



<b>DM.04 11/12</b>
<b>Development Management Committee</b>
<b>Date 29<sup>th</sup> June 2011</b>

**Subject: Planning applications for determination**

<b>Report by:</b>	Rachel North (Director of Strategy and Regeneration)
<b>Contact Officer:</b>	Mark Sturgess (Planning and Development Services Manager) 01427 676687
<b>Purpose / Summary:</b>	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](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

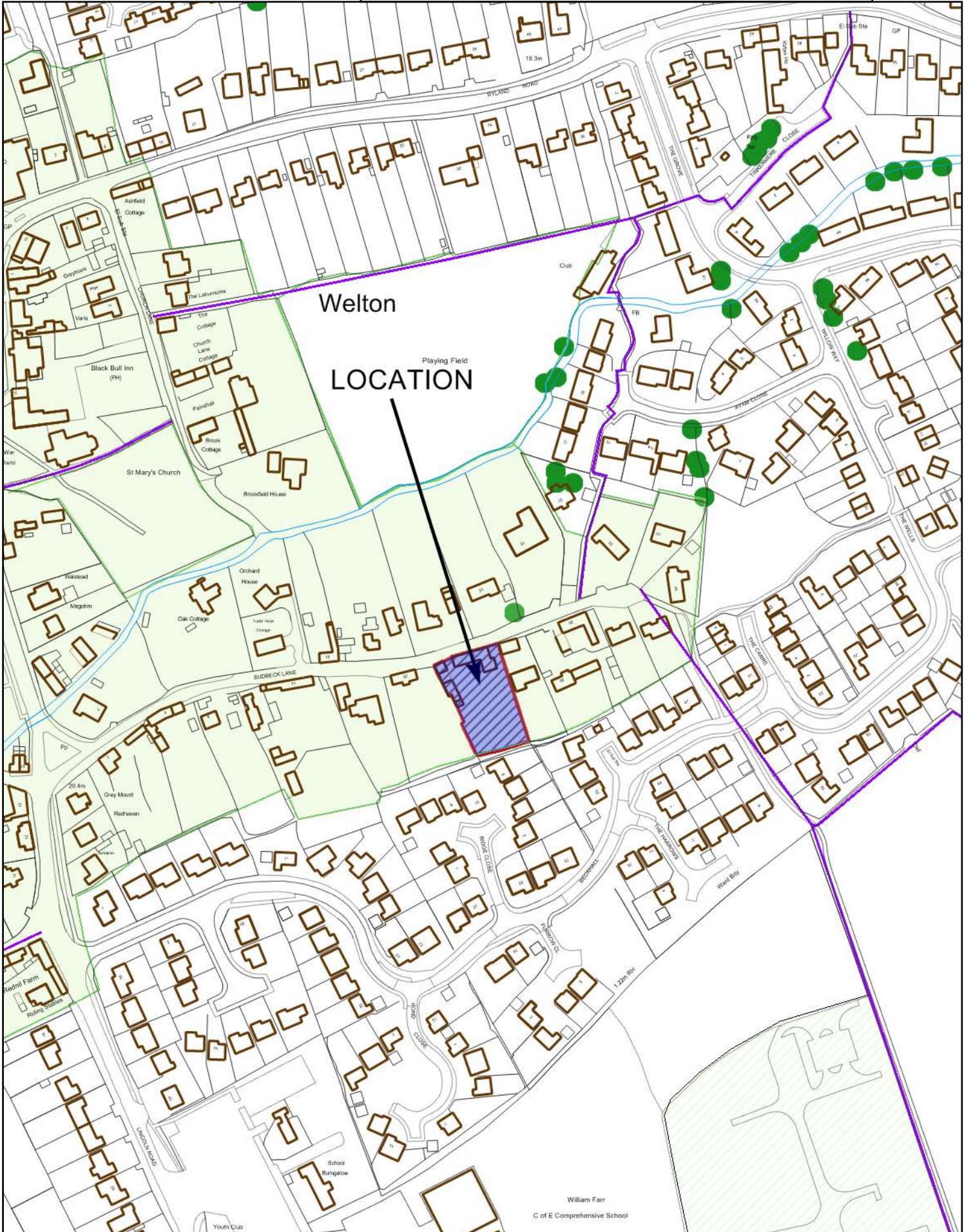
No

### **Key Decision:**

Yes

No





# Item 1

## Officers Report

### Planning Application No: 126820

**PROPOSAL:** Planning application for proposed conversion of existing barns into residential accommodation including link to existing house, new drive access and single detached garage.

**LOCATION:** Greystones 22 Sudbeck Lane Welton Lincoln, Lincolnshire LN2 3JF

**WARD:** Welton

**WARD MEMBER(S):** Cllr M Parish, Cllr D M Rodgers

**APPLICANT NAME:** Dr D O'Brien

**TARGET DECISION DATE:** 22/03/2011

**DEVELOPMENT TYPE:** Householder Development

**CASE OFFICER:** Helen Marriott

**RECOMMENDED DECISION:** That the Development Services Manager be delegated powers to resolve the outstanding matters relating to bats and that the application be granted planning permission upon the resolution of that issue subject to the conditions contained within this report and any further condition that may be required relating to bat protection measures.

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### Description:

The application site contains a 19<sup>th</sup> Century detached dwelling with outbuildings, located within the settlement of Welton in a predominantly residential area. The buildings are located immediately adjacent the south side of Sudbeck Lane. The external surfaces of the existing house and outbuilding predominantly comprise of stone and a red clay pantile roof.

The site slopes gently up from the road and there is a large garden area with mature landscaping to the rear. Sudbeck Lane is a narrow gently winding no through road with grassy verges and mature trees. The site is located within Welton Conservation Area.

The application seeks planning permission for the conversion of the detached outbuilding used for domestic storage purposes located to the west of the main dwelling into ancillary residential accommodation by connecting it to the main dwelling with the construction of a link extension. The link extension would measure 5 metres by 4.1 metres and 2.8 metres high.

The link extension would be positioned on the location of the existing driveway access located to the west of the house which leads to a gravelled area containing off street parking for at least 3 cars. As such, the proposal also includes a new driveway access and single detached garage. The new driveway access would be located to east of the dwelling and lead to the new

garage located in the rear garden area. It would contain 4 off street car parking spaces.

Amended plans were submitted on 13 June 2011 amending the position and dimensions of the proposed garage. It has been moved back in line with the front elevation of No. 24, a more shallow pitched roof has been added and the garage floor level has been reduced by 0.9 metres so that it matches the level of the proposed driveway. The amended garage would measure 6.6 metres by 3.6 metres by 3.3 metres high (as measured from the lowest ground level at driveway level).

### **Reason for referral**

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Councillor Parish has requested that this application be referred to Planning Committee for the following reasons:-

“To ensure Members have the opportunity to look at the issues of access along an old and very narrow lane. “

The application was subsequently referred at Planning Committee on 20<sup>th</sup> May to enable a site visit. The application was further referred at Planning Committee on 1<sup>st</sup> June to enable further negotiation to improve the relationship between the proposed garage and the adjoining property and to consider opportunity for on site turning space.

### **Relevant history:**

118528 - Application for conservation area consent to demolish outbuilding – Refused August 2006

### **Representations:**

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

**Parish/Town Council/Meeting:** Object to the application on grounds that:

- the proposal is not sympathetic to the original building and Conservation Area;
- the proposal raises highway safety issues;
- it results in urbanisation of village.

**Local residents (IDOX checked):** Five letters of objection have been received. Main issues raised in the objection letters relate to:

- The design of the link extension is not in keeping with the Conservation Area due to its unsympathetic design, flat roof, materials, large expanse of glass;
- Inadequate off street parking provision and lack of off street turning area;
- New access poses highway safety risks due to narrowness of the lane and lack of footway;
- Trees would require removal;

- The proposed garage would spoil the front aspect from Sudbeck Lane and restrict light into the adjacent property;
- A foul drain is located across the proposed driveway.

Local residents have been reconsulted on the amended garage plans with observations requested by 28 June 2011. Any additional representations will be reported verbally at Planning Committee.

**Archaeology:** No objection as the materials used to create the link are sympathetic to the building's original form and function and the proposal would not adversely affect the historic character of the existing buildings.

**Building Control:** Building Regulations required.

**Heritage Environment:** The proposal would achieve a sustainable future for the outbuildings and secure their positive contribution to the street scene and character of the Conservation Area. No objection subject to conditions relating to materials.

### **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>

RES 11 Extensions to Dwellings Located Within Settlements  
<http://www.west-lindsey.gov.uk/localplan/written/cpt6.htm>

RES 13 Family Annexes  
<http://www.west-lindsey.gov.uk/localplan/written/cpt6.htm>

#### **Other policy**

- PPS5 Planning for the Historic Environment (2010)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>
- PPS9 Biodiversity and Geological Conservation (2005)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147408.pdf>

### **Main issues**

- Visual Amenity including impact on the setting of the Conservation Area and nearby Listed Building
- Residential Amenity

- Highway Safety
- Impact on Protected Species

### **Assessment:**

#### **Impact on Visual Amenity including the setting of the Conservation Area**

Policies STRAT1 and RES 11 of the Local Plan require development to have regard to the character of the area and extensions to dwellings should be well designed in relation to the size, shape and materials of the building to be extended and should be subordinate to the existing property. Policy RES 13 states that planning permission will be granted for the creation of additional self contained living accommodation by extending an existing dwelling or by converting outbuildings which are incidental to a dwelling providing such accommodation remains incidental to and within the curtilage of the original dwelling.

The Planning (Listed Buildings and Conservation Areas) Act 1990 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. 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. Policy STRAT1 states that development must have satisfactory regard to the impact on the character, appearance and setting of historic assets including Conservation Areas.

The existing outbuildings are located within the curtilage of the main house and contribute positively to the character of Sudbeck Lane. Demolition of part of the same outbuilding was refused conservation area consent in 2006 as they were considered important to Welton Conservation Area.

The Heritage Environment Officer raises no objection to the proposal subject to a condition relating to materials. The new link extension is designed to be subservient to the outbuilding and house and contains a lightweight glazed structure. Its footprint has been set back from the main building frontage and its scale is lower in height than the structures it links to. Proposed materials would comprise stone, glazing and an aluminium roof. These materials are sympathetic to the building's original form and function (they are simple in form, free from embellishment and not over dominant) and the use of more modern materials provide a contrast between the more traditional materials used. As such, it is read as an element that ties the two existing buildings together but still distinguishes their original detachment and therefore preserves the character and appearance of the Conservation Area.

The creation of the new access would involve the removal of a small section of a 1 metre high stone wall and a 2 metre high close boarded fence above. Three trees would require removal however, none of these trees are considered to be significant or important to the street scene given their size



and/or set back from the road meaning that they are screened by existing buildings. The rear garden area of the application property contains numerous trees which screen the site to the south which would be unaffected by the proposal. The proposed garage is located to the rear of the main dwelling and would not be highly visible in the street scene.

Overall, the proposal would benefit the character and appearance of the Conservation Area as it secures a sustainable future for the outbuildings. The proposal would not be overly dominant or incongruous in the street scene and would not cause unacceptable harm to visual amenity or detract from the character and appearance of the Conservation Area in accordance with the aims of PPS5 and Policies STRAT 1, RES 11 and RES 13 of the Local Plan.

### **Residential Amenity**

Policies STRAT1 and RES 11 require development to reflect the need to safeguard and improve the quality of life for residents.

The proposed garage and driveway would be located adjacent to the site's eastern boundary with No. 24. A 2 metre high (approx.) close boarded timber fence is located along the boundary between the two properties. Access would be between the side of Greystones and the side of the double garage located in the front garden area of No. 24. The garage would be set back from the road in line with the front elevation of No. 24. A door and two windows are located in the side elevation of No. 24. The boundary fence (1.8 metres high approx. at this point) would separate the side elevation of No. 24 from the proposed garage. At its amended height, the proposed garage would exceed the height of the fence by approximately 0.5 metres and pitched upwards away from the boundary so that its ridge is 2.8 metres away from the side elevation of No. 24. It is not considered that the scale or position of the garage would give rise to loss of light of any overbearing or overshadowing impact.

The side of the outbuilding forms the sites north boundary with No. 24. This elevation contains a small window which should be incorporated into the design of the conversion. A condition would be imposed removing permitted development rights for the insertion of any additional windows on this elevation in the future to ensure no loss of privacy or overlooking impact in the future.

Overall, the proposal would not result in any adverse impact upon living conditions by virtue of overlooking, loss of privacy or over dominance subject to conditions in accordance with Policies RES 11 and STRAT 1 of the Local Plan.

### **Highway Safety**

Policies STRAT1 and RES11 require new development to have satisfactory regard to the provision of adequate parking and access to and from the site. No increase in traffic movements are anticipated as a direct result of this application which provides additional living space in association with an existing dwelling.

In this instance, the proposal would retain 4 off street car parking spaces which complies with maximum car parking standards set out in the Local Plan. The proposal would result in the loss of the existing off street turning area. The County Highways Officer raises no objection to this arrangement subject to conditions requiring further details relating to access construction and the closure of the existing access once the new access and construction works are complete. A swept path analysis has been carried out which demonstrates that a vehicle is able to reverse from the proposed driveway within the limits of the surfaced carriageway. The use of this quiet no through road for such a manoeuvre is not considered to be detrimental to highway safety.

In light of representations received, the Applicant has explored the opportunity for setting the garage further back into the site to enable the retention of an off street turning area. However, this is likely to result in the damage and/or removal of an additional mature apple tree which is located to the rear of the proposed garage. Given that the creation of an access off an unclassified road is permitted development and the Highways Officer raises no objection to the proposal, it is not considered that the loss of a further tree would be justified in this instance.

Overall, the proposal would not result in any adverse impact upon highway safety in accordance with Policies RES 11 and STRAT 1 of the Local Plan.

### **Impact on Protected Species**

PPS9 and Policy STRAT 1 refer to the maintenance of the ecological value of sites. The outbuildings do have the potential to be used by bats. As such, an ecological survey of the building is recommended and is currently being undertaken. Planning permission is subject to the results of the bat survey finding no evidence of bats or a condition requiring that any mitigation measures set out in the bat survey be implemented.

### **Other**

The objection received in relation to the impact on the foul drain located across the proposed driveway is not a material planning consideration and would need to be dealt with under separate procedures.

### **Conclusion**

The proposal would benefit the character and appearance of the Conservation Area as it secures a sustainable future for the outbuildings. The proposed extension and garage would not be overly dominant or incongruous in the street scene and would not cause unacceptable harm to visual amenity. Overall, the proposal would be in keeping with the overall character of the area and preserve the character and appearance of the Conservation Area. Subject to conditions, the proposal would not have an unacceptable detrimental impact on residential amenity, highway safety or protected species. The proposal is therefore considered to comply with the objectives of PPS5, PPS9 and Policies STRAT 1 Development Requiring Planning

Permission, RES 11 Extensions to Dwellings Located Within Settlements and RES 13 Family Annexes of the West Lindsey Local Plan First Review 2006.

### **Recommendation**

**That the Development Services Manager be delegated powers to resolve the outstanding matters relating to bats and that the application be granted planning permission upon the resolution of that issue subject to the following conditions contained within this report and any further condition that may be required relating to bat mitigation measures.**

### **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 part of the development shall take place until the following have been submitted to and agreed in writing by the Local Planning Authority:
  - a. screen details – section profiles;
  - b. colour finish of powder coated aluminium;
  - c. stone and mortar sample panel (with 1 part cement / 2 part lime to 8 parts sand);
  - d. sample of coping stone.

Reason: To ensure the use of appropriate materials to preserve the character and appearance of the Conservation Area in accordance with PPS5 and West Lindsey Local Plan First Review Policies STRAT 1 and RES 11.

3. Notwithstanding the details on the approved plans, prior to the commencement of development further details relating to the vehicular access to the public highway, including materials, specification of works and construction method shall be submitted to the Local Planning Authority for approval.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site in accordance with West Lindsey Local Plan First Review Policies STRAT1 and RES1.

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

4. The development shall be carried out using the materials approved by condition No. 2.

Reason: To ensure the use of appropriate materials to preserve the character and appearance of the Conservation Area in accordance with PPS5 and West Lindsey Local Plan First Review Policies STRAT 1 and RES 11.

5. The development hereby permitted shall be carried out in accordance with the following approved plans (unless as otherwise specified by the other conditions of this permission):

1025(03)001 Existing Ground Floor Plan  
1025(03)002 Ground Floor/Roof Plan  
1025(03)004 Proposed Ground Floor/First Floor Plan  
1025(03)006 Proposed Elevations  
1025(03)007 Proposed Elevations/Sections  
1025(03)011 Proposed Site Entrance  
1025(03)012 Rev A Site Plan (Amended Plan received 21/03/11)

Reason: To preserve the character and appearance of the Conservation Area in accordance with PPS5 and West Lindsey Local Plan First Review Policies STRAT 1 and RES 11.

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

6. The vehicular access shall be implemented on site in accordance with the details approved by condition 3 before the development is first brought into use and thereafter retained at all times.

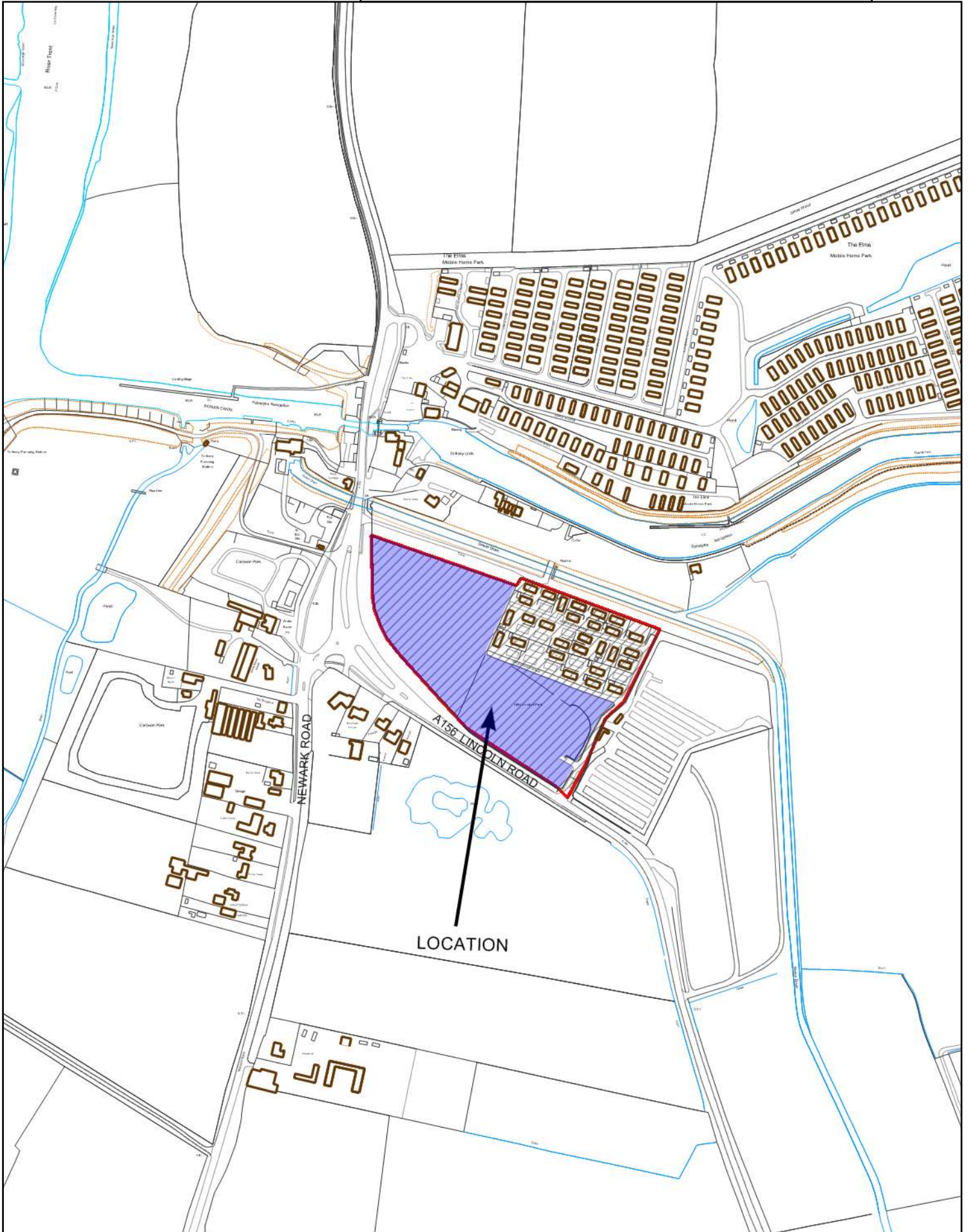
Reason: In the interests of safety of the users of the public highway and the safety of the users of the site in accordance with West Lindsey Local Plan First Review Policies STRAT1 and RES11.

7. Within seven days of either the new access being brought into use and or the completion of the development hereby approved whichever is sooner, the existing access onto Sudbeck Lane shall be permanently closed in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce to a minimum the number of individual access points in the interests of road safety in accordance with West Lindsey Local Plan First Review Policies STRAT1 and RES11.

8. Notwithstanding the provisions of Classes A, B, C and D of Schedule Part 1 of the Town and Country Planning (General Permitted Development)(Amendment) Order 2008 (or any order revoking and re-enacting that Order), there shall be no external alterations to the converted outbuilding including the insertion of additional windows other than as authorised by this permission.

Reason: To safeguard the character and appearance of the Conservation Area and the character of the building and to protect the amenity of neighbouring residents in accordance with PPS5 and West Lindsey Local Plan First Review Policies STRAT 1 and RES



## Item 2

### **Officers Report**

### **Planning Application No: 127051**

**PROPOSAL:** Planning application for change of use of land to use for the siting of 32 residential park - falling within the definition of caravan - homes and 22 holiday static caravans and associated lighting, roadways, public open space, caravan camper van storage area, visitor parking and landscaping - resubmission of 125297.

**LOCATION:** Lincoln Road Torksey Lock Lincoln LN1 2EL

**WARD:** Torksey

**WARD MEMBER(S):** Cllr S F Kinch

**APPLICANT NAME:** Tithe Barn Club

**TARGET DECISION DATE:** 10/06/2011

**DEVELOPMENT TYPE:** Change of Use

**CASE OFFICER:** Kirsty Catlow

**RECOMMENDED DECISION:** That the Development Services Manager be delegated powers to grant permission subject to conditions upon the completion and signing of the s106 agreement.

#### **Description of Site:**

The application site comprises of a triangular piece of land measuring approximately 4 ½ hectares located 1 kilometre to the south of Torksey village in an area known as Torksey Lock. The south and west of the application site is bounded by the A156, to the east is land used for car boot sales and to the north is a land drain, beyond which is Torksey Lock. The surrounding area is characterised by residential park and holiday homes with open countryside beyond.

The application site, known as Little London Caravan Park, comprises of a mix of residential park homes and holiday touring caravans.

#### **Constraints:**

The site is located within Flood Zone 3.

#### **Proposal:**

The application seeks planning permission for a change of use of land for the siting of 32 residential park homes (phase III on the site layout plan) and 22 holiday static caravans (phase II on the site layout plan) in addition to the 43 existing residential park homes (existing development on the site layout plan).

In support of the application, a Flood Risk Assessment and Archaeological Evaluation Report have been submitted.

A S106 agreement (reproduced in Appendix A) has also been submitted which, in its current draft, the agreement prevents access from the application site to a parcel of land to the north (on the other side of the land drain) which has an extant consent for the siting of caravans.

### **Relevant Planning History of the Application Site:**

The site originally began to operate as a caravan park in the 1930's and has since had a long and convoluted planning history, the most relevant applications are outlined below;

Since 1961 an unconditional deemed consent has existed for caravan use on the land generally referred to as 'existing development' on the site layout plan.

Planning permission was granted in 1995 (W28/269/95) for the siting of 22 static caravans and 32 touring caravans on the land referred to as 'phase III' on the site layout plan. Conditions were attached that the static caravans should be used for holiday accommodation only and that the touring site was only to operate between 1<sup>st</sup> March and 31<sup>st</sup> October in any year and the caravans removed from the site outside of these times.

A certificate of lawful use application (121935) to use land as caravan park for residential caravans on the land referred to as 'phase III' on the site layout plan was refused in 2009.

125297 – Planning application for part change of use of land to site 54 new residential park homes. Withdrawn.

### **Relevant Planning History of the Land to the North:**

Planning permission for 22 caravans (GR/177/61) was granted in 1961. This permission was part implemented and is extant. There were no conditions restricting either the number or type of caravans or occupancy.

### **Representations:**

**Chairman/Ward member:** No representations received.

**Fenton Parish Council:** Confirmed no objections.

**LCC Highways:** Providing that this planning application proposes no increase in the number of caravan homes, to those which are subject to extant permissions on the development site, it is considered that the proposed development will not be detrimental to highway safety or traffic capacity.



**Environment Agency:** Withdraw previous objection subject to the condition overleaf being attached to any planning permission granted:

*“The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA), rev1, dated January 2011, undertaken by Stump Cross Associates Ltd. The applicant shall confirm to the Local Planning Authority that this has taken place, in writing, within one month of completion.”*

**Archaeology:** Pre-determination evaluation was undertaken on the site in December 2010. Two ditches, two pits and a dumped deposit, all probably dating from the Roman period, or earlier, were revealed along with Roman, medieval and post medieval pottery and artefacts. One prehistoric flint find was also recovered. The evaluation has revealed that this site was probably settled in the Romano British period. The location of the Romano British pottery kiln site underneath the existing caravans on the Little London site indicates the probable industrial part of the settlement. There is further Romano British settlement evidence to the east and south of the development site suggesting that a large part of Torksey was settled in the Roman period, if not before, and was still in use during the medieval and post medieval period. Recommend that prior to any ground works the developer should be required to commission a Scheme of Archaeological Works in accordance with a written scheme of investigation submitted to and approved in writing by the Local Planning Authority.

**Newark Internal Drainage Board:** The watercourse to the north of the site is maintained by the Newark Area Internal Drainage Board. Any development, tree planting, fence erection or landscaping within 9m of the top of the bank of the watercourse will require the prior consent of the board. In addition, culverting, piping or bridging of the watercourse will require the board's consent as will any discharges to the watercourse.

**Severn Trent Water:** Awaiting comments.

**Environmental Protection:** A condition should be attached to any approval requiring details of the disposal of surface water and foul drainage.

**Building Control:** Confirmed that Building Regulations approval would be required for foul drainage.

**Government Pipelines and Storage Systems (GPSS):** Maybe affected by the proposal. No work should be undertaken without first contacting GPSS.

**Local residents:**

Letters of **support** have been received from 13 residents of the existing residential park, raising the following points;

- Residents look forward to the park being completed, improving the visual amenities of the site and surrounding area.

- During the floods of summer 2007 the homes at Little London were never in danger of flooding at any time. The Elms residential park is lower and would be underwater before Little London park.
- The term caravan is not fully understood.
- The entrance to the site is large enough to accommodate future residents and there is no difficulty accessing the A156.
- The area of Torksey Lock can only benefit from this development bringing money into the local economy.
- The site rules limiting residents to the over 50 age group are intended to still apply.
- The park currently holds a David Bellamy Conservation Bronze Award.

Letters of **objection** have been received from 4 residents of the existing residential park, raising the following points;

- Holiday use would be inappropriate on residential park site
- Caravans will pose a security risk
- Highways safety, entrance to park is too small to accommodate extra volumes of traffic
- Flood risk
- Archaeology
- Inadequate services to support the development

A letter of **objection** has been received from The Willows, a dwelling located on the opposite side of the site on Lincoln Road (A156), raising the following points;

- The A156 is extremely busy where numerous accidents have occurred. The road infrastructure cannot cope with the frequency of traffic to and from the site in the holiday period. These problems are exacerbated on Wednesdays and Sundays during the car boot sale.
- The area is at a high risk from flooding and the proposed development is considered to be highly vulnerable.
- Increased number of permanent homes and touring caravans would put a further strain on the drainage of the site.

### **Relevant Planning Policies:**

#### **The Development Plan**

- East Midlands Regional Plan

13a – Regional housing provision

[http://www.gos.gov.uk/497296/docs/229865/East\\_Midlands\\_Regional\\_Plan2.pdf](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://www.west-lindsey.gov.uk/localplan/written/cpt3a.htm>

STRAT 12 Development in Open Countryside  
<http://www.west-lindsey.gov.uk/localplan/written/cpt3b.htm>

RES 17 Residential Mobile Home Parks  
<http://www.west-lindsey.gov.uk/localplan/written/cpt6.htm>

NBE 14 Waste Water Disposal  
<http://www.west-lindsey.gov.uk/localplan/written/cpt11.htm>

### **Other Relevant Planning Guidance**

- West Lindsey Housing Land Supply Assessment 2011  
[http://www.west-lindsey.gov.uk/upload/public/attachments/1334/AHSA\\_2011\\_Master.pdf](http://www.west-lindsey.gov.uk/upload/public/attachments/1334/AHSA_2011_Master.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 7 – Sustainable Development in Rural Areas (2006)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147402.pdf>
- PPS 25 – Development and Flood Risk (2010)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement25.pdf>
- Good Practice Guide on Planning for Tourism (2006)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/151753.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 Development
- Impact on Flood Risk
- Highway Safety
- Drainage
- Archaeology
- Other Issues

## **Assessment:**

### **Principle of Development**

Policy STRAT 12 states that planning permission will not be granted for development proposals in the open countryside, unless the development is essential to the needs of agriculture, horticulture, forestry, mineral extraction or other land use which requires a countryside location.

Policy RES 17 states that planning permission for new permanent mobile home parks will only be granted providing that they conform to policies for the location of permanent residential dwellings.

As the site is located within the open countryside, the creation of new permanent residential dwellings would normally be contrary to such policies. Furthermore, West Lindsey currently has an over supply of Housing in the District. The most recent snapshot provided within the West Lindsey Housing Land Supply Assessment 2011 states that there is currently a 7.5 year supply when measured against the 480 dwelling provision for the district (outside the Lincoln Principal Urban Area) cited in the Regional Plan. This is significantly in excess of the 5 year deliverable supply required by PPS 3 and therefore whilst not being a reason pre se to withhold the granting of permission, there needs to be another material consideration which is afforded sufficient weight to outweigh this policy context.

Section 38(6) of Planning & Compulsory Purchase act 2004 requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise.

It is considered important in this instance to set out the current 'fall back' position in terms of the level of extant consents on the application site (and beyond) for both residential park homes and holiday accommodation.

With reference to the phasing identified on the current site layout plan, the 'existing development' has an historic unrestricted consent for caravan use. The majority of the 43 residential park homes therefore benefit from planning permission for all year round residential use, unencumbered by any particular occupancy condition. The remaining residential park homes (4 to the south side of Grosvenor Avenue) benefit from immunity from enforcement action, given the considerable period of time that such a use has existed without interruption.

In terms of 'phase III', this area benefits from planning permission for 22 static caravans and 32 touring caravans with the 22 static caravans restricted to holiday accommodation only and the tourer site restricted to 1<sup>st</sup> March and 31<sup>st</sup> October in any year.

The land referred to as 'Phase II' does not benefit from any extant consents.

The land to the north of the application site, on the opposite side of the land drain, benefits from an unrestricted extant consent for caravan use.

This current application seeks to extend the existing residential park home by siting a further 32 units onto the south part of the site and siting 22 static caravans for holiday use to the western part of the site.

The applicants have stated that this approach essentially is the relocation of the extant unrestricted permission for caravans on land beyond the northern boundary of the application site onto the southern part of the application site; and the relocation of the approved 22 holiday static caravans from the southern part of the application site onto the western part of the application site.

Providing the extant unrestricted permission for caravans on land beyond the northern boundary of the application site is rendered unable to be implemented, the current proposal would not result in any increase in the number of residential park homes or holiday homes which could potentially be developed. This 'fall back' position is material in the consideration of this application and is afforded significant weight.

A Section 106 agreement has been submitted with the application which prevents the applicants from accessing the extant unrestricted permission for caravans on land beyond the northern boundary of the application site through the existing Little London Caravan Park. A condition will be attached to any approval restricting the 22 caravans within Phase II to holiday use only.

### **Impact on Flood Risk**

In support of the application a Flood Risk Assessment report has been submitted which concludes;

- General flood defences will protect the site against accepted standards of events.
- There is a residual risk of flooding from events in excess of these standards, although the probability of such events is very low.
- The finished floor level of the units will be set 750mm above ground level.
- A water depth in excess of 870mm above ground level would be required before the units would float.
- The units will be secured to the concrete bases by short chains.
- An evacuation plan has been prepared to protect people and vehicles in the event of a major event.

Following consultation with the Environment Agency, they initially raised objection on the grounds that the site is located within Flood Zone 3 which has a high probability of flooding. The proposed development is essentially a 'highly vulnerable' use as classified in table D3 of PPS 25 Development and Flood Risk which is not normally supported in Flood Zone 3.

However, following further discussions regarding the 'fall back' position they confirm they have no objections subject to the development being carried out in accordance with the measures set out in the Flood Risk Assessment.

## **Highway Safety**

Local residents have raised concerns regarding highway safety issues on the A156, particularly on car boot market days. However, following consultation with County Highways, they advise that given there will be no increase in the number of caravan homes which are subject to extant permissions, the proposal will not be detrimental to highway safety or traffic capacity.

## **Drainage**

The applicant states that surface water drainage will be disposed of via soakaways (subject to BRE test) and foul sewerage to the existing mains which exists on the site (subject to water board approval). This approach is endorsed by the guidance contained with Circular 03/99 Planning requirement in respect of the use of Non-Mains Sewerage incorporating Septic Tanks in New Development. A condition will be attached to any approval requiring such drainage details to be finalised and submitted for approval.

## **Archaeology**

Archaeological evaluation was undertaken on the site in December 2010. Two ditches, two pits and a dumped deposit, all probably dating from the Roman period, or earlier, were revealed along with Roman, medieval and post medieval pottery and artefacts. No objections are raised by LCC Archaeology, subject to conditions requiring a Scheme of Archaeological Works in accordance with a written scheme of investigation submitted to and approved in writing by the Local Planning Authority.

## **Other Issues**

The management of the site, including security and the type of future occupiers, is not a material planning consideration.

## **Conclusion:**

The proposal has been assessed having regard to West Lindsey Local Plan First Review June 2006 policies STRAT 1 Development Requiring Planning Permission, STRAT 12 Development in Open Countryside, RES 17 Residential Mobile Home Parks and NBE 14 Waste Water Disposal and the guidance contained within PPS 1 – Delivering Sustainable Development, PPS 3 – Housing, PPS 5 – Planning for the Historic Environment, PPS 7 – Sustainable Development in Rural Areas, PPS 25 – Development and Flood Risk, Good Practice Guide on Planning for Tourism and Circular 03/99 Planning requirement in respect of the use of Non-Mains Sewerage incorporating Septic Tanks in New Development, together with other material considerations, including the ‘fall back’ position which carries significant weight.

Subject to a S106 agreement preventing the applicant from accessing the extant unrestricted permission for caravans on land beyond the northern

boundary of the application site, through the existing Little London Caravan Park, and a condition restricting the 22 caravans within Phase II to holiday use only, the proposal would not result in any increase in the number of residential park homes or holiday homes. As a result, there would be no greater impact on; flood risk, drainage, highway safety, local services or the character of the open countryside, than potentially could exist at present. Furthermore, subject to conditions requiring a written scheme of archaeological investigation, there will be no harm to the historic environment.

### **Recommendation**

**That the Development Services Manager be delegated powers to grant permission subject to conditions upon the completion and signing of the s106 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 is commenced:**

2. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. This scheme shall include the following

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording.
3. Provision for site analysis.
4. Provision for publication and dissemination of analysis and records.
5. Provision for archive deposition.
6. Nomination of a competent person/organisation to undertake the work.
7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and in accordance

with Planning Policy Statement 5 Planning for the Historic Environment.

3. The local planning authority shall be notified in writing of the intention to commence the archaeological investigations in accordance with the approved written scheme referred to in condition 2 at least 14 days before the said commencement. No variation shall take place without prior written consent of the Local Planning Authority.

Reason: In order to facilitate the appropriate monitoring arrangements and to ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with Planning Policy Statement 5 Planning for the Historic Environment.

4. No development shall take place until, a scheme for the disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate drainage facilities are provided to serve the development to prevent pollution of the water environment and to reduce the risk of flooding downstream in accordance with West Lindsey Local Plan First Review Policies STRAT1, RES1 and NBE14, and the guidance contained within PPS 25 Development and Flood Risk.

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

5. The archaeological site work shall be undertaken only in full accordance with the written scheme required by condition 2.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with Planning Policy Statement 5 Planning for the Historic Environment.

6. The development hereby approved shall be carried out in accordance with the Flood Mitigation Measures contained within Chapter 7 of the Flood Risk Assessment prepared by Stump Cross Associates Rev 1 dated January 2011.

Reason: To reduce the risk and impact of flooding on the proposed development and future occupants, in accordance with West Lindsey Local Plan First Review Policies STRAT1 and RES1, and the guidance contained within PPS 25 Development and Flood Risk.

7. The development hereby approved shall only be carried out in accordance with the drainage details approved under condition 4 of this approval.

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



and the guidance contained within PPS 25 Development and Flood Risk.

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

8. The 22 holiday caravans hereby permitted (specifically units 1 - 22 on Phase II of the Site Layout Plan 1063:10:102) shall be used as holiday accommodation only and shall not be occupied as a person's sole or main place of residents. The owners/operators shall maintain an up-to-date register of the names of all occupiers in individual caravans on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: The site is located within the open countryside where permanent residential accommodation would not normally be permitted as it would be contrary to West Lindsey Local Plan First Review Policies STRAT1 and STRAT12.

9. Following the archaeological site work referred to in condition 5, a written report of the findings of the work shall be submitted to and approved in writing by the local planning authority within 3 months of the said site work being completed.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with section HE12.3 of Planning Policy Statement 5 – Planning for the Historic Environment.

10. The report referred to in condition 9 and any artefactual evidence recovered from the site shall be deposited within 6 months of the archaeological site work being completed in accordance with a methodology and in a location to be agreed in writing by the local planning authority.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with section HE12.3 of Planning Policy Statement 5 – Planning for the Historic Environment.

11. The development hereby approved shall only be carried out in accordance with the Site Layout Plan reference 1063:10:102 received on 11<sup>th</sup> March 2011, and there shall be no more than 74 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) stationed on the site at any one time.

Reason: To clarify the terms of the permission for the avoidance of doubt. To ensure that there is no increase in the number of caravans on the site currently permitted, in the interests of the visual amenities of this open countryside area, flood risk and highway safety. In accordance with Policies STRAT 1 and STRAT 12 of the West Lindsey Local Plan First Review 2006 and guidance contained within PPS 25 Development and Flood Risk.

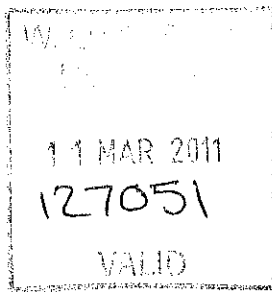
## **Notes to the Applicant**

1. The written scheme required by condition 2 shall be in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor (tel 01522 554831).

2. The watercourse to the north of the site is maintained by the Newark Area Internal Drainage Board. Any development, tree planting, fence erection or landscaping within 9m of the top of the bank of the watercourse will require the prior consent of the board. In addition, culverting, piping or bridging of the watercourse will require the board's consent as will any discharges to the watercourse.

3. A government pipeline may be affected by the proposal. No work or activity should be undertaken without first consulting the GPSS Operator for advice at [anne.swallow@oilandpipelines.com](mailto:anne.swallow@oilandpipelines.com) or on 01799 564101.

DATE



2011

**TITHE BARN CLUB (ALDWICK) LIMITED  
and  
JOHN FRANCIS MANNION**

**AND**

**NATIONAL WESTMINSTER BANK PLC**

**TO**

**WEST LINDSEY DISTRICT COUNCIL**

*DRAFT*  
**UNILATERAL UNDERTAKING**

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

**RELATING TO  
LITTLE LONDON CARAVAN PARK  
TORKSEY LOCK  
TORKSEY  
LINCOLNSHIRE**

**SCANNED AND INDEXED**

- 2.9 **"the Green Land"** The land shown for the purposes of identification coloured green on the Plan forming part of the Land
- 2.10 **"the Blue Land"** The land shown for the purposes of identification coloured blue on the Plan forming part of the Land
- 2.11 **"the Purple Land"** The land shown for the purposes of identification coloured purple on the Plan which for the avoidance of doubt does not form part of the Land
- 2.12 **"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
- 2.13 **"the Owner"** Jointly and severally the First Owner and the Second Owner
- 2.14 **"Plan"** The plan annexed to this Undertaking for that number
- 2.15 **"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

- (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 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 clauses and schedules are to clauses and schedules of this Deed 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 legislation provision includes any amendment extension modification or re-enactment of it for the time being in force
- (h) References to the Council's Corporate Direct of Regeneration and Culture shall include any successor office holders arising through any Council internal reorganisation

SCANNED AND INDEXED

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 the 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 section 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 the 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 and the implementation of the Planning Permission

## 7 **OBLIGATIONS**

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

## 8 **COSTS**

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

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

DRAFT

SCANNED AND INDEXED

## SCHEDULE 2

### Access to the Third Party Land

1. Not to pass or repass, or allow the passing or repassing of any person, animal or vehicle, from any part of the Land to any part of the Purple Land, including but not limited to passing and repassing on foot or bicycle, as an equestrian, or by motorised or any other type of vehicle.

DRAFT

UNAPPROVED AND UNREVIEWED



EXECUTED as a deed by )  
THE FIRST OWNER acting by )  
)

.....  
Director

.....  
Director/Secretary

SIGNED AND DELIVERED as a )  
deed by THE SECOND OWNER )  
in the presence of: )

Witness: .....  
Signature

Name .....

Address .....

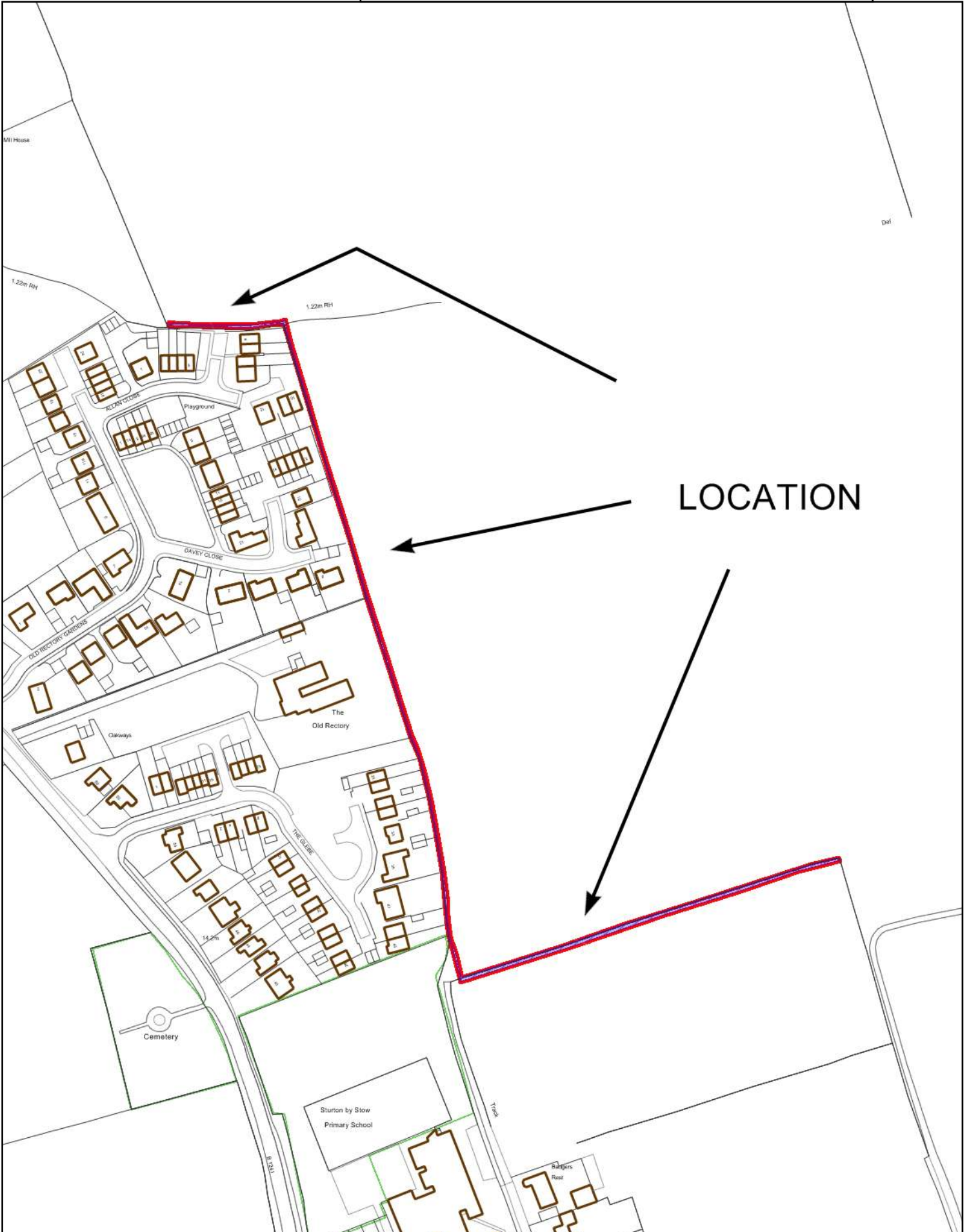
Occupation .....

EXECUTED as a deed by )  
)  
)  
for and on behalf of )  
THE CHARGEES )  
In the presence of: )

.....







## Item 3

### Officers Report

### Planning Application No: 126930

**PROPOSAL:** Planning application for drainage improvement scheme

**LOCATION:** Land at Sturton by Stow Lincs

**WARD:** Stow

**WARD MEMBER(S):** Cllr. R A Shore

**APPLICANT NAME:** Sturton by Stow Parish Council

**TARGET DECISION DATE:** 07/04/2011

**DEVELOPMENT TYPE:** Minor - all others

**CASE OFFICER:** George Backovic

**RECOMMENDED DECISION:** That the Development Services Manager be delegated powers to resolve the outstanding matters relating to protected species and that the application be granted planning permission upon the resolution of that issue subject to the conditions contained within this report, and any further conditions that may be required relating to appropriate mitigation measures.

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#### **Description:**

This is a proposal to create a new ditch forming a drainage link and means of onward flow of surface water between land to the north of the village of Sturton by Stow and the existing ditches to the south east of the village.

The ditch will be approximately 3.5 metres in width with a depth of less than a metre. It will run across primarily agricultural land along following the northern and eastern limit of the village before heading east into the open countryside. It is shown running alongside Public Footpath No 72.

#### **Relevant history:**

No planning history, but the proposal has come forward following flooding within the village in recent years.

#### **Representations:**

**Chairman/Ward member(s):** No comments received

**Parish Council:** Support the Application (they are the applicant)

**Local residents:** 6 letters of representation have been received. 5 raised concerns and 1 sought clarification on the detail. Objections were on the following grounds:

- damage to existing hedgerows root system as a result of excavation
- stagnant water and infestation
- flooding
- future maintenance issues.
- footpath should not be diverted; it should stay and the dyke be dug on the field
- proximity to trees, leaves falling into the ditch causing blockage
- no entry available from private drive

**Government Pipelines and Storage System (GPSS) Land Agent:** Our clients' apparatus may be affected by your proposals. Section 16 consent will be required in order to be able to carry out the works.

**Environment Agency:** No objections

**Upper Witham Internal Drainage Board:** No objection to the proposed development

**Archaeology:** No archaeological input required

**Conservation and Environment (WLDC):** No adverse impacts

**Lincolnshire Wildlife Trust:** We would recommend that a survey is carried out to establish whether any protected or important habitats or species will be affected by the proposed works. As the works will affect existing drains it will be necessary to determine whether or not water voles are present as the animals and their burrows are protected by law. If voles are found mitigation measures would be required. Great crested newts may be present in the pond adjacent the northern fields drain and are protected under UK and European legislation. If newts are present a licence may be necessary to carry out work in a zone up to 500 metres from the pond.

### **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>

NBE 16 - Culverting watercourses

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

#### **Other policy guidance**

- Planning Policy Statement (PPS) 9 - Biodiversity and Geological Conservation (2006)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/147408.pdf>
- Planning Policy Statement (PPS 25) – Development and Flood Risk (2010)

**Assessment:**

In June 2007 there was extensive national and district wide flooding. Sturton by Stow was impacted to the south, centre and north of the village. The current proposals have been brought forward to address flooding to the north of the village.

In June 2007 there was flooding of land and homes in areas between Mill House and Rectory Farm. Investigations of the drainage systems established that the flooding arose principally due to the lack of an effective system to carry onward surface water flow to the east and west of the village. In considering measures to address these problems it was paramount that any solution did not lead to worse impacts elsewhere in the village, particularly in the centre.

Land comprising a ridge and furrow meadow to the north of the village was poorly drained as a result of neglect and the partial loss of a ditch on the southern boundary. This led to the gradual loss of systems for the onward flow of water to the east and west, which resulted in persistent saturation and ponding across its breadth. A consequence of this was more frequent and rapid surface water run off leading to flooding.

The neglected watercourse to the south had drained to the west to an open watercourse on the Old Stow Road and to the east into a former piggery, now known as the Old Rectory Gardens via a short section of south draining watercourse. This watercourse was considered little more than a soak away at the time the Old Rectory Gardens were built and drainage into the former piggeries became truncated at a point 15 metres into Allan Close.

This truncation is such that surface water that reaches the area cycles back and forth through a 100 mm pipe and results in periods of poor localised drainage, odour and occasional infestation. It is relevant to note that the objections to the proposals that cite flooding, stagnation and infestation as reasons to oppose the application are from residents of Allan Close and the connecting Davey Close that are clearly currently experiencing such difficulties.

To the west of the ridge and furrow, drainage has similarly been disrupted on Old Stow Road, as the ditch that provided onward flow has long been filled in. The reintroduction of this flow would create problems along Stow road and in the centre of the village. The ditch is therefore to be re-graded to flow east.

The new ditch proposed along the eastern boundary of the village will link this re-graded ditch spanning the north of the village, to an open watercourse south east of the village, and provide a means of onward flow. This will remove the problems currently being experienced by residents of Allan Close and Davey Close. It also ensures that the route of "onward surface water

flow” does not travel through developed areas but out into the open countryside

The plans as originally submitted, proposed excavating the ditch along the line of the existing public footpath (which runs next to existing hedging and trees), and formally applying to divert the footpath further into the adjoining fields. This attracted a number of objections primarily on the grounds of harm to trees and hedging during excavation works. The proposals were subsequently amended to leave the footpath unaffected with the ditch being created on the “field” side. This deals with the issue of potential harm to the existing natural landscape.

Concerns in relation to potential flood risks have been raised by objectors. This was found not to be substantiated as the Environment Agency (EA) subsequently issued its own consent to the works, after its Flood Risks Management Team evaluated the scheme against both 1% and 0.1% (1:100 and 1:1000) flow events following concerns expressed directly to the EA by local residents

The responsibility for the ditch that is to be re-graded will remain with the owner whereas responsibility for the linking ditch will be taken on by the Parish council.

The only unresolved issue is considered to be the absence of a protected species and habitat survey to ascertain whether any exist and if so to provide appropriate mitigation measures. Subject to one being carried out and setting out defined mitigation implementation measures this issue is considered capable of being satisfactorily resolved.

## **Conclusion**

The proposals are considered to have a positive impact in terms of resolving existing problems currently experienced due to the inadequate drainage systems, and to mitigating potential future problems in terms of flooding, without giving rise to any unacceptable impacts, in accord with policies STRAT 1 and NBE 16 of the West Lindsey Local Plan First Review 2006 and PPS 25 and PPS 9.

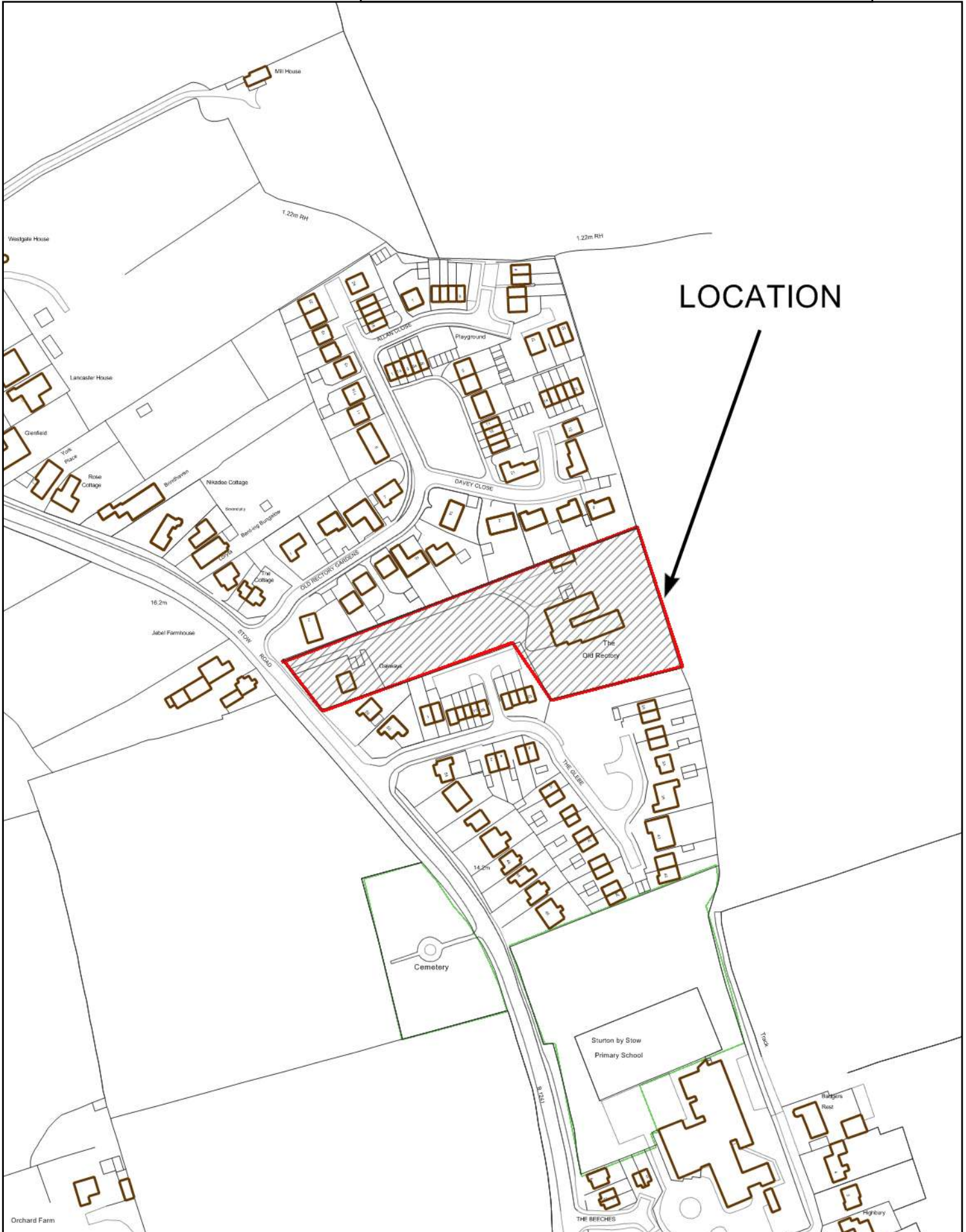
## **Recommendation :**

**That the Development Services Manager be delegated powers to resolve the outstanding matters relating to protected species and that the application be granted planning permission upon the resolution of that issue subject to the conditions below, and any further conditions that may be required relating to appropriate mitigation measures.**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.







## Item 4

### **Officer's Report**

**Planning Application No: 127017**

**Listed Building Consent application: 127046**

**PROPOSAL:** Application for variation of conditions 2,3,4,5,6,7 and 8 of planning permission 124042 granted 19th January 2010. Conditions relate to matters to be agreed before commencement of the works (application under section 73) and application for variation of condition 2 of listed building consent 124043 granted 19th January 2010.

**LOCATION:** The Old Rectory Stow Road Sturton By Stow Lincoln, Lincolnshire LN1 2BZ

**WARD:** Stow

**WARD MEMBER(S):** Councillor Shore

**APPLICANT NAME:** The Sullivan Group

**TARGET DECISION DATE:** 28/04/2011

**DEVELOPMENT TYPE:** Minor - all others

**CASE OFFICER:** Simon Sharp

**RECOMMENDED DECISION:** That the Planning & Development Services Manager be delegated powers grant planning permission and listed building consent subject to the conditions detailed in this report upon the completion and signing of the agreement between the Council and the applicant pursuant to Section 106 of the Town and Country Planning Act 1990.

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### **Introduction**

These applications are made under section 73 of the Planning Act 1990. They have been submitted as the applicant wishes to commence development without complying with some of the conditions of the previous approvals. This is because many of the conditions prevent any development from taking place until they have been discharged. The affected conditions relate to external facing and roofing materials, refuse storage, landscaping, boundary treatment, hard surfacing of the access road, parking areas and the driveways in front of the dwellings and disposal of foul and surface water from the development

The development that the applicant wishes to carry out in advance of the discharge of these conditions is as follows:-

- Demolition of the rear twentieth century single storey wings which project from the rear of the Victorian building.
- The blocking up of the windows to provide a longer term barrier to prevent entry by trespassers into the building.

This proposed development has arisen from discussions with Council officers to seek the preferred method of preventing the listed fabric from being removed.

These applications are, in effect, fresh planning and listed building consent applications but should be determined in full acknowledgement that an existing permission and consent exists on the site. Section 73 of the Planning Act and the equivalent section of the Listed Building Act requires Members to consider only the question of the conditions subject to which planning permission and listed building consent should be granted. This does not prevent members from looking also at the wider considerations affecting the original grant of permission and consent; the words simply make it clear that whatever decision is reached on the conditions, the existing permission and consent themselves should be left intact. In other words, the principle cannot be revisited and the options are as follows:-

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

### **Relevant history:**

124042 and 124043 - Planning application to change the use of the Old Rectory to 6 apartments and to construct enabling development comprising 21 dwellings and listed building consent to convert Old Rectory to enable above-mentioned development to be implemented.

The officer's report is appended to this report.

### **Representations:**

**Chairman/Ward member(s):** No written comments received.

**Parish/Town Council/Meeting:** No comments received.

**Local residents:** Comments received from 9, The Glebe and 2, Old Rectory Gardens:-

- Are trees within the site adjoining the boundary with The Glebe and Old Rectory Gardens to remain?
- Issue about burglaries at the site.
- Would prefer to see Old Rectory delisted and an alternative planning application considered that did not involve high density housing.

**LCC Archaeology:** "No objection/comments."

## **WLDC Planning Environment:**

- A replacement tree is still required for the felled TPO beech. This can be incorporated into the landscaping scheme required by condition.
- Still very little information on root protection provided with the application.
- Information for the tree protection fencing is a little vague in places.

## **Relevant Planning Policies (relevant to planning application):**

Members are referred to the report for applications 124042 and 124043 appended. The changes to policy since the determination of the report are as follows:-

### **Development Plan**

- **East Midlands Regional Plan 2009**

[http://www.gos.gov.uk/497296/docs/229865/East\\_Midlands\\_Regional\\_Plan2.pdf](http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf)

The latest episode in a series of Cala Homes challenges relating to the government's intention to abolish regional strategies occurred on 27<sup>th</sup> May. The Court of Appeal acknowledged that the Secretary of State's intention to abolish them as detailed in the Localism Bill should only be taken into account as a material consideration in exceptional circumstances. The judge used an example of a large strategic site being developed over 15 to 20 years where housing numbers in a Regional Strategy provided the only argument in favour of the development. This is not the case here and therefore there is no change in the weight afforded to the Plan in the context of the planning application being considered here.

- **West Lindsey Local Plan First Review 2006**

[http://www.west-lindsey.gov.uk/localplan/plan\\_index.htm](http://www.west-lindsey.gov.uk/localplan/plan_index.htm)

The saved policies remain part of the development plan, the Core Strategy being still at an embryonic stage with no draft policies in place.

### **National planning policy**

PPG 15 Planning and the Historic Environment (1994) was replaced by Planning Policy Statement (PPS) 5 in 2005. The latter encompassed much of the advice about enabling development that was encapsulated in Enabling Development and the Conservation of Significant Places – policy and guidance published by English Heritage 2008

## **Assessment:**

Examination of the conditions referred to by the applicant (detailed in the proposal section of this report) reveals that they require details to be agreed

prior to commencement, the exception being condition 7 which prohibits development commencing until trees are protected. Applying the R(Hart Aggregates Ltd.) v Hartlepool Borough Council (2005) principle, the commencement of development without compliance with condition 7 would certainly constitute unauthorised development not benefitting from permission as distinct from a breach of condition, which would be the case in respect of the other conditions.

Nevertheless, irrespective of this distinction, the conditions were imposed so that certainty could be provided to the Council as to the details of materials, landscaping and other elements of the proposal prior to any development commencing. In other words before any building operations commenced on site, the complete level of detail for all areas of the site redevelopment and all phases would be known.

Upon reflection, such an imposition is unreasonable and not necessary in all the cases except for condition 7 (tree protection), therefore failing two of the six tests outlined in Circular 11/95. Specifically, the section 106 (which needs to be repeated for this application) still provides certainty with regards to the chronology of the different phases of the development across the site and ensures the preservation of the Old Rectory as the first phase. Therefore, not knowing details such as the roof or wall materials for the new build houses prior to development commencing on the rear wings of the Old Rectory, will not impact on the Council's ability to control the quality of the new development through the build process; the developer cannot commence the building of the new houses until the Old Rectory works are complete.

Other conditions do relate to the Old Rectory; its conversion will affect surface and foul water disposal from the site and therefore details of such matters will still need to be required prior to the conversion commencing, but again, need not come forward prior to the demolition and window blocking works.

Therefore, with the exception of condition 7 (tree protection), the demolition and window blocking development proposed by the applicant to make safe the building and deter vandalism need not post date the agreement of external facing and roofing materials, landscaping, drainage, boundary treatment, refuse storage and hard surfacing, all of which relate to other aspects of the development scheme and could reasonably be agreed following those initial works.

All the other post-commencement conditions relating to construction hours, tree protection, phasing access road completion and permitted development right restrictions are still relevant and should be attached to the new permission. Likewise, Members should note that, as a fresh permission is being granted, a new section 106 agreement is required covering the same clauses as the current agreement. Accordingly, the recommendations' asks for Members to delegate the authorisation to grant permission to officers upon completion and signing of the new section 106 agreement. With these conditions in place the proposal is considered to be acceptable when assessed against the current development plan policies. The new residential development will enable the preservation of the Old Rectory to occur with a viable use, the new buildings have been designed and sited so as not to detract from the listed building's setting and no part of the development will significantly affect residential or visual amenity. Highway safety will be safeguarded through the layout proposed with adequate visibility being

afforded at the access and sufficient turning and parking areas being provide on site. Retention of protected trees supplemented by a comprehensive landscaping scheme will ensure that there is an appropriate balance between the natural and built environment.

### **Recommendation**

**That the Planning & Development Services Manager be delegated powers grant planning permission and listed building consent subject to the conditions detailed below upon the completion and signing of the agreement between the Council and the applicant pursuant to Section 106 of the Town and Country Planning Act 1990.**

#### **A. 127017 (planning permission)**

**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).

#### **Pre-commencement conditions**

2. No development shall take place before the trees on the site have been protected by the erection of 1.5m high fencing around the spread of the crowns, the details of the fencing to have been submitted to and approved in writing previously by the local planning authority.

Reason: To protect the trees during the course of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

#### **Conditions to apply following commencement of development.**

3. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of the external facing and roofing materials to be used in the development have been agreed in writing by the local planning authority and only the agreed materials shall be used.

Reason: To ensure an appropriate choice in keeping with the locality in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

4. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of proposals for landscaping the development have been agreed in writing by the local planning authority, including a timetable for their implementation and maintenance until established.

Reason: To enhance the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

5. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of proposals for all of the boundaries of the site have been agreed in writing by the local planning authority, including a timetable for their implementation (and where hedge or shrub planting is involved, their maintenance until established).

Reason: To ensure an appropriate treatment in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

6. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of the finishes for all hard surfaces of the access road, parking areas and the driveways in front of the dwellings, incorporating measures to protect the root systems of the protected trees on the site, have been agreed in writing by the local planning authority and only the agreed finishes shall be used.

Reason: To enhance the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

7. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of the finishes for all hard surfaces of the access road, parking areas

and the driveways in front of the dwellings, incorporating measures to protect the root systems of the protected trees on the site, have been agreed in writing by the local planning authority and only the agreed finishes shall be used.

Reason: To enhance the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

8. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of the finishes for all hard surfaces of the access road, parking areas and the driveways in front of the dwellings, incorporating measures to protect the root systems of the protected trees on the site, have been agreed in writing by the local planning authority and only the agreed finishes shall be used.

Reason: To enhance the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

9. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of the proposals for disposal of foul and surface water from the development have been agreed in writing by the local planning authority.

Reason: To ensure adequate arrangements are made for draining the site in accordance with policies STRAT 1, RES 1 and NBE 14 of the West Lindsey Local Plan First Review 2006.

10. No development except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11, shall take place before details of the locations for storing refuse and recycled materials containers within the curtilage of each dwelling and the curtilage of the listed building and the design of enclosures or screens to ensure the containers are hidden where otherwise they would be in public view have been agreed in writing by the local planning authority.

Reason: To ensure the storage of the containers does not detract from the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

:

11. No development and no works to the listed building except for the demolition of the bungalow detailed in paragraph 11.2 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011, the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the same said document and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11 shall be carried out before:-

- a) the first 30m of the access road has been constructed up to base course level; and
  - b) the improvements to the junction of the access road with Stow Road which fall within the limits of the public highway have been completed;
- all in accordance with the amended site layout drawing 430.500 revision C dated 6<sup>th</sup> July 2009.

Reason: To ensure the timely provision of safe and adequate access to occupied properties in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

### **Conditions to apply during the course of the development**

12. The development shall be carried out in accordance with the phasing schedule and phasing plan number 430.509 dated 19<sup>th</sup> September 2009 submitted in support of the application.

Reason: To ensure an orderly progression of works with first priority given to the refurbishment and conversion of the listed building.

13. No construction work shall take place before 0700hrs or after 1800hrs.

Reason: To avoid undue disturbance to the living conditions of neighbouring dwellings in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

14. Once the tree protection measures required by condition 2 have been put into place they shall be retained until construction of the access and parking spaces close to the trees commences and in the intervening period no buildings or structures shall be erected, no storage or burning of any materials or fuel shall take place, no service trenches shall be dug and no other development other than that authorised by this permission shall take place within the protected areas without the written agreement of the local planning authority.

Reason: To ensure adequate protection throughout the construction period in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.



15. No mechanical digging shall be employed to construct the access and parking facilities which lie under the spread of the crowns of the protected trees.

Reason: To protect the trees from damage in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

16. The landscaping and boundary treatment agreed under the requirements of conditions 4 and 5 shall be carried out in accordance with the agreed timetables.

Reason: To ensure the timely implementation of the schemes in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

17. The access road shall be completed no later than the time the erection of the penultimate dwelling is commenced.

Reason: To ensure the timely completion of safe and adequate access to occupied properties in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

**Conditions to apply following completion of the development:**

18. None of the dwellings or apartments shall be occupied before the access road to it has been constructed to base course level and the parking spaces to serve it have been completed following which the parking spaces shall be kept free of all permanent obstruction.

Reason: To ensure the timely provision of the facilities and their retention in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

19. Following completion, no enlargement, improvement or other external alterations shall be made to the dwellings, including alterations to their roofs, without planning permission, whether or not such enlargement, improvement or alteration would otherwise be permitted by virtue of Classes A, B, C, or D of Part 1 of the Schedule to the Town and Country Planning (General Permitted Development) (Amendment) (England) (No.2) Order 2008 or any legislation amending or revoking and re-enacting that Order.

Reason: To enable any such proposals to be assessed in terms of their impact on the integrity of the overall design of the development in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

20. Any trees, plants or shrubs planted as part of the agreed landscaping scheme or boundary treatments which die or are otherwise lost within the period of 5 years after planting shall be replaced with the same species in the next available planting season.

Reason: To ensure the maintenance of the landscaping and boundaries until established in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

21. The enclosures or screens required by condition 10 shall be provided before the dwelling or apartment they are to serve is occupied and retained afterwards.

Reason: To ensure the timely provision of the facilities and their retention in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

22. None of the dwellings or apartments shall be occupied until it has been connected to the surface and foul water drainage systems agreed and installed under the requirements of condition 9.

Reason: To ensure the timely provision of satisfactory drainage arrangements in accordance with policies STRAT 1, RES 1 and NBE 14 of the West Lindsey Local Plan First Review 2006.

## **B. 127046 (Listed Building Consent)**

### **Conditions stating the time by which the works must be commenced:**

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date of this consent.

Reason: To comply with Section 8 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### **Conditions to apply or requiring matters to be agreed before commencement of the works:**

2. No work except for the demolition of the extensions to the Old Rectory detailed in paragraph 11.4 of the approved Method Statement for Works at The Old Rectory prepared by Farrer Design and received on 3<sup>rd</sup> March 2011 and the blocking up of openings in the ground floor of the Old Rectory referred to in paragraph 11.11 of the same said document, shall take place shall be carried out before details of the following matters have been agreed in writing by the local planning authority:-

- a) all materials to be used in the repair and rebuilding of the fabric of the building;
- b) the materials and design of rainwater goods;
- c) the location and appearance of any meter boxes, alarms, security lighting, vents and flues;
- d) the design and materials of all windows and internal and external doors and architraves, including cross sections of the joinery; and

e) Internal fittings and decoration including skirting boards, cornices, fireplaces, ceiling roses and other plasterwork.

Reason: To ensure the works are undertaken in manner which preserves the character of the building.

**Conditions to apply or to be observed during the course of the works:**

3. The works shall not be carried out otherwise than in accordance with the approved plans and the specifications to be agreed under the requirements of condition 2.

Reason: To ensure the works are carried out as approved in order to secure the future of the historic asset.



## **Committee Report**

### **Planning Applications: 124042 and 124043**

**PROPOSALS:** Planning application to change the use of The Old Rectory to 6 apartments and to construct enabling development comprising 21 dwellings; and listed building consent for works to convert The Old Rectory to 6 apartments and to demolish the rear single storey wings.

**LOCATION:** The Old Rectory, Sturton By Stow  
**WARD:** Stow

**WARD COUNCILLOR:** R A Shore  
**APPLICANT:** Sullivan Group Ltd.

**TARGET DECISION DATE:** 18/08/2009  
**DEVELOPMENT TYPE:** Small Major - Dwellings  
**CASE OFFICER:** Adrian Broome

**RECOMMENDED DECISION:** Grant planning permission and listed building consent, subject first to a s.106 agreement being completed.

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**Preamble:** This development is put forward under the 'enabling development' approach. The applicant company is claiming that it is necessary to undertake development which would not normally be acceptable in planning policy terms, but which should be agreed in this case as an exception in order to secure the future of The Old Rectory, a grade 2 listed building. Details of the English Heritage advice on such proposals are set out later in this report. Because the proposal is contrary to policy, the application has been advertised as a departure from the development plan.

**Description:** The site is in the northern part of the village, on the east side of the main road. It lies between existing residential developments which have their own separate access roads. There is a bungalow on the road frontage and north of this a drive leads to The Old Rectory, a grade 2 listed building, at the far eastern end of the site. The land in between is an overgrown grassed area. There are two modern, single storey wings on the back of the listed building and it is surrounded by a grassed area. There are several mature trees which are protected by a TPO on the western side, in front of the building. Open farmland lies beyond the site to the east.

The proposal is to convert the building into 6 apartments after removing the single storey wings, to build a pair of semi-detached houses at the front of the site to replace the bungalow, 11 more in a linked terrace along the south side of the driveway and a further terrace of 8 houses behind the listed building. This results in a total of 27 dwellings – 6 apartments and 21 houses. Access improvements will be made. Parking spaces are included in the curtilages of the dwellings facing the drive and in communal areas for the converted building and the houses behind it.

In terms of accommodation the apartments comprise 2 x 1 bedroom and 4 x 2 bedroom units. The semi-detached houses have 2 bedrooms and the

terraces contain 9 x 2 bedroom, 8 x 3 bedroom and 2 x 4 bedroom dwellings.

The Design and Access Statement and the Planning Support Statement submitted with the applications are both attached, as Appendices A and B respectively. There is also a detailed Financial Development Appraisal and a Condition, Repair and Refurbishment Report. The former of these identifies what is known as the 'conservation deficit' – in effect the level of subsidy needed to cover the difference between the costs of repairs and renovation and the resulting value to the owner on the property market. A draft s.106 planning agreement including a requirement for a management plan setting out the manner in which the long term future of the listed building will be secured, including financial safeguards, is attached as Appendix C. For ease of reference, the main points the agreement covers are summarised at Appendix D.

**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:** Permission was given to convert The Old Rectory to a residential home over 30 years ago. Extensions were added in the 1980s and 1990s. It was listed in 1985. The home closed in 2003.

Permission was granted for three dwellings along the driveway in 2000 (outline) and 2003 (reserved matters). This permission is 'live' by virtue of a 'material operation' being carried out within the relevant time scale.

Permission for 4 dwellings (including demolition of the bungalow) was refused in 2005 and dismissed on appeal, but subsequently granted in 2006. This was after further account had been taken of the improvements required to the access road, already agreed under the previous permission for the three houses, a fact which the appeal inspector had not acknowledged.

Planning permission and listed building consent were granted in 2005 for a total of 10 apartments in and adjoining The Old Rectory itself, involving removing the single storey extensions and replacing them with new wings.

The current proposals have been the subject of extensive pre-application discussion.

**Representations:**

Chairman/Ward member(s): None received.

Parish Council: The whole proposal is an entirely inappropriate development. The drainage system is already overloaded and the rest of the infrastructure will not support the development. The houses will be a serious intrusion on the village environment.

Local residents: Several letters expressing concerns on the following grounds:-

#### Over development of the site

- the scale of the development is excessive, there are too many houses on too small an area of land
- the local plan does not envisage growth on this scale in Sturton
- even with the 'low cost' housing proposed there is no evidence there is a demand for it

#### Traffic and road safety

- the additional traffic the development will generate will have to use an entrance which is in a hazardous location

#### Local infrastructure

- the village infrastructure and services are inadequate to accommodate this extra housing
- will the development exacerbate flooding problems on Stow Road?
- there are foul drainage problems as well as surface water

#### Impact on living conditions

- some properties on Davey Close and Old Rectory Gardens will be overlooked by the three storey housing which will take away privacy and views of the sky
- the development will create an unacceptable noise nuisance in a rural area, during construction and afterwards when the houses are occupied

#### Design and layout and the effect on the setting of the listed building

- the houses are too tall and ugly and look cheap and nasty
- a more sympathetic approach ought to be taken, with fewer houses, or bungalows instead
- there is inadequate parking for the number of vehicles the development will generate
- the terraced housing along the driveway will not be in keeping with the listed building or with the rural location - it is more like a town terrace and the areas of roads and parking detract from its setting
- will protected trees be felled?
- the houses behind the building will also be out of keeping by providing an urban backdrop and the whole context of the building will be lost

#### Nature conservation

- the protected trees on the site are important from a wildlife and conservation angle
- the building may be a roosting place for bats

#### Other matters

- the building has been allowed to deteriorate on purpose
- successive plans for this site become more ambitious and ridiculous
- the listed building is becoming a wreck
- the application is not so different from previous applications which have been refused to justify a different outcome
- do the existing permissions not generate enough profit for the developer?
- the owner has paid a high price for the building but then failed to maintain it or develop it and should not be allowed to profit from this course of action

- this is a reaction to the current economy rather than a long term view of what should and could have been done

LCC Highways: Requested amendments to details of the layout of the access road which have now been incorporated into the plan: formal response awaited at the time of writing.

LCC (PROW): No objections.

Lincolnshire Ramblers : No objections.

LCC (Education): No objections.

Lincolnshire Police ALO: Offers recommendations about security measures within the development.

Environment Agency: Initially objected in the absence of information on how foul drainage is to be dealt with. This has now been provided (and Anglian Water are satisfied on that count - see below) – as a result of which the objection is withdrawn. EA support the advice from AW about using a condition to require details to be agreed and appropriate conditions (numbers 6 and 18) have been included in the recommendation.

Anglian Water: Advise that there is capacity in the existing network to provide a water supply; there is also capacity at the receiving treatment works to treat foul sewage from the development although currently there is inadequate capacity in the sewerage system to receive foul water flows - however, improvements are planned and AW recommend using a condition if permission is granted, to ensure no dwellings are occupied until the improvements to the system have been carried out (see conditions 6 and 18 in the recommendation); and also advise that details of surface water disposal will need to be agreed with the EA/IDB, as appropriate.

Archaeology: No objections.

Building Control: No objections – comment on means of escape provisions.

Conservation: The benefits of the scheme as it is now proposed outweigh the policy objections to the development. In particular, the proposals for converting the building itself and the quality of the development proposed in the grounds are significantly better than the plans approved previously. As the setting of the building is already seriously compromised by the adjoining developments this cannot be used as a strong argument against the plans. The omission of plans for significant extensions to the listed building is preferable to earlier ideas, helping to restore its character more appropriately. The internal alterations are the same as those which have been agreed before under the previous consent.

Lincolnshire Historic Buildings Committee: No objections to removing the rear wings, but concerned that some of the principal rooms are to be subdivided which threatens the quality of the space and any historic joinery or plasterwork. The Council should satisfy themselves that the level of enabling development proposed is actually needed and if it is that the building is restored before some or all of it is completed.

### **Development Plan Policies:**

#### National planning guidance:

PPG 15 Planning and the Historic Environment

Enabling Development and the Conservation of Significant Places – policy and guidance, English Heritage 2008

#### East Midlands Regional Plan 2009:



Policy 27 Regional priorities for the historic environment

West Lindsey Local Plan First Review 2006:

STRAT 1 – Development requiring planning permission

STRAT 3 – Settlement hierarchy

STRAT 7 - Windfall and infill development in subsidiary rural settlements

STRAT 9 - Phasing of housing development and release of land

RES 1 - Housing layout and design

NBE 14 – Waste water disposal

**Main issues:**

- **The acceptability of the development in terms of the strategic approach to the location of new housing in the district (STRAT 3, STRAT 7 and STRAT 9), and if it is unacceptable...**
- **Whether the ‘enabling development’ included in the proposal is acceptable in principle in order to justify an exception being made (STRAT 1, RES 1, PPG 15 and the English Heritage policy and guidance).**
- **Design and layout (STRAT 1, RES 1)**
- **Local impact (STRAT 1, RES 1, NBE 14)**

**Assessment:**

*The location of the site in relation to the housing strategy*

Sturton by Stow is identified as a subsidiary rural settlement in the West Lindsey Local Plan First Review 2006. Here only limited development is envisaged where it is needed to meet a local need or otherwise required to accommodate a local resident with a connection to the settlement. The policy further restricts the amount of housing by permitting only single dwellings as infilling or a maximum of three dwellings on a ‘windfall’ basis. Policy STRAT 9 requires the rate and amount of new housing to be assessed in accordance with the ‘plan, monitor and manage’ approach in accordance with specific criteria. The applicants agree that the proposal does not comply with these strategic policies and that therefore an exceptional case has to be made if permission is to be granted. If permission is granted, therefore, it will represent a departure from the development plan.

*The nature of the enabling development*

‘Enabling development’ is defined in the recently updated English Heritage (EH) guidance as ‘Development that would be unacceptable in planning terms but for the fact that it would bring public benefits in this context to a significant place, sufficient to justify it being carried out’. In other words, by its very nature enabling development is contrary to adopted planning policy. Allowing enabling development to take place therefore involves granting permission for something which would not be approved under normal circumstances.

The policy in the guidance reads as follows:

**‘Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless:**

- a it will not materially harm the heritage values of the place or its setting**
- b it avoids detrimental fragmentation of management of the place**
- c it will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose**
- d it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid**
- e sufficient subsidy is not available from any other source**
- f it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests**
- g the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies’**

Where permission is granted for this form of development, EH advises further that the permission should normally be granted in full rather than in outline; there is an enforceable mechanism to ensure the heritage objective is achieved; the place is repaired to an agreed standard or funds to do so are made available as early as possible in the course of the development, ideally at the outset and certainly before completion or occupation; and the planning authority closely monitors implementation and ensures obligations are fulfilled.

The planning application is assessed against the individual criteria in the policy in turn below, taking account of the information and arguments put forward in support and any counter argument.

- a it will not materially harm the heritage values of the place or its setting**

At paragraph 6.9 in the Planning Support Statement (Appendix B to this report) the applicant says the scale of the enabling development does not detrimentally impact upon the setting of the listed rectory, that the dwellings have been designed to be subservient to the building, fully respect its setting and are of a scale, form and design in keeping with the semi-rural nature of the application site. This is elaborated on in Section 7 and at 8.5 to 8.13 of Section 8 of Appendix B. Among other things this says (8.6) that the terraced and two and two and a half storey heights of the new houses allow the listed building to remain significant because of its greater height and massing, such that it is still the dominant feature. Its setting has also

been retained by siting the houses behind it as far away as practical thus leaving a significant amount of open space around the building (8.7). Landscaping breaks up the new built form particularly on the eastern edge of the site (8.8). Removal of the modern extensions improves the setting of the building as they currently detract from its character (8.10) and this will restore the original form

The applicant also contends (7.5 and 8.11) that the setting of The Old Rectory has been compromised already by allowing the development which has taken place on the land to the south (The Glebe). This land originally provided a wider setting for the building, borne out by historical evidence in the form of an Ordnance Survey map from 1886 where it is clearly detached from the village in a parkland setting. Furthermore (7.6) the building is screened along the main entrance from the road by hedges on the boundaries and the protected trees.

Finally the enabling development proposed is more preferable than the development allowed by the extant planning permissions for the site - 4 dwellings on the approach and a further 10 in the building and the permitted extensions.

Certainly removal of the rear wings will improve the setting of the listed building. These previous extensions are out of scale and proportion, obscure the rear (eastern) wall and are only marginally successful in reflecting its character by the inclusion of decorative brickwork features similar to the main building. This is clearly illustrated by reference to images 2 and 3 on page 6 of Appendix A.

Views of the building when approaching it along the drive will be affected if the development already approved is built out. This 'fall back' position is an important factor as the earlier permission has been commenced and so is 'live' for all time. The design of the linked terraced housing now proposed along the driveway is an improvement on the more suburban design approved before as the dwellings are smaller in scale and proportion and have a more varied and rural character (see image 8 on page 19 of Appendix A and Appendix 2 of Appendix B).

In addition account should be taken of the way in which the wider setting of the building has altered over recent times. The 1886 Ordnance Survey has been submitted as evidence of the original setting for the building. This shows it once stood to the north east of an area of parkland (which may or may not have been part of its curtilage at the time). As the village has expanded in recent years this area south of the building has been built on with housing at The Glebe and frontage development along Stow Road - together these developments hide The Old Rectory from view. On the northern side Old Rectory Gardens has had a similar impact and the building cannot be seen from the road in that direction either.

These arguments are persuasive, sufficiently so to be conclusive on this criterion. The heritage value of the listed building and its setting is already seriously compromised by the existing development around it and by the approved housing on the south side of the driveway to it.

**b it avoids detrimental fragmentation of management of the place**

Section 4 of Appendix B sets out the applicant's case. Various potential alternative uses were considered but all were discarded as they were considered unviable, principally because of the costs involved in conversion and the prevailing market conditions which reduce the prospects of finding a suitable purchaser. Furthermore, this process began in 2006 when the property market was considerably more buoyant than it is now. Although the apartments proposed are likely to end up in different ownership, if a long term management plan is put in place alongside the planning permission this will address issues of fragmentation of the property, including its curtilage. This aspect is covered in the draft s.106 agreement in order to secure the position in perpetuity.

**c it will secure the long term future of the place and, where applicable, its continued use for a sympathetic purpose**

The proposal to create 6 apartments in the building, provided it is carried out sympathetically, will provide a suitable new use for the building. The plans for the alterations have been approved before in the context of the earlier applications for listed building consent when future use as apartments was acceptable. Long term maintenance arrangements were not specified in the application, however, and need to be incorporated in the s.106 agreement as part of a management plan. Provided this is done, this criterion is fulfilled.

**d it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid**

The agents point out that in accordance with the EH guidance the financial appraisal which identifies the conservation deficit has not taken account of the original purchase price paid or the applicant company's circumstances. The company bought the property in a much healthier market, however the marketing exercise attracted only one firm interest, that was back in 2007 and the buyer subsequently pulled out. The purchase price has not been factored into the calculation of the conservation deficit.

The conservation statement in Appendix B along with the Condition, Repair and Refurbishment Report confirm the needs of the building in order to bring it back into use. The latter report confirms the building is in a very poor condition. It identifies the work required in detail, externally and internally, room by room, and includes detailed recommendations for the works required to bring it back to a habitable condition. There is little fabric of architectural merit remaining internally but the specification provides for reinstatement and refurbishment in a manner which is in keeping with the building's listed status.

The detailed financial appraisal has been examined by an independent surveyor. He has concluded that the figures presented are reasonable and that costings for refurbishment and new build and

the sale valuations included in it are within acceptable margins taking account of current market levels.

The available evidence demonstrates that the criterion has been fulfilled satisfactorily.

**e sufficient subsidy is not available from any other source**

There are no obvious sources of subsidy in the form of grant aid or other financial assistance in this case and so this criterion is fulfilled.

**f it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests**

The financial development appraisal identifies and costs six options ranging through the scheme with planning permission already, the scheme for four dwellings on the approach drive, and different permutations of development in the grounds of The Old Rectory. All but two of these show that the proposals fall well short of the amount required to cancel the conservation deficit. Of the two which meet the shortfall, one for 23 dwellings actually shows a small overall profit (around £7,000) but the remaining one for 21 dwellings which is the subject of this application also comes close to bridging the gap by leaving a deficit of only £12,793. Compared with the other options where the remaining deficit stands at amounts varying between £360,000 and £260,000, as this option includes the lower number of dwellings (21 as opposed to 23) it constitutes the minimum amount of development required.

**g the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies**

The public benefit in this case amounts to the preservation and restoration of the listed building. The plans will achieve this in a sensitive way which reinstates its original character and provides an acceptable future use. Although the development is contrary to the policy which limits new housing development in Sturton by Stow, the very nature of enabling development means this is always going to be the case. However, by proposing smaller units at the lower end of the housing market in terms of price, rather than the larger detached ones approved before (which will not satisfy the deficit on their own) this will help to meet a local demand.

It is not appropriate to insist on the inclusion of affordable housing in the development (under policy RES 6) because this would mean the scheme fell well short of the conservation deficit, requiring even more development to bring it back to parity. To do so would also ignore the basis of the enabling development approach which requires strategic policies which are normally applicable to be set aside.

### *Layout and design*

The amount of housing in the applications is derived from the estimates of building costs and valuation of the completed development, which have been used to calculate the conservation deficit. Alternatives which would have resulted in a different solution were insufficient to cancel this shortfall. This fact and the shape and dimensions of the land available dictate the form of the new development to a large extent and offer little opportunity for different design solutions from those now proposed in terms of the overall layout and form of the housing. By omitting the previous extensions to the listed building there will be an area behind it which will enhance its setting which was not present in the earlier schemes, and the terrace of new houses behind will enclose this space. The land alongside the approach drive is narrow and does not readily lend itself to layouts other than a linear form.

The listed building remains the dominant building within the site because the new dwellings have been designed to be smaller in scale and individual mass. Rather than attempting to replicate the features of the listed building in the new development, a variety in dwelling sizes and designs has been developed for the site with simple brick or rendered finishes and detailing to provide interest. The character of this housing is less suburban than previous schemes and more appropriate for a village setting.

Parking spaces are included within or next to the curtilages of the houses on the approach drive but in order to protect the area around The Old Rectory as far as possible the parking for the housing behind it is arranged next to the northern boundary, where every house will have its own dedicated space. Parking for the apartments is laid out in front of the building where it will be screened by the existing trees and broken by the additional landscaping proposed. Details for the additional landscaping can be covered by a condition of planning permission if it is granted and based on the principles shown on the layout drawing.

The protected trees will all remain as they are important to the setting of the building as well as in their own right.

### *Local impact*

The development is unlikely to result in a significant increase in noise levels although plainly there will be some disturbance during the construction period. A planning condition is recommended (number 10) to ensure building activity is confined to reasonable hours. Otherwise the sound of traffic passing along the driveway will be reduced by existing boundary fencing which can be enhanced where needed.

Separation distances between the new housing and that on Old Rectory Gardens are sufficient to ensure there is no serious loss of privacy to the existing dwellings. Six of the houses have accommodation in the roof space – one at either end of the terrace behind the Old Rectory and four others in the range along the driveway.

In a wider sense, although there are concerns about inadequate infrastructure (highways, drainage, the village school and other local facilities) there is little firm evidence available to justify refusing permission on these grounds. Whilst the village's status as a subsidiary rural settlement

can be advanced in support of some of these arguments, this is not tenable as the concept of enabling development requires an acceptance that the proposal is contrary to strategic planning policy. The responsible bodies are satisfied that permission can be granted, with provision to agree further details in appropriate cases, as required by the recommended conditions.

#### *Other matters*

Some of the representations question the **owner's motives**. The decision, however, ought to be based on the information presented and the applications must be judged on their merits.

Separate processes are available if there is any requirement to take **formal action in terms of the condition of the building**, which so far has not been considered necessary. To date the owner has undertaken preventative measures including securing the building, sheeting parts of the roof and carrying out inspections but these efforts have been largely negated by the relative remoteness of the building and its consequent susceptibility to vandalism and theft.

The **extant permissions** on the site, which have been implemented by carrying out a 'material operation' as defined in the legislation to prevent them expiring, are also an important factor in the assessment as they represent a strong fall back position.

If the applications are granted there will be a **lead time between that event and work commencing**. In this period conditions of the permission and consent will have to be discharged, plans for building regulations approval have to be prepared, approval obtained and tender documents prepared before contractors are appointed. This is anticipated to take around a year.

It is also important to appreciate the **potential consequences of refusing the applications**. Doing so is likely to result in an appeal which would take the form of a hearing or public inquiry. Depending on the reasons stated for refusing permission, it may be necessary to obtain further specialist advice in advance of the hearing/inquiry and to provide expert evidence at the time. Without this an award of costs cannot be discounted, whether the appeal is allowed or dismissed. In addition, in the event that the appeal is dismissed, the authority may well be exposed to the possibility of a purchase notice.

**Conclusion and reasons for decision:** The enabling development is acceptable as an essential measure in order to secure the future of the grade 2 listed building and so is justified even though it is at variance with the development plan in terms of the strategic approach to housing development in the village. The works it is intended to carry out to repair, refurbish and convert the listed building are in keeping with its architectural and historic character.

**Recommendation A:** To agree and complete the s.106 agreement to secure the repair, refurbishment and long term future of The Old Rectory.

**Recommendation B:** To authorise the Director of Resources to grant planning permission following completion of the s.106 agreement, subject to the following conditions:

**Conditions to apply or requiring matters to be agreed before commencement of the development:**

1. A.1 (three year time limit to commence development).

Reason: A.1

2. No development shall take place before details of the external facing and roofing materials to be used in the development have been agreed in writing by the local planning authority and only the agreed materials shall be used.

Reason: To ensure an appropriate choice in keeping with the locality in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

3. No development shall take place before details of proposals for landscaping the development have been agreed in writing by the local planning authority, including a timetable for their implementation and maintenance until established.

Reason: To enhance the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

4. No development shall take place before details of proposals for all of the boundaries of the site have been agreed in writing by the local planning authority, including a timetable for their implementation (and where hedge or shrub planting is involved, their maintenance until established).

Reason: To ensure an appropriate treatment in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

5. No development shall take place before details of the finishes for all hard surfaces of the access road, parking areas and the driveways in front of the dwellings, incorporating measures to protect the root systems of the protected trees on the site, have been agreed in writing by the local planning authority and only the agreed finishes shall be used.

Reason: To enhance the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

6. No development shall take place before details of the proposals for disposal of foul and surface water from the development have been agreed in writing by the local planning authority.

Reason: To ensure adequate arrangements are made for draining the site in accordance with policies STRAT 1, RES 1 and NBE 14 of the West Lindsey Local Plan First Review 2006.

7. No development shall take place before the trees on the site have been protected by the erection of 1.5m high fencing around the spread of the crowns.



Reason: To protect the trees during the course of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

8. No development shall take place until details of the locations for storing refuse and recycled materials containers within the curtilage of each dwelling and the curtilage of the listed building and the design of enclosures or screens to ensure the containers are hidden where otherwise they would be in public view have been agreed in writing by the local planning authority.

Reason: To ensure the storage of the containers does not detract from the appearance of the development in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

**Conditions to apply during the course of the development:**

9. The development shall be carried out in accordance with the phasing schedule and phasing plan number 430.509 dated 19<sup>th</sup> September 2009 submitted in support of the application.

Reason: To ensure an orderly progression of works with first priority given to the refurbishment and conversion of the listed building.

10. No construction work shall take place before 0700hrs or after 1800hrs.

Reason: To avoid undue disturbance to the living conditions of neighbouring dwellings in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

11. Once the tree protection measures required by condition 7 have been put into place they shall be retained until construction of the access and parking spaces close to the trees commences and in the intervening period no buildings or structures shall be erected, no storage or burning of any materials or fuel shall take place, no service trenches shall be dug and no other development other than that authorised by this permission shall take place within the protected areas without the written agreement of the local planning authority.

Reason: To ensure adequate protection throughout the construction period in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

12. No mechanical digging shall be employed to construct the access and parking facilities which lie under the spread of the crowns of the protected trees.

Reason: To protect the trees from damage in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

13. The landscaping and boundary treatment agreed under the requirements of conditions 3 and 4 shall be carried out in accordance with the agreed timetables.

Reason: To ensure the timely implementation of the schemes in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

**Conditions to apply following completion of the development:**

14. None of the dwellings or apartments shall be occupied before the access road to it has been constructed to base course level and the parking spaces to serve it have been completed following which the parking spaces shall be kept free of all permanent obstruction.

Reason: To ensure the timely provision of the facilities and their retention in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

15. Following completion, no enlargement, improvement or other external alterations shall be made to the dwellings, including alterations to their roofs, without planning permission, whether or not such enlargement, improvement or alteration would otherwise be permitted by virtue of Classes A, B, C, or D of Part 1 of the Schedule to the Town and Country Planning (General Permitted Development) (Amendment) (England) (No.2) Order 2008 or any legislation amending or revoking and re-enacting that Order.

Reason: To enable any such proposals to be assessed in terms of their impact on the integrity of the overall design of the development in accordance with policy STRAT 1 of the West Lindsey Local Plan First Review 2006.

16. Any trees, plants or shrubs planted as part of the agreed landscaping scheme or boundary treatments which die or are otherwise lost within the period of 5 years after planting shall be replaced with the same species in the next available planting season.

Reason: To ensure the maintenance of the landscaping and boundaries until established in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

17. The enclosures or screens required by condition 8 shall be provided before the dwelling or apartment they are to serve is occupied and retained afterwards.

Reason: To ensure the timely provision of the facilities and their retention in accordance with policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review 2006.

18. None of the dwellings or apartments shall be occupied until it has been connected to the surface and foul water drainage systems agreed and installed under the requirements of condition 6.

Reason: To ensure the timely provision of satisfactory drainage arrangements in accordance with policies STRAT 1, RES 1 and NBE 14 of the West Lindsey Local Plan First Review 2006.

**Recommendation C:** To authorise the Director of Resources to grant listed building consent following completion of the s.106 agreement, subject to the following conditions :

**Conditions to apply or requiring matters to be agreed before commencement of the works:**

1. A.4 (three year time limit to commence the works)

Reason: A.4

2. No work shall be carried out before details of the following matters have been agreed in writing by the local planning authority:-
  - a) all materials to be used in the repair and rebuilding of the fabric of the building;
  - b) the materials and design of rainwater goods;
  - c) the location and appearance of any meter boxes, alarms, security lighting, vents and flues;
  - d) the design and materials of all windows and internal and external doors and architraves, including cross sections of the joinery; and
  - e) Internal fittings and decoration including skirting boards, cornices, fireplaces, ceiling roses and other plasterwork.

Reason: To ensure the works are undertaken in manner which preserves the character of the building.

**Conditions to apply or to be observed during the course of the works:**

3. The works shall not be carried out otherwise than in accordance with the approved plans and the specifications to be agreed under the requirements of condition 1.

Reason: To ensure the works are carried out as approved in order to secure the future of the historic asset.

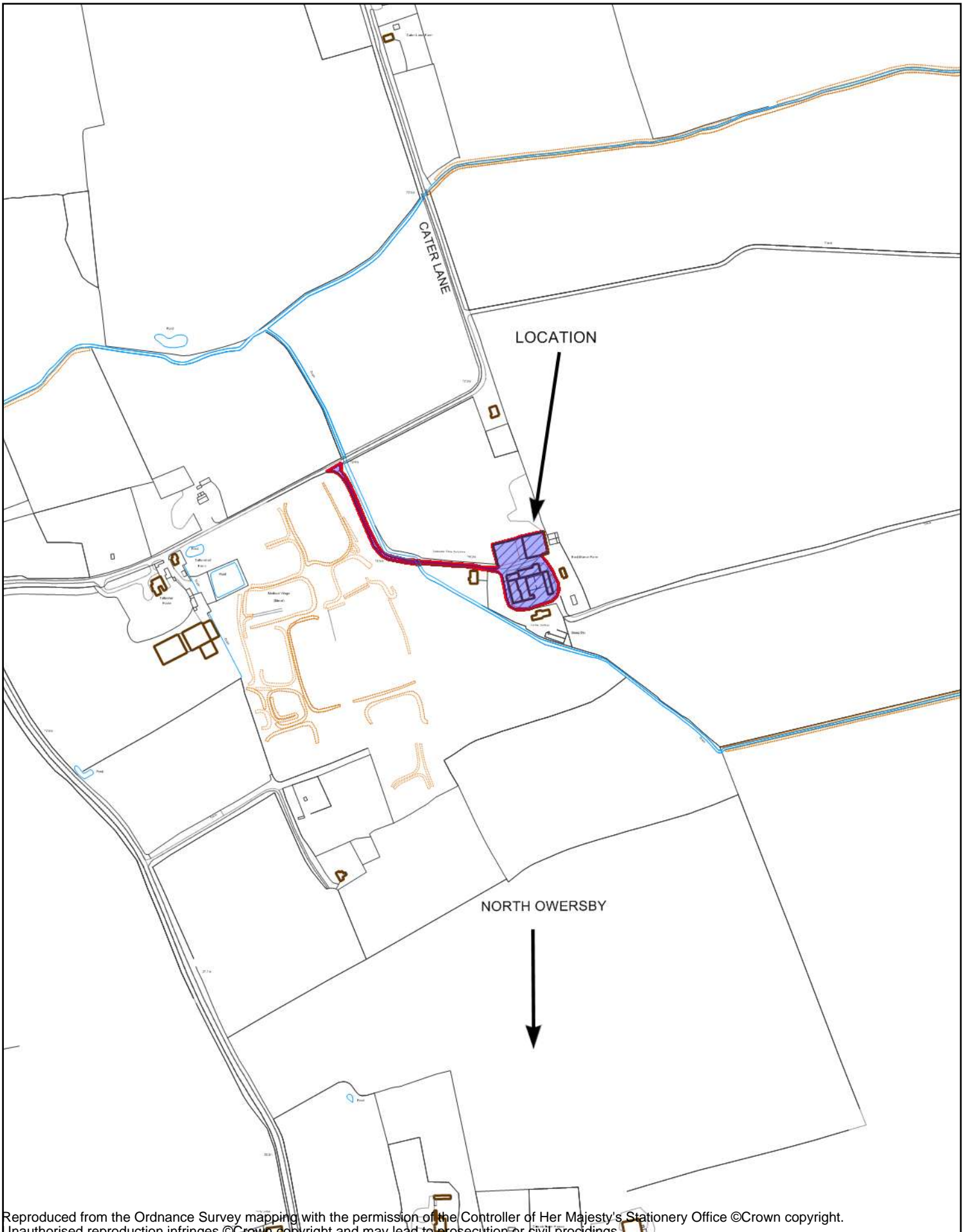
**Conditions to apply or relating to matters to be provided and/or to be retained following completion of the works:**

None

**Recommendation D:** To authorise the Director of Resources:- a) to refuse planning permission and listed building consent for the development if for any reason the s.106 agreement is not completed within three months from the date of a resolution to grant the applications, for the reason that without it there is no acceptable mechanism to ensure the repair and refurbishment of the historic asset in advance of the enabling development; and b) to take any formal action to enforce the provisions in the s. 106 agreement should it be necessary and expedient to do so.

**Prepared by :** Adrian Broome

**Date :** 21st October 2009



## Item 5

### Officers Report

### Planning Application No: 126133

**PROPOSAL:** Planning application for change of use and conversion of disused farm buildings to a live-work unit - resubmission of planning application 125080

**LOCATION:** East Manor Farm Cater Lane North Owersby Market Rasen, Lincolnshire LN8 3PX

**WARD:** Middle Rasen

**WARD MEMBER(S):** Cllr Wiseman

**APPLICANT NAME:** Mr & Mrs M Harrison

**TARGET DECISION DATE:** 27/08/2010

**DEVELOPMENT TYPE:** Change of Use

**CASE OFFICER:** Kirsty Catlow

**RECOMMENDED DECISION:** Grant permission, subject to conditions and a Unilateral Undertaking.

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#### Description:

East Manor Farm is located approximately 1 1/2 kilometres outside of the small rural settlement of North Owersby. The site is approached via a single farm track off Cater Lane which also leads to two unassociated residential dwellings. The site consists of a range of red brick barns comprised in a traditional crew yard form along with two large steel sheds. The buildings are currently unused and surrounded by agricultural land.

This application proposes to convert the barns to form a live work unit for the applicant to operate an electric business to include:

- Providing a two storey family home to form approximately 330 square metres of living accommodation
- Single storey section to form a meeting room, office, kitchen and store (business use) approximately 62 square metres
- Single storey section to form a workshop and storage area (business use) to form approximately 64 square metres
- Two sections are to be demolished which will provide car parking for up to 8 cars/vans
- A landscaped area is to be created centrally
- The two steel sheds are to be removed
- The existing openings are to be utilised and additional windows are to be introduced
- The existing asbestos roof coverings are to be replaced with clay pan tiles

A Protected Species Report has been submitted in support of the application which concludes that the buildings are not used as an established long term place of shelter by a significant number of bats but there are opportunities to create additional roosting sites for bats. There was no evidence that the barn has been used by owls, however evidence of pigeon, swallow, wren and blackbird nests were found.

### **Relevant history:**

125080 – Planning application for change of use and conversation of disused farm buildings to a live work unit was refused in January 2010 on the following grounds;

*Insufficient justification has been provided for allowing a live/work unit in this unsustainable open countryside location when it is known that allocated sites are available for employment use in more sustainable locations in Market Rasen and Caistor. As a result the proposal is contrary to policies PPS7: Sustainable Development in Rural Areas, Policy 24: Regional Priorities for Rural Diversification of the East Midlands Regional Plan and policies STRAT1: Development Requiring Planning Permission, STRAT12: Development in the Open Countryside and RES9: Conversions and Re-use of Buildings for a Residential Use in the Open Countryside of the West Lindsey Local Plan First Review 2006.*

*Cater Lane and the farm track leading to Manor Farm cannot facilitate additional vehicular movement without improvement. Additional traffic generation in this rural area would also result in the existing quiet country lane becoming much busier to the detriment of the surrounding area and residential amenity in terms of increased noise and pollution and therefore also contrary to the above policies.*

### **Additional Information Submitted in Support of this Revised Application**

In support of this application the agents have submitted a Sustainable Travel Plan which outlines how the live/work unit will operate and the associated traffic movements, which are as follows;

- It is anticipated that 4 permanent staff will be employed at the site Mr and Mrs M R Harrison (who will live on site) will occupy the office area and two electricians will travel to the site to collect equipment and supplies on approximately three occasions each week.
- It is not anticipated that the site will be regularly visited by supply representatives or the general public.
- Deliveries to the site will be made on an ad hoc basis, anticipated worse case scenario is a maximum of two on any single day.

The applicants have provided a Unilateral Undertaking to ensure that the site is operated in accordance with this Sustainable Travel Plan.

The applicants also propose highway improvement works which comprise of; improvements to the junction of Cater Lane and the site access track, together with the provision of a passing place on Cater Lane, which will be secured by condition.

### **Representations:**

**Chairman/Ward member(s):** None.

**Owersby Parish Council:** No objections to the proposal to utilise redundant buildings, this is welcomed by the Parish Council. An objection was raised to the use for business purposes i.e. road transport, but private dwellings would be appropriate.

### **Local residents:**

One letter of **support** has been received from Cater Lane Farmhouse, raising the following points;

- A positive move to improve a derelict farm yard and buildings, regenerating, rather than building a new property.
- In favour of the type of business usage of the buildings as this will reduce the daily heavy and large farm traffic on the narrow lanes.

One letter of **comment** has been received from Fairfax Cottage, raising the following points;

- No objections in principle.
- The volume of traffic proposed would seem to be excessive but that decision will be made by the Highways Department.
- The access track from Cater Lane is privately owned and would need negotiation as to the upkeep from both a house and a business.
- There is no local transport service here.

Nine letters of **objection** have been received from Tattershall House, Little Owls, Thornton House, The Lodge, Tattershall Farm Cottage, Field House Farm and Tattershall Farm Bungalow, raising the following points;

- Proposal would result in noise, disturbance and pollution.
- Proposed use would harm the rural nature of this area.
- East Manor Farm is down a single track in a poor state with no passing places, increased use would harm highway safety.
- Cater Lane is a single track road with no passing places, increased use would harm highway safety.
- Existing purpose built units would better suit the needs of the business.
- The buildings could be restored for agricultural purposes.
- Impact on birds and bats.

- Neighbour disputes relating to costs of maintaining private access track.
- There is no local bus service.

**LCC Highways:** Following the submission of the Sustainable Transport Statement and the proposed highway improvement works, no objections are raised.

**LCC Footpaths:** No comments or observations.

**The Ramblers:** No observations.

**Conservation Officer:** The site is fairly constrained and the barns are of moderate quality and historic character. There would be no adverse impact on the adjacent Deserted Medieval Village. Material samples should be conditioned for approval.

**Archaeology:** These buildings are an important element of the Lincolnshire landscape and evidence of farming practices which have now largely disappeared. Many of such buildings are now under threat from demolition and conservation as they are becoming increasingly redundant. Recommend that prior to any work commencing a programme of archaeological building recording is undertaken.

**Environmental Protection:** Advise that the water company should be consulted to consider whether the existing drainage system and sewage treatment works have the capacity to adequately deal with the proposed new development.

**Ancholme Internal Drainage Board:** With respect to the disposal of surface water run-off to soakaways, the Drainage Board would raise no objection in principle, but the Planning Authority must be satisfied that soakaways will operated satisfactorily in the ground conditions prevailing at this site throughout the year and in the future. With regard to the disposal of foul water by means of package treatment plant, the Drainage Board would need to be satisfied that all appropriate test show this system to be effective throughout the whole year.

**Building Control:** Confirm that Building Regulations approval will be required.

**Natural England:** Previously confirmed they raised no objections, subject to conditions relating to the timing of works (to protect breeding birds) and bat mitigation.

### **Relevant Planning Policies:**

#### **Development Plan:**

- East Midlands Regional Plan



Policy 24: Regional Priorities for Rural Diversification

[http://www.gos.gov.uk/497296/docs/229865/East\\_Midlands\\_Regional\\_Plan2.pdf](http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf)

- West Lindsey Local Plan First Review 2006

STRAT1 – Development Requiring Planning Permission

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

STRAT12 – Development in the Open Countryside

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

RES9 – Conversions and Re-use of Buildings for a Residential Use in the Open Countryside

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

ECON4 – Farm Diversification

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

NBE14 – Waste Water Disposal

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

**Other Relevant National Planning Guidance:**

- 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 4 – Planning for Sustainable Economic Development (2010)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>
- PPS 5 – Planning for the Historic Environment (2010)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1514132.pdf>
- PPS 7 – Sustainable Development in Rural Areas
- PPS 9 – Biodiversity and Geological Conservation  
<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>
- PPG24 - Planning and Noise  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/156558.pdf>

**Main issues**

- Principle of Development
- Traffic and the Local Environment

- Development Within the Open Countryside
- Impact on Amenity
- Impact on Protected Species

## **Assessment:**

### **Principle of Development**

The applicant currently runs an electrical business from two premises in Fen Road, Owmbly-by-Spital, it consists of a workshop, showroom, stores and office. The business is currently split between two premises and the applicant now seeks a new premises to run the business, which was established in 1948, from one place. The applicant and his family currently live in rented accommodation in Hackthorn and moving to the application site will enable them to provide support to his wife's parents who live north of the site.

National planning policy supports the principle of live-work units on the grounds of sustainability and the change in working practises as many people now opt to work from home. As a mixed use development there are many benefits including reducing the need to travel, improved security within an area and the re-use of vacant buildings. They are particularly favoured in urban areas and can help towards regeneration initiatives. Within the open countryside the same benefits can be achieved but further consideration needs to be given to the suitability of a site for the proposed business use, the essential need to be in such a location and the impact such a develop would have on the local environment.

The proposed live work unit will allow the applicants to consolidate their existing business premises and living accommodation in one location. It will allow an existing business to continue to serve the surrounding rural customer base and bring a vacant building back into use.

### **Traffic and the Local Environment**

The site is approximately 1½ kilometres outside of the settlement of North Owersby approached initially via Cater Lane and then onto the private farm track which leads to the site.

The Sustainable Travel Plan outlines how the live/work unit will operate and the associated traffic movements which are as follows;

- It is anticipated that 4 permanent staff will be employed at the site. Mr and Mrs M R Harrison (who will live on site) will occupy the office area and two electricians will travel to the site to collect equipment and supplies on approximately three occasions each week.
- It is not anticipated that the site will be regularly visited by supply representatives or the general public.

- Deliveries to the site will be made on an ad hoc basis, anticipated worse case scenario is a maximum of two on any single day.

The Sustainable Travel Plan also provides location details for the established rural customer base.

The applicants also propose highway improvement works which comprise of; improvements to the junction of Cater Lane and the site access track, together with the provision of a passing place on Cater Lane, which will be secured by condition.

Following consultation with Highways they advise that providing the Sustainable Travel Plan is secured by a Unilateral Agreement and the highway improvement works are conditioned, this would overcome their previous objections to the application.

### **Development Within the Open Countryside**

Farming practises have changed over recent years which is resulting in many vacant farm building scattered around the district's open countryside. Farm buildings can contribute significantly to the appearance of the landscape and form part of the districts heritage; however it would not be considered to be sustainable to consider every vacant farm building for development to ensure its retention. As discussed in PPS7 and RES9, only buildings that are considered to have significant architectural or historical interest will be considered for residential conversions and every opportunity should be explored to use the site for a business use or community use before residential.

The Conservation Officer has commented that the existing buildings are of a moderate quality and historic character. Whilst the buildings are not exceptional they are an important element of the Lincolnshire Landscape and evidence of farming practices which have largely disappeared. Many of these buildings are under threat from demolition and conversation as they are becoming increasingly redundant. The building is substantial in size and scale, and its conversation to one live work unit is considered the most appropriate use in order to secure its future retention and maintenance.

Furthermore the Council supports small scale business proposals within rural areas as they make an important contribution to the local rural economy.

Whilst there are allocated employment sites in nearby towns as shown in the West Lindsey Local Plan such as site C(E)3 off North Kelsey Road Caistor and site MR(E)1 off Gallamore Lane in Market Rasen, given the proximity of the businesses customer base, it is acknowledged that the application site is well placed to serve these customers.

### **Impact on Amenity**

The barns are located within the open countryside, adjacent to two existing residential properties. The proposed conversion will not result in any overlooking or overbearing impacts on these two properties. The removal of

the existing portal framed building will improve the outlook from these properties and the overall appearance of the site.

The 'work' element of the building will comprise of an office (B1) with store within the main building. Such a use, by its very nature, is considered suitable in residential areas. A small workshop for repairing electrical equipment is proposed in the garage block. In order to protect the residential amenities of neighbouring properties, a condition will be attached to any approval requiring details of noise mitigation measures to be submitted for approval before any noise emitting equipment is operated.

In terms of noise and disturbance from traffic movements, the number of traffic movements to the site will be controlled through the unilateral undertaking and it is not considered that noise and disturbance from residential cars and company vehicles will be greater than that caused by farming vehicles in association with the buildings previous agricultural use.

### **Impact on Protected Species**

A Protected Species Report has been submitted in support of the application which concludes that the buildings are not used as an established long term place of shelter by a significant number of bats but there are opportunities to create additional roosting sites for bats. There was no evidence that the barn has been used by owls, however evidence of pigeon, swallow, wren and blackbird nests were found. Guidance contained within PPS9 supports the enhancement and improvement of habitats. A condition is therefore proposed which requires bat roosting and bird nesting features to be incorporated into the building.

### **Conclusion:**

The proposal will bring a vacant underused building back into a sustainable use by providing an established family business dedicated live work premises in an area within easy reach of their rural customer base.

Subject to an agreement and conditions relating to traffic generation and highway improvements, it is not considered that the proposal would be significantly detrimental to highway safety. The proposal would not harm the character of the open countryside, residential amenity or protected species, and would provide sustainable forms of drainage.

The proposal therefore accords with West Lindsey Local Plan First Review June 2006 policies STRAT1, STRAT12, RES 9, ECON4 and NBE14 and guidance contained within PPS 1 – Delivering Sustainable Development, PPS 3 – Housing, PPS 5 – Planning for the Historic Environment, PPS 7 – Sustainable Development in Rural Areas, PPS 9 – Biodiversity and Geological Conservation and PPG 13 – Transport.

**Recommendation:**

**Grant permission, subject to the signing of the Unilateral Undertaking and 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 measures for incorporating bat roosting and bird nesting features into the building have been submitted to and approved in writing by the Local Planning Authority.

Reason; To provide additional habitat for birds and bats in the interests of nature conservation and to accord with West Lindsey Local Plan First Review June 2006 policy STRAT1 and guidance contained within PPS 9 - Biodiversity and Geological Conservation.

3. No development shall take place until samples of the following materials have been made available on site and approval in writing by the Local Planning Authority;

- Bricks
- Roof tiles
- Boarding
- Joinery
- Rain water goods

Reason: To safeguard the character and appearance of the building in this rural locality in accordance with West Lindsey Local Plan First Review Policy STRAT1.

4. No development shall take place until the implementation of an appropriate programme of recording and analysis of the building has been undertaken in accordance with a scheme which shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of a written brief and specification, together with a timetable for submission.

Reason: To ensure there is a record of this historically important building in accordance with the guidance contained within PPS5 – Planning for the Historic Environment.

5. No development shall take place until, full details of the proposed foul and surface water drainage for the site have been submitted to and approved in

writing by the Local Planning Authority. The approved details shall thereafter be implemented in full before the building(s) is [first occupied or brought into use].

Reason: To ensure adequate drainage facilities are provided to serve the development and/or to prevent pollution of the water environment as recommended by Severn Trent Water Limited and/or the Environment Agency and in accordance with West Lindsey Local Plan First Review Policies STRAT1, RES1 and NBE14.

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

6. The proposed roof lights shall be installed so that their outer faces are flush with the plane of the roof. Once installed the rooflights shall not be replaced with any alternative type without the prior written consent of the Local Planning Authority.

Reason: To safeguard the character and appearance of the building in this rural locality in accordance with West Lindsey Local Plan First Review Policy STRAT1.

7. The building shall not be brought into use until the bat roosting and bird nesting features approved under condition 2 of this approval have been installed. The approved bat roosting features and bird nesting features shall thereafter be retained and maintained.

Reason: To provide additional habitat for birds and bats in the interests of nature conservation and to accord with West Lindsey Local Plan First Review June 2006 policy STRAT1 and guidance contained within PPS 9 - Biodiversity and Geological Conservation.

8. The development shall be carried out in accordance with the material samples approved under condition 3 of this approval.

Reason: To safeguard the character and appearance of the building in this rural locality in accordance with West Lindsey Local Plan First Review Policy STRAT1.

9. The building shall not be brought into use until the drainage works approved under condition 5 of this approval have been provided.

Reason: To ensure adequate drainage facilities are provided to serve the development and/or to prevent pollution of the water environment as recommended by Severn Trent Water Limited and/or the Environment Agency and in accordance with West Lindsey Local Plan First Review Policies STRAT1, RES1 and NBE14.

10. The building shall not be brought into use until the off site highway improvement works as detailed on the following plans; Highway 01, Highway 02, Highway 03 and Highway 04 received on 9<sup>th</sup> June 2011 have been completed.

Reason: To ensure improvements are carried out to the surrounding highway network in the interests of highway safety and in accordance with West Lindsey Local Plan First Review Policy STRAT1 and guidance contained within PPG 13 Transport.

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

11. No noise emitting equipment shall be operated until a scheme detailing noise mitigation measures have been submitted to and approved in writing by the Local Planning Authority. No noise emitting equipment shall be operated until the approved mitigation measures have been implemented. The approved noise mitigation measures shall thereafter be retained and maintained as such for the life of the development.

Reason: In the interests of protecting neighbouring occupiers from unacceptable levels of noise and in accordance with West Lindsey Local Plan First Review Policy STRAT1 and guidance contained within PPG 24 Planning and Noise.

**Notes:**

1. The applicant is advised that as the property is a mix of residential and business use, the building does not therefore benefit from 'Development within the curtilage of a dwelling house' Permitted Development rights under Part 1 Schedule of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order).

2. Operations that involve the destruction or removal of buildings shall not be undertaken during the months of March to August (inclusive) unless the developer is satisfied that breeding birds will not be adversely affected.





**DATE:**

**2011**

REGINALD HENRY ROBINSON and NORA JEANNE ROBINSON  
[NAME OF OWNER]

AND

WEST LINDSEY DISTRICT COUNCIL

UNILATERAL UNDERTAKING

SECTION 106  
TOWN AND COUNTRY PLANNING ACT 1990

RELATING TO:

[DESCRIPTION OF LAND]

GAINSBOROUGH

THE BARN EAST MANOR FARM  
CATER LANE, NORTH OWERSBY  
MARKET RAFFEN LINCOLNSHIRE  
LN8 3PX

Planning and Compensation Act 1991).

2.2 **"the Application"** The application in outline only numbered 126133 dated 2<sup>nd</sup> July 2010.

2.3 **" the Application Site"** The land edged red on the Plan

~~2.4 **"the Charge"** The Legal Charge dated \_\_\_\_\_ 20 made between the Owner (1) and the Chargee (2) by which the Land became charged with the repayment of certain monies to the Chargee.~~

2.5 **"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;]

2.6 and "Commence the Development" shall be construed accordingly.

2.7 **"Completed" or " Completion"** In respect of a Dwelling, the issue of a Final Certificate under the Building Act 1984

2.8 **"the Development"** The development authorised by the Planning Permission.

2.9 **"Dwellings"** A dwelling (including a house flat apartment or maisonette) to be constructed pursuant to the Planning Permission

2.10 **"the Development Services Manager"** The person the Council shall appoint as the Head of the Department responsible for Planning Services for the time being.

2.11 **"the Land"** The Land shown for the purposes of identification only edged red on Plan Number [ ] known as [ ] <sup>one</sup> annexed hereto

2.12 **"Occupation of the Development"** The beneficial occupation of any part of

- (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 the Owner and the Mortgagee (*add any other parties, e.g. the developer*) shall include their successors in title and assigns

#### **4 INFORMATION**

- 4.1 The Owner owns the freehold interest in the Land and is [entitled to be] 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 [SF \_\_\_\_\_]~~ at the date of this Undertaking].
- 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 approval [of matters reserved under the Outline Consent / to carry out development on the Land].
- 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.

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.

## **12 OTHER MATTERS**

- 12.1 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.
- 12.2 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.
- 12.3 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 and identifying which portion of the amount relates to any sum calculated to take account of Index Linking.
- 12.4 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.

## **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 £1,500 being its reasonable costs in relation to the Council's administrative costs in connection with the enforcement and monitoring of this Deed.

## ~~**9 THE CHARGE**~~

~~The Chargee for itself and its successors in title consents to the Owner entering into this Undertaking and covenants with the Council that in the event that the Chargee takes possession of the Land or any part of it and/or exercising its power of sale under the provisions of the Charge then the Chargee and its successors in title will observe and perform and be bound by the terms and conditions of this Undertaking so far as the same remain to be observed and performed.~~

## **9 10 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 11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

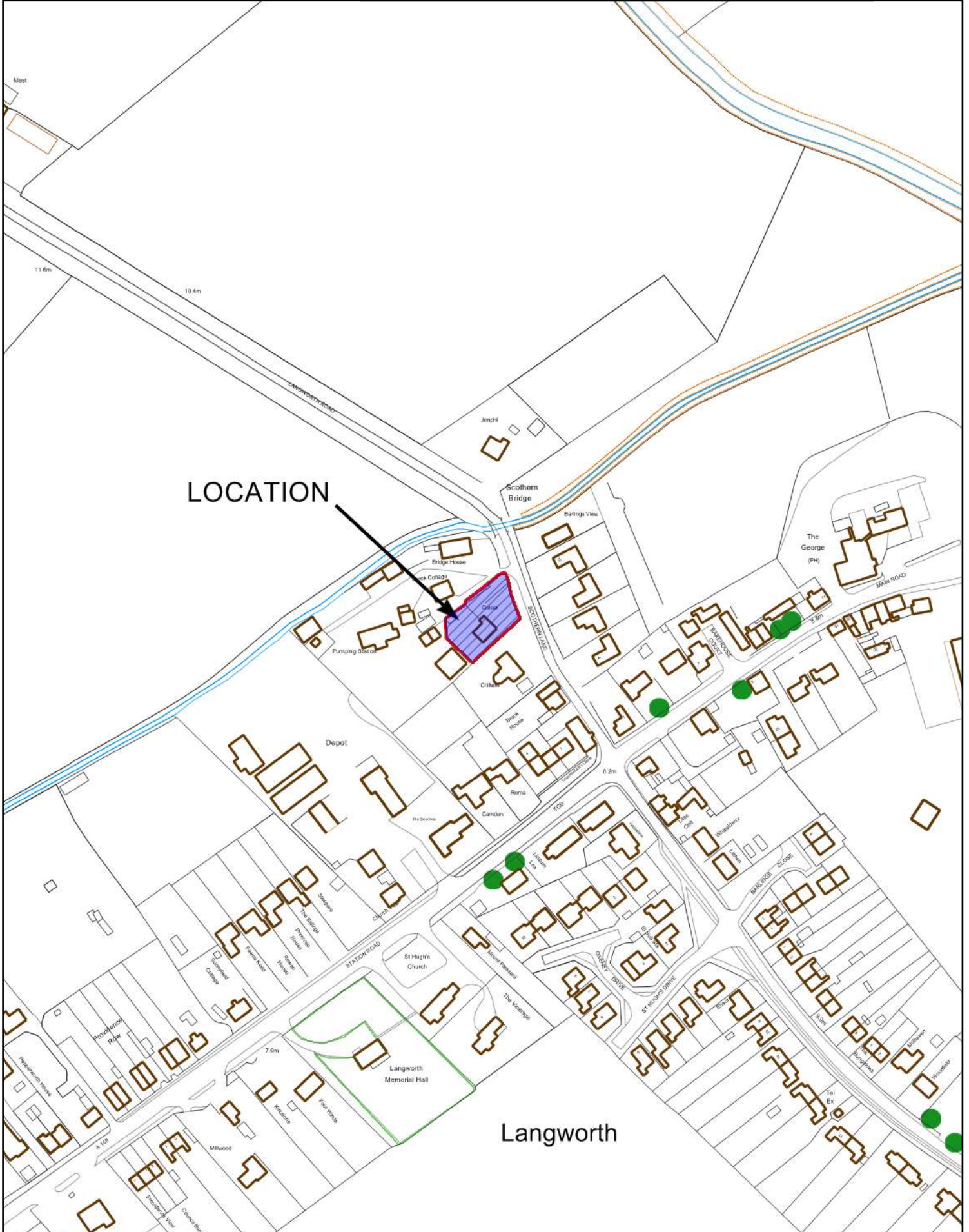
Nothing contained in this Undertaking shall give, or be construed as giving, any rights, privileges, powers or enforceability other than to the Council and to the specific person executing this Undertaking as the Owner and its successors (if any)

5. To limit the use of the site in line with the details contained in the Sustainable Travel Statement attached as Schedule 3 unless agreed in writing with the Council.
  
6. In the event the business activity run from the work units shall cease, then the occupier shall notify the Council within six months of the event occurring; and The occupier of the unit shall at the time of notification submit a timetable to the Council that shall specify a time period for bringing back into use of the work space or alternatively a timetable for the cessation of the occupation of the said live work unit. Any such unit subject to a timetable shall only be occupied in accordance with the timetable, where it has been agreed in writing by the Council.
  
7. Should the property be marketed for sale or rent then it shall be marketed as a 'live-work' dwelling with all interested parties being made aware of the covenants relating to the property.





LOCATION



Langworth



# Item 6

## Officers Report

### Planning Application No: 127132

**PROPOSAL:** Planning application to replace an existing bungalow and detached garage with a new dwelling with attached garage.

**LOCATION:** Golcar Scothern Lane Langworth Lincoln, Lincolnshire LN3 5BH

**WARD:** Fiskerton

**WARD COUNCELLOR:** Councillor Darcel

**APPLICANT NAME:** Mr B Warrener

**TARGET DECISION DATE:** 26/05/2011

**DEVELOPMENT TYPE:** Minor - all others

**CASE OFFICER:** Fran Bell

**RECOMMENDED DECISION:** Grant planning permission with conditions

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#### Description:

Golcar is a brick and tile bungalow to the west of Scothern Lane. The property flooded in the summer of 2007 and has not been lived in since. A mobile home is sited in the garden to the east. The property is largely unseen behind a tall hedge at the front of the property.

To the north of the site is Brook Cottage which is 1½ storeys with dormer windows in the roof. To the south is Chiltern, a modern bungalow rooflights in the roof. To the east is a row of bungalows. To the west is a large low roofed shed and other outbuildings beyond the conifer hedge boundary of this plot.

Following the previous refusal (see below), an alternative design has been submitted to replace the bungalow with a two storey, four bedroom house with attached double garage. The upper storey uses some of the roof space in order to reduce the height and the garage is lower than the house in order to lessen the bulk. The existing access onto Scothern Lane would be used. All of the existing boundary treatments will remain in place including the 2.1m hedge and trees at the front of the property.

#### Relevant history:

WR/219/64 Erect bungalow in connection with poultry holding PPC  
W04/99/83 Occupy bungalow without complying with agricultural occupancy condition PPU 4/3/83  
M03/P/1261 Extend dwelling to form garage and conservatory and move vehicular access Refused 31/12/03

124026 Pre application discussions regarding previous proposal. Concern over height.

126288 Planning Application for demolition of existing bungalow and construction of new dwelling with detached garage – Refused 19/10/10

### **Representations:**

**Chairman/Ward member(s):** None received.

**Parish Council:** Property will be two and a half times larger than existing dwelling, not in keeping with other dwellings on Scothern Lane, overshadow other properties, raising ground level will cause flood problems to other properties, no surface water drain across front of property and raising ground level will trap water behind, causing serious concerns to neighbouring property owners who have spent thousands of pounds putting their properties to rights.

**Local residents:** Three objections received from Chiltern, Brook House and Brook Cottage.

- inappropriate increase in size / much larger than original
- flood concerns with raised ground level/ no surface water drain at front of property
- why not renovated when every other property has been
- overshadowing / light blocking
- property did not suffer more than others in 2007 and is not at lowest point on street.
- overlooking
- proximity to other properties

**LCC Highways:** Does not wish to restrict grant of permission

**Environment Agency:** No objection subject to development being carried out according to Flood Risk Assessment dated March 2011 particularly floor level to be 7.41m AOD.

**Internal Drainage Board:** Has carried out bank raising works to 100 year protection standard for Scothern Lane. Estimate additional volume of property would raise flood level by 10mm. Compensatory storage often required by Environment Agency.

**LCC Archaeology:** No objections

### **Relevant Planning Policies:**

#### **Development Plan**

- East Midlands Regional Plan 2009  
[http://www.gos.gov.uk/497296/docs/229865/East\\_Midlands\\_Regional\\_Plan2.pdf](http://www.gos.gov.uk/497296/docs/229865/East_Midlands_Regional_Plan2.pdf)

- West Lindsey Local Plan First Review 2009

STRAT1 – Development Requiring Planning Permission

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

RES1 – Housing Layout and Design

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

NBE14 – Waste Water Disposal

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

### **Other policy guidance**

PPS1 – Delivering Sustainable Development (2005)

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

PPS25 - Development and Flood Risk (2010)

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement25.pdf>

### **Main issues**

- Principle of development (*PPS1, PPS3, STRAT1, STRAT3, RES1*)
- Design of replacement dwelling including its appropriateness in locality (*PPS1, STRAT1, RES1*)
- Impact on neighbouring property (*PPS1, PPS25, STRAT1, RES1*)
- Flood risk (*PPS1, PPS25, STRAT1, RES1, NBE14*)

### **Assessment**

#### **Principle of development**

There has been a residential property on this site since 1963 which has not been abandoned. Furthermore, given that this property has flooded, it would be reasonable to allow a replacement dwelling on this site subject to a suitable design and siting on the plot.

#### **Design of replacement dwelling including its appropriateness in locality**

The existing two bed bungalow is very modest in scale with a detached single garage. The proposal is larger, providing a four bedroom family house. However, the use of the roof space to accommodate some of the upper storey together with the stepped ridge level and the lower level garage help reduce the massing and impact. The materials palette of a buff brick to reflect the appearance of the local Langworth brick with a red brick detail and slate grey tiles fits in with the local palette. The windows are appropriately detailed with brick headers or leaded dormers. Solar panels will be incorporated in the rear

roof slope. It is considered that there will be sufficient garden space for a dwelling of this size and the house will not appear cramped on the plot.

The properties nearby consist of bungalows across the road to the east with a mixture of two storey, storey and a half and bungalows on the western side of Scothern Lane. Planning permission has been granted for more dwellings to the west of the site including one behind Chiltern, the dwelling to the south. The single storey building to the north of the site has permission to be replaced with a two storey office building. It is considered that the proposal will fit into this mix of dwellings without appearing dominant from the street.

### **Impact on neighbouring property**

The tallest part of the property is 7.7m above street level compared with the previously proposed 9 metres. This is still taller than the neighbouring properties (7.2m at Brook Cottage and 6.5m at Chiltern) but it is considered a reasonable height difference and the positioning on the plot means that there will be no adverse overshadowing to Brook Cottage to the north. The properties will be 10.4 metres apart at the closest point. The upper floor windows facing north will be to a bathroom and an en-suite and will be obscure glazed removing overlooking concerns. The windows closest to Chiltern are detailed as obscure glazed. The properties will be 9.8 metres apart at the closest point. The design is such that the parts closest to Chiltern are single storey (the garage, the office link and the garden room). The other windows looking towards Chiltern serve the lounge and one of the bedrooms. They will be more than 23 metres from the nearest wall of Chiltern which is considered to remove the potential for overlooking. The existing 2.1m tall hedge between the two properties will remain. Given the arrangement of the property on the site and the careful positioning of windows, it is not considered that the neighbouring properties will be adversely affected by the development.

### **Flood risk**

The site is in Flood Zone 2. There have been improvements made to the bank of Barlings Eau to protect the properties on Scothern Lane to a 100 year protection level. The Environment Agency has no objection provided that the development is carried out in accordance with the flood risk assessment particularly that the new ground floor level is 7.41 ODN. This will be 690mm above the ground floor level of the existing bungalow. In order to achieve this, the house will sit on a raised plinth with steps up to the front door. The garage will remain at the lower level. None of the rest of the garden ground will be raised, allowing water to escape as before without holding it back. The Environment Agency do not require any compensatory storage as a result of this development.

The Flood Risk Assessment calculates the effect on the flood plain to be a loss of 169 cubic metres leading to an increase in depth of 0.4mm. The FRA also recognises that flooding can occur from other sources such as heavy rainfall. However, as the site is flat with a slight slope southwards with no high ground nearby, it is not considered that there would be a rapid inundation of the site in heavy rain and that any water would form shallow ponding and

would drain away. The foul drainage will connect into the existing sewer and the surface water will disperse into soakaways. The driveway will be permeable. It is not considered that the development will have an adverse impact on the neighbouring properties through flooding. The proposal passes the Exception Test as the design takes it above the expected maximum level of flood and the construction will be flood resistant. Whilst there would not be dry access to the village in times of flood, the predicted depth would be no more than 80mm, which is considered a low risk.

### **Other matters**

The Planning Authority cannot take into account the condition of other properties post the 2007 floods as part of the assessment of this application, nor the applicants desire to replace the existing bungalow rather than refurbish it.

### **Conclusions and reasons for decision**

It is considered reasonable to allow for the replacement of this bungalow that was flooded in 2007. The replacement house is larger in scale than the existing small bungalow but through its careful design with varied roof heights, positioning on the plot and window placement, there will be no adverse impact on the neighbouring properties through overlooking or overshadowing and the house would not appear dominant in the street scene. The house will be built on a plinth to bring it above the predicted maximum flood level and the Flood Risk Assessment concludes that the increase in depth as a result of this development would be 0.4mm. None of the land around the property will be raised. Whilst no dry access to the village would be available in a high flood, the depth would be no more than 80mm. Therefore, it is considered that the proposals are in accordance with the advice given in PPS1: Delivering Sustainable Development and PPS25: Development and Flood Risk and with the saved policies STRAT1 – Development Requiring Planning Permission, RES1 – Housing Layout and Design and NBE14 – Waste Water Disposal of the West Lindsey Local Plan First Review June 2006.

### **Recommendation**

#### **Grant permission subject to 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 commenced:**

None

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

2. The development shall have a finished floor level at no lower than 7.41m Above Ordnance Datum.

Reason: To reduce the risk and impact of flooding to the proposed development and future occupants in accordance with PPS25: Development and Flood Risk and policy STRAT1: Development Requiring Planning Permission of the West Lindsey Local Plan First Review June 2006.

3. There shall be no raising of existing ground levels on the site.

Reason: To facilitate the free passage of flood water in times of flooding in accordance with West Lindsey Local Plan First Review Policy STRAT1.

4. The development shall be completed in accordance with the external facing materials described in section 9 (materials) of the submitted application form received 31<sup>st</sup> March 2011 or otherwise submitted to and approved in writing by the local planning authority before development commences on site.

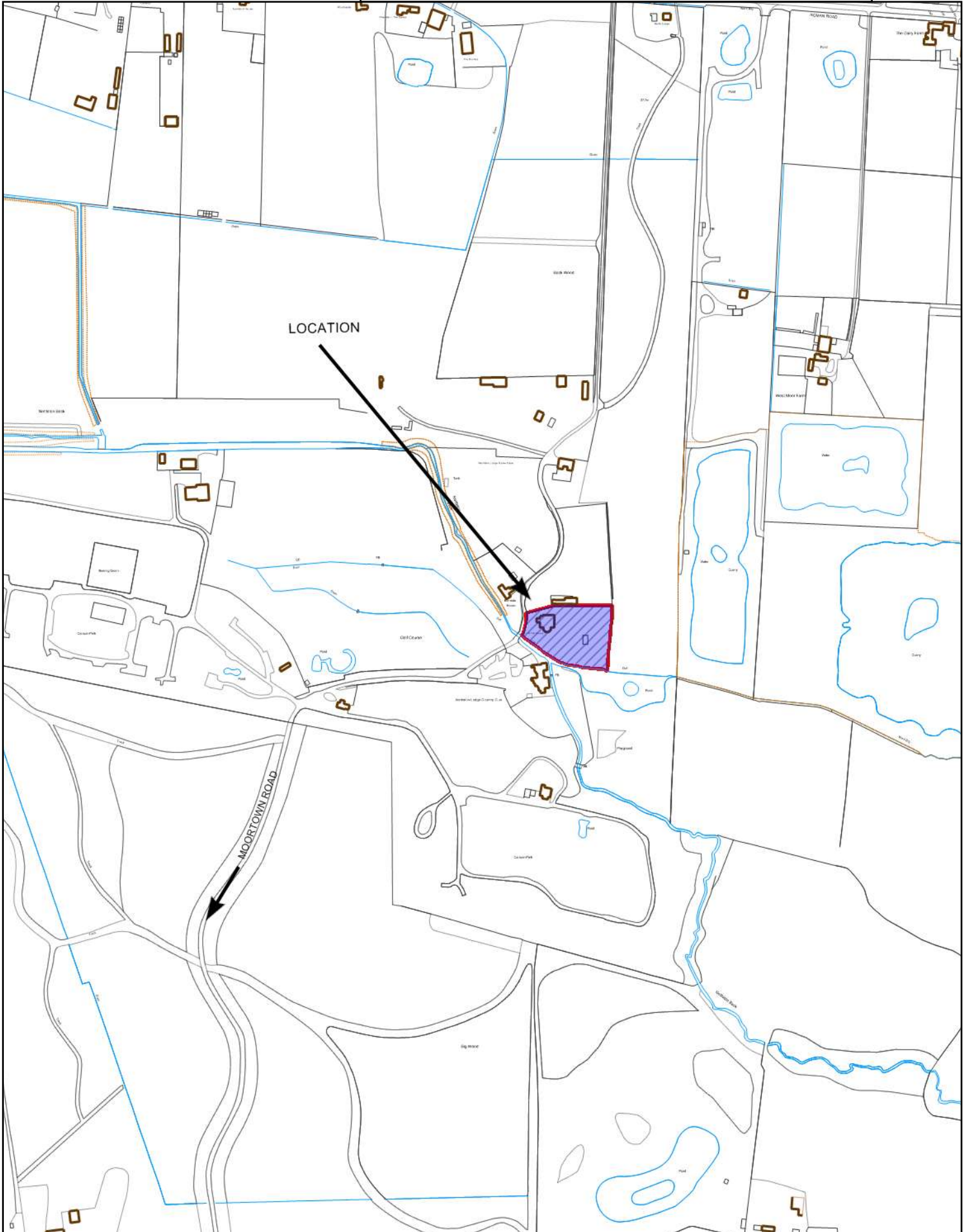
Reason: To ensure that the character and appearance of the area is preserved and to accord with policies STRAT1 and REs1 of the West Lindsey Local Plan First Review 2006.

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendments) Order 2008 (or any Order revoking and re-enacting that Order with or without modification), no additional openings other than those hereby permitted in the external walls or roof of the development shall be formed without an express grant of planning permission.

Reason To avoid overlooking, in the interests of the residential amenities of adjoining occupiers in accordance with West Lindsey Local Plan First Review Policy STRAT1.







# Item 7

## **Officers Report**

### **Planning Application No: 127069**

**PROPOSAL:** Planning application for building a cattery containing 20 units.

**LOCATION:** White House Moortown Road Nettleton Market Rasen LN7 6HX

**WARD:** Caistor

**WARD MEMBER(S):** Cllrs Caine and Mrs Lawrence

**APPLICANT NAME:** Mrs A Hamilton

**TARGET DECISION DATE:** 27/05/2011

**DEVELOPMENT TYPE:** Minor - all others

**CASE OFFICER:** Kirsty Catlow

**RECOMMENDED DECISION:** Grant planning permission, subject to conditions.

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#### **Description:**

The application site comprises of a detached dwelling in a large garden plot with a number of outbuildings within the rear garden. The property is located within the settlement of Nettleton in the open countryside. The surrounding area comprises of a cluster of residential properties, with a public house to the south and Nettleton Caravan Park beyond. A watercourse runs beyond the southern boundary of the site. Access to the site can be obtained from the north off North Kelsey Road via a single unmade track, or from the south off Moortown Road through the caravan park.

The application seeks planning permission for 20 cattery units together with 2 storage buildings. The individual buildings would measure 1.2m by 2m and be positioned on a concrete base arranged around a central courtyard. Each cattery unit would be constructed of wood and have an outdoor pen to the front.

The application site is located within a site of nature conservation interest. Part of the south eastern corner of the site is located within Flood Zones 2 and 3.

#### **Relevant history:**

M03/P/1221 – Planning permission for a change of use from domestic dwelling (C3) to residential child care (C2) was granted by Planning Committee in December 2003. A condition limited the premises to residential child care for a maximum of five children between the ages of 11 and 17.

## **Representations:**

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

**Nettleton Parish Council:** No objections.

**Local residents:** A letter of objection has been received from Burnside House (a dwelling to the west of the application site) raising concerns on the following grounds; Site access, waste collection, vehicle parking and foul sewage. State that there are already a number of existing catteries in the area.

**LCC Highways:** State that the access is currently constructed in a loose bound material. Request that it is improved to a specification to be agreed by the Local Planning Authority.

**Environment Agency:** As the proposed cattery will be on the very edge of the flood zone, and there will be little or no increase in the number of people on site, we consider this a 'low risk' application. Accordingly, we do not wish to make any comments.

**Environmental Protection:** No response

**Archaeology:** The very small development means that any type of archaeological intervention is unlikely to produce any meaningful results. No further archaeological input required.

**Building Control:** Based on information provided, exempt from Building Regulations.

## **Relevant Planning Policies:**

### **The Development Plan**

- East Midlands Regional Plan 2009  
[http://www.gos.gov.uk/497296/docs/229865/East\\_Midlands\\_Regional\\_Plan2.pdf](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://www.west-lindsey.gov.uk/localplan/written/cpt3b.htm>

STRAT 12 – Development in Open Countryside  
<http://www.west-lindsey.gov.uk/localplan/written/cpt3a.htm>

CORE 8 – Commercial Pet and Animal Establishments  
<http://www.west-lindsey.gov.uk/localplan/written/cpt8.htm>

NBE 12 – Development affecting Locally Designated Nature Conservation Sites and Ancient Woodlands  
<http://www.west-lindsey.gov.uk/localplan/written/cpt11.htm>

NBE 14 – Waste Water Disposal  
<http://www.west-lindsey.gov.uk/localplan/written/cpt11.htm>

## **Other Relevant National Planning Guidance**

- PPS 4 – Planning for Sustainable Economic Development (2010)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement4.pdf>
- PPS 9 – Biodiversity and Geological Conservation  
<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>
- PPS25 - Development and Flood Risk (2010)  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement25.pdf>

## **Main issues**

- Principle of Development including residential amenity and highway safety (STRAT 1, STRAT 12, CORE 8, PPS 4, PPG 13)
- Impact on Site of Nature Conservation Interest (NBE 12, PPS 9)
- Impact on Flood Risk and Drainage (NBE 14, PPS 25)

## **Assessment:**

### **Principle of Development including residential amenity and highway safety**

STRAT 12 of the West Lindsey Local Plan states that planning permission will not be granted in the open countryside except for a number of identified uses, unless supported by other plan policies.

Policy CORE 8 of the West Lindsey Local Plan supports proposals for the development of commercial pet boarding premises, subject to the following criteria; it is not adjoining a residential use unconnected with the business; it would not adversely affect the amenity of nearby residents through noise, smell, scale, layout, appearance, traffic or parking; sufficient space for exercising animals, noise attenuation measures to minimise disturbance; landscaping to screen proposal.

Guidance contained within PPS 4 – requires Local Planning Authorities, when considering economic development proposals in rural locations, to ensure the countryside is protected.

In terms of residential amenity, the proposed cattery would be located to the rear garden area of the application property and does not adjoin a residential or sensitive use outside the applicant's control. The cattery would be located 90m from the nearest neighbouring property and it is not considered that

noise or odour from cats would be so intrusive over this distance to harm residential amenity. The applicants have advised that waste would be bagged on site in a special bin and collected on a regular basis by a specialist waste company. In terms of noise and disturbance from vehicles dropping off and collecting, the applicants have stated that customers will only be permitted to arrive between 09:00 and 11:00 and 15:00 and 16:00 on Mondays to Saturdays with not on Sundays or Bank Holidays. In order to protect residential amenity, this could be a condition of any approval.

In terms of visual amenity, the site is well screened from the surrounding area by the application property, existing boundary treatment and mature trees. As a result, the proposed single storey buildings would not harm the visual amenities of the surrounding countryside and no additional screening is considered necessary.

In terms of exercise areas, each unit would have an external pen area for exercise.

In terms of highway safety, access into the site can be obtained from the south through a caravan park or from the north down a single unmade track. Following consultation with LCC highways they have requested that the access be improved to a specification which is first submitted to and approved by them. Given that the access track from the public highway to the application property measures in excess of 660m, together with the modest scale of the proposed development proposed, it is not considered reasonable to require the access road to be improved.

It is therefore necessary to consider if the proposed development is acceptable given the current highway condition. It is accepted that the site is not in a substantially sustainable location, however catteries by their very nature are more suited to rural locations and in any location, customers will rely upon the private car to drop off and collect animals. Given the modest scale of the proposed cattery, it is not considered that the proposal will result in significant increases in traffic to be detrimental to highway safety. The property does benefit from several off street car parking spaces, however as the driveway is gated off at present, any future customers dropping off or collecting animals may park on the access track preventing the free and safe flow of traffic. It is therefore recommended that a condition be attached requiring a scheme to be submitted which ensures customers and refuse vehicles visiting the site will have access to off street car parking and turning on the driveway.

### **Impact on Site of Nature Conservation Interest**

The application site is located within a site of nature conservation interest, which was allocated for its woodland interest. The woodland itself abuts the eastern boundary of the application site. Following consultation with the Council's Green Officer, subject to a condition relating to the dig methods for the concrete base, there would be no detrimental impact on the health of trees.

### **Impact on Flood Risk and Drainage**

Part of the south eastern corner of the site is located within Flood Zone 3 and a watercourse runs along the southern boundary of the application site.

The cattery will be run by the occupier of the White House and will not result in any increase in the number of people employed on the site.

In terms of drainage, foul will be connected to the existing septic tank (as there is no mains drainage) and surface water will be drained via soakaways which is in accordance with the guidance in circular 03/99.

As a result there will be no increase in risk to people on the site or flooding downstream.

### **Other Issues**

Whilst it is noted that there are a number of catteries already in the area, it carries little weight in the consideration of this application.

A cattery is sui generis and in a use class of its own. If the applicant wishes to house other animals such as dogs or rabbits then planning permission would then be required for a change of use. A note will be attached to any approval informing the applicant of this.

### **Conclusion:**

The proposed cattery by reason of its distance to residential properties and restricted open hours, would not significantly harm residential amenity. Whilst the site is located off a long unmade access track, given the modest scale of the development and the conditioned off street car parking arrangements, the proposal would not harm highway safety. The cattery will be well screened from the surrounding area and will not harm visual amenity. Subject to a condition relating to the methods for constructing the concrete base there will be no impact on the health of trees located within the site of nature conservation interest. The proposal therefore accords with policies STRAT1, STRAT12, CORE8, NBE12 and NBE14 of the West Lindsey Local Plan First Alteration June 2006 and guidance contained within PPS4, PPS9, PPG13 and PPS25.

### **Recommendation:**

**Grant planning 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 commenced:**

2. No development shall take place until a scheme detailing measures to allow customer and refuse vehicles to have access to the site, during customer opening hours and waste collection times respectively, for off street car parking has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

3. No development shall take place until a scheme detailing the dig method for constructing the concrete base as shown on the proposed construction plan has been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the future well-being of the trees in the interests of the visual amenity of the area and in accordance with West Lindsey Local Plan First Review Policies STRAT1 and NBE12.

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

4. The concrete base shall be constructed in accordance with the scheme approved under condition 3 of this approval.

Reason: To safeguard the future well-being of the trees in the interests of the visual amenity of the area and in accordance with West Lindsey Local Plan First Review Policies STRAT1 and NBE12.

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

5. The cattery shall only be open to customers between 09:00 and 11:00 and 15:00 and 16:00 on Mondays to Saturdays and not at any time on Sundays or Bank or National holidays.

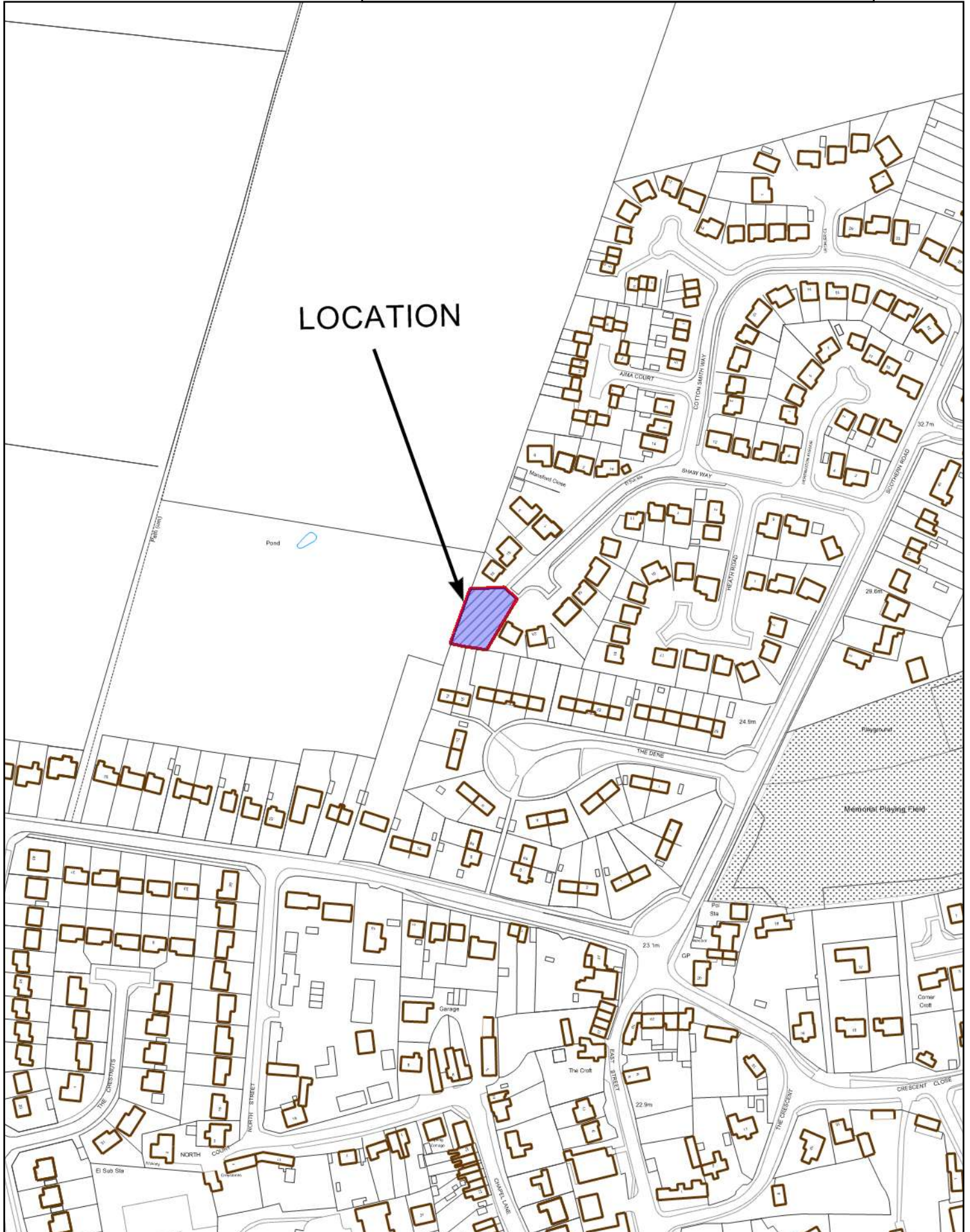
Reason: To protect the amenities of adjoining properties and the locality in general in accordance with West Lindsey Local Plan First Review Policy STRAT1.

6. The off street car parking arrangements approved under condition 2 of this approval shall be made available and operated at all times whilst the premises are open to customers and during waste collections.

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

**Informative**

The applicant is advised that this permission is for a cattery only. The housing of dogs, rabbits or any other animals would result in a material change of use for which planning permission would be required.



LOCATION



## Item 8

### Officers Report

### Planning Application No: 127296

**PROPOSAL:** Planning Application for a replacement dwelling design on plot 115 of planning permission W65-105-95 approved 9th May 1995.

**LOCATION:** Land at Shaw Way Nettleham LINCOLN LN2 2XS

**WARD:** Nettleham

**WARD MEMBER(S):** Cllrs Leaning and Sellars

**APPLICANT NAME:** Mr J Dixon

**TARGET DECISION DATE:** 01/07/2011

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** Helen Marriott

**RECOMMENDED DECISION:** Grant permission subject to conditions

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#### **Description:**

The application site is a vacant plot of land (Plot 115) located at the head of Shaw Way which is a cul-de-sac. It is the only remaining undeveloped plot which forms part of a larger residential development of 15 dwellings (Application Number W65-105-95). All of the dwellings other than the dwelling on the Plot 115 have been completed and occupied. As such, Plot 115 benefits from extant planning permission for the erection of a 5-bed two storey dwelling with integral double garage.

Shaw Way is residential in nature characterised by 1990's two storey detached dwellings of varying designs and layout. Two storey terraces and semi detached dwellings are located along The Dene to the south of the site. Open countryside is located to the west of the site.

The site comprises an undeveloped five sided shaped area with a topography which slopes towards the rear of the side in a north south direction.

The application seeks an amendment to the design approved house type on plot 115. It would be constructed in three phases resulting in a 5-bed two storey dwelling with integral double garage. The proposed dwelling would measure 17.2 metres deep (maximum) and 10.8 metres wide (maximum). It would measure 8.5 metres high.

#### **Relevant history:**

W65/105/95 Planning application to erect 15 dwellings and associated garages Plots 108, 108A and 109-121 inclusive – permission May 1995

## **Representations:**

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

**Parish Council:** Object to the application for the following reasons:

- the proposed 3 phase development of the site will cause unwarranted nuisance and disturbance over a prolonged period of time to the neighbourhood;
- the proposed design does not reflect the Village Design Statement and would be incongruous with the estate houses and adjoining dwellings in particular;
- the proposed dwelling is more than 50% larger than typical houses on this estate and would be overly dominant in this location.

**Local residents:** One letter of representation received. Main issues raised relate to impact upon ditch to the rear of the site which needs to be retained to ensure no drainage or flooding issues.

**LCC Archaeology:** No objection.

## **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/cpt3b.htm>

RES 1 – Housing Layout and Design

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

### **Other policy**

- 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>
- Nettleham Village Design Statement 2010  
[http://parishes.lincolnshire.gov.uk/Files/Parish/9/VDS\\_September\\_2010\\_low\\_res.pdf](http://parishes.lincolnshire.gov.uk/Files/Parish/9/VDS_September_2010_low_res.pdf)

## **Main issues**

- The Principle of Development

- Impact on Residential Amenity
- Impact on Visual Amenity
- Drainage
- Other

## **Assessment:**

### **The Principle of Development**

Plot 115 benefits from extant planning permission for the erection of a 5-bed two storey dwelling with integral double garage. As such, the principle of developing a similar dwelling on site is already established. The proposal is for the erection of a similar sized dwelling to that already approved. As such, the main issue for consideration relates to impact of the altered design and layout upon residential and visual amenity.

### **Impact on Residential Amenity**

Policy STRAT1 states that development must reflect the need to safeguard and improve the quality of life for residents. Policy RES 1 states that permission will only be granted for new residential development provided that impact on the amenities of nearby residential properties is satisfactory.

No. 20 Shaw Way, a detached two storey dwelling located immediately to the north of the application site. Due to the topography of the land, the level of No. 20 is higher than the application site and a 2 metre high (approx.) close boarded fence form a boundary between the two sites. Two windows are proposed on the west facing side elevation of the application dwelling. One of these would serve a bathroom and a condition would be imposed to ensure that this window is obscurely glazed and non-opening to ensure no overlooking towards the side garden area of No. 20. The second window is a secondary bedroom window and would be located 10.4 metre away from the boundary with No.20. A landscape scheme would be required by planning condition to increase levels of screening between the two sites. Due to the separation, oblique angle of the window and subject to a landscape condition, it is not considered that any material increase in levels of overlooking or loss of privacy upon the occupiers of No. 20 would result.

No. 25 Shaw Way is a detached two storey dwelling located immediately to the east of the application site. Its side elevation contains no windows and a 2 metre high (approx.) close boarded fence forms a boundary between the two sites. The proposed dwelling would be built at approximately the same level as No. 25. Two windows are proposed on the east facing side elevation of the application dwelling. One of these would be a secondary bedroom window and a condition would be imposed to ensure that this window is obscurely glazed and non-opening to ensure no overlooking towards the rear garden area of No. 25. The second window would serve a study/bedroom and would predominately face the blank side wall of No. 25. As such, it is not considered that any material increase in levels of overlooking or loss of privacy upon the occupiers of No. 25 would result.

The front elevation of the proposed dwelling would project further forward than the front building line of No 25. However, this two story section of the dwelling is located some 3.7 metres away from the side elevation of No. 25 which contains an integral garage at ground floor level. In addition, this two storey section of the proposed dwelling has been designed with a roof which slopes to an eaves height of 3.5 metres closest to No. 25. As such is not considered that any overbearing impact would result upon the occupiers of No. 25.

The amenity of the occupiers of the dwellings to the rear of the site along The Dene would not be adversely affected by the proposed development as their rear elevations are located some 20 metres from the rear boundary of the application site with the rear elevation of the proposed dwelling located approximately 8 metres from the shared boundaries. Existing trees and shrubs located along this boundary would be retained and enhanced as part of a landscape scheme to be required by planning condition.

### **Impact on Visual Amenity**

Policy RES1 (supported by STRAT1) requires new residential development to have regard to the local environment in terms of siting, layout, density, scale, massing, materials and the provision of key features to enhance the character of the locality.

Nettleham Village Design Statement states that the surge in growth over the twentieth century has resulted in an eclectic mix of architectural styles, representing progressive developments in house design, construction materials and building technology. It also states that new buildings should be of similar proportions to houses in their vicinity and buildings should reflect design styles and features of nearby houses. Individuality and innovation should be welcomed where this sits well within the overall context.

The main impact upon the character of the locality relates to the acceptability of an altered design and layout of dwelling on this plot. The proposed dwelling is not considered to be significantly larger than the approved dwelling with extant planning permission on the plot. This Plot would be viewed in the context of the other detached two storey dwellings in Shaw Way which contain a mix of design styles and features. Whilst the design of the proposed dwelling is individual, it is not considered that it would be out of context with the scale or design of dwellings in the immediate vicinity.

Although the front elevation of the proposed dwelling would project further forward than the front building line of No 25, this would not result in an overly dominant feature in the street scene given the location of the dwelling at the head of the cul-de sac directly in line with the access to the cul-de-sac.

Overall, the alteration to the house type of Plot 115 is in keeping with other dwellings in the immediate vicinity and would not be detrimental to visual amenity in accordance with Policies RES 1 and STRAT 1.

### **Drainage**

Policy STRAT 1 of the Local Plan requires new development to have regard to the availability and capacity of infrastructure. In this instance, surface water would be discharged by way of soakaways and the proposal represents the replacement of a dwelling which already benefits from extant planning permission. The proposal would not directly affect any ditch to the rear of the site. As such, the proposal is unlikely to result in any additional drainage issues in accordance with the aims of Policy STRAT 1 of the Local Plan.

### **Other**

Noise and disturbance during construction is not a material planning consideration and would need to be dealt with under separate procedures.

### **Conclusion and reasons for decision:**

The proposed dwelling is not significantly larger than the approved dwelling with extant planning permission it replaces. Subject to conditions, the alteration to the house type on Plot 115 would not be detrimental to residential or visual amenity or result in any additional drainage issues. The proposal is therefore considered to comply with the objectives of PPS1, PPS3 and would accord with Policies STRAT 1 and RES 1 of the West Lindsey Local Plan First Review June 2006.

### **Recommendation:**

**Grant, 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 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 and the development shall only be carried out using the agreed materials.

Reason: To safeguard the character and appearance of the building and its surroundings and ensure the proposal uses materials and components that have a low environmental impact in accordance with West Lindsey Local Plan First Review 2006 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 plants to be planted have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision of a landscaping scheme to enhance the development and to enhance screening along the boundaries of the site in the interests of residential and visual amenity in accordance with West Lindsey Local Plan First Review Policy STRAT 1, CORE 10 and RES1.

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

4. The development shall not be carried out otherwise than in accordance with the following drawings:

JH1216-04 Site Section  
JH1216-03 Site Layout  
JH1216-01 Plans and Elevations  
JH1216-05 Plans and Elevations (Amended Plan received 8/6/11)  
JH1216-02B Elevations (Amended Plan received 8/6/11)

Reason: To define the terms of the planning permission for the avoidance of doubt, to ensure an acceptable quality of design and to avoid the development having an adverse impact on the living conditions of the neighbouring dwellings in accordance with West Lindsey Local Plan First Review Policy STRAT1.

5. Prior to the occupation of the dwelling, the en-suite window in the first floor west facing elevation shall be fitted with obscure and non-opening glazing, which shall be retained as such for the life of the development.

Reason: To avoid overlooking, in the interests of the residential amenities of adjoining occupiers in accordance with West Lindsey Local Plan First Review Policy STRAT1.

6. Prior to the occupation of the dwelling, the study window in the first floor east facing elevation shall be fitted with obscure and non-opening glazing, which shall be retained as such for the life of the development.

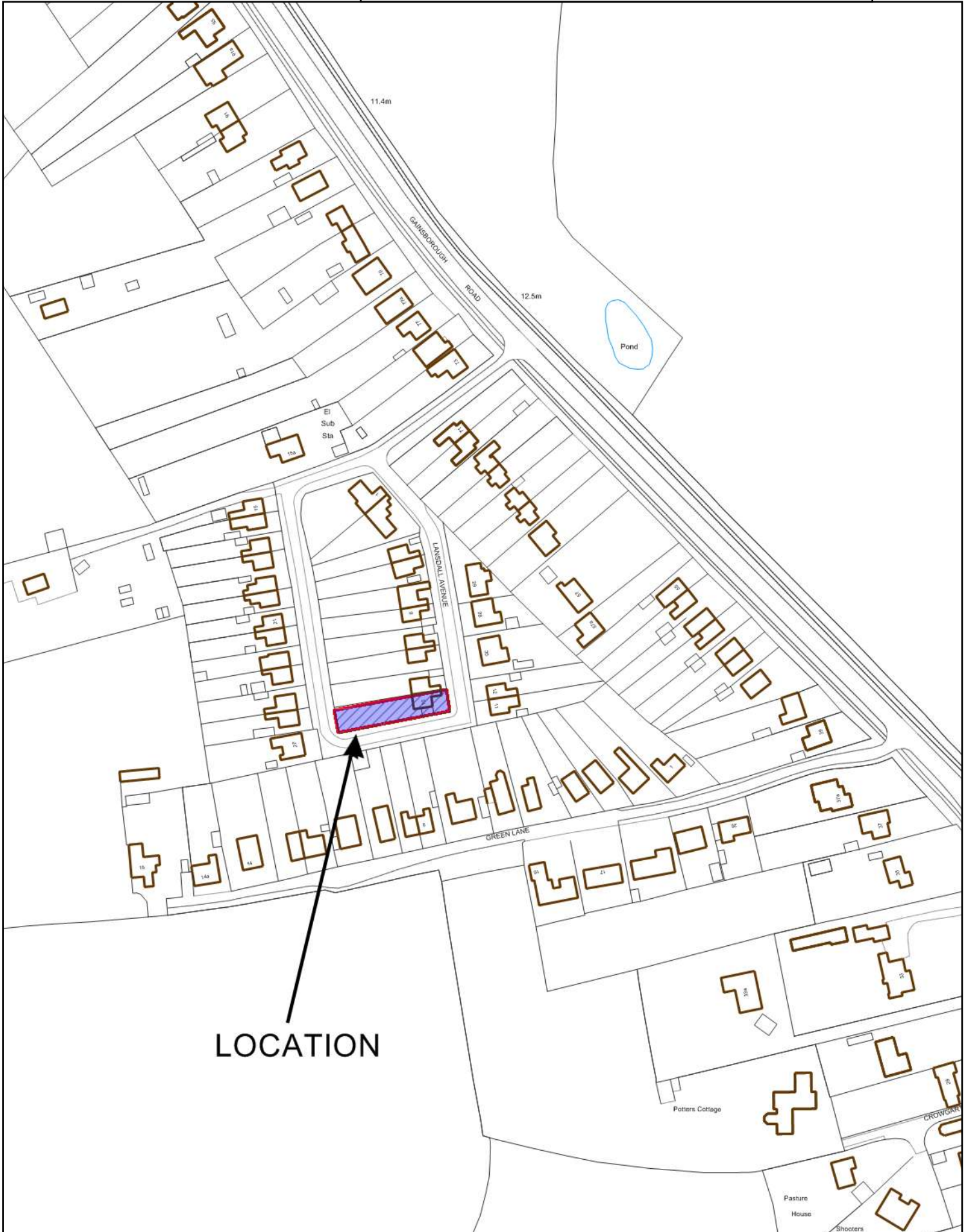
Reason: To avoid overlooking, in the interests of the residential amenities of adjoining occupiers in accordance with West Lindsey Local Plan First Review Policy STRAT1.

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

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development, 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 consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome, in the interests of the visual amenities of the locality and in accordance with West Lindsey Local Plan First Review Policies STRAT 1, CORE 10 and RES11.



LOCATION



# Item 9

## Officers Report

### Planning Application No: 127230

**PROPOSAL:** Planning Application for proposed kitchen extension to the front of property and proposed hobby/workshop at the bottom of rear garden.

**LOCATION:** 10 Lansdall Avenue Lea Gainsborough, Lincolnshire DN21 5JL

**WARD:** Lea

**WARD MEMBER(S):** Cllr Milne

**APPLICANT NAME:** Mr K Pitman

**TARGET DECISION DATE:** 23/06/2011

**DEVELOPMENT TYPE:** Householder Development

**CASE OFFICER:** Vicky Maplethorpe

**RECOMMENDED DECISION:** Grant permission

**REASON FOR REFERRAL:** The applicant is related to a member of staff at the council.

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#### Description:

The application site comprises a semi-detached house located within Lea. The site is within an Area of Great Landscape Value and within flood zone 2. The application site is surrounded by other residential dwellings. There are two parts to this application, the erection of a single storey extension to the front of the dwelling and a detached outbuilding at the rear of the site.

#### Relevant history:

None

#### Representations:

Chairman/Ward member(s):	None received
Parish/Town Council/Meeting:	No objections
Local residents:	None received
LCC Highways:	None received
Archaeology:	No objections
Building Control:	No objections

#### Relevant Planning Policies:

Local Guidance	STRAT 1 Development requiring Planning Permission <a href="http://www.west-lindsey.gov.uk/localplan/written/cpt6.htm">http://www.west-lindsey.gov.uk/localplan/written/cpt6.htm</a>
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	RES 11 Extensions to Dwellings Located within Settlements <a href="http://www.west-lindsey.gov.uk/localplan/written/cpt3a.htm">http://www.west-lindsey.gov.uk/localplan/written/cpt3a.htm</a>
National Guidance	PPS1 Delivering sustainable development <a href="http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf">http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf</a>
	PPS25 Development and flood risk <a href="http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement25.pdf">http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement25.pdf</a>

### **POLICY RES 11 – Extensions to dwellings located within settlements**

#### **i. Does the proposal introduce a terracing effect in the street-scene?**

The application is for a single storey extension at the front of the dwelling and a detached out building at the rear of the site. Due to the size, scale and location of both the extension and the outbuilding they will not introduce a terracing effect in the streetscene.

#### **ii. Is the proposal well designed in relation to the size, shape and materials of the building to be extended, and is subordinate to the existing property?**

The row of properties along the west side of this stretch of Lansdall Avenue are all semi-detached dwellings with single storey protrusions at the front. Many of these dwellings have been altered and extended, including extensions on the principal elevation. This application seeks permission to extend the existing single storey protrusion on the principal elevation to the side by 2.5 metres. The size, scale, design and materials to be used reflect that of the existing dwelling.

Due to the size and scale of the extension it is considered that it will not affect the symmetry of this pair of semis.

The proposed hobby/workshop measures 7 metres by 7.5 metres and is 4.1 metres high to the ridge. It is to be located adjacent the rear boundary. It too reflects the existing dwelling in terms of size, scale, design and materials. Both the extension and hobby/workshop can be classed as being subordinate in size to the existing dwelling.

#### **iii. Does the proposal adversely affect the amenity of the residents of neighbouring properties by virtue of over-dominance or appearance?**

To the east (front) of the site are numbers 11 and 12 Lansdall Avenue, to the south of the site are the rear gardens of numbers 7-11 Green Lane and to the west (rear) of the site are numbers 26 and 27 Lansdall Avenue. Due to the size, scale and location of the single storey front extension it will not result in any adverse affects on the residential amenities of the neighbouring properties.

The detached hobby/workshop is to be set at least 1 metre from the rear and side boundaries of the site. It is to have a an eaves height of 2.4 metres and a ridge height of 4 metres. There is a 2 metre (approx) high hedge along the south boundary and a 1.8 metre high close boarded fence along the rear boundary. It is considered that due to the size, scale and location of the proposed hobby/workshop and its relationship with the surrounding properties it will not result in any adverse affects on the streetscene or on the residential amenities of nearby residents.

#### **iv. Does the proposal prejudice the retention of any significant trees or other**

important features?
No significant trees will be affected by the proposal.
v. Does the proposal enable adequate off-street parking space to remain for at least one vehicle to park?
There is currently 1 parking space and a garage at the site. These will not be affected by the proposed extension and hobby/workshop.
vi. Does the proposal enable an adequate amount of private garden space to remain?
An adequate amount of outdoor amenity space will remain at the site.
vii. Does the proposal have a significant impact on the supply, availability and subsequent affordability of smaller properties as part of the overall mix of properties within the locality?
The proposal is located within Lea and there is a variety of different sized properties available and the proposal is for a small kitchen extension and detached hobby/workshop. This development will not have a significant impact on the supply, availability and subsequent affordability of smaller properties as part of the overall mix of properties within the locality.

<b>Other Matters:</b>
We are currently awaiting the submission of a Flood Risk Assessment, the contents and implications of which will be reported to Members of the Planning Committee at the meeting.

<b>Conclusion and reasons for decision:</b>
The proposal has been considered against policies STRAT1: Development Requiring Planning Permission and RES11: Extensions to Dwellings Located Within Settlements of the adopted Local Plan Review in the first instance. In light of this assessment it is considered that the proposal will not harm the character and appearance of the streetscene nor the amenity of neighbouring occupiers, due to their size, scale and design.

<b>Recommended Conditions:</b>
<b>Conditions stating the time by which the development must be commenced:</b>
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).