of the two storey rear extension and the side canopy from the scheme would not harm the setting of the adjacent Grade I Listed Building and would preserve the character and appearance of the adjoining conservation area. The proposed alterations to the access arrangements would not have a detrimental impact on highway safety or residential amenity. The proposal therefore accords with policies STRAT 1

Development requiring Planning Permission, MT 1 Market Towns, CRT 4 Protection of Community Post Offices, Convenience Stores and Public Houses and RTC 1 Town Centre Development, Policy 19 Regional Priorities for Regeneration, Policy 22 Regional Priorities for Town Centres and Retail Development and Policy 27 Regional Priorities for the Historic Environment and policy contained within Draft National Planning Policy Framework, PPS 4 Planning for sustainable economic growth, PPS 5 Planning for the Historic Environment and Gainsborough Regained – The Masterplan (2009).

Recommendation

Grant planning permission for the reasons outlined above, 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:

2. No development shall take place until details of the design and finished colour of the replacement window frames, the type and finish of the timber cladding, the colours of the glazed window panels and the details of the boundary railings and fencing have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the materials finishes and boundary treatments are in keeping with the character of the building and protect the setting of the adjacent Listed Building in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006 and guidance contained within PPS 5 Planning for the Historic Environment.

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

3. The development shall be carried out in accordance with the flood proofing measures as detailed in section 4 of the Flood Risk Assessment dated August 2009 and the finished floor level of the building shall be no lower than 6.63m above Ordnance Datum.

Reason: To minimise the risk and impact of flooding, in accordance with the guidance contained within PPS 25 Development and Flood Risk.

4. The access, car parking and servicing areas as shown on the Proposed Site Layout Plan A1/008 Revision F shall be completed before the building is brought into use following which they shall be kept free of all permanent obstruction.

Reason: To ensure a safe access and off street car parking and servicing areas are provided in the interests of highway safety and to accord with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

5. The development shall only be carried out in accordance with the approved materials and boundary treatments as referred to condition 2.

Reason: To ensure the materials finishes and boundary treatments are in keeping with the character of the building and protect the setting of the adjacent Listed Building in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006 and guidance contained within PPS 5 Planning for the Historic Environment.



ITEM 4

Planning Application No: 127529

PROPOSAL: Planning Application for change of use from an estate agents to a tattoo shop

LOCATION: 3 North Street Gainsborough Lincolnshire DN21 2HP

WARD: Gainsborough South West

WARD MEMBER(S): Cllr T V Young, Cllr J A Rainsforth

APPLICANT NAME: Mr Paul Ward

TARGET DECISION DATE: 02/09/2011

DEVELOPMENT TYPE: Change of Use

CASE OFFICER: Helen Marriott

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

Reason for Referral:

This application is referred to the Development Management Committee as West Lindsey District Council is the applicant.

Introduction

The application site relates to a vacant commercial unit located on the ground floor of a three storey building located on the west side of North Street. The unit was formerly an estate agent which has been vacant since March 2011. The site is located within Gainsborough Town Centre, adjacent to the Conservation Area. The Sun Hotel and Rosario's restaurant are Grade II listed buildings located to the South of the site. A Public Right of Way also passes the rear of the site and it is located within Flood Zone 2/3.

Proposal

The application seeks planning permission for change of use from estate agents (Use Class A2) to a tattoo shop (Use Class Sui Generis). No internal or external shop front changes are proposed.

Relevant history:

96/P/0632 Change of use of ground floor shop to office accommodation – permission October 1996

Representations:

Chairman/Ward member(s): No comments received

Parish/Town Council/Meeting: No comments received

Local residents (IDOX checked): No comments received

Environment Agency: No objection

WLDC Economic Development: No comments received

WLDC Heritage Environment: No objection

WLDC Environmental Protection: No comment

Relevant Planning Policies:

Development Plan

- East Midlands Regional Plan 2009
- West Lindsey Local Plan First Review 2006

STRAT 1 Development Requiring Planning Permission

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

RTC 1 Town Centre Development

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

Policy CRT 9 Public Rights of Way

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

Other policy

- Draft National Planning Policy Framework
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf>
- PPS4 Planning for Economic Development
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>
- PPS5 Planning for the Historic Environment (2010)
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>

Main issues

- Principle of Development
- Impact on Residential Amenity
- Impact on the setting of the adjacent Conservation Area, Listed Building and Public Right of Way
- Flood Risk

Assessment:

Principle of development

The Draft National Planning Policy Framework highlights a presumption in favour of sustainable development. PPS4 requires Local planning authorities to adopt a positive and constructive approach towards planning applications for economic development and help secure high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions.

Policy RTC 1 states that within the Town Centre of Gainsborough planning permission will usually be granted for new and refurbished shops, financial and professional services, food and drink establishments, hotels, residential institutions, community facilities, leisure and recreations facilities and taxi and vehicle hire businesses. This is provided that these uses do not detract from the town centre's primary shopping function and would not harm the vitality and viability of the town centre by way of leading or adding to a concentration of non A1 uses.

In this instance, a tattoo shop does not fall under any of the uses specifically identified as being appropriate to the town centre under Policy RTC 1. However, the scale and degree of a tattoo shop is considered compatible with a typical A1 shop and it is noted that the unit is currently vacant A2 use rather than an A1 use. In addition, it is not considered that a tattoo shop would harm vitality or viability or detract from Gainsborough town centre's primary shopping function in this location. Overall, it is considered that the principle of a change of use from estate agent to tattoo shop is acceptable and would contribute towards sustainable economic growth in accordance with PPS4, the Draft National Planning Framework and Policy RTC 1 of the Local Plan.

Impact on Residential Amenity

Policy STRAT1 states that development must reflect the need to safeguard and improve the quality of life for residents. Residential properties are located at upper floor level above the unit. The Applicant proposes opening hours would be 10am till 5pm Monday to Saturday (closed on Wednesdays and Sundays). Regarding the amenities of nearby residents it is considered that the use is unlikely to significantly intensify the previous use and subject to a condition restricting opening times 10am till 5pm Monday to Saturday it would not result in unacceptable harm to residential amenity in accordance with Policy STRAT 1 of the Local Plan.

Impact on the setting of the adjacent Conservation Area, Listed Building and Public Right of Way

The site is located directly adjacent a Conservation Area and Listed Building. As such, The Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant and requires that when considering applications for planning permission affecting Conservation Areas, the local planning authority should have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The local planning authority should also have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. PPS5 states that Local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment.

The application site relates to an established commercial unit within a modern building. The nature of the use of the building in terms of comings and goings would not be significantly difference from its previous uses. As such, the impact upon the adjacent Listed Building, Conservation Area and Public Right of Way would be negligible given the previous use of the building and the fact that no external alterations are proposed as part of the development. The nearby Public Right of Way would not require extinguishment or diversion as a result of the development in accordance with the requirements of Policy CRT 9 of the Local Plan.

Overall, the proposal would not detract from the character and appearance of the adjacent Conservation Area, the setting of the Listed Building or Public Right of Way in accordance with the aims of PPS5 and Policies STRAT 1 and CRT 9 of the Local Plan.

Flood Risk

Policy STRAT 1 aims to protect water quality and avoidance of utilising land subject to flood risk. The site is located in Flood Zone 2/3 and a Flood Risk Assessment has been submitted. This details existing mitigation measures in place to reduce risk of flooding including an appropriate floor level. The Environment Agency raises no objection to the application on flood risk grounds given that the previous and proposed uses are classified as less vulnerable uses. Overall, the proposal does not increase the vulnerability of uses on the site or result in any increased levels of flood risk in accordance with PPS25 and Policy STRAT 1 of the Local Plan.

Conclusion

The change of use would contribute towards sustainable economic growth and would not detract from Gainsborough Town Centre's primary retail function. The proposal would preserve the features of special architectural or historic interest and setting of the adjacent listed building and would preserve the character or appearance of the adjacent Conservation Area. There would be no adverse impact on the setting of the nearby Public Right of Way and no increased levels of flood risk would result. The proposal therefore is in accordance with the Draft National Planning Policy Framework, PPS4, PPS5

and Policies STRAT 1, CRT 9 and RTC 1 of the West Lindsey Local Plan First Review.

Recommendation

Grant planning permission for the reasons outlined above, 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 use hereby permitted shall only take place between the hours of 10:00 to 17:00 Mondays to Saturdays.

Reason: In the interests of residential amenity in accordance with policy STRAT1 of the West Lindsey Local Plan First Review 2006.