

Guildhall Gainsborough
Lincolnshire DN21 2NA
Tel: 01427 676676 Fax: 01427 675170

AGENDA

This meeting will be recorded and the video archive published on our website

Planning Committee

Wednesday, 26th July, 2017 at 6.30 pm

Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA

Members:

- Councillor Ian Fleetwood (Chairman)
- Councillor Owen Bierley (Vice-Chairman)
- Councillor Matthew Boles
- Councillor David Cotton
- Councillor Stuart Curtis
- Councillor Michael Devine
- Councillor Hugo Marfleet
- Councillor Giles McNeill
- Councillor Mrs Jessie Milne
- Councillor Roger Patterson
- Councillor Mrs Judy Rainsforth
- Councillor Thomas Smith

1. **Apologies for Absence**
2. **Public Participation Period**
Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. **To Approve the Minutes of the Previous Meeting**
 - i) Meeting of the Planning Committee held on 28 June 2017, previously circulated.
4. **Declarations of Interest**
Members may make any declarations of interest at this point but may also make them at any time during the course of the meeting.

5. **Update on Government/Local Changes in Planning Policy**

Note – the status of Neighbourhood Plans in the District may be found via this link

<https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/>

6. **Planning Applications for Determination**

a) 136125 - Burton Lane End Burton Waters

Planning application for residential development for 9no. dwellings, surface parking and associated landscaping (PAGES 3 - 16)

b) 135567 Deepdale Lane Nettleham

Planning application for residential development comprising: a new access road and road junction to Deepdale; 50 dwellings with estate roads, public open space and associated development; a scheme of 22 apartments and 14 bungalows for the over 55s with communal areas, shared open space and off street car parking. (PAGES 17 - 56)

c) 135618 - Sudbrooke Park

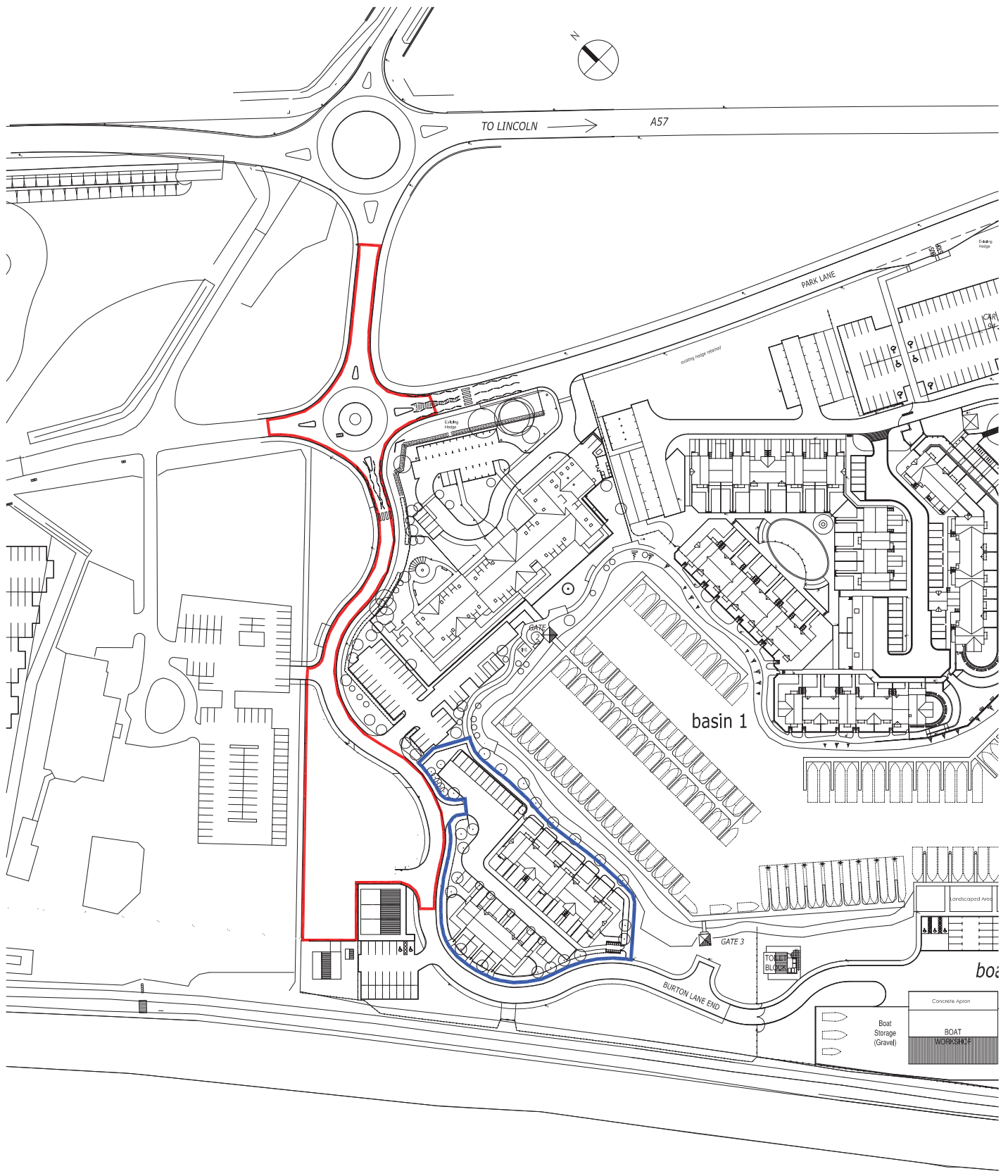
Hybrid application for approval of reserved matters for up to 130no. dwellings, a new building to provide up to 25no. apartments for retirement living and a full application for a public house/restaurant-as approved at appeal under hybrid application 133284 (PAGES 57 - 84)

7. **Determination of Appeals**

(PAGES 85 - 192)

Mark Sturgess
Interim Head of Paid Services
The Guildhall
Gainsborough

Tuesday, 18 July 2017



site location plan
 1:1250

Rev	Revision note	Date	Drawn by
	PROPOSED RESIDENTIAL DEVELOPMENT AT BURTON LANE END, BURTON WATERS, LINCOLN		
	Drawn by MJE	Checked	Date DEC 2016
	Scale 1:1250@A3		
	SITE LOCATION PLAN	Dwg No J1645 01	Rev

This page is intentionally left blank

Officers Report

Planning Application No: 136125

PROPOSAL: Planning application for residential development for 9no. dwellings, surface parking and associated landscaping.

LOCATION: Land off Burton Lane End Burton Waters Lincoln LN1 2UA

WARD: Saxilby

WARD MEMBERS: Cllr Brockway and Cllr Cotton

APPLICANT NAME: Beal Developments Ltd

TARGET DECISION DATE: 19/06/2017

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Martin Evans

RECOMMENDED DECISION: Grant planning permission subject to conditions

Description:

Planning permission is sought for the erection of 9 dwellings with associated car parking and landscaping. The site is within the Burton Waters development and at the time of the site visit was being used as a temporary storage/works area in connection with the development of the land to the east. To the west is a public house car park, to the north a care home, to the east residential development and to the south an office building and pumping station. The site is in flood zone 2.

The proposed dwellings front Burton Lane End and come in two blocks of three and six with a vehicle parking court to the rear. The design features subservient dwellings to each end of the terrace, eaves gables, entrance canopies, partial cladding to the first floor and brick arches above some openings. The drawings specify precise external finishing materials. The drawings show each dwelling has two bedrooms as opposed to the mix stated on the application form. Each modest rear garden would have direct access to the gated parking court. Eighteen parking spaces would serve nine dwellings (2 per unit).

This application is presented to the committee as it is considered the recommendation is finely balanced.

Relevant history:

On site- 121818- planning application for proposed offices and associated car parking- approved 23/1/9.

Land to east- 131665- planning application for erection of 13no. dwellinghouses with associated access, car parking and landscaping- approved 22/7/15.

Land to the west- 135568- Planning application to erect Lodge style Hotel (C1) and associated works, including landscaping and car park configuration- approved 17/3/17.

Representations:

Ward Councillor (summary):

- Ambiguity over what constitutes Burton Lane End.
- Set number of properties and facilities to be built at Burton Waters following public inquiry. Proposal is contrary to this and also to policy formulated on the report specifically for Burton Waters.
- No additional dwellings proposed in CLLP for Burton Waters. Not sure this would come under windfall policy either. 9 dwellings may be to avoid CIL.
- Contrary to NPPF as site is not served by many facilities. It is on a bus route but after 8pm there are no buses until 6am. The shop at Burton Waters has small shop for bread and milk etc, it is not a mini-supermarket meaning it is necessary to leave the area most likely by car. There is no doctors, post office, or school on site- all are accessed in Lincoln or Saxilby. Saxilby school is now at capacity and the doctors is stretched/at capacity.
- Keeps open mind with reservations.

Burton Parish Council objects (summary);

- Original plans for dwellings at Burton Waters made to Inspector and an overall number was given. It should be considered whether these would be in excess of the recognised number.
- CLLP Policy LP1 encourages sustainable development.
- LP2- Burton Waters is a medium village with zero growth allocated due to the fact it has already exceeded its required growth.
- There is no neighbourhood plan or local support to justify the proposal.
- 9 dwellings may be an appropriate number but this is not an appropriate location as defined as the proposal is outside the core residential allocated area and is on a site which has permission for commercial development.
- LP4- Burton Waters has fulfilled its growth target. WLDC is meeting its 5 year supply and this site is not required.
- Proposal contrary to LP4 but there is no need to apply these further policy tests as the allocation is complete.
- LP1- Burton Waters has few facilities and access to public transport, schools, doctors surgeries and shopping poses problems. This is well known locally and is subject of much debate. This is not a sustainable location for development.
- Developer may already be on site and starting works.

Local residents: no reply.

LCC Highways: does not wish to restrict the grant of permission.

Environment Agency: Proposal meets NPPF requirements subject to conditions securing mitigation measures within the submitted FRA, namely, finished floor levels no lower than 6.10m AOD and flood resilient and resistant constructions techniques to be used. These should be implemented prior to occupation.

LCC Archaeology: no input required.

North Kesteven District Council considers the proposal would have no material impact on its area.

Canal and River Trust: no comment.

Upper Witham IDB: site within its district and objects in principle to any development in flood plain (zones 2 and 3). It is noted the FRA contains appropriate mitigation. Paragraph 3.7.5.1 of FRA is misleading- Burton Waters was originally a farm and the site is a grassed area. It cannot be classed as impermeable. Allowed discharge rate should be reduced from the actual discharge rate. Preferred discharge would be to the marina. If discharge is to Anglian Water surface water sewer it should accord with the original design and it should be checked if there is an allowance for this specific site. SUDS/attenuation features should be included.

Relevant Planning Policies:

National guidance

National Planning Policy Framework (NPPF)

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practise Guidance (NPPG)

<https://www.gov.uk/government/collections/planning-practice-guidance>

Local Plan

Central Lincolnshire Local Plan adopted 24th April 2017

<https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

Policy LP1: A Presumption in Favour of Sustainable Development

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP4: Growth in Villages

Policy LP10: Meeting Accommodation Needs

Policy LP11: Affordable Housing

Policy LP12: Infrastructure to Support Growth

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP17: Landscape, Townscape and Views

Policy LP25: The Historic Environment

Policy LP26: Design and Amenity

Neighbourhood Plan

There is no neighbourhood plan.

Main issues

- *Principle/ flood risk*
- *Design*
- *Residential amenity*
- *Highways*
- *Archaeology*
- *Accommodation needs/contributions/affordable housing*
- *Foul and surface water drainage*

Assessment:

Principle/flood risk

The Central Lincolnshire Local Plan (policy LP2) designates Burton Waters as a medium village within the settlement hierarchy. Such designation has been determined in part by the facilities available within that settlement and connections to other higher level villages and towns.

The settlement is considered within LP2 to be a sustainable location for limited residential development contrary to the some representations received. The reason is that the site benefits from good road, bus, cycle, pedestrian and waterway links into the centre of Lincoln with its associated services and facilities. There are some services and facilities within Burton Waters such as a public house, restaurant and leisure centre. It is acknowledge that the area lacks some services such as doctors, schools and a supermarket but these do not make the site unsustainable for limited future development given their availability in Saxilby and Lincoln.

Policy LP2 designates Burton Waters a tier 5 medium village where unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support (as defined), the following applies:

- they will accommodate a limited amount of development in order to support their function and/or sustainability.
- no sites are allocated in the CLLP for development
- typically, and only in appropriate locations (as defined), development proposals will be on sites of up to 9 dwellings or 0.25 hectares for employment uses. However, in exceptional circumstances (as defined) proposals may come forward at a larger scale on sites of up to 25 dwellings or 0.5 hectares per site for employment uses where proposals can be justified by local circumstances.

The site is not allocated through a neighbourhood plan nor is there local community support, however, the provision of 9 additional dwellings is considered to contribute towards the wider sustainability of Burton Waters as future residents would use the commercial elements within the development and therefore enhance their viability. The settlement has a unique character within the district as it is built around a marina and is relatively physically self contained but noting residents use services and facilities outside Burton Waters where not provided on site as highlighted by Cllr Cotton.

The site is not allocated for development in the CLLP. The proposal meets the anticipated scale of development threshold of 9 dwellings. With regards to the definition of appropriate location, the proposal would retain the core shape and form of the settlement as it is located between residential development to the south east, care home to the north east, car park/public house/future hotel site to the north west and office development to the south west so could be described as an infill plot which benefits from extant permission to develop offices; the proposal would not significantly harm the settlements character and appearance nor that of the surrounding countryside or rural setting of the settlement. Furthermore, in order to qualify as an appropriate location the location must also not conflict, when taken as a whole, with national and local policy which is discussed further below.

Policy LP4 permits 15% growth in Burton Waters but acknowledges via asterisk that the growth level indicated is subject to a known significant strategic constraint being overcome, in this case flood risk. Paragraph 3.4.5/6 of the CLLP details the strategic constraint as;

“3.4.5 In the opposite direction, some settlements in levels 5-6 of the settlement hierarchy have known, significant, strategic constraints. In these settlements, whilst the 10-15% growth level has not been altered to take account of these constraints, it is questionable whether development proposals will be able to overcome these constraints. The constraints are:

- *Flood risk – where a settlement is entirely at risk of flooding so that any likely development site would be in an area of flood risk”*

“3.4.6 If these constraints can be overcome, proposals will be supported up to the growth level proposed for each settlement. However, for the purpose of meeting the growth targets in LP3, this Local Plan assumes a zero per cent increase to take account of the uncertainty that much, if any, growth can take place in these locations.”

Taking growth levels first, LP4 does not limit growth absolutely. Where a proposed development would exceed the identified growth level, in conjunction with other developments built since April 2012, other extant committed (permitted) growth and any sites allocated in the Local Plan, it will be expected to be accompanied by clear evidence of appropriate levels of community support or supported by either allocations or policies in an adopted Neighbourhood Plan.

The draft CLLP appendix B provides growth figures accurate on 31/3/15 and clarifies any new permissions since this date can be used against the remaining growth target. The table states remaining growth in Burton Waters is 0. Since 31/3/15 planning application 131665 detailed above granted permission on 22/7/15 for 13 dwellings on the adjacent site. It is possible to draw a distinction between the proposal and 131665 because this permission was issued whilst the CLLP was at an early stage of preparation so carried little weight and the site allocations for Burton Waters in the West Lindsey Local Plan still applied. Under the CLLP Burton Waters is simply a medium village with no remaining growth and a strategic constraint.

It is therefore clear that there is no remaining growth within Burton Waters to accommodate the proposal and the exceptions to this rule via clear local community support or allocation through a neighbourhood plan have not been satisfied. The proposal has attracted local objection from Burton Parish Council and reservations from one of the Ward Councillors. It appears, therefore, that the proposal is contrary to this part of the policy and should be resisted unless other material reasons indicate otherwise.

One material reason for accepting this additional growth is the unique circumstances surrounding Burton Waters. Historically, the approach to Burton Waters has been to permit large scale residential development and, it could be argued that this site forms the 'final piece of the jigsaw'. It is accepted that the site has permission for B1 offices which would assist the creation of a balanced community at Burton Waters. The commercial reality of the attractiveness of this site has, however, to be taken into account. The applicant has shown that despite continued long term marketing no significant interest has been received. It is considered therefore the viability of the site as a commercial area is very limited and would lead to this site remaining incongruently vacant. The site, however, is surrounded by other similar development to that proposed and this would complete the development of Burton Waters in a manner not dissimilar to previous allocations. This is considered to be an important consideration in this instance to allowing a small number of additional dwellings in this particular instance.

As noted Policy LP4 also notes that Burton Waters has a strategic constraint namely flooding. The site specific flood risk assessment is considered acceptable by the Environment Agency subject to conditions controlling the finished floor level (FFL) and flood resilience measures. The site must also pass the sequential test as detailed in the NPPF and LP14. The starting point is the development plan policy but this refers directly to the NPPF which requires;

"100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

101. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed

development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.

102. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate.”

The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, there is a requirement to consider the vulnerability of the proposed use. Dwellings are classed as more vulnerable in table 2 of the flood risk section of the PPG (noting 121818 permitted B1 office use which is less vulnerable).

The NPPG advises;

“For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.

When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere. For nationally or regionally important infrastructure the area of search to which the Sequential Test could be applied will be wider than the local planning authority boundary.”

The Council has traditionally taken a strict approach to the sequential test in relation to residential development in areas at high risk of flooding. There are several factors relevant to consideration of the sequential test in this instance. Firstly, the site is not in flood zone 3 (high risk) but flood zone 2 (medium risk). Secondly, the Council’s historic approach to Burton Waters has been to permit residential and other development in areas at risk of flooding provided site specific flood risk mitigation is implemented, as per the permissions for the adjacent care home, 13 dwellings and hotel. Thirdly, it could be argued that this site forms the ‘final piece of the jigsaw’ as it is surrounded by other similar development and would complete the development of Burton Waters as was

anticipated by previous allocations. Fourthly, and finally, the applicant was granted planning permission for a B1 office development (which was implemented and remains extant) but does not appear to be a viable option given the lack of interest as set out in the submitted supporting letter from the applicants chartered surveyors Garness Jones which states;

“We have had various discussions with you with regards to speculative build, however given the lack of demand and the potential holding costs to yourself it would be my recommendation that you avoid developing these units.”

It is considered that the proposal, by virtue of its unique characteristics and those of the surrounding area described above, can be considered to pass the sequential test because it would help to sustain the existing community and sites outside Burton Waters are unlikely to provide reasonable alternatives. It is considered that the favourable outcome of this sequential test will not diminish to ability of the Council to resist future residential development in areas at risk of flooding because of the unique set of circumstances set out in this case. It should be noted that table 3 within the flood risk section of the NPPG indicates more vulnerable uses (including residential) are appropriate in flood zone 2 and that the exceptions test is not required.

In conclusion it is considered that the principle of this case is finely balanced. On balance and when taken as a whole it is considered that despite exceeding anticipated growth levels for Burton Waters, the unique characteristics of the site and its surroundings means it is recommended to Members that the principle of development should be supported; the sequential flood risk test is passed; and the site specific flood risk assessment provides appropriate mitigation. Conversely, it is open to Members to determine that the exceedance of growth outlined in LP2/4 is unacceptable and to refuse planning permission on this basis.

Design

The design in the area tends to be modern in appearance, relatively simple and well executed. The area is characterised by terraces of dwellings with a simple palette of materials, modest private amenity areas and communal surface parking areas with peripheral landscaping. The proposed design entails smaller scale dwellings than some of those found in the surrounding area but the overall proportions of the proposal and the architectural detailing described above is in keeping with the character of the area and is acceptable in its own right in accordance with LP26.

Residential amenity

The proposal would front onto two car parks resulting in no harmful overlooking to residential dwellings. The proposed dwelling furthest south would not be harmfully overlooked by the existing office development by virtue of the separation distance of 10m and limited first floor windows of the office development. The proposal is sufficiently removed, with approximately 30m between buildings, from the potential future development of a hotel to the west

to prevent harm to residential amenity. The proposal would have an acceptable impact on residential amenity in accordance with LP26.

Highways

LCC Highways raises no concerns regarding highway impacts. It is considered that the size (5m long x 2.5m wide), number (18- 2 per dwelling), layout and access to the parking area is acceptable. The level of traffic generated by the proposal would be minimal and not give rise to highway issues. The impact on highway safety and convenience is acceptable in accordance with LP13.

Archaeology

LCC Archaeology confirms there is no need for archaeological works in accordance with LP25.

Accommodation needs/contributions/affordable housing

LP10 requires a mix of housing types to be provided whereas the offer is uniformly 2 bedroom. However, the SHMA notes a requirement for all types of dwelling meaning permission should not be refused for this reason. There is a requirement for higher access standards for 30% of the dwellings to Part M Building Regulations as set out in LP10 and as recommended via condition.

No external body has sought developer contributions nor are any required under policy LP12.

Policy LP11 states;

“if a development scheme comes forward which is below these thresholds (11 dwellings or more) and thus does not require the provision of affordable housing, but the scheme is followed by an obviously linked subsequent development scheme at any point where the original permission remains extant, or up to 5 years following completion of the first scheme, then, if the combined total of dwellings (or floorspace) provided by the first scheme and the subsequent scheme/s provide 11 or more dwellings (or 1,000 sqm or more floorspace), then Policy LP11 as a whole will be applied, with the precise level of affordable housing to be provided being ‘back dated’ to include the earlier scheme(s).”

As an affordable housing commuted sum was paid under 131665, affordable housing cannot be sought for the current application for 9 dwellings. The key element of wording in the text of the policy is “, then,” as this means if the preceding text applies (which it does not in this instance because the application for 9 dwellings has not been “*followed by*” an obviously linked subsequent development) then the proceeding text applies. Hence there is no policy requirement for affordable housing in this case.

Foul and surface water drainage

It is proposed to connect foul and surface waters to the mains sewer. It is noted that this arrangement was unconditionally accepted for the previous office approval on the site and was approved via condition for the adjacent 13 dwellings. The site itself benefits from infrastructure provision because it was always intended to be developed. Given the well-known high water table in the area traditional soakaways are not an option therefore disposal to mains sewer is an appropriate alternative that accords with Policy LP14.

Conclusion

The proposal has been considered in light of relevant development plan policies, namely, Policy LP1: A Presumption in Favour of Sustainable Development, Policy LP2: The Spatial Strategy and Settlement Hierarchy, Policy LP4: Growth in Villages, Policy LP10: Meeting Accommodation Needs, Policy LP11: Affordable Housing, Policy LP12: Infrastructure to Support Growth, Policy LP13: Accessibility and Transport, Policy LP14: Managing Water Resources and Flood Risk, Policy LP17: Landscape, Townscape and Views, Policy LP25: The Historic Environment and Policy LP26: Design and Amenity of the Central Lincolnshire Local Plan adopted 24th April 2017 as well as the content of the National Planning Policy Framework (NPPF) and National Planning Practise Guidance (NPPG). It is considered that despite conflicting with the growth levels set out in LP2 and LP4, material considerations including the unviable extant permission on the site, the character of the site and its surroundings, and the ability to mitigate flood risk mean it is considered planning permission should be approved.

Human Rights Implications:

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

Legal Implications:

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

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 have been submitted to demonstrate that at least 30% of the total number of dwellings meet the required standards set out in Part M4(2) of the Building Regulations 2010 and have been agreed in writing with the Local Planning Authority. The approved details shall be implemented in full prior to the occupation of the dwelling concerned.

Reason: To ensure the development meets the requirements for accessibility set out in Part M4(2) of the of the Building Regulations 2010 and in accordance with Policy LP10 of the Central Lincolnshire Local Plan adopted 24th April 2017.

3. No development shall take place until, a scheme of landscaping including details of the size, species and position or density of all trees and hedges to be planted and fencing and walling have been submitted to and approved in writing by the Local Planning Authority. 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 occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure appropriate landscaping of the site in accordance with Policy LP26 of the Central Lincolnshire Local Plan adopted 24th April 2017.

4. No development shall take place until flood resilient and resistant construction techniques to be used in the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in full prior to occupation of the dwelling concerned.

Reason: To ensure appropriate floor risk mitigation is in place in accordance with Policy LP14 of the Central Lincolnshire Local Plan adopted 24th April 2017.

5. No development shall take place until details of the proposed foul and surface water drainage arrangement have been submitted to and approved in writing by the Local Planning Authority. The details agreed shall be implemented in full prior the first occupation of the development.

Reason: To secure appropriate foul and surface water drainage, in accordance with the measures previously agreed for the development of this site and in accordance with Policy LP14 of the Central Lincolnshire Local Plan adopted 24th April 2017.

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

6. The development, including external finishing materials, shall proceed in accordance with the following approved drawings; J1645 01, 02 Rev A, 03, 04, 05 and 06.

Reason: For the sake of clarity and in the interests of proper planning.

7. Unless otherwise specified in the conditions attached to this planning permission the development shall be carried out in accordance with the approved Flood Risk Assessment (BSP consulting, dated 07/04/2016) including the finished floor levels for all of the dwellings hereby approved shall be set no lower than 6.10m AOD.

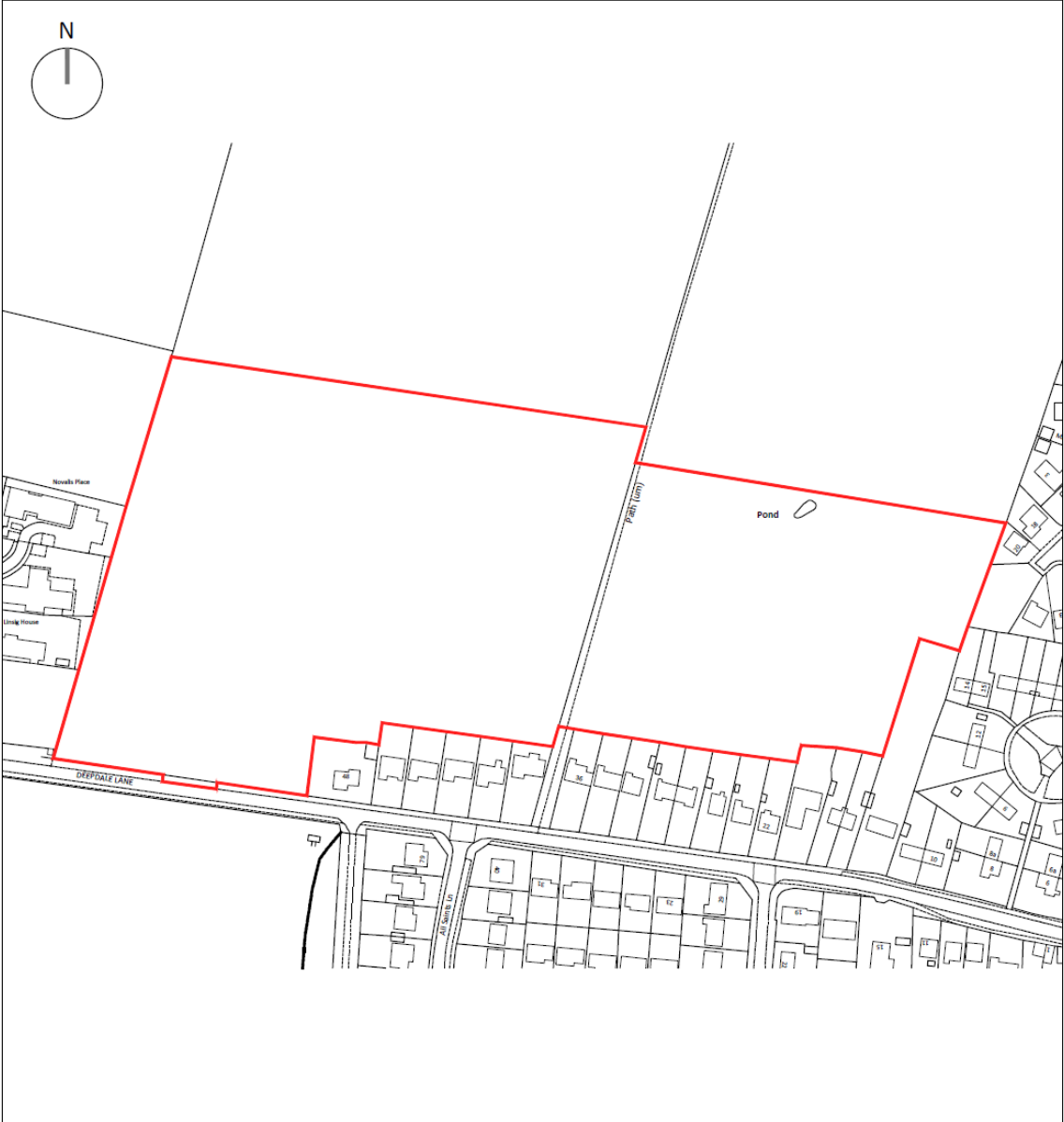
Reason: To minimise flood risk and to accord with Policy LP14 of the Central Lincolnshire Local Plan adopted 24th April 2017.

8. The vehicle parking spaces hereby permitted shall be completed prior to the first occupation of the development and shall thereafter be retained in perpetuity for the use of occupiers of and visitors to the dwellings hereby permitted.

Reason: To ensure sufficient vehicle parking space in accordance with Policy LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017.

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

None.



This page is intentionally left blank

Officers Report

Planning Application No: 135567

PROPOSAL: Planning application for residential development comprising: a new access road and road junction to Deepdale; 50 dwellings with estate roads, public open space and associated development; a scheme of 22 apartments and 14 bungalows for the over 55s with communal areas, shared open space and off street car parking.

LOCATION: Land off Deepdale Lane Nettleham Lincoln LN2 2LT

WARD: Nettleham

WARD MEMBERS: CLLR A WHITE AND CLLR G MCNEILL

APPLICANT NAME: Allison Homes Ltd and LACE

TARGET DECISION DATE: Extended to 30/8/17

DEVELOPMENT TYPE: Major - Dwellings

CASE OFFICER: Martin Evans

RECOMMENDED DECISION: That the decision to grant planning permission, subject to conditions, be delegated to the Chief Operating Officer, to enable the completion and signing of an agreement under section 106 of the Planning Act 1990 (as amended) pertaining to:-

- *£124,040 towards meeting the requirement for 11 primary school places generated by this development. The money would be spent on providing extra capacity via a 0.5 form entry extension to Monks Abbey Primary School*
- *£27,842 to provide capital towards making internal alterations to create two consulting/treatment rooms at Nettleham Medical Practice at Lodge Lane Nettleham LN2 2RS.*

And, in the event of the s106 not being completed and signed by all parties within 6 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 6 months.

Description

The application site consists 5.66 hectares of agricultural land on the northern fringes of Nettleham. The site comprises two fields bisected by public right of way (PROW) 166. The western field is cultivated and the eastern field has been used as pasture and retains evidence of ridge and furrow. There is a small pond on the northern boundary. The site rises away from Deepdale Lane and to the west, with a natural low point lying in the south east corner of the site. The site benefits from existing peripheral hedgerows, a hedgerow to the west of the PROW and intermittent boundary trees. The trees fronting Deepdale Lane are protected by a Tree Preservation Order dated 1967.

To the west of the site is a small business park, to the north are further agricultural fields, to the east and south are residential dwellings and to the south west are the headquarters of Lincolnshire Police.

Proposal:

Planning permission is sought for 50 market dwellings and 36 (42%) dwellings specifically for people aged over 55 which are proposed to be affordable housing. This is a joint application from Allison Homes Ltd in relation to the market dwellings and LACE in relation to the over 55's dwellings. Submitted drawing number A00-NET-SITE-01 Rev C demarcates the two elements of the proposal.

A new road junction from Deepdale Lane would provide the main arterial road with small cul-de-sacs leading from it. The market housing would broadly be located along the southern and eastern half of the site closest to the existing dwellings and consists of two storey dwellings, chalet bungalows and bungalows with associated garaging of varying designs in single, double and triple format some of which are attached and others detached.

The over 55's dwellings would be located near the northern boundary of the site, to the west of the PROW and consist of 14 two bedroom bungalows in detached, semi-detached and terraced format, and 22 two bedroom apartments in a two storey building with each apartment on one floor. The semi-detached bungalow blocks would measure a maximum of 16.8m wide, 9.5m deep and 5.2m to ridge height. The block of apartments would measure a maximum of 70m wide, 21.2m deep and 9.6m to ridge height.

The proposed site layout shows the land to the west of the access road remaining undeveloped. A new footpath along the western and northern site boundaries would link to the existing PROW. The existing PROW would be metalled as part of the proposal. A public open space is to be provided with foul water pumping station within. A surface water attenuation basin is to be located near the south eastern boundary. The existing pond would be retained.

The application is reported to planning committee on the basis that the number of dwellings proposed represents a departure from the development plan because the site is allocated for 50 dwellings whereas 86 are proposed.

Relevant history

Western field: WR/25/64- erect dwellings- refused in 1964.

Eastern field: W65/1230/88- outline application for residential development- refused and appeal dismissed in 1988.

Representations

Ward Councillor White (summarised);

- Met with some local residents who expressed concerns.
- Planning notice undated and unsigned (a photograph of a signed and dated site notice was subsequently supplied to the Councillor demonstrating it was erected correctly).
- Site notice not adjacent to fields to be developed (the site notice was erected on a telegraph pole to the front of the houses affected).
- There is a ditch near 14 The Dene and 20 Shaw Way- ditch can be full of water after rain.
- House opposite 20 Shaw Way had two sink holes which overflow when it rains and add to water in the ditch.
- Residents disappointed by this fait accompli as the developer is providing 'what the Parish Council wanted'. They feel they failed to convince the Parish Council of their case.

Nettleham Parish Council commented;

"The Parish Council has been in a dialogue for a number of years with the Developer of this site. Over that period the proposal has evolved to that which has been submitted to the LPA.

In the main, the Proposal accords with the Nettleham Neighbourhood Plan and is an excellent example of what can be achieved when a Developer is prepared to work with a Council in order to meet the aspirations of both parties.

The Council notes that part of the site contains an ancient Ridge and Furrow system of agricultural cultivation and requests that - if the Application is Approved - a detailed archaeological investigation and recording of findings is completed before construction commences. The Parish Council supports this Application.

Should the Planning Authority be minded to approve this Application the Parish Council requests that a S.106 Agreement is effected to provide funds for play equipment to be located at the nearby Bill Bailey Memorial Playing Field."

And;

"Nettleham Parish Council requests a developer contribution towards the provision of new children's play equipment at the Bill Bailey's Memorial Playing Field site on Scothern Road. Bill Bailey's play site is located in the centre of Nettleham and is the main children's play site in the village. A Parish Council survey of village residents in 2016 identified that:

- a large percentage of people use Bill Bailey's play site at least weekly
- the site is used by families resident in the village as well as adult residents with visiting children (e.g. grandparents + visiting grandchildren)

- provision for younger children is good but there is not sufficient play equipment for older children
- residents have a strong preference for expanding existing play sites in Nettleham rather than creating new ones

As a result of this survey Nettleham Parish Council are currently planning to extend Bill Bailey's play site with additional play equipment suitable for older children. This proposed development on Deepdale Lane will increase the demand for play equipment in Nettleham. Nettleham Parish Council are therefore asking for a contribution of £40,000 from the developer towards the costs of enhancing and maintaining the Bill Bailey's play site. The justifications for this request are:

i. WLDC Local Plan 2006 policy RES 5 suggests that a development of this size should consider providing play equipment. Specifically:

- 1.3 "continued development of small sites can...place a strain on existing facilities" - 1.31 "in some circumstances it may be justified to combine development...with the provision of a larger recreational area" The developer should also "liaise closely with the existing community to determine needs".

- 1.32 "the Council may also require the provision of play equipment, safety surfaces, fences etc"

- 1.33 "it will be expected also that a sum of money, sufficient to achieve the recreational objectives set down in the Local Plan First Review and subsequently agreed, will be provided by the landowner and/or developer. In most cases it is likely that a Section 106 Planning Obligation will be required"

ii. Emerging CLLP policy LP24 states that "Development will be required to provide new or enhanced provision of public open space, sports and recreation facilities"

iii. The emerging CLLP Developer Contributions Supplementary Planning Document states that off-site contributions to existing provision for developments of 50+ houses should be "required where need/opportunity are identified"

iii. The majority of the proposed development is within a 500 metres radius

of Bill Bailey's, which complies with the Appendix C standards of the emerging CLLP (i.e. formal equipped play area within a 5 minute walk).

iv. The survey of village residents clearly demonstrated a need for additional play equipment for older children and the desire to enhance the Bill Bailey's site rather than having new onsite provision in new developments.

This demonstrates consistency with LP24 part 1 (on-site provision not suitable in a local context) and part 3 (considering context of existing provision and maximising opportunities for improvement).

v. Approximately half of the requested funds would be spent on new equipment; the other half would be put aside for future maintenance. This approach would satisfy part 4 of policy LP24 (appropriate mechanisms for future maintenance)

vi. The last new provision of play equipment in Nettleham was on the Larch Avenue development. This development was approximately 50 houses, similar to the proposed development on Deepdale Lane. The s106 agreement for this site - signed in 1998 - provided £35,000 for children's play equipment (£15,000 for installation and £20,000 for future maintenance). Allowing for inflation this would represent around £50,000 now. The Deepdale Lane development would create a similar demand on play equipment as the Larch Avenue development, therefore a consistent sum is requested.

vii. This request for a developer contribution meets the relevant criteria of section 122 of the Community Infrastructure Levy Regulations 2010, specifically

- it is directly related to the development*
- it is related in scale and kind to the development*

In summary:

1. The amount requested is £50,000. This would be approximately split 50/50 between purchase of equipment and money put aside for future maintenance.

2. This amount has been calculated based on a previous s106 agreement in Nettleham for a development of a similar size, and then increased for inflation. This amount is consistent with our estimates of developing the Bill Bailey's play site.

3. The money would be used to provide and maintain additional play equipment for older children on the Bill Bailey's site.

The Parish Council request to be a party to the s106/CIL agreement.

The Parish Council will make requests consistent with this one to other developers applying to build large housing developments in the village."

Local Residents;

Twelve letters of objection have been received from local residents which are summarised as follows;

- Loss of privacy
- Overlooking
- Insufficient separation distance between proposed dwellings and existing dwellings.
- Loss of light/overshadowing
- Visual amenity
- Lack of landscaping.
- New landscaping could overshadow neighbours.
- Concerns about proposed fencing.
- Impact on ecology and archaeology.
- Impact on planning permission 133580 for 2 dwellings at rear of 14 Deepdale (not yet constructed).
- The proposal will exacerbate existing drainage problems including the ditch to the east of the site.
- Some of the dwellings should be bungalows to stop overlooking.

- Would retained hedgerows/trees necessitate application to trim them from utility companies?
- Have utility providers been consulted and would existing? Would utilities be placed underground?
- Speed reducing methods could be installed on Deepdale Lane.
- Pedestrian crossing and or footway on northern side of Deepdale Lane should be constructed.
- Existing dwellings may not be able to extend if proposed dwellings are nearby.
- Lack of consultation for the proposal.
- Permission should be refused because the Council has a 5 year housing land supply.
- Loss of countryside should be resisted for future generations.
- The proposal is not sustainable development.
- Specific concerns about the surface water drainage scheme including the design of the attenuation pond and its ability to retain and infiltrate water.

The Council's Environmental Protection Officer;

It is unclear whether drainage has been considered correctly. The topography may impact the south east corner of the site. Proposed site levels would require significant earth movement. The surface water basin may have impaired onward flow provided access to the compromised watercourse 20m to the east is available. At worst this could result in over ground flow and no flood route. More details required for suggested land drain at southern boundary to prevent surface water entering existing gardens, such as where it will drain and maintenance responsibilities. The EPO stated;

“Albeit that drainage proposal is for an infiltration strategy, the configuration of drainage and the overall drainage proposal would appear to have excluded the presence of the watercourse and ensuring a flood route for exceedance events as such appear to be questionable especially as the site boundary to the east appears to be configured to exclude the watercourse. I am also mindful of the ‘strong’ recommendation on the drawing ‘proposed drainage strategy’ for further infiltration tests to be undertaken before the ‘detailed design stage’.”

Noise and dust pollution could occur during development. Noise from the Deepdale Enterprise Park should be considered to ensure its ability to expand in the future is not limited.

The Council's Tree Officer;

The landscaping details for the market housing, public open space, attenuation pond and footpaths are acceptable. Landscaping commissioning, management and maintenance details are unclear. Landscaping details for

the affordable housing element have not been provided but can be secured via condition. The arboricultural impact assessment appropriately considers the effect on trees and hedges and no objection is raised to their removal. Appropriate replacement trees should be required as should protective fencing until completion as per the tree report. Landscape implementation condition should be attached with 5 years maintenance from planting.

LCC Highways and LLFA;

Initial comments; sought removal of the footway to western side of the proposed access road and the footway to be set behind the drainage on the eastern side; consideration should be given to providing a frontage footway along Deepdale Lane at least from the PROW towards the village; there appears to be an under provision of parking for the LACE element which needs to be justified; revised travel plan is required. The footway amendments within the site and amended travel plan have been received and are acceptable. LCC subsequently conceded there is no requirement for a footway along Deepdale Lane and that the level of vehicle parking within the affordable housing element is acceptable given lower car ownership arising from the nature of the occupation.

Following the receipt of aforementioned amended details LCC Highways raises no objection to the proposal in its capacity as Highway Authority and Lead Local Flood Authority. LCC has been made aware via email and telephone of the objections of local residents on the grounds of the proposed drainage arrangements and potential flood risk posed but it did not consider there to be a need to amend its comments. LCC suggested conditions are recommended below.

LCC Corporate Property Team;

Requires £124,040 towards meeting the requirement for 11 primary school places generated by this development. No secondary school request is made due to pooling restrictions. The money would be spent on providing extra capacity via a 0.5 form entry extension to Monks Abbey Primary School thereby reducing the number of children travelling from Lincoln North to Nettleham. It is requested that the monies are secured by S106 agreement and that they are paid at the halfway point in the development to allow timely investment by LCC whilst not adversely affecting the developers' viability. LCC confirm no more than 5 S106 contributions are pooled towards a specific piece of infrastructure.

Following the applicants withdrawal of information disputing the CIL compliance of the contribution sought, LCC Corporate Property Team has formally withdrawn its objection.

Environment Agency;

Makes no comment.

Anglian Water;

Requires dwellings to be 15m from existing sewage pumping stations. The proposal satisfies this requirement as the nearest station is within the enterprise park to the west. It confirms wastewater from the proposal can be accommodated within the Nettleham Water Recycling Centre. It requests a foul sewage condition regarding a drainage strategy to prevent flooding downstream. It makes comments regarding trade effluent but this is not relevant to the proposal.

LCC Archaeology;

Following requests for and submission of a geophysical survey and trial trenching assessment, it is confirmed that no further archaeological input is required for this development.

LCC PROW;

Suggested the PROW be metalled and gave specific weed suppressant and surfacing guidance. The amended footpath drawings secure all suggested amendments which are acceptable to LCC PROW. It states;

“li/ It is expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the proposal.

iii/ The construction should not pose any dangers or inconvenience to the public using the right of way.

iv/ If any existing gate or stile is to be modified or if a new gate or stile is proposed on the line of the public right of way, prior permission to modify or erect such a feature must be sought from this Division”

Natural England;

Makes no comment.

Lincolnshire Wildlife Trust;

Supports the proposed use of species-rich meadow seed mixes within the area of open space and associated with the SUDS features on site. The western open space could also be made into a meadow instead of agricultural land. Other enhancements could be included in the form of log piles near the pond to benefit amphibians, reptiles and invertebrates and the provision of a range of bird nesting features on mature trees surrounding the site or on buildings. Consideration should also be given to the inclusion of bat roosting units within buildings on site or bat boxes on mature trees. Exterior lighting should be kept to a minimum and be directional/ cowled to avoid light spill onto hedgerows and other habitat areas which may be used by foraging or commuting bats.

NHS England Central Midlands;

The contribution requested is £323.75 x 86 dwellings = £27,842 to provide capital towards making internal alterations to create two consulting/treatment rooms at Nettleham Medical Practice at Lodge Lane Nettleham LN2 2RS.

Lincolnshire Police;

“Overall a well-considered development making effective use of a largely cul-de-sac layout which has been proven to enhance safety and security and enhance the development of community.” Further general guidance relating to building control requirements for windows and doors, fencing, placement of parking spaces, gates, landscaping, footpaths, lighting etc is provided.

Lincolnshire Fire and Rescue;

Objects to the application on the grounds of inadequate access and water supplies. It requires 2 fire hydrants, and access to buildings to accord with building regulations, and carrying capacity for hard standing for pumping appliances to exceed building regulation requirements.

Relevant Planning Policies

National Policy

National Planning Policy Framework

<https://www.gov.uk/guidance/national-planning-policy-framework>

Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

County Policy

Lincolnshire Minerals and Waste Local Plan (LMWLP)

<https://www.lincolnshire.gov.uk/residents/environment-and-planning/planning-and-development/minerals-and-waste/core-strategy-and-development-management-policies/116942.article>

The County Council adopted the Core Strategy and Development Management Policies document on 1 June 2016.

Policy M11: Safeguarding of Mineral Resources defines the site as falling within a Limestone Minerals Safeguarding Area (MSA) and states;

“Applications for non-minerals development in a minerals safeguarding area must be accompanied by a Minerals Assessment. Planning permission will be granted for development within a Minerals Safeguarding Area provided that it would not sterilise mineral resources within the Mineral Safeguarding Areas or prevent future minerals extraction on neighbouring land. Where this is not the

case, planning permission will be granted when:.... the development is, or forms part of, an allocation in the Development Plan.”

Local Plan

Central Lincolnshire Local Plan (CLLP) adopted 24th April 2017

<https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

Policy LP1: A Presumption in Favour of Sustainable Development

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP3: Level and Distribution of Growth

Policy LP9: Health and Wellbeing

Policy LP10: Meeting Accommodation Needs

Policy LP11: Affordable Housing

Policy LP12: Infrastructure to Support Growth

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP17: Landscape, Townscape and Views

Policy LP21: Biodiversity and Geodiversity

Policy LP23: Local Green Space and other Important Open Space

Policy LP24: Creation of New Open Space, Sports and Recreation Facilities

Policy LP25: The Historic Environment

Policy LP26: Design and Amenity

Policy LP52: Residential Allocations - Large Villages

Neighbourhood Plan

Nettleham Neighbourhood Plan (December 2015)

<https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/all-neighbourhood-plans-in-west-lindsey/nettleham-neighbourhood-plan-made/>

Nettleham Neighbourhood Plan was formally adopted by West Lindsey District Council at a Full Council Committee meeting on the 3rd March 2016.

The following policies apply;

Policy E–2 Local Green Spaces 13) Ridge and Furrow earthworks off Deepdale Lane.

Policy E-3 Heritage Sites

Policy D-1 Access

Policy D-2 Pedestrian And Cycle Access

Policy D-3 Parking Provision (New Housing)

Policy D-4 Water Resources and Flood Risk

Policy D-6 Design of New Development

Policy H-1 Managed Housing Growth

Policy H-2 Housing Mix

Policy H-3 Housing for Older People

Policy H-4 The provision of Affordable Housing

H-5 Site A Land Behind Deepdale Lane

S-1 Services and Facilities

Main issues

- The principle of development
- Affordable housing
- Landscape and visual impact
- Design
- Residential amenity
- Flooding and drainage
- Highway safety and convenience
- Ecology
- Landscaping
- Archaeology
- Developer contributions/S106/open space

Assessment:

The principle of development

To the extent that development plan policies are material to this application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise as set out in section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.

In this case the development plan consists of the Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (LMWLP) 2016, the Central Lincolnshire Local Plan (CLLP) adopted 24th April 2017 and the Nettleham Neighbourhood Plan (NNP) 2016. The National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG) must be considered.

CLLP/NNP

CLLP Policy LP52 allocates the site for an indicative number of 50 dwellings under reference CL4660. Similarly, the application site is allocated for approximately 50 dwellings under Policy H-5 of the NNP.

NNP Policy H1 states;

“These housing sites will each be restricted to a yield of 50 homes unless it can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community and also that their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings.”

The proposal entails 86 dwellings, 36 more than indicatively and approximately envisaged by the CLLP and NNP. Despite this, the support of Nettleham Parish Council should be noted including its statement that *“In the main, the Proposal accords with the Nettleham Neighbourhood Plan”*.

Detailed design and amenity matters are discussed in detail below, but it is considered that despite this application being reported to planning committee on the basis it represents a departure from the development plan, the 36 additional dwellings would not give rise to any harm in principle as they are located within the boundary of the allocations and make effective and efficient use of the land, as required by Policy LP26 of the CLLP. It is considered that the development of 50 dwellings over this site area could lead to an inefficient use of land and inappropriate dwelling sizes and mixes, as required by Policy LP10 of the CLLP.

The proposals map in appendix B of the NNP and policy H-5 map of the NNP provide contradictory positions for the area of local green space to be provided within the site with the former showing it to the eastern boundary of the site and the latter showing it immediately to the east of the public right of way. The implications of this are discussed in more detail below but it does not impact on the acceptability of the development in principle.

A local resident considers permission should be refused because the Council has a 5 year housing land supply. This site forms part of that 5 year housing land supply as set out in the Central Lincolnshire Five Year Land Supply Report 1 April 2017 to 31 March 2022 (Published September 2016). Therefore, to refuse permission on this basis would be incorrect. Local objection based on the loss of countryside should not be given any weight in the decision making process because the site is allocated for housing therefore the loss of countryside has already been accepted.

Minerals

Policy M11 of the LMWLP makes clear safeguarding presumptions within this Limestone Mineral Safeguarding Area do not apply to allocated sites such as this. The potential loss of minerals is therefore acceptable and the proposal is in accordance with Policy M11.

Agricultural land

The Agricultural Land Classification Map East Midlands Region (ALC005) provided by Natural England notes it is intended for strategic use and is not sufficiently accurate for use in assessment of individual fields. However, in the absence of a site specific agricultural land classification report this map indicates the site is likely to constitute grade 2 agricultural land. This falls within the scope of best and most versatile agricultural land as defined by the NPPF. Paragraph 112 of the NPPF requires local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land (BMV). Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The site is allocated for residential development within the CLLP and NNP therefore the loss of BMV has already been accepted as a matter of principle and these policy matters would have been considered at allocation stage hence there is no requirement to repeat the exercise here. The loss of agricultural land is considered acceptable for these reasons.

The development is considered to be acceptable as a matter of principle based on the aforementioned policy context.

Affordable housing

Policy LP11 sets out the strategic aim to deliver 17,400 affordable houses to meet the needs of residents unable to compete on the open market. Affordable housing is sought on developments of 11 houses or more at a rate of 25% within the Lincoln Strategy Area which includes this site. Tenure mix is to be informed by and compatible with the latest government guidance and an up to date local Strategic Housing Market Assessment, and be informed by discussions with the Council. Affordable housing should be provided on site unless exceptional circumstances are demonstrated. Affordable housing should integrate seamlessly into the site layout amongst the private housing.

The basis for providing affordable housing is the presence of a demonstrable need. The Central Lincolnshire Strategic Housing Market Assessment (SHMA) 2015 identifies a need to provide 676 affordable units per annum to meet newly arising need in the future which will require an uplift to 911 units per annum over the period 2014– 2019. This equates to a total of 17400 affordable houses over the period 2012 – 2036. A further need is evidenced by the Lincolnshire Homefinder housing register which currently has 957 requiring affordable housing within the district of West Lindsey.

The proposal offers 42% (36) affordable housing which is considerably more than the 25% (21.5 (rounded up to 22)) required by Policy LP11. The total number of dwellings proposed is 86 of which it is proposed 36 will be affordable specifically for the over 55's. The Lincolnshire Homefinder housing register currently has 443 household registered who fall into the over 55 age group. This equates to 46% of the households registered in need of affordable housing in West Lindsey. Specific figures in relation to Nettleham provides further evidence of need for affordable housing for this specific age group. There are currently 14 households registered requiring properties in Nettleham with a local connection to the village of whom 9 are aged over 55. There are a further 9 households in this age bracket of which 6 have a connection to West Lindsey who would seek to be accommodated in Nettleham.

The Central Lincolnshire SHMA 2015 states that *'older persons require suitable housing which can enable them to live independently at home for as long as possible.'* It can be concluded therefore that the provision of such housing is necessary to meet these specific housing needs. Census data demonstrates that Central Lincolnshire saw a considerable growth in older persons between 2001 and 2011 particularly in West Lindsey where the number of residents aged 65 and over grew by 28.5%. A Parish housing needs survey carried out in 2008 identified 18 out of 39 households in housing need in the over 55 age group. Whilst this data is not current it is worth noting that no affordable housing to meet this need has come forward in the intervening time.

The affordable housing proposal is for a mix of apartments for rent and bungalows for a mix of rent and shared ownership. This mix will meet the requirements of Policies H3 and H4 within the NNP in which it was demonstrated that circa 40% of the population were in the over 65 age group.

The site was put forward by LACE Housing for funding in the Homes and Communities Agency's (HCA) Shared Ownership and Affordable Homes Programme (SOAHP) 2016 bid round and was successful. Funding is therefore in place for this scheme which contributes towards certainty of delivery. The Council would normally seek to secure the number of affordable houses to be provided by means of a s106 agreement however constraints around this funding regime require affordable housing to be outside of s106 agreements. In such exceptional circumstances it is considered appropriate to condition affordable housing requirements rather than the usual s106 agreement.

Despite proposing 42% (36) affordable housing, Policy LP11 requires only 25% (21.5 (rounded up to 22) affordable housing as secured by condition below. To secure any more than 25% affordable housing via condition would be contrary to the CLLP and such a condition would be unnecessary, contrary to Paragraph 206 of the NPPF which states "*206. Planning conditions should only be imposed where they are necessary*". The developer may seek to unilaterally deliver 42% (36 units) affordable housing which would clearly be of significant benefit but the Council cannot insist on this amount. LCC requests an education contribution in relation to the market dwellings only as there are unlikely to be school age children in over 55's accommodation. The nature of the proposal has therefore attracted lower than normal developer contribution requests. It is therefore legitimate to condition 42% (36 unit) of the dwellings to be for over 55's dwellings on this basis.

The proposal accords with the affordable housing requirements in Policy LP11 of the CLLP and Policies H3 and H4 of the NNP, as well as and the requirements of the NPPF. The proposed affordable housing provision is acceptable.

Landscape and visual impact

The site is visually well contained by the existing residential development to the east and south, and the business park to the west. The topography of the site and wider area is also favourable in that it rises to the north so that the development would be substantially screened from long range views from the north by intervening landform. The existing hedgerow to the northern boundary of the site would be retained, and the new footpath to the western and northern boundaries of the site would benefit from significant soft landscaping. The mature trees along the application site frontage with Deepdale Lane, some of which are protected by TPO, would need to be removed because of their poor condition as demonstrated by the arboricultural impact assessment. This is considered acceptable in the interests of good arboricultural practice and is subject to a condition requiring

suitable replacement trees to be planted which, in time, will assist in screening and softening the development from views along Deepdale Lane.

The western fringes of the proposal would be visible from the Deepdale Lane frontage but the majority of the proposal is located to the rear of and would be substantially screened by the existing houses fronting Deepdale Lane thereby reducing the visual impact. The retention of the western parcel of land within the application site in an undeveloped state will create a visual buffer to both soften the appearance of the development and help it assimilate into the landscape.

The West Lindsey Landscape Character Assessment (WLLCA) (August 1999) classifies the site as part of the Lincoln Fringe with key characteristics including medium sized fields with low hawthorn hedge boundaries and few hedgerow trees as found on the application site. The *Principles for Accommodating New Development* state there is scope for a more varied range of buildings in terms of height, scale and style on the fringes of villages. Buildings can be accommodated provided they are accompanied by sensitively designed tree and woodland planting. Developments should include new greens, tree groups etc to create a distinctive identity. Trees should be incorporated as part of an overall landscape strategy within the development and along its boundaries. Edges of developments on the fringes of settlements would benefit from tree and hedgerow planting which should integrate the development with the surrounding field pattern. Small fields should be retained to provide a robust and distinctive landscape setting.

The proposal accords with these guidelines by providing a wider variety of building designs whilst retaining existing boundary hedges and trees where possible, preserving the existing field pattern by retaining the hedgerow to the west of the PROW, and retaining an open field to the western fringed on the site with new tree planting alongside the new footpath. The new public open space would be akin to a village green. The proposal is in accordance with the WLLCA. Objections to the lack of soft landscaping and means of enclosure have been received but the extensive soft landscaping proposed and proposed means of enclosure are considered entirely appropriate and acceptable.

It is considered that the proposal would not give rise to harm to the landscape, the visual amenities of the area or the character and appearance of the streetscene in compliance with CLLP Policy LP17 and the associated WLLCA, and the topographical and landscape elements of Policy H1 of the NNP.

Design

The design entails a new vehicle access from Deepdale Lane leading to a central spine road through the development with a series of small cul-de-sacs leading from it. The development is designed to create active frontages with good natural surveillance, a concept broadly supported by Lincolnshire Police as noted above. The layout, density and scale of the proposals are

considered to be appropriate because they result in a form of development that would not appear cramped and incongruous whilst providing appropriate separation distances between properties and suitable private amenity areas.

The design entails two distinct groups of buildings; the first, over 55's housing; the second, market housing. It is noted Policy LP11 requires affordable housing to integrate seamlessly with the wider development. However, there are considered to be sufficient grounds to depart from this policy requirement because grouping the affordable housing together makes servicing and maintaining it efficient and economical; and it would assist in creating an over 55's community with associated social benefits.

The over 55's housing contains a relatively large block of flats. Some articulation is provided by the smaller central entrance link, roof hips and front projections with stepped building line to break up the form of the building. The external finishing materials include beamish bricks, white render and concrete dark grey roof tiles. It is considered that the design of this building is dictated, to a significant degree, by its function as over 55's apartments which necessitates access to the communal facilities within and an economical construction style. The design of this building is considered acceptable. The surrounding over 55's bungalows are of modest scale and simple design with dual pitched roofs, small front projections and a buff brick, white render and dark grey roof tile finish which is acceptable in design terms.

The second element is the open market housing containing various dwelling designs including two storey (some with rear wings) and bungalows. These are primarily detached with some semi-detached. Some dwellings have integral garages whereas others are detached in single, double and triple format. The design includes a variety of features such as brick and stone window cills and lintels, entrance canopies, brick and stone quoins, eaves dormer windows, bay windows with lead work above, exposed rafters, chimneys and brick arches above windows.

The proposal initially entailed a number of dwelling types that featured blank elevations with no openings or design features to add design interest. Appropriate amendments in the form of recessed bricked up window openings and additional windows have been secured via negotiations with the applicant which results in the more conspicuous elevations having appropriate design interest with subsequent benefit to the streetscene.

Roofing materials within the market housing element are to include sandtoft Calderdale dark grey and sandtoft double pantile rustic. Elevational treatments are to include Mercia antique, hardwicke lenton cream multi, clumber red, reconstituted stone and ivory render.

Nettleham features a wide variety of building designs and external finishing materials as noted in the evolution and growth of housing section of the NNP. Given the mixed palette of materials found in the area, the proposed external finishing materials are considered appropriate, as are the range of building designs. The comments of Lincolnshire Police are noted but do not

necessitate amendments. The applicant has agreed to install two fire hydrants within the development as per Lincolnshire Fire and Rescue comments and is conditioned accordingly. The additional requirement for road strengths above building control requirements is not a material planning consideration. The proposed design accords with Policy LP26 of the CLLP, Policy D-6 of the NNP and the requirement for good design set out in section 7 of the NPPF.

Residential amenity

The objections of local residents are acknowledged. It should be noted that since the vast majority of these objections were received, the applicant has amended the proposed layout, the latest version being drawing number SK01 Rev M. The main change in relation to residential amenity is that plot 21 has been moved northwards to increase the separation distance between it and the property to the south to 21m. It is clear from the amended site layout that the proposed dwellings along the southern boundary of the application site are 21m or more from the main body of the dwellings to the south. This is considered sufficient distance separation to avoid adverse impacts in terms of loss of privacy or overlooking.

The specific objections of the owners of the land to the rear of 14 Deepdale Lane are noted. These relate to the impact the proposal would have on an unimplemented planning permission for 2 dwellings (ref 133580) to the rear of number 14. The permission is extant and the owner has confirmed the intention to implement it in the near future therefore it is a material consideration. Plot 2 of permission 133580 would be near proposed plots 34 and 35. The west facing elevation of plot 2 would feature a clear glazed breakfast area and kitchen windows, and a utility door. The upper floor features two bathroom windows which are indicated to be obscure glazed. The angled nature of the relationship between plot 2 and plot 34 of the proposal means there would be a gap of approximately 17m to 25m between the side of plot 2 and rear of plot 34. Condition 6 of permission 133580 requires *"6. The existing hedgerow along the western boundary of the site, where adjacent to plots 1 and 2, shall be retained at a minimum height of 1.8 metres."* This condition would prevent any mutual overlooking at ground floor and if the hedge were ever removed the likely replacement fence would similarly prevent overlooking.

The only potential for overlooking is from the 2 first floor rear facing bedroom windows of plot 34 to the aforementioned side openings of plot 2. The most southerly of said first floor windows would be more than 21m from any of the side openings so no harm would arise. The most northerly of these windows would be approximately 18m from the nearest side opening. By their very nature bedrooms tend to be used less in the day time thereby resulting in less overlooking than a living room window for example. Furthermore, the approximate 18m gap is substantial. There is considered to be no harmful mutual overlooking between proposed plot 34 and plot 2 of permission 133580 for these reasons.

Plot 35 is a chalet bungalow with ground floor south facing side openings including a clear glazed kitchen door and kitchen window. These openings would be approximately 12m from 2 first floor north facing bedroom windows to plot 2 of permission 133580. The aforementioned logic is reiterated regarding the use of bedrooms during the day time and it is considered that no harmful mutual overlooking would arise.

Plots 36, 37 and 38 are bungalows which do not give rise to ground floor overlooking to the properties to the east due to intervening fences and landscaping. The first floor windows of the properties to the east are either 21m or more from the rear elevations of plots 36-38 or serve bedrooms which are used as noted above and are not likely to result in harmful overlooking. The amended layout increases the distance between the rear elevation of plot 38 and that of the dwelling to the east to approximately 18m and given the angled relationship between the two dwellings this is not considered to give rise to harm to residential amenity.

The proposal will certainly be a significant change for existing neighbours of the site therefore objections relating to issues including loss of privacy, overlooking, insufficient separation distances, loss of light, overshadowing and other residential amenity concerns are understandable. However, the proposal either provides reasonable separation distances between properties to mitigate the impact or the likely nature of the overlooking would not be harmful as described above, nor would any harmful loss of light or overshadowing arise from the proposal.

The Council's Environmental Protection Officer notes the potential for noise and dust pollution. Such issues are controlled by the construction management plan condition which is required by Policy H1 of the NNP. The EPO also seeks to ensure the future expansion of the business park to the west would not be prevented by the proposal. Any future application to expand the business park would need to be considered on its merits.

The impact on residential amenity is considered acceptable and in accordance with Policy LP26 of the CLLP. The ability of residents to extend their properties in the future is not a material planning consideration and any application would need to be determined on its merits at the time of submission.

Flooding and drainage

The objections of local residents regarding flooding and drainage, and lack of comment from the Environment Agency are noted. The site is in flood zone 1 (low risk) and therefore the most sequentially preferable for residential development which formed part of the reason for allocating the site for residential development. The main flood risk issues to consider are foul and surface water drainage.

Foul drainage will be via gravity to an adoptable on site pumping station (as proposed) and will then be pumped into the existing sewer network that is

located in Deepdale Lane. All foul water from the site will drain to the existing Anglian Water network. Anglian Water has confirmed there is capacity within the local Nettleham Water Recycling Centre to serve the foul flows from the development. Anglian Water has requested a pre-commencement foul water drainage condition because it provided pre-application advice to the applicant on the basis of a gravity fed system as opposed to a pumped solution therefore it needs to agree suitable infrastructure and discharge rate with the applicant prior to commencement.

The proposals include the provision of permeable paving solutions to private driveway areas and shared drives. The proposed adopted highway is to drain into a roadside swale / filter drain designed to adoptable standards. The swales will convey the road drainage run off towards the infiltration pond situated to the south east corner of the site.

Trial Pit details have been provided from Environmental Protection Strategies Ltd (EPS) dated 20th October 2015 along with infiltration tests. The north of the site is deemed unsuitable for soakaways however the central and southern areas of the site, where shallow limestone is present, is suitable for soakaways.

The Lead Local Flood Authority raises no objection to the drainage proposals for the site subject to conditions. The Council's Environmental Protection Officer has expressed concerns as noted above regarding the surface water drainage strategy. The applicant has responded by providing additional information regarding the surface water drainage strategy including;

- If the existing flow on the minor watercourse (to the east of plots 35-38) is impaired then this is an issue for the relevant riparian owners to ascertain and rectify if there is a restricted flow issue. The surface water drainage discharge for the site is not into the watercourse as the current Greenfield flow is only partially into the watercourse.
- As the boundary of this site leads to the top of bank of the watercourse, it is therefore proposed that as the minor watercourse passes adjacent to the developers land, as part of the detailed design process, this will be reviewed on site and any improvement / remedial works identified and viable within the developers land would be included within the detailed design drawings.
- Therefore the site only contributes a small amount of flow into this watercourse and therefore the surface water run-off connectivity is minimal under the current scenario. There is only 0.16ha of land which potentially outfalls into the watercourse to the east.
- Existing contours and topographical gradients confirm a fall towards the south east corner of the site not towards the open watercourse.
- At the low point of the site in the South East corner is where the proposed infiltration basin is located. Being at the natural low point of the site is good practice and the percolation testing done to date confirms good infiltration rates which in line with the SUDS hierarchy, infiltration is the preferred method of surface water discharge.
- The risk of flooding to this South East corner is dealt with by the proposed drainage design for the site. The proposed infiltration pond is

designed to accommodate the 1 in 100 year event including climate change allowance of 40% without flooding.

- The only potential areas which would potentially flow towards the minor watercourse are the rear gardens of plots 35 to 38 which is less than the current potential contributing area to this watercourse from the Greenfield scenario.
- There will also be consideration to a potential infiltration filter drain surrounding the pond which will intercept any potential overflow from the pond area (the ditch will be an infiltration ditch into the natural strata). Routing any overflow towards the open watercourse in extreme events would not be proposed as this would introduce additional flows into the watercourse during extreme events.

The Council's Environmental Protection Officer has considered the additional information and expresses disappointment that a known problem with impaired flow along the eastern water body is not resolved as part of this application whilst exacerbating it through the creation of additional riparian owners. He states *"I note comment regarding a 40% climate change allowance and 300mm freeboard, and ask in view of there being no flood route apparent (other than a possible infiltration trench with any remaining capacity), what size storm event this will accommodate and what will be the drain down time in terms of infiltration so as to retain or reintroduce capacity in the proposed attenuation basin?"*

The notes on the drainage drawing on page 21 of the FRA strongly recommend further infiltration testing for the locations of soakaways, retention basins and swales before the detailed drainage design is formulated. The notes also describe the drainage strategy as preliminary.

Given the level of local concern about surface water drainage, the comments of the EPO and the FRA's acknowledgement of outstanding issues yet to be dealt with such as consideration to a potential infiltration filter drain surrounding the pond, the need for further infiltration testing and preliminary nature of the drainage strategy it is considered that a pre-commencement SUDS condition is required to provide certainty as to the final design, capacity and future management of the SUDS. It is appreciated that the applicant requested as few pre-commencement conditions as possible due to funding timing constraints but SUDS has not been entirely addressed whilst noting sufficient information has been submitted to establish the principle of the proposed drainage strategy is acceptable.

The recommended foul and surface water drainage conditions are required in order to comply with Policy LP14 of the CLLP which requires there is no unacceptable increased risk of flooding to the development site or to existing properties and that SUDS have been incorporated where practical; and Policy D-4 of the NNP which requires new development to have appropriate SUDS and enhance ecology. Subject to the above, the flooding and drainage impacts of the proposal are acceptable.

Impact on highway safety and convenience

The submitted transport assessment (TA) thoroughly analyses the transport implications of the proposal.

Following the publication of the NPPF, there is no longer a need for local authorities to set maximum car parking standards. Accordingly, LCC has ceased using the previously adopted maximum standards.

Proposed parking provision at new developments is hence being dealt with on a case-by-case basis, with the main issue being the provision of sufficient off-street parking to avoid the over-spill of parked vehicles onto the highway to the detriment of road safety and capacity.

As shown on the proposed site layout, all dwellings would be provided with safe, secure and convenient parking arrangements. Each plot would typically be provided with two off-road parking spaces. The provision of garages will also allow for visitor parking to be accommodated off-road, should there be demand. The affordable housing element would provide 31 spaces.

In accordance with the Manual for Streets (MfS), for a 30mph road such as Deepdale Lane, 43 metres visibility splays should be achievable from the junction. Such measurements are taken from a point 2.4 metres back from the give-way line, which represents a reasonable maximum distance between the front of the car and the driver's eye. Visibility is typically measured along the nearside kerb line of the main arm. The provision of the access road from Deepdale Lane accords with NNP Policy H-5 part a. The same road can be used by cyclists to safely access the site in accordance with NNP Policy H-5 part d.

The TA demonstrates that a large refuse vehicle can appropriately manoeuvre via the site access without any conflicts.

In accordance with MfS, a 2.0 metre wide footway would be provided along the eastern side of the access junction to facilitate pedestrian movements to and from the site. The footway would be extended to the eastern side of the access junction. As shown in the TA, tactile paving and dropped kerbs would be installed where the footway ceases, to appropriately accommodate movements across Deepdale Lane to the southern footway.

As shown on the proposed site layout plan, the existing public right of way, connecting Deepdale Lane to the east of All Saints Lane and running north-south through the site, will be retained as part of the proposals. The applicant has confirmed the PROW would be metalled in accordance with the suggestion of LCC PROW and has provided a specification which is acceptable to LCC PROW team. A new footpath would be provided as part of the proposal to the western and northern boundaries of the application site which is located in the field to the west of the allocation shown in the NNP. Whilst this is not strictly in accordance with Policy H-5 part e it provides an extended PROW network and has not attracted objection from the Parish

Council and is considered an acceptable departure from the NNP. Part c of the same policy is ambiguous as it seems to refer to a need for footpaths to link an open space to the east of the site which is not shown on the allocation drawing. Existing and proposed footpath provision creates good permeability for the proposal and encourages walking and cycling in accordance with Policy LP13 of the CLLP.

The development can be accessed by sustainable modes of transport. An assessment of the sustainable transport opportunities in the area has concluded that no additional interventions are necessary to satisfy the demand for walking, cycling and public transport created by the development.

The submitted travel plan (TP) explores opportunities to actively encourage sustainable travel choices by promoting walking, cycling and use of public transport. The TP commits the developer and travel plan coordinator to pay for and provide information to occupants regarding sustainable transport options, and to monitor the uptake and success of these alternatives to car travel. LCC Highways suggested slight amendments to this document which have been received and are considered acceptable. The TP recommendations are condition below.

LCC Highways does not consider there to be a requirement for speed reducing methods on Deepdale Lane nor a formal pedestrian crossing and or footway on northern side of Deepdale Lane contrary to local objections.

It is noted that LCC Highways raises no objection to the proposal subject to conditions. It is considered that the site access, internal road layout, vehicle parking levels, and pedestrian and cycle provision are all acceptable with no resultant harm to highway safety and convenience in accordance with Policy LP13 of the CLLP and Policies D1, D2, D3, H-5 part a, b, (c is unclear), d and e of the NNP.

Ecology

The submitted ecological scoping survey recommends that if any of the trees or hedgerows are to be removed then this should be carried out outside the bird breeding season (March to September) inclusive, if this is not practical then a qualified ecologist should make an inspection prior to removal. A selection of nest boxes should be erected to compensate for the potential loss of nesting sites. Lighting within the development should be directed downwards with the use of hoods and cowls. These recommendations are secured by condition.

The survey also recommends that if a tree with bat potential is to be removed then emergence/return-to-roost surveys will be required to establish if bats are using the tree to roost. The mature ash identified in the Ecological Scoping Survey as being a high potential for supporting bats is TPO ash T4. This tree is actually just to the west side of the proposed site entrance and is not the tree to the east as shown by the blue circle in Appendix 4 of the Ecological Scoping Survey, which is a horse chestnut. The applicant proceeded to

provide a bat assessment that considered there to be low potential for three trees which are to be removed, namely a sycamore and two ash trees fronting Deepdale Lane, to support roosting bats. Other trees have negligible potential to support roosting bats. The ecologist recommends that the three trees in question should be removed with a supervised soft fell protocol as detailed in paragraphs 7.1-7.7 of the report. This approach is considered to comply with the standing advice of Natural England and that of the Bat Conservation Trust "Bats & Trees 2015".

The existing on site pond would be retained, as would the vast majority of existing hedgerows surrounding and within the site. Considerable additional planting would take place particularly along the new footpath. The new surface water basin would benefit ecology.

The comments of Lincolnshire Wildlife Trust are noted. It is considered that requiring the developer to make the entire western field into a wildflower meadow would be excessive and unnecessary to make the development acceptable in planning terms. The ecological appraisal notes potential for nesting birds on the site therefore ecological enhancements in the form of nesting boxes as part of the development are proportionate, as is directing lighting downwards for the benefit of foraging bats so both are conditioned. The additional enhancements recommended by the Trust are not required to make the development acceptable in planning terms.

The proposal protects existing ecological interest at the site and would significantly enhance it in accordance with Policy LP21 of the CLLP, NNP Policy D-6 part d, and the requirement within paragraph 109 of the NPPF to "*minimising impacts on biodiversity and providing net gains in biodiversity where possible*". The ecological impacts are acceptable contrary to local objections.

Landscaping

Amended soft landscaping drawings, landscape schedule and landscape maintenance schedule have been provided for the market housing, public open space, attenuation pond and new footpath to the western and northern boundaries of the site. These are considered to provide an appropriate mix of small scale landscaping such as hedges and plants for the tighter parts of the site around dwellings and trees where space allows such as around the footpaths, water retention basin and public open space. The aforementioned landscaping details are considered acceptable by the Council's Tree Officer and are conditioned. A 5 year failed landscaping replacement condition is attached, as is a requirement for in perpetuity public landscaping management details.

No specific soft landscaping details for the over 55's housing have been provided beyond the indicative landscaping on the proposed site plan. The applicant has requested a condition securing details of the over 55's housing landscaping prior to its occupation which is appropriate. To this end, the applicant has provided drawing number A00-NET-SITE-01 Rev C to define

the boundary of the over 55's housing site so that landscaping, maintenance and in perpetuity management within it can be conditioned as below.

The submitted arboricultural impact assessment appropriately considers the effect on trees and hedges on and around the site. It is demonstrated that the TPO trees fronting Deepdale Lane are in poor health/condition and require removal. It is considered that their removal is in the interests of good arboricultural practice and, subject to suitable replacement trees being planted as secured by condition below, no objection is raised to their removal. The erection, prior to commencement and until after completion of construction, of protective fencing around the construction exclusion zone for the remaining trees and hedges shown within the submitted arboricultural impact assessment is conditioned below.

It is considered, subject to conditions, that the arboricultural impact and proposed landscaping details are acceptable in accordance with Policy LP26 of the CLLP and Policy D-6 parts e, f and g of the NNP.

Archaeology

The request of Nettleham Parish Council for a detailed archaeological investigation and recording of findings to be completed before construction commences is noted. The objections of local residents regarding loss of archaeology are also noted.

LCC Archaeology initially considered insufficient information had been submitted with the application to determine the impact on archaeology. It requested, as a minimum, a geophysical survey be submitted and depending on results trial excavation prior to determination of the application.

Following the submission of a geophysical survey and associated trial trenching, which investigated areas of interest highlighted by the former with no significant results, LCC Archaeology has confirmed there is no further requirement for archaeological works.

The impact on archaeology is acceptable in accordance with Policy LP25 of the CLLP and Policies E-3 and D-6 part c of the NNP, as well as the requirements of the NPPF.

Contributions/S106/open space

Health

NHS England Central Midlands considers the proposal would result in 151 additional patients. This would result in 3.9 hours per week demand for a GP consulting room and 1 hour per week for a practice nurse treatment room. This will place constraints on existing premises for example extra appointments lead to additional consulting/treatment room requirements. The practice most likely to be affected by any increase in population as the

development is within its catchment area is Nettleham Medical Practice at Lodge Lane, Nettleham.

NHS England Central Midlands requests a contribution of £323.75 x 86 dwellings = £27,842 to provide capital towards making internal alterations to create two consulting/treatment rooms at Nettleham Medical Practice at Lodge Lane Nettleham LN2 2RS. This would mean re-housing the medical records storage to accommodate the extra consulting space requirements. The NHS does not detail a trigger point for payment of the contribution.

It is clear that, without the contributions described above, the proposal would give rise to a detrimental impact on health care provision in Nettleham contrary to Policy LP12. It is considered that the contribution is necessary to make the development acceptable in planning terms; is directly related to the proposal; and is fairly and reasonably related in scale and kind to the development in accordance with paragraph 122 of the Community Infrastructure Levy Regulations 2010 (as amended). With regards to paragraph 123 of the same regulations and in light of the 5 contribution pooling restriction imposed therein (In the event that five obligations have already been entered into since 5th April 2010 then that new planning obligation cannot be entered into), the following existing contributions towards Nettleham Medical Practice are of note;

- 1) 132063- Land off Lodge Lane, Nettleham- approved 17 December 2015- £17,000 “as a financial contribution towards health care facilities” “for the purposes of providing, extending, improving or altering health facilities within Nettleham, the exact nature of which shall be at the discretion of the NHS”.
- 2) 131975- Land to the rear of 72 Scothern Road, Nettleham- approved 14 March 2017- £18,466.00. “towards the extension or reconfiguration of the car parking facilities and the internal room configuration of the Practice to accommodate the extra consulting space at Nettleham Medical Practice”.
- 3) 132847- Land off Larch Avenue, Nettleham- Appeal undetermined- £85,000 “towards the extension/alteration of the car park and the provision of additional rooms to assist consultations at Nettleham Medical Practice”.
- 4) 133284- Land adjacent Sudbrooke Park, Off West Drive, Sudbrooke- appeal allowed 27 June 2016. £59,500 towards NHS primary care facilities within a five mile radius of the appeal site.

This evidence demonstrates the pooling restriction has not been exceeded and the contribution can therefore be secured in the s106 agreement. A reasonable trigger for payment is considered to be the halfway point (on occupation of the 43rd dwelling) of the entire development.

Education

LCC Corporate Property Team requests a contribution of £124,040 towards meeting the requirement for 11 primary school places generated by this development. No secondary school request is made due to pooling restrictions. The money would be spent on providing extra capacity via a 0.5 form entry extension to Monks Abbey Primary School thereby reducing the number of children travelling from Lincoln North to Nettleham.

LCC assesses capacity in school planning areas, the Nettleham schools fall into Lincoln North School planning area. The projected capacity figures for 2019/20 show that 100% of the capacity in Lincoln North will be required for existing children, however there will still be sufficient places – this development will push over that line and, as a direct consequence, will mean that there are not sufficient places in the school planning area. Without this development, there is sufficient capacity for all children, albeit with no spare capacity; however with this development there will not be sufficient capacity in the area for all children.

It is requested that the monies are paid at the halfway point in the development to allow timely investment by LCC whilst not adversely affecting the developers' viability. LCC confirm no more than 5 S106 contributions are pooled towards a specific piece of infrastructure. The Council's own records show the following relevant contributions;

1) 132847- Land off Larch Avenue, Nettleham- Appeal undetermined-£451,057 towards one form entry extension of either Carlton Academy or Monks Abbey Primary School.

2) 131907- Land to the west of Manor Farm, High Street, Scampton-approved on appeal 21 August 2015. The sum of £45,105 to be paid to the County Council towards the cost of Education Provision. Education provision means the making good of the identified deficiency in primary school provision in the area in which the site is situated and which arises from or is attributable to the development.

3) 124283- Roman Gate, Nettleham Road, Lincoln- approved 30th July 2012. £30,183.00 "to use the Education contribution only for the purposes of a primary school extension or increasing capacity of primary school(s) in the locality of the site and to advise the Owners in writing of the particular purpose to which it has been expended."

This evidence demonstrates the pooling restriction has not been exceeded and the contribution is CIL compliant and can therefore be secured in the s106 agreement. A reasonable trigger for payment is considered to be the halfway point (on occupation of the 25th dwelling) of the market housing development because this contribution excludes the over 55's dwellings.

It is considered that the aforementioned developer contribution requests comply with the requirements of regulations 122 and 123 of The Community Infrastructure Levy Regulations 2010 (as amended) and Policy LP12 of the CLLP. The contributions are secured via a s106 agreement with the trigger for payment noted above.

Nettleham Parish Council request

The request of Nettleham Parish Council for a contribution towards play equipment at Bill Bailey's Memorial Playing Field on Scothern Road is noted. The request contradicts itself by requesting both £40,000 and £50,000. NPC's evidence for this request revolves around a 2016 survey of existing residents which identifies existing shortfalls in play equipment for older children. Whilst acknowledging some demand for use of play equipment would arise from this proposal, it is a well-established principle that developer contributions should not be sought to address existing shortfalls but should be sought to mitigate the developments own impacts. Its reference to the West Lindsey Local Plan should be discounted as it has been superseded by the CLLP, noting reference to the WLLP is understandable because this application was submitted when it was in force. Reference to LP24 is relevant and it should be noted the proposal is providing a significant new public open space within the development which would serve as an alternative to Bill Baileys Playing Field but without play equipment. Reference to the draft developer contributions SPD carries little weight because this document is draft, is likely to be subject to further change and further consultation, and does not provide a firm basis for requesting contributions. NPC indicate half the funds would be used for future maintenance of the equipment. However, this is not the intention of Policy LP24 part d. The intention is for a management company or Parish Council to take responsibility for future management and maintenance of the equipment rather than the developer paying for this. NPC seeks to justify the amount sought on the basis of a 1998 legal agreement which was prepared in an entirely different planning policy context and with less onerous conditions relating to developer contributions, as opposed to identifying specific equipment and its cost. The amount sought is not demonstrated to be directly related to the development and is not fairly and reasonably related in scale and kind to the development contrary to paragraph 122 of the CIL regulations. Such a contribution request is not CIL compliant for these reasons and cannot be secured.

Open space

Policy LP24 requires new development to provide an appropriate amount of new open space, sports and recreation facilities, and improve the quality of, and access to, such existing facilities in accordance with the standards in Appendix C. The proposal provides 0.5ha of on-site public open space. This meets the policy preference for on-site provision and is an appropriate amount. Policy H-5, part f, of the NNP requires the provision of an area of not less than 0.25Ha of land containing examples of the ridge and furrow to be

preserved as public open space. The detailed landscaping plans show 0.5ha of public open space as an area of ridge and furrow grassland which complies with the requirements of the NNP. It is considered that because the proposal provides double the amount of public open space required by the NNP it would be unreasonable to require the provision of play equipment in addition. The proposed open space would be a local usable greenspace within a village and would be provide informal play space, amenity space and informal kick about space as set out in Appendix C and accords with Policy LP24 and H-5.

Conclusion

The proposal has been considered against relevant policies in the development plan, namely Policy M11 of the Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies; Policy LP1: A Presumption in Favour of Sustainable Development, Policy LP2: The Spatial Strategy and Settlement Hierarchy, Policy LP3: Level and Distribution of Growth, Policy LP9: Health and Wellbeing, Policy LP10: Meeting Accommodation Needs, Policy LP11: Affordable Housing, Policy LP12: Infrastructure to Support Growth, Policy LP13: Accessibility and Transport, Policy LP14: Managing Water Resources and Flood Risk, Policy LP17: Landscape, Townscape and Views, Policy LP21: Biodiversity and Geodiversity, Policy LP23: Local Green Space and other Important Open Space, Policy LP24: Creation of New Open Space, Sports and Recreation Facilities, Policy LP25: The Historic Environment, Policy LP26: Design and Amenity and Policy LP52: Residential Allocations - Large Villages of the Central Lincolnshire Local Plan adopted 24th April 2017; and Policy E-2 Local Green Spaces 13) Ridge and Furrow earthworks off Deepdale Lane, Policy E-3 Heritage Sites, Policy D-1 Access, Policy D-2 Pedestrian And Cycle Access, Policy D-3 Parking Provision (New Housing), Policy D-4 Water Resources and Flood Risk, Policy D-6 Design of New Development, Policy H-1 Managed Housing Growth, Policy H-2 Housing Mix, Policy H-3 Housing for Older People, Policy H-4 The provision of Affordable Housing, H-5 Site A Land Behind Deepdale Lane and S-1 Services and Facilities of the Nettleham Neighbourhood Plan, as well as the National Planning Policy Framework and the associated guidance within the Planning Practice Guidance.

It is considered that the development is acceptable as a matter of principle. The significant contribution the proposal makes to housing provision and in particular affordable housing are significant social benefits. The proposal would have an acceptable impact on the landscape and visual amenities of the area. The proposal constitutes good design and would have an acceptable impact on residential amenity, flooding and drainage, highway safety and convenience, ecology, landscaping and archaeology. Appropriate developer contributions are secured via s106 to mitigate the health and education impacts of the proposal and provide management and maintenance details of landscaping outside residential curtilage.

The social benefits arising from the proposal are significant and attract substantial positive weight in the planning balance. The environmental

impacts have been mitigated where required and gains include the creation of a local green space, active SUDS management, and ecological enhancements. The environmental impacts of the proposal weigh in favour of the proposal. Economic benefits arise from the construction phase of the development and increased spending power within the village. The proposal is considered to represent sustainable development therefore planning permission should be granted.

Recommendation: That the decision to grant planning permission, subject to conditions, be delegated to the Chief Operating Officer, to enable the completion and signing of an agreement under section 106 of the Planning Act 1990 (as amended) pertaining to:-

- **£124,040 towards meeting the requirement for 11 primary school places generated by this development. The money would be spent on providing extra capacity via a 0.5 form entry extension to Monks Abbey Primary School**
- **£27,842 to provide capital towards making internal alterations to create two consulting/treatment rooms at Nettleham Medical Practice at Lodge Lane Nettleham LN2 2RS.**

And, in the event of the s106 not being completed and signed by all parties within 6 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 6 months.

Conditions

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

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

- 2) The development shall proceed in accordance with the following drawing numbers and external finishing materials;
 - 606-9-LP101, SK01 Rev M, EX-01, PS-01, RT-01, Plot Materials Schedule- Nettleham Rev 2, Hanson Clumber Red, Ibstock Hardwicke Lenton Cream, Ibstock Mercia Antique, Sandtoft Calderdale dark grey, Sandtoft Double Pantile terracotta red, 1206/A00/DS, 1207/A00/DS/AS REV A, 1207/A00/DS/OPP REV A, 1303/A00/DS, 1401/NET/DS/01, 1401/NET/DS/02, 1401/NET/DS/03, 1401/NET/DS/04, 1501-P-010, 1501-P-011,

1501-P-101, 1501-P-201, 1501-P-202, 1501-P-203, 1501-P-204, 1501-P-205, 2307/NET/DS/01, 2308/A00/DS/03, 2318/A00/DS, 2318b/A00/DS/02, 2324/NET/DS/02, 2324/NET/DS/01 Rev A, 2401/A00/DS, 2404/A00/DS, 2407/NET/DS/01, 2428/NET/DS/01, 2434/NET/DS/01, 2430/NET/DS/01, 2431/NET/DS/01, 2433/NET/DS/01, 2502/A00/DS1, 2502/A00/DS2, GARAGES DOUBLE, A00/GAR/05/DS GARAGES TRIPLE (SINGLE + DOUBLE) DESIGN SHEET, GARAGES SINGLE and GARAGES PAIR.

Reason: For the sake of clarity and in the interests of proper planning.

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

- 3) No development shall take place until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the strategy has been completed in relation to that dwelling in accordance with the approved foul water strategy.

Reason: In order to secure appropriate foul drainage to serve the development and prevent pollution of the water environment in accordance with Policy LP14 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 4) No development shall take place until a scheme for the provision of 25% (21.5 units rounded up to 22 units) affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be located within the red line on drawing number A00-NET-SITE-01 Rev C. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework ('the framework') or any future guidance that replaces it. The scheme shall include:
 - i. The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - ii. The arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iii. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - iv. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

Reason: In order to meet a specific housing need within the district in accordance with Policy LP11 of the Central Lincolnshire Local Plan adopted 24th April 2017, and Policies H-3 and H-4 of the Nettleham Neighbourhood Plan.

- 5) No development shall take place, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- (i) the routeing and management of construction traffic;
 - (ii) the parking of vehicles of site operatives and visitors;
 - (iii) loading and unloading of plant and materials;
 - (iv) storage of plant and materials used in constructing the development;
 - (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (vi) wheel cleaning facilities;
 - (vii) measures to control the emission of dust and dirt during construction;
 - (viii) details of noise reduction measures;
 - (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (x) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
 - (xi) Measures for tree and hedgerow protection.

Reason: In the interests of amenity and in accordance with Policy LP26 of the Central Lincolnshire Local Plan adopted 24th April 2017 and Policy H1 of Nettleham Neighbourhood Plan.

- 6) No development shall take place until a detailed surface water attenuation scheme in accordance with SUDS principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall;
1. Accord with the principles detailed within the submitted Millward Flood Risk Assessment dated December 2016 and additional letter dated 20th February 2017.
 2. Provide details of the infiltration filter drain surrounding the surface water basin.
 3. Provide further infiltration testing for the location of the surface water basin and soakaways.
 4. Provide cross sections of the surface water basin that show its relationship with surrounding existing and proposed dwellings.
 5. Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

6. Provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second/ha.

The agreed scheme shall be implemented in full prior to the first occupation of the development and shall thereafter be retained and maintained in perpetuity.

Reason: To ensure satisfactory drainage of the site in accordance with Policy LP14 of the Central Lincolnshire Local Plan adopted 24th April 2017 and Policy D-4 of the Nettleham Neighbourhood Plan.

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

- 7) Visibility splays of 43 metres at a point 2.4 metres back from the give-way line shall be achieved at the new vehicle access with Deepdale Lane prior to the first occupation of the development and shall thereafter be retained in perpetuity.

Reason: To ensure safe access to the site and in accordance with Policy LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017 and H-5 of the Nettleham Neighbourhood Plan.

- 8) The removal of trees with bat roost potential shall take place in accordance with the method described in the submitted Tree Assessment on Land off Deepdale Lane, Nettleham, Lincolnshire May 2017.

Reason: To prevent harm to protected species in accordance with Policy LP21 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 9) Tree and hedge removal shall be carried out as described in the submitted Arboricultural Impact Assessment April 2017. Protective fencing shall be erected in the position shown prior to commencement of development and shall remain in place until after completion of development.

Reason: In the interests of good arboricultural practice and in accordance with Policy LP26 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 10) The development shall proceed in accordance with the details contained within the submitted Travel Plan (version 4 date of issue 19/4/17).

Reason: In order to promote sustainable transport in accordance with LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 11) The mitigation measures detailed in section 7.2 'Recommended Mitigation Measures' of the submitted flood risk assessment shall be implemented prior to occupation of each individual dwelling.

Reason: To ensure appropriate flood risk mitigation in accordance with Policy LP14 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 12) Prior to the first occupation of the development, a scheme, including cross sections and materials, shall have been submitted to and approved in writing by the Local Planning Authority for the construction of the 2m wide footways at the entrance to the site from Deepdale Lane as shown on drawing number NTT/2451/100-01 Rev P1 of the submitted Transport Assessment, together with arrangements for the disposal of surface water run-off from the highway at the frontage of the site. The agreed scheme shall be fully implemented before any of the dwellings are occupied or in accordance with a phasing arrangement to be agreed in writing with the Local Planning Authority.

Reason: To ensure safe access to the site and each dwelling in the interests of residential amenity, convenience and safety and in accordance with Policy LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 13) Prior to first occupation of the development, the off-site public highway improvement works, namely footways and tactile paving crossing point to enable the public to cross over Deepdale Lane, as identified on drawing number NTT/2451/100-01 Rev P1 of the submitted Transport Assessment shall be completed and thereafter retained in perpetuity.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and in accordance with Policy LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 14) Prior to the first occupation of the development, details shall have been submitted to and approved in writing by the Local Planning Authority of the position and design of two on site fire hydrants for the use of Lincolnshire Fire and Rescue. The agreed details shall be implemented prior to the first occupation of the development and thereafter retained in perpetuity.

Reason: In order to secure appropriate fire and rescue infrastructure in accordance with Policy LP12 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 15) Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses. The carriageway and

footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.

Reason: To ensure safe access to the site and each dwelling in the interests of residential amenity, convenience and safety and in accordance with Policy LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 16) Prior to the first occupation of the over 55 year olds dwellings hereby approved, details of their hard and soft landscaping to both public and private areas, means of enclosure, implementation programme and maintenance and management responsibility details for the area within the red line shown on drawing number A00-NET-SITE-01 Rev C, shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented in accordance with the agreed implementation programme. Any trees, hedges 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 appropriate landscaping of the over 55 year olds dwellings and in accordance with Policy LP26 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 17) Prior to the occupation of the tenth market dwelling hereby permitted, an in perpetuity management plan for the areas of publicly accessible open space within the market dwellings element of the development (namely all such areas within the application site outlined in red on the site location plan but excluding the area outlined in red on drawing number A00-NET-SITE-01 Rev C), including management responsibilities and maintenance schedules, shall be submitted to and approved in writing by the Local Planning Authority. The management and maintenance of these areas shall be carried out in accordance with the details so approved in perpetuity.

Reason: To ensure appropriate landscaping of the development in accordance with Policy LP26 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 18) The hard and soft landscaping, and means on enclosure shall proceed in accordance with the following;
- Drawing- Nettleham SL/01 Sheet 1 of 3
 - Drawing- Nettleham SL/01 Rev A Sheet 2 of 3
 - Drawing- Nettleham SL/01 Rev A Sheet 3 of 3
 - Drawing- AH/NPT/LA1
 - Perimeter treatment to Allison Homes Development a Deepdale Lane dated 14/2/17

- Landscape Schedules Dec 2016 rev A February 2017
- External works detail: Lincolnshire post and rail fence, 1.2m high metal estate fencing, 215mm brick wall 1.8m high, close boarded fence 1.8m high, and vertical bar steel fence 1050mm high
- HL-01
- FPP-01 Rev A (footpath upgrade and new footpath details)

Notwithstanding the submitted information any trees, hedges 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). These landscaping details shall be completed in relation to each individual dwelling prior to its first occupation. The hard and soft landscaping (including public open space) and means of enclosure not located within the residential curtilage of a dwelling shall be completed prior to the first occupation of the 25th market dwelling hereby permitted. Upon completion of the public open space it shall be retained for such use in perpetuity. The ridge and furrow earthworks within the public open space shall not be altered or removed during construction and shall be retained in perpetuity.

Reason: To ensure appropriate landscaping of the site in accordance with Policies LP24 and LP26 of the Central Lincolnshire Local Plan and Policy H-5 part f) of the Nettleham Neighbourhood Plan.

- 19) The vehicle turning space, garage spaces and parking spaces hereby permitted shall be completed in full and available for use prior to the first occupation of the individual dwelling concerned and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) shall thereafter be retained in perpetuity for that purpose unless planning permission for any alternative use has first been granted by the Local Planning Authority.

Reason: To ensure adequate off-street parking exists to serve the development in accordance with Policy LP13 of the Central Lincolnshire Local Plan adopted 24th April 2017 and Policy D-3 of the Nettleham Neighbourhood Plan.

- 20) Tree or hedgerow removal shall be carried out outside the bird breeding season (March to September) inclusive, if this is not practical then a qualified ecologist should make an inspection prior to removal.

Reason: To ensure no harm arises to protected species and in accordance with Policy LP21 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 21) Prior to the first occupation of the development hereby permitted, details of four replacement trees including their species, size, location, implementation programme, maintenance schedule, and means of protection during site development to compensate for the removal of trees marked T3, T4, T5 and T6 in the submitted Arboricultural Impact Assessment which are protected by Tree Preservation Order, shall be submitted to and approved in writing by the Local Planning Authority. Any tree 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 compensate for the removal of protected trees and in accordance with Policy LP26 of the Central Lincolnshire Local Plan.

- 22) Lighting within the development should be directed downwards with the use of hoods and cowls.

Reason: To ensure no harm arises to protected species and in accordance with Policy LP21 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 23) Twenty bird nest boxes as detailed in appendix 9 of the submitted ecological scoping survey dated March 2015 shall be erected in the landscaping around the periphery of the site within one year of the completion of said landscaping.

Reason: To ensure ecological enhancements are secured in accordance with the terms of the NPPF and in accordance with Policy LP21 of the Central Lincolnshire Local Plan adopted 24th April 2017.

- 24) Prior to the first occupation of the development hereby permitted elevations, a floor plan and schedule of finishing materials for the bin store associated with the over 55 year olds dwellings shall be submitted to and approved in writing by the Local Planning Authority. The details approved shall be implemented in full prior to the first occupation of the development hereby permitted and shall be retained for such use in perpetuity.

Reason: To ensure bin storage in a manner that does not detract from the character of the area in accordance with Policy LP26 of the Central Lincolnshire Local Plan adopted 24th April 2017.

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

- 25) The bungalows and apartments within the area outlined in red on drawing number A00-NET-SITE-01 Rev C shall be occupied by people aged 56 years and over.

Reason: In recognition of the terms of the planning application and because the education contributions and amount of vehicle parking have been reduced to take account of the amount of over 55's accommodation proposed, and in accordance with Policy LP10 and LP12 of the Central Lincolnshire Local Plan adopted 24th April 2017.

26) Notwithstanding the provisions of Classes A and B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the dwellings within the area outlined in red on drawing number A00-NET-SITE-01 Rev C hereby permitted shall not be extended, unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable any such proposals to be assessed in terms of their impact on the affordability of the dwellings concerned in accordance with Policy LP11 of the Central Lincolnshire Local Plan adopted 24th April 2017.

Notes to the Applicant

Comments from LCC Public Rights of Way;

“ii/ It is expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the proposal.

iii/ The construction should not pose any dangers or inconvenience to the public using the right of way.

iv/ If any existing gate or stile is to be modified or if a new gate or stile is proposed on the line of the public right of way, prior permission to modify or erect such a feature must be sought from this Division”

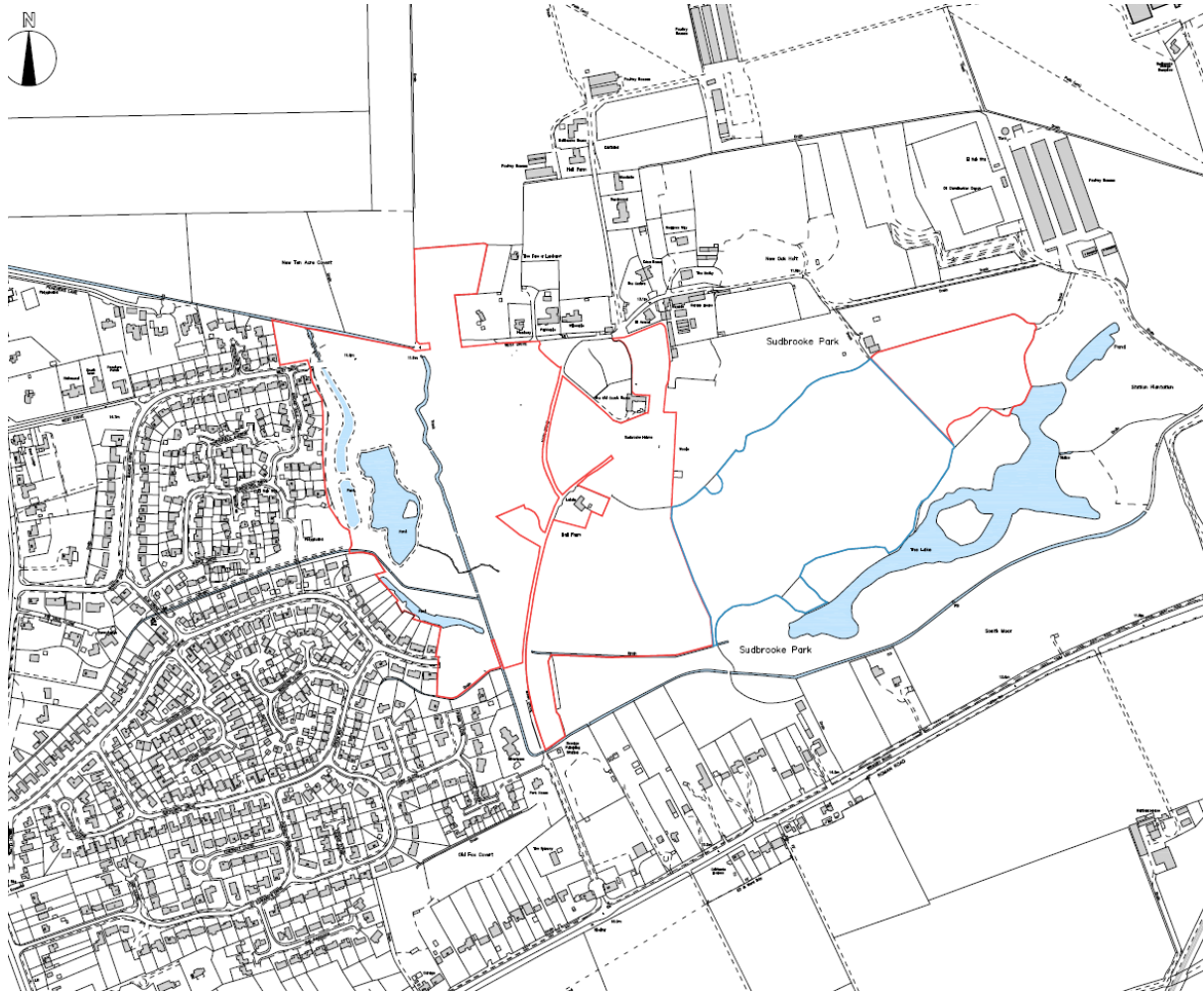
Human Rights Implications:

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

Legal Implications:

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

This page is intentionally left blank



This page is intentionally left blank

Officers Report

Planning Application No: 135618

PROPOSAL: Hybrid application for approval of reserved matters for up to 130no. dwellings, a new building to provide up to 25no. apartments for retirement living and a full application for a public house/restaurant- as approved at appeal under hybrid application 133284

LOCATION: Land adjacent Sudbrooke Park Off West Drive Sudbrooke Lincoln

WARD: Sudbrooke

WARD MEMBER(S): Cllr S Curtis

APPLICANT NAME: Jackson and Jackson

TARGET DECISION DATE: 26/06/2017

DEVELOPMENT TYPE: Major - Dwellings

CASE OFFICER: George Backovic

RECOMMENDED DECISION: Grant Reserved Matters and Full Permission

Description: The site is located to the east of Sudbrooke Village and comprises a mix of woodland and rough pasture with a total area of 18 hectares. There are a number of poultry units within the site and remains of foundations and areas of hard standing of buildings related to the use of part of the site as an army camp during the Second World War. Prior to 1939 the site comprised informal parkland and gardens associated with a large house, Sudbrooke Holme which has been demolished some years earlier. Two metalled tracks provide access to the poultry dwellings on the eastern part of the site and also to a number of residential dwellings outside its northern boundary. The site is also crossed by a Public Right of Way (PROW) (Definitive Footpath (Sudbrooke) No. 817) that links Sudbrooke to the east. There are two existing dwellings The Old Coach House and Labda that lie within the broad area of the proposed development although they are excluded from the application site.

Proposal: Approval is sought for the following reserved matters: Appearance; Scale, Layout and Landscaping for 130 dwellings and a new building housing 25 apartments-, and- full planning permission is also sought for a public house / restaurant.

Phasing: It is proposed to begin the development in the central part of the site with the approved access from the extended Holme Drive (to the south) serving the development initially. The phasing has been split into three main phases;

- 43 dwellings including a connection to SUDs;
- 41 dwellings in the north western section of the site including north of West Drive;

- and the final phase of 46 dwellings-, the public house and 25 apartments on the eastern section of the site-.

The anticipated build out for each phase would be approximately 12 months – giving a total build out of around 36 months.

Town and Country Planning (Environmental Impact Assessment) Regulations 2017:

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'. It may be noted that the outline application was not considered to be 'EIA development'.

Relevant history: Outline Planning permission was granted on appeal in 2016 (Ref: 133284). Access was considered. This involved extending and widening West Drive and Holme Drive. A signed unilateral undertaking was submitted as part of the appeal. This provides for an education contribution of £315,750 to be utilised to provide an additional 28 places at Scothern Ellison Boulter Primary Academy. It also provides for a financial contribution of £59,500 towards the provision of primary care NHS facilities within a 5 mile radius of the site. The Planning Inspector considered that the Undertaking was properly made and appropriate to the development. The requirement for affordable housing was dealt with by imposition of condition 19 which requires a 25% contribution.

There is a current undetermined application to discharge the requirements of 4 conditions imposed on the appeal decision (Ref: 136348); the first two relate to details of surface water drainage and foul drainage respectively. The remaining two are set out below in full.

13. No development shall take place until a scheme, including the timing of its implementation, to prevent vehicles from accessing the private drive that connects in a southerly direction with the A158 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

16. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the routeing and management of construction traffic;
- ii. the parking of vehicles of site operatives and visitors;
- iii. loading and unloading of plant and materials;
- iv. storage of plant and materials used in constructing the development;

- v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi. wheel cleaning facilities;
- vii. measures to control the emission of dust and dirt during construction;
- viii. details of noise reduction measures;
- ix. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- x. the hours during which machinery may be operated, vehicles may enter or leave, and all other work may be carried out on the site; and
- xi. measures to ensure that the Public Right of Way (PROW) crossing the site is protected and kept clear and unobstructed at all times.”

It is important to note that a large number of the comments made to this application relate directly to the requirements of these conditions which are not matters before committee for consideration with this application.

Representations:

Sudbrooke Parish Council: Request that the following comments be taken into consideration regarding the planning application:

Condition 6 (i) Preference would be for 10% of the total site to be dedicated to the Parish Council as Public Open Space with an agreed commuted sum for future management. If however the applicant elects to transfer the land to a Management Company provision must be made for access to the POS at all times for the general public. Notwithstanding any maintenance charges being met by the owners of the new dwellings. The PC would also need to be represented on the Management Company. Proposed POS is understood to include existing woodland west and east of beck and around existing balancing ponds, part of 10 acre covert (between West Drive and Beck), area in front of proposed restaurant, part of biodiversity area (meadow/orchard) and some green areas within new housing. Additionally, the compensatory new woodland to be planted to east of Lake Field (immediately south of Scout camp) should also be made POS. This would mitigate the loss of access to woodland environment and complement existing public footpath access around the village. Access to the compensatory woodland should be made from existing FP158 via the existing short track west of Scout camp.

Designating this area as POS is an ideal opportunity to provide an area to be enjoyed by residents and visitors of all ages, particularly schoolchildren and those visiting the scout camp who could be involved in planting, surveys etc. thereby taking an active interest in a growing woodland.

Condition 6(iii) - The proposed new road running parallel to public footpath FP816 on east side of Beck, between existing steel footbridge and West Drive comes extremely close to footpath in places, e.g. less than 3 metres between existing footpath and new road opposite plot 34 (Dwg (90)002). Such close proximity will mean the value and feel of the existing woodland walk will be lost due to passing traffic and noise and open views to housing. The new road should be re-aligned eastwards to increase the distance to existing footpath, thereby reducing this impact. From the plans, there is adequate room to do so. The Parish Council welcomes new footpaths in POS. These should include "claimed" footpaths as the current application to Lincolnshire County Council wherever possible. Dwg (90)003 shows a new footpath crossing the

Beck, though there appears to be no reference to a new footbridge. This particular crossing is also close to existing kingfisher breeding area. Further clarification is required. Loss of protected trees (TPOS) should be kept to a minimum. From existing information it is difficult to determine exactly which trees will be lost. Landscape Design Report (p35) refers to tree protection and demolition plan but not yet available ("in progress").

Habitat creation and improvements should be explored and implemented to the full. Bird boxes should include those for swifts (declining species). There is reference to de-silting existing balancing ponds and selective tree removal around edges to allow light to enter, thereby increasing waterway biodiversity potential. The extent and cost of such works should not be underestimated if they are to make a difference. Further details are needed.

Condition 13 - Any scheme to prevent vehicles from accessing the private drive (Main Drive) to A158 must allow provision for all existing property owners within the Park to continue to exercise their legal vehicular rights of way at all times to and from A158 Wragby Road.

Condition 19 - (Provision 25% Affordable Homes) The PC preference would be for starter homes with provision to remain affordable for first and subsequent occupiers with priority for existing local residents. If an essential need for Affordable Homes cannot be shown for Sudbrooke the PC would wish to see a small percentage of Retirement Bungalows being provided for the Village instead of Affordable Homes being allocated elsewhere across West Lindsey.

Residents Comments (Summary)

Headway, West Drive (object - four representations):

- Trees included in Landscape Management Plan that are in private ownership
- Location of garage for Plot 1 close to property boundary.
- Garage encroaching onto root area of willow tree T161 and willow T153.
- Impacts on private woodland.
- Infringements of the rights of way of existing residents along Main Drive that are evident from the plans. Existing residents of Sudbrooke Park have rights of way down Main Drive onto the A158 through the Park Gates, as well as down West Drive onto Scothern Lane and in the other direction to Langworth Station.
- The plans show that the developers' intention is to set in place as many obstacles as possible to prevent such use, thus depriving existing residents of their established access rights, actions which could result in legal challenges. This is nothing less than a de facto closure of Main Drive, and may well be unlawful.

“Tanglewood”, 89 Holme Drive:

- Far too many houses. Building a public house when many are closing is ill thought out. The village shop closed as it was in the wrong location to attract passing trade.

- Where are the residents of the retirement apartments going to go for local shopping or for transportation if later in their life they are unable to drive a car? There is not a shop in the village. They could walk to the bus stop on Wragby Road.
- Has consideration been given to how safe it is for people to live in the woods with lights being switched off at Midnight? The woods are being spoilt with this development. Axe the public house and build retirement apartments where there is easy access to services.

21 St. Edwards Avenue:

- Pubs have shut down. The road is too small to accommodate large buildings and Lorries.
- Scothern Lane is very busy. Access problems. This is a village not a town.

31 St Edwards Drive:

- I object to any new building at Sudbrooke Park. There is already inadequate infrastructure to support existing residents let alone any new development

43 St Edwards Drive:

- The proposed dwellings will result in an increase in Sudbrooke traffic leading to further difficulties for residents exiting the village onto Wragby Rd. especially turning right . This area is already a hotspot for problems. As these difficulties will further increase with further traffic we would suggest that traffic lights should be placed outside the main village exit onto the A158.

Silvertrees, Main Drive:

- On page 24 of the Landscape Management Plan Part 1: “Off-Site Mitigation and management Retractable bollards will be installed off site at the entrance to Main Drive, off Wragby Road.” I **object** most strongly to this for the following reasons: This fails to prevent vehicles from accessing Main Drive from the Holme Road extension adjacent the new Community Hub and in the event of this happening, there is no turning space for vehicles on the northern side of the bollards. If the bollards form part of the new development then put them there and not remotely. Have the bollards on the junction of Main Drive and Holme Drive to provide the containment necessary with no Through Road signs at the Main Gates.
It would cause a safety issue as unauthorised vehicles under sat nav direction would collect on the main road side of the bollards with the potential to back up onto the carriageway, or indeed block the carriageway if trying to turn right into Main Drive
- We are also considered that the bollards would have a detrimental impact on the Grade II Listed Gates.

6 Shepherds Way

- I strongly object to heavy plant and transport vehicles using West Drive to access this site. We do not want heavy traffic through the village,

the roads covered in mud and stones or the roads, which are already in a fragile state subjected to further abuse. Danger to pedestrians who are mainly children or elderly and we do not want our cars or visitors cars which may be parked on the road damaging.

Willowside:

- We have in the deeds of our property as do all residents within Sudbrooke Park the right of access to Main Drive which we use every day to access the A158. The latest plans quite clearly show that they are to cut off our right to turn left out of our property and then right past our land which sits in front of our property to go up Main Drive. We have used this way for 27 years and 50 years respectively.
- We also have issue with regards to a change of surface and use of a Bollard system to prevent new residents accessing the A158 by the Main Drive. This is quite clearly an infringement of the rights of the present residents as each time we want to use that route and also our visitors, deliveries etc. will have to unlock the bollards to exit and enter.

29 Sibthorpe Drive:

- As a medium size village the amount of dwellings is far greater than allowed under the neighbourhood plan
- The local schools and doctors' surgery are both full to capacity as well as the local roads, the A158 is a nightmare to get onto at times and with the extra traffic another 155 dwellings will bring with them it will only get worse.

6 Shepherds Way (x2):

- Congestion: Scothern lane is busy at peak times, Schools in the area are already oversubscribed. Medical centres that serve Sudbrooke are oversubscribed.
- The infrastructure in and around Sudbrooke is stretched to say the least and with building continuing rapidly in neighbouring villages, I cannot understand how an extra 130 plus homes will improve things in the future. Sudbrookes usp is its woods and pathways. It won't have this if the building is allowed.
- I see no access for the heavy plant vehicles and the machinery that would be required for this undertaking, we were assured that the works access to the site would NOT be through the village using Manor Drive, West Drive or Holme Drive.
- Biodiversity, there is a small area set aside for this including a pond, this has to be included for drainage anyway, how convenient. How is the existing wildlife that is to be affected by these plans to find its way to the new biodiversity area?.

16 Windsor Close:

- The amenities nearby, such as doctors' surgery and schools, will suffer on the higher impact of people living in the village. It is already difficult to get an appointment with the surgery or a place at the local schools.

- Also the higher impact on traffic has a negative impact on the environment, such as the destroying of woodland and higher pollution.

The Spinney Cattery, Main Drive:

- It was previously agreed that the developers would install a barrier to the woodland/development side of the old bridge on Main Drive. This would allow free access to main drive from the A158 up to the old bridge, therefore not restricting visitors etc. to The Lodge Houses, The Spinney, Park House and Silvertrees. I now note that the plan states "Retractable bollards will be installed off site at the entrance to Main Drive, off Wragby Road", this is completely unacceptable and would cause a great deal of inconvenience for all involved. We run a business at The Spinney and have a number of customers arriving to deliver and collect their cats, they would not be able to access our property if such a plan is enforced and I feel this would have a dramatic impact on our business and livelihood.
- If these bollards are sited in the park gates, this would detract from the Period charm of this Grade II listed structure. I also feel this could become a hazard on the A158 with traffic backing up onto the main road when people are unable to access the properties mentioned above.

12 Park Close:

- Infrastructure is not adequate for the proposed increase in population in this area. This includes health services, schools, sewerage.
- Access to the A158 is already diabolical. There are already frequent accidents at this junction.

21 West Drive:

- The public house will never open. The George in Langworth sold for a fraction of the original sale price and the Station closed with no prospect of re-opening. The cafe in Sudbrooke is up for sale and the shop can't find a new owner.
- I can't see any way other than through the village along West Drive for the construction traffic, not a pleasant thought.
- There seems to be no indication as to how many of the trees with preservation orders will be retained. We have had grass snakes in our garden on west drive so they are probably living in the woods along with other wide life which is going to suffer
- the density of housing looks higher than the rest of the village, all making for more traffic and increasing the numbers needing school and doctors.

1 Windsor Close:

- Flow of traffic going past my drive to be contained will now be a lot more and potential dangerous to young children.
- More importantly they have withdrawn some original proposals i.e. outside gym etc. Could they not instead make a worthwhile really needed s136 contribution for education to the local Sudbrooke

preschool and pay for a separate self-contained preschool that would benefit the community and be appreciated for Sudbrooke for future years? I would much support this happening as would a lot of the community.

67 Wragby Road:

- The developers have not fulfilled their obligations for the reserved matters: Having stated that the developers will replace every felled tree with two new trees they have not provided accurate figures for how many trees will be felled and then replanted. The site suggested for these additional trees is to the far east of the village and residents will have no access to this woodland.
- The area assigned to Public Open Space is not clearly defined in situation or area. Run off from the pond into the Beck. This is a vulnerable wild life corridor and run off water could have a grave effect on the biodiversity.
- There are currently a number of trees planted in this area as part of a previous WLDC planning regulation to alleviate the view of the extant chicken sheds. These appear to be missing on the reserved matters plans and instead a pub, orchard and open grassed area and access road is shown instead. What will become of these trees that are over a 100 in number?
- the kitchen garden and allotments are in flood zone 3, an area that is often waterlogged. The biodiversity programme again lacks definition and numbers
- The design of the retirement flats is three storey in height whereas the original Holme was only two storey in height. They are sited away from local transport and retired residents will have greater need of local doctors which are already oversubscribed. The local Infrastructure is grossly insufficient to provide transport, schools and health facilities to the number of residents occupying 150 houses i.e. a further 300 hundred cars, and at least 400 new residents.
- The access roads to Lincoln A158, in particular Scothern Lane end, and A46 will have to cope with a great increase in traffic. This may well include access through the Grade II listed Sudbrooke Park Gates as the provision for restriction of general traffic, other than Park residents whose deeds permit them to use Main Drive

14 Broad Dale Close:

- the development will create a substantial increase in traffic which the local highways will be unable to cope with. My specific concern relates to the junction onto the A158 as this is already difficult to access at key parts of the day and worsens during the summer months as a result of the coastal traffic. Whilst the current Nettleham Road with the passing places helps to ease this, the road is not equipped to deal with a development of this size.

Swallows Way:

- We note Jackson & Jackson have made significant alterations to their original plan. This site far exceeds the allocated 10% growth mentioned

in the LCC local Plan. The proposed layout of houses on this site are not in keeping with existing properties within the Park or in keeping with house types on West Drive, Manor Drive or Holme Drive. 3 story properties are totally out of keeping with the village as a whole.

- TPO Orders. Previous destruction of protected trees within the Park resulted in the Land owners having to plant replacement trees. They are now going to be destroyed to make way for this new site. Are these new trees protected?
- Concerns about the volume of traffic this site will generate. As existing residents we have legal rights of way through The Park Gates on to A158 / Main Drive. Blocking road near Coach House is all so an issue, both these matters will have to be addressed. We note that the route of the construction traffic to the site has been amended. Could you all so note that the majority of residents are opposed to building in This Historic tree laden Park? The Parish Council and also West Lindsey Planning it's self-objected to this build. Only by default did this site go forward to appeal.

11 West Drive:

- That both proposed primary access routes to the site, i.e. Manor/West Drives and Holme Drive, be built and in place before any other building works commence; the burden of increased building traffic should be shared and that a one-way system be instituted along these primary routes; for building traffic in and out of the site. That speed limits of 20 mph be instituted along these primary routes.
- That the Planning Authority consider “road pinching” measures along the primary routes to control the speed of traffic. The development will create long relatively straight roads which will encourage speeding traffic in a residential housing estate. That adequate signage be in place throughout the village to manage the flow of traffic.
- Highways concerns in relation to restricting heavy construction traffic, working hours restrictions, wheel wash, farm traffic access, speeding, salt gritting of routes, accidents and that a temporary access be provided through the farm.
- It is not clear from the phasing plan in the above application that site infrastructure will be in place from the start of construction of the new homes. There appears a risk that access to the site will be limited to Manor/West Drives for some years before the second access along Holme Drive is constructed. The planned road access along Holme Drive will be narrower than the alternate route along Manor/West Drives. It is likely that traffic will be encouraged to use the wider route.
- It is not clear from this Application when Poultry Farm operations alongside the site will cease operations. Heavy farm traffic has already caused considerable damage to road surfaces particularly along Manor Drive.

The Old Coach House:

- Object - Denial of rights of access which will be blocked by the current proposals utilised for over 19 years since moving here. These are written into our deeds and will remove our means to turn left from the

property. Rights of access to A158. The plans show a change in road surface to discourage new home owners. Bollards have been mentioned but no indication of maintenance has been provided.

- Concerns over property borders and security. The current plans propose roads and houses close to our property. I am concerned as to how this can be constructed without damage trees, hedges and fencing on our boundary. Consideration should be given to security which should include existing homes.

Lincolnshire Police: Lincolnshire Police **does not have any objections** to this development. The new Part 'Q' Building Regulations 2015 have been in force since 1st October 2015 and therefore the security element in respect of the provision of windows and doors must conform to the standards within the new regulations. Detailed guidance is also provided in relation to: perimeter fencing; location of car parking; gates; landscaping; location of footpaths; lighting; external doors & windows; boundaries; sheds /cycle storage; open spaces & recreational areas; access control ; letter boxes; CCTV; signage; roller shutters and grilles; internal lighting.

Tree and Landscape Officer:

There is a good variety of planting proposed across the scheme. It includes many native trees and shrubs for good biodiversity value, and various non-natives for additional variety. The two sections of the Landscape Management document provide very little information about intended maintenance actions, such as mowing, watering, pruning, weeding, removal of waste material, litter, replacing dead plants, frequency and timing etc. Part 1 mainly covers issues such as visions and aims, objectives, describing the site, relevant legislation and policies, but there is some information on the actual landscape maintenance actions in Chapter 4, but additional detail should be required on the individual actions and timing. The proposed layout will involve the loss of many protected trees, both individual trees and groups. **The loss of such a quantity of important amenity trees has already been established as being acceptable by the PINS appeal inspector.**

I have **no objections** to the proposed landscape planting.

The planting of any approved scheme of landscaping should be ensured by using a landscape implementation condition.

The future retention, replacement if/when necessary, and management of an approved planting scheme should be clarified by the approval of a Landscape Maintenance document or the use of a condition requiring appropriate landscape management. The Landscape Management document provides very little information on what actual landscape maintenance actions would be undertaken, how they will be done, frequency and timing.

Tree protective fencing should be required, and should be erected at the appropriate distances as calculated from the tree report information and as shown on its tree constraints plan. Fencing should be put in place prior to any site clearance and setting out, and should be kept in place until completion.

19. Many category B trees are shown as being removed, although there is no development need for their removal. Category B trees should be retained where possible.

20. A couple of category A and B trees have too much encroachment into their RPA's,

LCC Highways: Does not wish to restrict the grant of permission.

Although the drainage is to be submitted under a different application I have now seen the drainage proposal and I am satisfied that when formally submitted this will not alter any of the now agreed layout. As all other matters are covered on the outline application **we can now agree the formal layout.**

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable. Accordingly, Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) does not wish to object to this planning application.

Historic England: On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

.

Upper Witham Internal Drainage Board: The Board has no objection to the proposed development provided it is constructed in accordance with the previously agreed discharge arrangements into Sudbrooke (Nettleham) Beck of 5l.sec-1.ha-1 for all events up to 100years plus 30% climate change

Comment and information to Lincolnshire CC Highway SUDs Support

No development should be commenced until the Local Planning Authority, in consultation with the Lead Local Flood Authority has approved a scheme for future maintenance of the surface water drainage system.

Comment and information to Agent/Applicant

Under the terms of the Board's Byelaws, the prior written consent of the Board is required for any proposed temporary or permanent works or structures in, under, over or within 9m of the top of the bank of a Board maintained watercourse. The full width will required to be left clear of obstructions to enable the Board to carry out maintenance. Consent will also be required for access culverts and outfalls.

Anglian Water:

We have reviewed the documentation provided. The submitted documents include no further information relating to foul and/or surface water drainage as part of this application. Therefore we have no comments relating to the submitted documents.

Environment Agency:

Had initially objected to the application. Following the submission of amended plans the following comments were received

The finished floor levels shown in Dimensioned Site Plan - Area 01 Drawing 0301 rev D, provide appropriate mitigation against flood risk for the area North of West Drive. **We therefore withdraw the objection** set out in our response of 13 April 2017.

LCC Archaeology: This site has undergone archaeological evaluation and this section is currently waiting for the results in order to formulate an informed mitigation strategy for the development phases.

Given this I recommend: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook (2016)) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

“[Local planning authorities] require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.” Policy 141. National Planning Policy Framework (2012).

A brief will be produced by this department which will lay out the details above, and the specification for the work should be approved by this department prior to the commencement of works. Please ask the developer to contact this office for further details.

Conservation and Design Officer (CAD):

Public House: (original submission): The proposed design of the public house is very confused, having used a plethora of detailing and materials. The overall size and scale of the proposal is not at all convincing as there is no traditional form or plan. If the local vernacular is to be utilised as a design concept, then much more attention needs to be paid to local distinctiveness. The plan form requires review, and should perhaps consider:

- Utilising a more typical traditional T or L plan form, with diminishing ranges to the rear;
- A three or five bay frontage;
- Reducing substantially the palette of materials
- Improving traditional detailing, on key matters such as the pattern of fenestration, etc.

Amended plans were subsequently submitted which were considered an improvement to the proposal and no objections have been raised.

Sudbrooke Holme (original submission):

The proposed Sudbrooke Holme elevations have been compared to the original house, using old maps and historic photographs. Sudbrooke Holme was a distinguished country house in the mid to late Georgian classical style. Rules of classical proportion are very much evident in the character and architectural appearance of the lost country house. Elevations provided as part an attempt at reconstruction fail to observe true classical proportions, and the elevations are overly fussy, and crammed with too many windows. For example, the principle south elevation of the lost country house had five symmetrical bays, astylar, three central bays under a classical pediment, with three storeys, and a classical entrance, no Piano Nobile, and this five bay centre was flanked with canted bay wings of two storeys to each end, with a contrasting string course. Similarly the NE & NW corners of the house, had bombe fronted corners. None of the classical restraint seen on the original house is reproduced in this proposal. The windows are not of classical proportion, and do not conform to square, square and half, or double square window proportion, a key element of classical design, the pediment is too steep, and the general proportion of the proposed are poor.

Response by Architect: The proposed building – as indicated in the Integrated Planning Statement issued July 2015 – has not been intended as a reconstruction of the lost Sudbrooke Holme. Its former arrangement (matched perfectly) could not house the permitted 25 apartments as granted in the Outline Approval and therefore we have not intended to replicate the former building exactly as it once stood. As outlined, the building takes *reference* from the former building (with a nod to historical elevations) but we have catered for the building's required functionality in order to address the proposed elevations. The proposed building has been designed to accommodate 25 apartments which meets all current standards of the building regulations. The former house was a single dwelling property and could therefore accommodate the differing levels as found between its principle core and canted wing bays. In a building designed to current standards, and accommodating this many dwellings; a split level arrangement would be impossible to provide over three storeys. Furthermore, the challenges such an arrangement would cause for fire safety and catering for disability with the amount of level changes, stair arrangements and elevator access points would not be practical. Therefore three storeys have been proposed throughout. The plan arrangement for the building has been designed to accommodate the safest egress from a building of this size in the event of fire or other emergency, and the internal layout has been dictated by this. Therefore in summary, we acknowledge that the proposal is not a faithful replication of the former building and hope we have explained why such a replication had not been possible and therefore as such it was not our intention to provide a replica of the original Sudbrooke Holme.

Conservation and Design Comments (revised plans): The amendments to window detail does make a vast difference to the proposal. To get this right we need some conditions for the following:

1. Brick sample panel
2. 1:10 for full window and door details including method of opening, cill and window header details.
3. Eaves and Verge details
4. Rainwater goods
5. All materials (including string course details)

Relevant Planning Policies:

Planning law requires, to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The Development Plan in this location comprises the provisions of the Central Lincolnshire Local Plan (April 2017)

Central Lincolnshire Local Plan (CLLP)

The CLLP was formally adopted on 24th April 2017, and now forms part of the Development Plan.

The following policies are considered to be most relevant to the applications:

- LP1: A Presumption in Favour of Sustainable Development
- LP9: Health and wellbeing
- LP10: Meeting accommodation needs
- LP11: Affordable Housing
- LP12: Infrastructure to support growth
- LP13: Accessibility and Transport
- LP14: Managing Water Resources and Flood Risk;
- LP17: Landscape, Townscape and Views
- LP18: Climate Change and Low Carbon Living
- LP20: Green Infrastructure Network
- LP21: Biodiversity and Geodiversity
- LP26: Design and amenity

The CLLP is available to view here: <https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

Sudbrooke Neighbourhood Plan

Whilst the site is within an area designated as a Neighbourhood Area, at the time of writing no draft Neighbourhood Plan has been published that could otherwise be taken into consideration.

National Policy:

National Planning Policy Framework (NPPF)

<https://www.gov.uk/guidance/national-planning-policy-framework>

Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Main issues

- **Layout, Scale & Appearance (including Public House)**
- **Residential Amenities**
- **Landscaping**

Assessment:

The site benefits from outline planning permission, granted on appeal which considered the question of access and the quantum of development proposed. These aspects have therefore already been determined.

The principle of development on this site is therefore already established and is not under consideration. This application considers only the reserved matters of **layout, scale, appearance** and **landscaping** in relation to the dwellings and apartments **and** the **details** of the submitted full planning application for the public house and restaurant. The inclusion of land within the development site for a new public house and restaurant is referenced in the Inspectors Report and the details flow on from this.

Layout, scale and appearance, including public house:

Policy LP10 of the CLLP indicates that developers should meet the needs of the housing market area. This means that new residential development should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. The appeal decision conditions the provision of affordable housing which will result in a mix of tenures.

The Strategic Housing Market Assessment (July 2015) concludes (paragraph 9.67) that:

“The analysis of housing need by size suggests that there is a need for property of all sizes in Central Lincolnshire... The greatest requirement under all of the scenarios, however, is for property of between 50 and 89 sq.m, which generally relates to 2 or 3 bedroom flats, mews or semi-detached homes. In the context of the HMA as a whole having a comparatively high representation of detached properties this suggests the need for new stock to contribute positively to the overall balance through the provision of smaller family sized housing. This, however, will need to be balanced against the provision of all types and sizes of housing.”

The dwellings proposed are:

- 3 No. six bed detached houses
- 27 No. five bed detached houses
- 32 No. four bed detached houses
- 5 No. three bed detached houses
- 1 No. two bed detached dwelling (accommodation at first floor)
- 4 No. two bed detached bungalows
- 30 No. three bed semi-detached houses
- 12 No. two bed semi-detached houses
- 13 No. three bed terraced houses in 1 terrace of 4 and 3 of 3
- 3 No. two bed terraced dwellings in a single terrace.

There are 48 units of 3 bed accommodation and 20 units of 2 bed accommodation accounting for 52.3% of the total of 130 dwellings. Four bed units account for 24.6 % (32 units). In addition the new building for over 55's will have 10 two bed flats and 15 single bed flats.

This is considered a good mix and balance of housing types, with inclusion of smaller properties for which the greatest need arises.

Policy LP26 of the CLLP requires all development to achieve a high quality, sustainable design that contributes positively to the local character, landscape and townscape and supports diversity, equality and access for all.

Holme Drive at the south eastern end of the site will be extended in an easterly then north easterly direction. The approach to the site will be through existing woodland and first views will be of the public house and restaurant.

Public House: The proposed building is essentially L-shaped in design with two storey and one and a half storey elements. The building will house a kitchen, restaurant, bar area, toilets and conservatory with additional seating on the ground floor. On the first floor there will be land lord's accommodation, plant space and five guest rooms. There is a rear yard to the east providing outdoor seating for customers. This will be constructed predominately in red facing brickwork although the front section and main entrance will utilise white painted brickwork in order to breakdown the mass and aid legibility by clearly defining the entrance. The building orientates west to east maximising views south to the existing woodlands and to the new open pasture and biodiversity land to the south. This addresses the line of the new road and provides a "landmark" entrance to the wider development. Car parking is proposed to the north and east of the public house. The 'noisy' elevations, where internal spaces are liable to create noise such as the bar, restaurant and external seating areas have been turned away from the proposed dwellings to the north / north east and following suggested revisions the building has also moved further south to increase the distance from the proposed dwellings and to allow incorporation of a landscape buffer. Conditions will be required in relation to materials and finer detailing

Plot 130, a 4 bed detached house is the first dwelling encountered following the public house and fronts onto the new road which continues northwards before travelling eastwards past plot 129 before making a loop north and west along the frontage of “Labda”, an existing farm workers bungalow before connecting with the main road which branches to the north west. This “loop” allows access to plots 104 to 128 which are located within the south eastern corner of the site. Plots 129 and 104 are located opposite each other at the junction of the loop road. There are also a number of similarly designed houses located at junctions within the wider development that are designed with 2 principal fenestrated elevations in gabled form to the side and front that provide visual interest and are considered a good design solution in such locations.

The main entrance to the site from the north is from the extension of West Drive eastwards and once it passes over the Nettleham Beck it continues east with branches to the north serving plots 1 to 13 in the north western edge of the site; and branches to the south that curves around the perimeter of the towards the south west linking to the new road extending from Holme Drive. The first views of the development from the northern access will be of the curved 5 bed detached house on plot 14 with a chamfered central entrance at 45 degrees addressing the junction of the new road. This is a large rendered house with a thatched roof and external red brick chimney. Red pantiles are proposed above the rectangular bay windows. It is an impressive building at the entrance to the development. Plot 1 is located to the immediate North West on the opposite side of the road at the entrance to this section of the site. This is a 5 bed detached house faced in red brick with a slate roof. It also has a central gable projection above eaves level with horizontal timber cladding to the front and sides at first floor level.

The layout responds well to the shape and size of the site and provides a clear “legibility” with destinations within the site that draw the visitor along the linking “streets” between the spaces that will help it integrate well within its immediate and wider surroundings. One area of open space is located to the rear of plots 19 to 25 and this would be visible from 11 dwellings providing surveillance and security.

There are 24 different types of dwellings. Within these types of housing various subtle differences are created by use of contrasting materials. As an example the following combinations of facing and materials are to be found:

- Buff brick / slate; painted brick / slate; painted brick / pantile roof; red brick / slate; render/ thatched roof; stone/ clay tiles; buff bricks/stone detailing/ pantiles; render/redbrick/pantiles; red brick/red pantiles; render/slate

Sudbrooke Holme Apartments: This is a proposed grand three storey building on the eastern section of the site close to woodland and existing open parkland. It forms a courtyard type arrangement with full length hexagonal corners at four sides and full height semi-circular central projections with balustrades above on the northern and central elevations. There are two

single storey gabled projections on either side of the northern elevation connected to the main building by curved archways. It is to be faced in red brick with a slate roof. Two plant rooms including a cycle and mobility store room bookended by lifts are centrally located with a podium deck and courtyard proposed at first floor with a void above.

As can be seen in the comments earlier in the report there have been discussions about the appropriateness of the design with the architects following which revised proposals were submitted. Subject to the imposition of the suggested conditions the design is appropriate.

The layout, scale and appearance of the wider development is therefore considered acceptable, and compliant with the development plan

Impacts on existing residential amenity

Labda: The extension of Holme Drive runs in a loop around Labda. To the east on the opposite side of the road are the sides of plots 58 and 84. To the south and east are the rear gardens of plots 104 to 112. Along the east the rear gardens serving the houses are a minimum depth of 16 metres which is considered more than sufficient to avoid unacceptable impacts in terms of loss of privacy and overlooking. To the south the rear garden depths range from 8.4 metres 9.6 metres which are just beyond the limits of acceptability in terms of overlooking and loss of privacy. Amendments were subsequently submitted which increased the separation to a minimum of 10 metres which is considered acceptable. It is considered therefore that the impacts on Labda fall within acceptable levels.

The Old Coach House: To the immediate southwest is the access to the detached double garages serving plots 87 and 89 and the two car parking spaces set out for plot 88. It is accepted that it there will be noise and activity from residents arriving and leaving along this access although at a distance of approximately 18 metres to the nearest part of the existing dwelling this is not considered sufficiently harmful to withhold permission. There is over 15 metres distance separation from the rear of plots 88 and 89 to the boundary with the Old Coach House and 10 metres from the side of 87 which is considered sufficient to mitigate unacceptable overlooking and loss of privacy. On the opposite side of the road to the east and north east are the front elevations of plots 94 to 99. At the closest point there is distance separation to the boundary of the Old Coach House in excess of 12 metres rising to over 25 metres. This is considered acceptable. The main building of the Sudbrooke Holme over 55 apartments is approximately 30 metres to the south east. This is in line with the indicative drawings submitted under the outline application.

It is considered that impacts on existing residential amenities fall within acceptable levels.

Landscaping: The landscaping proposals are considered acceptable and will be delivered using a landscape implementation condition which is reasonable, necessary and relevant to the development. It is also necessary to ensure the future retention, and replacement of losses and management of

the approved planting scheme. This would normally be clarified by the approval of a Landscape Maintenance document. The submitted Landscape Management as can be seen from the comments above is however lacking in information on what actual landscape maintenance actions would be undertaken, how they will be done, frequency and timing. This is capable of being resolved by imposition of an appropriately worded condition. Tree protective fencing measures are also recommended however, condition 18 of the outline permission contains such a condition so it is not necessary to impose one on this application. . Subject to conditions Landscaping can be approved as a reserved matter.

Archaeology: This site has undergone archaeological evaluation and LCC Historic Services section is currently waiting for the results in order to formulate an informed mitigation strategy for the development phases. Conditions 10, 11 and 12 of the appeal decision relate to such matters and so it is not necessary to impose any conditions as part of this approval.

Highway Safety: The access to the site was considered by the Planning Inspector at the appeal as it was not a matter reserved for subsequent consideration. It was found to be acceptable. The highways department have considered the submitted layout and have raised no objections or concerns on the grounds of highway safety.

Drainage: The comments from the statutory consultees are noted however the acceptability of the drainage is currently being considered under an application to discharge the requirements of related conditions

Infringement on private rights of way: Strong opposition has been raised in relation to potential interference with private -rights of way that it is claimed would be harmed by these proposals. These are noted however this is a civil law matter rather than a planning consideration. Permissions that are issued contain the following advisory: **Note:** *This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. You are strongly advised not to commence works until you have obtained any other permissions or consents that may be required*

The applicants proposal to comply with the requirements of condition 13 to prevent vehicles from accessing the private drive that connects in a southerly direction with the A158 have resulted in detailed objections to the proposal including to the proposed use of bollards. This issue is not relevant to the reserved matters under consideration. It cannot be resolved by this application but will be considered by the separate application submitted to discharge the requirements of the condition.

Routing and management of construction traffic: This has raised a number of concerns which as referred to earlier will determined by the application submitted to discharge the requirements for a Construction Method Statement. Concerns have also been raised as to potential damage to

existing roads and tracks as a result of development. This is not a material planning consideration for a reserved matters application seeking approval for layout; scale; appearance and landscaping.

Damage to private property as a result of construction works has been raised as an issue, however, this would be classed as a civil rather than planning matter.

A number of residents have cited concerns with the implications of developing the site for residential development – particularly the effect on local infrastructure, the number of houses proposed and the impact on the natural environment. These were all factors previously considered at the appeal and are not relevant to the consideration of this application on a site which already has the benefit of (outline) planning permission.

Parish Council Comments: These including requiring unhindered access to Open Space and the wish of the Parish Council to have a representative on a management company in the event of the land being transferred to a Management Company the wish to be represented on the Management Company, The agents for the applicants were contacted and the following response was received

: “All areas of open space (including Sudbrooke Woods), drainage infrastructure, the biodiversity enhancement area allotments and, incidental areas of open space with the development will fall under the remit of Residential Management Company (‘The Company’). Such an approach was recently agreed with the Council as part of the discharge of conditions process associated with a residential development in Scothern (Reference: 136316) issued by the Council on 7 July 2017 and we believe represents a ‘tried and tested’ approach. Each property owner has a liability to pay a proportionate share of the running costs of the Company, no matter how many people live at the property. The maintenance of the common areas of the development in general, is the responsibility of the Company. The Company funded by way of the maintenance or service charge which is normally agreed annually at the AGM of the Company. The developer wishes to pursue the option of a Residential Management Company. As you will appreciate from the proposals, The Parklands is an aspirational development which is underpinned by a commitment to quality. The scheme has been design led with involvement by a very talented group of landscape architects integral in delivering a scheme which is rich in landscaping and embraces it’s setting with the former parkland. To succeed such a scheme will require regular maintenance and it is felt that a Residential Management Company provides this opportunity in a time when the public purse and resources are unfortunately stretched. The area immediately to the south of the Scout Camp is identified as compensatory tree planting and it is felt that public access to this area would threaten the establishment of these trees. Accordingly public access is not proposed here. Nevertheless, alterations have been made to the proposals following discussions with the Parish Council and public access is now proposed for the biodiversity enhancement area.

This is considered a reasonable response and one which reflects a recent approach accepted by WLDC in terms of management

Recommendation: Grant Reserved Matters to 130. Dwellings, and a new building to provide up to 25. Apartments for retirement living subject to the following conditions;

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

1. The development hereby permitted shall begin no later than 2 years from the date of this approval

Reason: To conform with Section 92 (2) 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 walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved details.

Reason: To ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the surrounding area to accord with the National Planning Policy Framework and Policies LP17 and LP26 of the Central Lincolnshire Local Plan 2012-2036.

3. No development of the “Sudbrooke Holme” (drawing numbers 2400 Rev B and 2401 Rev B) 25 bed apartments shall take place until a sample panel indicating brick type, bond and mortar mix has been completed on site and approved in writing by the Local Planning Authority. Development shall subsequently be completed in accordance with the approved details thereafter and the sample panel retained on site until completion.

Reason: To ensure the use of appropriate materials in the interests of visual amenity, good design and the character and appearance of the site and the surrounding area to accord with the National Planning Policy Framework and Policies LP17 and LP26 of the Central Lincolnshire Local Plan 2012-2036.

4. No development of the “Sudbrooke Holme” (drawing numbers 2400 Rev B and 2401 Rev B) 25 bed apartments shall take place until details of:

- i. all external windows and doors including the method of opening, cill and window header details, materials and finish, and sections to a minimum scale of 1:10,
- ii. eaves and verges

iii. rainwater goods;

have been submitted to and approved in writing by the Local Planning Authority. Development shall subsequently be completed in accordance with the approved details thereafter

Reason: To ensure the use of appropriate materials in the interests of visual amenity, good design and the character and appearance of the site and the surrounding area to accord with the National Planning Policy Framework and Policies LP17 and LP26 of the Central Lincolnshire Local Plan 2012-2036.

5. Notwithstanding the submitted documents and plans no development shall take place until a Landscape Management Plan setting out the management responsibilities and management schedules for all landscaped areas including trees and hedges, ditches and balancing ponds, including details of what proposed landscape maintenance actions would be undertaken, how they would be undertaken, the frequency and timing has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the landscaping is maintained and retained to help integrate the development within the wider area and its immediate setting, to compensate for the loss of existing trees, and to accord with the National Planning Policy Framework and Policy LP17 of the Central Lincolnshire Local Plan (2012-2036)

6. Notwithstanding the submitted documents and plans no development shall take place until arrangements for the ongoing maintenance and management of an area of land not less than 10% of the site to be dedicated as Public Open Space (POS) has been submitted to and approved in writing.

Reason: To accord with the National Planning Policy Framework and Policy LP 24 of the Central Lincolnshire Local Plan (2012-2036)

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

7. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: TBC

The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: In the interests of clarity and proper planning.

8. The development shall be carried out in full accordance with the submitted Biodiversity Enhancement Plan. Once the works are completed the finished details of the measures to promote biodiversity enhancement including the

location of bat boxes and bird roosts shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of biodiversity to accord with the National Planning Policy Framework and policy LP21 of the Central Lincolnshire Local Plan (2012-2036).

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

9. 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 occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written 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 integrating the development within the wider area and to compensate for the loss of existing trees, and to accord with the National Planning Policy Framework and Policy LP17 of the Central Lincolnshire Local Plan (2012-2036)

Note to applicants: This must be read in conjunction with Appeal Decision APP/ N2535/W/16/3144855

Grant Planning Permission to the Public House / Restaurant 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 commence until a scheme detailing the disposal of foul and surface water drainage from the site has been submitted to and approved in writing by the Local Planning Authority. Development shall subsequently be completed in accordance with the approved details thereafter prior to the approved building being in use.

Reason: To ensure adequate drainage facilities are provided to serve the development, to reduce the risk of flooding and water pollution in accordance with the National Planning Policy Framework and Policy LP 14 of the Central Lincolnshire Local Plan (2012 -2036)

3. No development shall take place until, a scheme of landscaping including details of the size, species and position or density of all trees to be planted, fencing and walling have been submitted to and approved in writing by the Local Planning Authority. It shall subsequently be completed in accordance with the approved details thereafter

Reason: To ensure that a landscaping scheme to enhance the development is provided in accordance with Policy LP17 of the Central Lincolnshire Local Plan (2012-2036)

4. 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 ensure the use of appropriate materials in the interests of visual amenity and the character and appearance of the site and the surrounding area to accord with the National Planning Policy Framework and Policies LP17 and LP26 of the Central Lincolnshire Local Plan 2012-2036

5. No development shall take place until a scheme to deal with any risks associated with past contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include –

- i. A preliminary risk assessment identifying –
 - a) All previous uses;
 - b) Potential contaminants associated with those uses;
 - c) A conceptual model of the site indicating sources, pathways and receptors; and
 - d) Potentially unacceptable risks arising from any identified contamination.
 - ii. A site investigation scheme, based on i., providing a detailed assessment of the risks to all receptors that may be affected – including those off-site;
 - iii. An options appraisal and remediation strategy giving full details of the remediation measures required and how and when these are to be undertaken;
 - iv. A verification plan providing details of data to be collected to demonstrate that the works set out in the approved remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- The scheme shall be implemented as approved and the building hereby permitted shall be first occupied until all necessary works have been completed.

Reason: In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration in accordance with Policy LP14 of the Central Lincolnshire Local Plan (2012-2036)

6. No development shall take place until details of a scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include –

An assessment of the archaeological significance of the site and a proposed mitigation strategy based on preservation by record, preservation in situ or a mix of both;

ii. A methodology and timetable for site investigation and recording;

iii. Provision for site analysis;

iv. Provision for publication, dissemination and archive deposition of analysis and records;

v. The nomination of a competent person or organisation to undertake the work.

The approved scheme shall thereafter be carried out in accordance with the Lincolnshire Archaeological Handbook and the approved details.

7. No work in accordance with the approved scheme set out in Condition 6 shall commence before the local planning authority has been informed in writing at least 14 days before the proposed commencement.

8. Following the completion of the approved archaeological site work, a written report of the findings shall be submitted to the local planning authority within 3 months of completion of said site work and shall be approved in writing. The approved report and any artefactual evidence recovered from the site shall be deposited in accordance with a methodology and in a location agreed in writing by the local planning authority.

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

9. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:

1201 Rev B; 1215 Rev * and 1216 Rev *

Reason: In the interests of clarity and proper planning

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

10. 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 occupation of the dwelling or the completion of the development,

whichever is the sooner; and any trees or plants within the whole site 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 a landscaping scheme to enhance the development is provided in accordance with Policy LP17 of the Central Lincolnshire Local Plan (2012-2036)



Planning Committee

Date 26 July 2017

Subject: Determination of Planning Appeals

Report by:

Chief Operating Officer

Contact Officer:

Mark Sturgess
Chief Operating Officer
Mark.sturgess@west-lindsey.gov.uk
01427 676687

Purpose / Summary:

The report contains details of planning applications that had been submitted to appeal and for determination by the Planning Inspectorate.

RECOMMENDATION(S): That the Appeal decisions be noted.

IMPLICATIONS

Legal: None arising from this report.

Financial : None arising from this report.

Staffing : None arising from this report.

Equality and Diversity including Human Rights : The planning applications have been considered against 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:
Are detailed in each individual item

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

Appendix A - Summary

- i) Appeal by Mrs V. Wright and Mr S. Davies against the decision of West Lindsey District Council to refuse to grant outline planning permission for two bungalows and two chalet dwellings with detached garages and new private drive at The Meadows, Highthorpe, Southrey.

Appeal Dismissed - See Appendix Bi.

Officer Decision – Refuse permission.

- ii) Appeal by Gin Property Ltd against the decision of West Lindsey District Council to refuse outline planning permission for a proposed residential development of up to 65 no. dwellings to include public open space, affordable housing and staff car park for St Chad's Primary School at Ryland Road, Dunholme.

Appeal Dismissed - See Appendix Bii.

Officer Decision – Refuse permission.

- iii) Appeal by Jackson & Jackson Development Ltd against the decision of West Lindsey District Council to refuse outline planning permission for the erection of 36 dwellings including provision for 9 affordable homes, with all matters reserved except for access for land of Weir Farm Paddock, Scothern.

Appeal Dismissed - See Appendix Biii.

Officer Decision – Refuse permission

- iv) Appeal by Mrs S Waite and Mrs M and Mr A Curtis against the decision of West Lindsey District Council to refuse outline planning application for the erection of three dwellings with all matters reserved at land off Main Drive, Sudbrooke, Lincoln.

Appeal Dismissed - See Appendix Biv.

Officer Decision – Refuse permission

This page is intentionally left blank

Appeal Decision

Site visit made on 23 May 2017

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30th June 2017

Appeal Ref: APP/N2535/W/17/3167930

Land to the rear of The Meadows, Highbrook, Southrey, Lincoln LN3 5TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs V. Wright and Mr S. Davies against the decision of West Lindsey District Council.
 - The application Ref 134728, dated 14 July 2016, was refused by notice dated 19 October 2016.
 - The development proposed is outline application for two bungalows and two chalet dwellings with detached garages and new private drive.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Central Lincolnshire Local Plan 2017 (the CLLP) was adopted on 24 April 2017, which was subsequent to the issuing of the decision notice by the Council. The Council has confirmed that the CLLP formally replaces the West Lindsey Local Plan 2006. Consequently I have not had regard to the West Lindsey Local Plan 2006 in reaching my decision.

Main Issues

3. The main issues are the effect of the proposed development on a) the character and appearance of the area and b) the living conditions of the occupiers of neighbouring properties with respect to noise and disturbance.

Reasons

Character and appearance

4. The appeal site lies in the central part of the village between Highbrook and Low Thorpe and to the rear of Ferry Road. It is part of an area of long paddocks and fields behind houses on those three roads. The distinctive field pattern was historically associated with smallholdings behind crofts.
5. The settlement pattern of the village, with Highbrook, Low Thorpe and Westfield Road all lying to the western side of, and tangential to, Ferry Road, gives the village a distinctive character. There is no housing development on the eastern side of Ferry Road, which runs down to the former ferry crossing point on the River Witham and a disused railway line.

6. The proposed development would be accessed from Highthorpe between two modern detached houses, The Barn and The Meadows, which sit behind the line of houses along Highthorpe. The proposed development would primarily be contained within two large paddocks behind those two properties and the houses on Ferry Road.
7. The proposed development would cover a significant area within the gap between Highthorpe and Low Thorpe immediately to the rear of the houses on Ferry Road. It would introduce a form of backland development, generally alien to the established character of the village which is primarily ribbon pattern in nature, and it would erode the open gap and established field pattern of this part of Southrey.
8. The Meadows itself is a form of backland development but constitutes one house off its own drive. The proposed development would significantly intensify that form of development extending it into the two large paddocks behind it and The Barn, introducing built form in this otherwise open area.
9. Although the proposed development would not be highly visible from the local roads or public viewpoints, and is proposed to comprise bungalows and chalet type dwellings, it would be likely to be seen in gaps between houses along those roads, most notably Ferry Road. It would also be visible from the private realm of these properties.
10. In any event, the open nature of this area, its shape and historical association are important elements of the character and form of the village and which contribute to making Southrey's settlement pattern distinctive. Its ribbon pattern with the open spaces behind the houses along the roads, provides form to the village and its character does not rely upon such open areas being prominent in public views.
11. Policy LP2 of the CLLP, which identifies the settlement hierarchy in the CLLP area, lists Southrey as a small village. However, it is not one of the small villages given a specific growth target in Policy LP4 which defines growth levels in the villages. Consequently, in accordance with Policy LP2, unless supported by a neighbourhood plan or evidence of community support, development proposals would be limited to around 4 dwellings in appropriate locations and would be considered on their merits.
12. Policy LP2 provides criteria as to what constitutes appropriate locations in this regard and this includes locations which retain the core shape and form of the settlement and which do not significantly harm the settlement's character and appearance.
13. I consider that there have been material changes to both Policy LP2 and LP4 between the Proposed Submission version and the adopted version of the CLLP. Specifically, the adopted version of Policy LP2 makes reference to and defines 'appropriate locations' and Policy LP4 no longer lists, nor gives a specific growth target for Southrey.
14. For all of the reasons above I conclude that the proposed development would not retain the core shape and form of the settlement and would be harmful to the character and appearance of the area and would therefore be contrary to Policy LP2 of the CLLP.

15. The proposed development would also be contrary to Policy LP17 of the CLLP which seeks to protect the distinctive character of settlements and the design considerations of Policy LP26 of the CLLP which seek to ensure that new developments are well designed and respect local character.
16. I also consider that the proposed development would be contrary to the core planning principles set out in paragraph 17 of the National Planning Policy Framework.

Living conditions

17. The proposed development would be accessed via the existing drive which serves The Meadows. This drive, bordered by high fencing, has the appearance of a relatively minor access when viewed from Highthorpe. It formerly served both The Meadows and The Barn, but the latter house now has its own access onto Highthorpe.
18. The drive bends to the left to access The Meadows which sits directly behind a property on Highthorpe and then is proposed to bend sharply to the right and go between houses at The Meadows and The Barn to access the land at the back.
19. The access road would serve 4 additional properties to the one it currently serves. Whilst in outline only, the illustrative plans submitted with the application show a double garage at each of the properties and the plots are large enough to accommodate family dwellings where two cars could be expected.
20. This would lead to an intensification of the use of the drive through additional traffic movements with vehicles passing between The Barn and The Meadows and the houses next to the drive entrance on Highthorpe.
21. Whilst there is the possibility of a vehicle having to reverse as it meets another vehicle at the bend in the drive, I consider that such occasions would be infrequent given the relatively low number of vehicles which would use the drive. Consequently I consider that the potential for noise disturbance to the occupiers of the three houses as a result of vehicle movements is low.
22. There are no windows on the side elevations of either The Barn or The Meadows which would face the drive, and The Barn is separated from the route of the proposed drive by a high wall to its rear and a fence to the front. The house which fronts on to Highthorpe next to the drive does not have any primary windows on the side elevation and is separated from the drive by suitable boundary treatment.
23. If the appeal were to be allowed, a condition could be imposed to secure suitable boundary treatment to protect the living conditions of the occupiers of The Meadows.
24. As a consequence, I consider that there would not be a harmful effect on the living conditions of the occupiers of neighbouring properties as a result of the proposed development. Therefore, I conclude that the proposed development would accord with the amenity considerations set out in Policy LP26 of the CLLP which seek to protect residential amenity.

Planning Balance and Conclusion

25. Whilst I have found that the proposed development would not be harmful to the living conditions of the occupiers of the neighbouring properties, I do not consider that this outweighs the significant harm to the character and appearance of the area which would result.
26. I recognise that the 5 year supply of housing land in the CLLP area is partially dependent upon windfall provision during the plan period and that the appellant considers that the appeal site is the most suitable for such provision in the village.
27. I have had regard to these matters, and to the benefits of the provision of additional living accommodation in the village, but these do not outweigh the significant harm to the character and appearance of the area which I conclude would result from the proposed development.
28. For the reasons given above I conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR



Department for
Communities and
Local Government

Mr Michael Braithwaite
Robert Doughty Consultancy Ltd
32 High Street
Helpringham
SLEAFORD
Lincolnshire
NG34 0RA

Our ref: APP/N2535/W/16/3146208
Your ref: 606 10A

06 July 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY GIN PROPERTY LTD
LAND AT RYLAND ROAD, DUNHOLME, LINCOLN, LN2 3NE
APPLICATION REF: 132726**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Y Wright BSc(Hons) DipTP DMS MSc MRTPI, who held a public local inquiry on 13-15 September 2016 into your client's appeal against the failure of West Lindsey District Council ("the Council") to determine your client's application for outline planning permission for a proposed residential development of up to 65 no. dwellings to include public open space, affordable housing and staff car park for St Chad's Primary School, in accordance with application ref: 132726, dated 27 February 2015.
2. On 26 September 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and outline planning permission refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

5. On 13 January 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on further information relating to the Dunholme Neighbourhood Plan (DNP) received from the Council, together with the Written Ministerial Statement (WMS) on 'Neighbourhood Planning' which was laid in Parliament on 12 December 2016. The responses received were circulated to the main parties on 16 February 2017.

Department for Communities and Local Government
Jean Nowak, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1626
Email: PCC@communities.gsi.gov.uk

The Secretary of State then wrote to the main parties on 24 March 2017 to afford them an opportunity to comment on the publication of the Schedule of Post-Submission Main Modifications to the emerging Central Lincolnshire Local Plan (CLLP); and he wrote again on 25 April 2017 confirming the publication of the final Inspectors' Report on the CLLP.

6. Representations were received from your company on behalf of the appellants on 8 February, 20 February and 17 March 2017; from the Council on 9 February, 23 February and 28 March 2017; and from Dunholme St Chads CofE Primary School on 2 February and 7 February 2017. Copies of all the correspondence received may be obtained on written request to the address at the foot of the first page of this letter. The Secretary of State is satisfied that no further issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the CLLP, adopted on 24 April 2017, the DNP made on 23 January 2017, and the Welton-by-Lincoln Neighbourhood Plan (WNP) made on 5 September 2016. The Secretary of State considers that the development plan policies of most relevance to this case are CLLP policy LP22, DNP policy 11 and WNP policy EN4. These policies are all aimed at preventing the physical merging of settlements, preserving their separate identity, local character and historic character and protecting the open and rural character of the land between settlements.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'); the Written Ministerial Statement on Neighbourhood Planning of December 2016; and the final report by the CLLP Examining Inspectors.

Main issues

10. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 201.

The 5 year housing land supply

11. As the final Examining Inspectors' Report into the CLLP has been published and the CLLP has been adopted since the inquiry into the appeal closed, the Secretary of State has given careful consideration to that report and to the responses received from the parties to this appeal. In particular he has taken account of the conclusion in paragraph 228 of that report that, although there is a five year housing requirement of 10,141 (2,028 dpa), there is a good prospect of an up-to-date supply of specific deliverable sites sufficient to provide 5 years' worth of housing against the requirements of the plan upon adoption. On that basis, and given the subsequent adoption of the CLLP, the Secretary of State is satisfied that there is a 5 year housing land supply across the CLLP and he gives no weight to the appeal Inspector's conclusions on the 5 year housing land supply as set out at IR219-243.

Effect on the undeveloped break between Dunholme and Welton

12. The Secretary of State has considered carefully the Inspector's assessment of the effect of the appeal scheme on the undeveloped break between the villages of Dunholme and Welton (IR202-218). He notes in particular that the appeal site forms one of only two fields on the western side of Ryland Road that separate Dunholme and Welton (IR204), and that the site forms an integral part of the undeveloped break that is seen and experienced when travelling between the two settlements and from the nearby public footpaths (IR207).
13. He also agrees with the Inspector's view (IR211) that, whilst the proposed scheme would not result in the two villages actually merging and there would continue to be a degree of visual separation because of the existing and proposed trees and hedgerows, the overall perception would be a distinct narrowing of the gap due to the loss of the vast majority of the field to development. Overall, therefore, the Secretary of State agrees with the Inspector at IR217 that the proposed development would result in significant and harmful permanent erosion of the undeveloped break. It would create an incongruous addition to the settlement, reducing the gap between the villages and increasing the perception that the villages were close to merging, and so would not accord with CLLP Policy LP22, WNP policy EN4 and DNP Policy 11. The Secretary of State gives significant weight to this consideration against the scheme.

Other Matters

14. Given that, in the light of the adoption of the CLLP, the Secretary of State is satisfied that a 5 year housing land supply has been demonstrated, he gives only moderate weight to the ability of the scheme to help to satisfy the unmet need for affordable housing (IR244). Furthermore, he agrees with the Inspector that the other social and environmental benefits to which she refers at IR245 should also be afforded moderate weight.
15. The Secretary of State also notes at IR248 that, although concerns relating to the impact on local infrastructure have been expressed by local residents, relevant infrastructure providers have not objected, albeit subject in some cases to the provision of planning obligations. Similarly, he agrees with the Inspector that the concerns considered at IR 249 could be addressed by the imposition of suitable conditions or through careful consideration of design at the detailed reserved matters stage.

Planning conditions

16. The Secretary of State has given consideration to the Inspector's analysis at IR195-199, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

17. Having had regard to the Inspector's analysis at IR185-193, the planning obligation and paragraphs 203-205 of the Framework, the Secretary of State agrees with the Inspector's conclusion at IR194. He is satisfied that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to

make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusions

18. For the reasons given above, the Secretary of State considers that the scheme is not in accordance with Policy LP22 of the CLLP, Policy EN4 of the WNP or Policy 11 of the DNP and is not in accordance with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
19. Whilst the Secretary of State notes that the appeal scheme would provide economic and social benefits through the provision of market and affordable housing, he agrees with the Inspector that the environmental harm which would be caused by breaching the undeveloped break between the settlements significantly and demonstrably outweighs these benefits.
20. Overall, the Secretary of State is satisfied that the Council can now demonstrate a 5 year housing land supply, Thus, having regard to the conflict with the development plan as a whole and taking account of paragraph 198 of the Framework, the Secretary of State concludes that insufficient weight can be given to other material considerations to indicate that permission should be granted.

Formal decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline planning permission for a proposed residential development of up to 65 no. dwellings to include public open space, affordable housing and staff car park for St Chad's Primary School, in accordance with application ref: 132726, dated 27 February 2015.

Right to challenge the decision

22. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
23. A copy of this letter has been sent to the Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf



Report to the Secretary of State for Communities and Local Government

by Y Wright BSc (Hons) DipTP DMS MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 25 November 2016

TOWN AND COUNTRY PLANNING ACT 1990

WEST LINDSEY DISTRICT COUNCIL

APPEAL MADE BY

GIN PROPERTY LTD

Inquiry held on 13, 14 and 15 September 2016; site visit made on 15 September 2016

Ryland Road, Dunholme, Lincoln LN2 3NE

File Ref: APP/N2535/W/16/3146208

Abbreviations

5YHLS	5 year housing land supply
CLLP	Central Lincolnshire Local Plan
DNP	Dunholme Neighbourhood Plan
dpa	dwellings per annum
Framework	National Planning Policy Framework
ha	hectares
LCA	Landscape character assessment
LPA	Local planning authority
LVIA	Landscape and visual impact assessment
NP	Neighbourhood Plan
OAN	Objectively assessed need
PPG	Planning Practice Guidance
SHLAA	Strategic housing land availability assessment
SHMAA	Strategic housing market area assessment
SoCG	Statement of common ground
SoS	Secretary of State
WLLP	West Lindsey Local Plan First Review
WNP	Welton-by-Lincoln Neighbourhood Plan

File Ref: APP/N2535/W/16/3146208
Ryland Road, Dunholme, Lincoln LN2 3NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gin Property Ltd against West Lindsey District Council.
- The application Ref 132726 is dated 27 February 2015.
- The development proposed is outline planning application for proposed residential development of up to 65 no. dwellings, to include public open space, affordable housing and staff car park for St Chad's Primary School – access to be considered and not reserved for subsequent applications - resubmission of 131516.

Summary of Recommendation: The appeal be dismissed and outline planning permission for residential development of up to 65 no. dwellings, to include public open space, affordable housing and staff car park for St Chad's Primary School at Ryland Road, Dunholme, Lincoln LN2 3NE be refused.

Procedural Matters

1. Determination of the appeal was recovered by the Secretary of State by way of a direction dated 26 September 2016. The reason for this direction is that *"the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made"*.
2. Mr Stuart Tym, Solicitor at West Lindsey District Council addressed the Inquiry to provide additional information regarding the Council's request for the provisions set out in the planning obligation (IQ21).
3. The application was submitted in outline with all matters except for access reserved for future determination, though an illustrative layout was also provided.
4. The description of the development as set out above is that agreed between the main parties following submission of the planning application.
5. The appeal was made on the grounds of non-determination. The Council states that had it been in a position to determine the application, it would have refused planning permission on the grounds that *"The development would take place in the narrow undeveloped break between the settlements of Dunholme and Welton. The development would be a perceptible and permanent intrusion within the gap that would lead to the perception of coalescence and significantly harm the character and setting of the two villages. This would significantly undermine the objective and principle of STRAT13 of the West Lindsey Local Plan First Review. It is concluded that this severe harm would outweigh the benefits of development, and that the development does not therefore meet the Framework presumption in favour of sustainable development."*
6. A planning obligation in the form of a section 106 agreement between the Appellant, West Lindsey District Council and Lincolnshire County Council was submitted pursuant to section 106 of the Town and Country Planning Act 1990. I deal with its contents later in my report.

7. The Inquiry sat for 3 days on 13-15 September 2016. I carried out an unaccompanied site visit of the surrounding area before the Inquiry commenced and I conducted an accompanied site visit on 15 September 2016.

The Site and Surroundings

8. The site is located outside the development boundary but on the northern edge of the village of Dunholme, a settlement that lies north east of the city of Lincoln. The settlement has in excess of 3,500 inhabitants (2011 Census).
9. The application site is an agricultural field, not in current active use, approximately 4.5 hectares in extent. The site is more or less rectangular in shape, except for the easternmost part which wraps around 3 sides of an existing small housing development known as Cottingham Court. This consists of 5 detached dwellings on a site of former farm buildings. Ryland Road runs along the eastern boundary of the site. There is existing residential development on the eastern side of Ryland Road. These are predominantly bungalows set back from the road by around 20 metres (m). These houses and those in Cottingham Court are within the defined settlement boundary.
10. The site's southern boundary is interspersed with hedgerow planting beyond which are residential properties. To the west beyond the mature hedgerow boundary is a larger open field in agricultural use and to the north lies another agricultural field. The site is accessed via a traditional field gate in the north-eastern corner of the site. There is a wooded copse within the site located in this corner. The site is flat and except for the copse of trees within the north eastern part of the site the field itself is featureless. A telegraph line traverses the site.
11. A public footpath (Dunh/170/1) runs between 36 and 38 Ryland Road on the opposite side of Ryland Road to the site. Public footpath Dunh/169/1 runs in a broadly east-west direction approximately 150m north of the site along the northern boundary of the adjacent field. Public footpath Dunh/785/1 runs in a north-south direction around 250m to the west on the opposite side of the open agricultural field.
12. The site is around 280m south of the local shopping centre including a convenience store in Welton. There is also a cooperative store in Dunholme. The St Chads Church of England Primary School is located on the opposite side of the road from the site to the south and in close proximity to the proposed car park. The William Farr Secondary School is located to the west of the site between the 2 settlements. There are bus stops on Ryland Road just beyond the school to the south and just before the convenience store in Welton to the north.

Planning Policy

The Development Plan

13. The development plan for the area is the West Lindsey Local Plan First Review (2006) (WLLP). This designates Dunholme as a Primary Rural Settlement. All relevant policies are listed in the Statement of Common Ground (SoCG)¹. It is agreed that the most relevant WLLP saved policies are STRAT12 and STRAT13.

¹ IQ2

14. Policy STRAT12 defines areas outside the built-up area boundaries as countryside where development will not be permitted other than in specific circumstances including for agriculture, horticulture, forestry, mineral extraction or other land use which necessarily requires a countryside location.
15. Policy STRAT13 defines undeveloped breaks between settlements and green wedges around Lincoln. It allocates the site as part of an “undeveloped break” between Dunholme and Welton. This policy does not permit development if it would detract from the open rural character of undeveloped land which provides the open breaks, maintains the physical identity or prevents the coalescence of settlements. It also states that within these areas development will be refused unless it is essential for agricultural or other countryside uses and cannot be located elsewhere. Where development is permitted it must not cause harm to the character of the area, nor detract from the historic or landscape setting of settlements. It also includes not encroaching on open spaces or green wedges that preserve links between built-up areas within the countryside.

Emerging Central Lincolnshire Local Plan

16. The Local Plan is to be replaced by the Central Lincolnshire Local Plan (CLLP) in due course. This is being produced by the Central Lincolnshire Joint Strategic Planning Committee which was set up by statute in 2009. The CLLP was submitted to the Secretary of State for examination in June 2016. The hearing sessions commenced in November 2016.
17. The site is proposed to be designated as part of a green wedge in the emerging Local Plan under Policy LP22. This policy also proposes to extend the size of this green wedge eastwards. It sets out the functions and aims of green wedges. It indicates that development will not be granted planning permission unless it can be demonstrated that it would not be contrary to or detrimental to these functions and aims and provides a number of development criteria to be met.

Neighbourhood plans

18. The Welton-by-Lincoln Neighbourhood Plan (WNP) was ‘made’ in July 2016. It includes Policy EN4 which defines an area of green wedge between Dunholme and Welton. This policy states that development that would detract from the purpose of the green wedge, which is to protect the open and rural character of the land and prevent coalescence of the settlements, will not be supported.
19. However it is agreed between the parties that the site and the green wedge are not situated within the WNP area.
20. The Dunholme Neighbourhood Plan (DNP) is an emerging neighbourhood plan which was formally submitted to the Council in September 2016 for its Regulation 16 consultation. It includes Policy 11 which is the same as the WNP Policy EN4, in that it defines and protects an area of green wedge between the two settlements. Both the site and green wedge lie within the DNP area.

Planning History

21. The appeal proposal is a resubmission of an earlier planning application (Council ref: 131516) which was refused planning permission under delegated powers in October 2014.

22. Previous to this, planning permission was granted for the erection of an agricultural field access in 2013 and was refused for the erection of a stable in 1999. An application for a single dwelling within the site was refused planning permission in 1998 and dismissed at appeal in 1999.

The Proposals

23. The application proposes residential development of up to 65 dwellings to include 25% affordable housing (up to 17 dwellings), along with associated public open space and a staff car park for St Chad's Primary School.
24. The main access would be taken from Ryland Road in the position of the existing field gate, with additional pedestrian accesses from Ryland Road adjacent to the proposed staff car park which is indicated in the south eastern corner of the site. The application form indicates that all matters of detail other than access are reserved for future determination.
25. Whilst the appellant clarified at the Inquiry that details shown on the appeal site drawing are for illustrative purposes only, areas of public open space are shown along the northern edge and existing boundary vegetation would be maintained and enhanced. In addition the indicative masterplan shows the potential for 7 lower height properties on the western part of the site and a pond adjacent to the vehicular access point. References are also made on the indicative masterplan to a noise attenuation fence to the north of No 3 Cottingham Court and the northern boundary of the proposed car park.
26. The application is supported by a range of additional studies that are listed in the SoCG. These include a design and access statement and assessments in respect of transport, ecology, arboriculture, flood risk, archaeology, landscape, noise and contamination.
27. The drawings indicate a residential development across the site with a single point of access in the position of the existing field gate. Areas of public open space are shown at the southern end and along the eastern edge. The existing boundary vegetation would be maintained and enhanced, with wildlife planted areas in the north-west and south-east corners. The affordable housing units would be distributed around the development. A new footpath link from the access point would be provided to the village centre.

Other Agreed Facts

28. The SoCG describes the site, the proposal and the policy context and sets out areas of agreement between the main parties.
29. There is agreement that Dunholme is a suitable and sustainable location for proportionate housing growth and that the site lies outside but adjacent to the defined development boundary of Dunholme within an undeveloped break between settlements (WLLP STRAT13).
30. In relation to local infrastructure requirements there is also agreement that there is a shortfall in the capacity of local schools and a contribution towards secondary education provision is required. Both parties also agree that a contribution towards primary health care provision is necessary. No further infrastructure is required that would apply to this site. The full planning obligations are discussed later in my report.

31. The parties agree that the application site covers 4.5 hectares (ha) and the application seeks permission for up to 65 dwellings and approximately 1.1 ha of open space, which would amount to 19 dwellings per hectare (dph) on the development site. The density of development is not in dispute.
32. In terms of other matters the parties agree that the appeal site is not a designated wildlife site or site of nature conservation importance. The Extended Phase 1 Ecological Appraisal and Hedgerow Survey, submitted with the planning application, has revealed little biodiversity value within the site and indicates that no significant habitat is likely to be lost or significantly impacted by the proposal. It also states there is no evidence to suggest protected species are present on the site.
33. The boundary hedgerows are to be largely retained, except where the pedestrian and vehicular access points are to be provided and reinforced within the development proposal and, therefore, their ecological value in terms of species present and the potential to provide foraging and access for wildlife will be maintained. The provision of the public open space, gardens, the watercourse and retention of hedges and trees within the scheme has the potential to enhance biodiversity interests in and around the site. There is no objection to the appeal proposals on ecological grounds.
34. The parties agree that the appeal site is within Flood Zone 1 on the Environment Agency's Flood Maps, and would therefore meet the Framework's sequential test. It is agreed that there is potential for the appeal proposal to utilise a sustainable drainage system, which can be agreed by condition. There is no objection to the appeal proposals on flood risk or drainage grounds, subject to the imposition of suitable planning conditions.
35. It is agreed that the supply of additional market housing should be given significant weight. There is also agreement that the proposal to provide 25% (up to 17 no dwellings) affordable housing would be in accordance with policy, that this should be afforded significant weight and that it would make a significant contribution to the unmet affordable housing needs in Central Lincolnshire.
36. Whilst the exact mix of house types can be determined at the reserved matters stage, it is agreed that the Appellant has demonstrated that there could be a good mix of housing achieved on the site.
37. The parties agree that the archaeological evaluation in the form of a geophysical survey does not identify any archaeological potential for this site and no further investigation would be required.
38. In relation to highway matters it is agreed that the site is accessible by public transport users, pedestrians and cyclists and that there is no objection from the Highway Authority to the appeal proposals.
39. The parties also agree that the noise attenuation measures in the form of acoustic barriers, would address previous Council concerns regarding the effect of the development on the living conditions of occupiers of neighbouring dwellings.

The Case for West Lindsey District Council

40. The summary of case now set out is based on the Council's closing submissions, with references given to relevant sources.

Five year housing land supply

41. The LPA, as part of the Central Lincolnshire Joint Planning Area is able to demonstrate a five year supply of housing land. The CLLP is at an advanced stage and much of the evidence produced to this inquiry regarding the five year supply and the methodology underpinning it will be the subject of full scrutiny by the local plan inspectors at the examination of that plan and due for adoption in early 2017.

The requirement

42. The evidence shows that the requirement for the five year period is calculated as being 7700 dwellings (1540 dwellings per annum). Once the shortfall from earlier in the plan period (2425 dwellings) and the expected shortfall for 2016/17 (427 dwellings) is added in, plus a 20% buffer, the total requirement for the next five years becomes 12,092 dwellings (2418 per annum).
43. The only challenge to this target made by the Appellant was that it had not yet been the subject of examination. Mr Braithwaite's written evidence, however, does not engage with the requisite National Planning Policy Framework (the Framework) paragraph 216 exercise before reaching the conclusion that the requirement should not be afforded weight. In any event, Mr Braithwaite adopts the Council's target within his own calculations².
44. Had Mr Braithwaite properly carried out the paragraph 216 exercise, he ought to have reached the view that: (1) the plan is at an advanced stage, (2) the requirement is the subject of little meaningful opposition and (3) the evidence demonstrates that the requirement figure was arrived at via a methodology which is demonstrably compliant with the PPG and Framework. As such, substantial weight may be afforded to the housing figures derived from the SHMA and used in the Council's evidence.
45. In cross examination, it was suggested to Mr Hylton that the CLLP Inspector may choose to take the higher end of the range proposed in the SHMA. Quite rightly, Mr Hylton accepted that the CLLP Inspector may do so. However, the assumptions made by the Council in calculating the requirement are not erroneous. On a number of the assumptions relating to supply criticised by the Appellant different inspectors have taken different views and there is a notable lack of consistency with both parties being able to point to Inspector's decisions which support their contention. However, the only meaningful criticism of the requirement was that it has not been adopted.
46. However, this does not create uncertainty so that this Inspector should be dissuaded from attaching weight to the requirement figure. Set against this, the Inspector has before her the full rationale provided by the Council for choosing the mid line target from the potential range provided by their consultants preparing the SHMA. In particular, page 13 of the CLLP itself sets out why a lower figure would still meet the housing requirements, a higher figure would be inappropriate and thus a mid-range figure has been justifiably chosen³. Moreover, the plan was written flexibly by setting aside future growth areas

² Mr Braithwaite's proof of evidence Appendix G

³ CD5 - CLLP page 13, paragraphs 3.3.3 to 3.3.6

which could come forward in line with the plan should the higher job forecasts prove to be accurate.

The supply

47. The Appellant makes no criticisms of the Council's supply based on any site specific evidence. The SHLAA sites are not attacked by the Appellant. Instead, the Appellant makes a number of higher level criticisms of the Council's methodology. However, the Council sought to meet the case as it was put by the Appellant. In particular, My Hylton notes at paragraph 2.3 that his evidence was directed at meeting the criticisms levelled at the supply position by the Appellant and that should the Appellant seek to make any further or alternative criticisms, further evidence would be provided to rebut these assertions.
48. The Appellant provided no rebuttal evidence making any points as to five year supply and no site specific evidence has at any point been provided. Accordingly, the only evidence on supply available to this inquiry, aside from assertions as to methodological approach, is that provided by the Council. Each specific criticism is addressed in turn below.
49. *Applying the buffer to the backlog:* The Council's evidence sets out why this is not considered to be a requirement⁴. In particular, the Framework's requirement is to front load the supply which would come forward in any event later in the plan period. Applying a buffer to the requirement makes sense in this context but, as set out within the September 2016 HLS report, by applying the Sedgefield approach the Council is already bringing forward additional dwellings to within the five year period from later in the plan period. To apply Sedgefield and the 20% buffer to this backlog would represent an unsustainable level of front loading of the supply.
50. The Appellant's written evidence merely suggests that as some Inspectors have followed this approach then it should be taken up on this appeal. That is an insufficient basis for departing from the Council's thorough and considered methodology and the CLLP 5 year supply report⁵. In any event, even if the Appellant was correct on this point, the Council would still be able to deliver 5.02 years of supply.
51. *The shortfall before the plan period:* The Appellant raises a general query as to the extent of the shortfall prior to the current plan period⁶. As set out within the SHMA⁷, it is established that it is not appropriate to seek to apply shortfalls from other plan periods. This point was unchallenged during the Inquiry.
52. *The five year period* – The Appellant criticises the Council's choice of 5 year period but this point was not challenged during the inquiry. In so far as the Appellant asserts that this imports an additional element of uncertainty, Mr Hylton has been candid in his acceptance of a shortfall for the current year and the additional time generated by this approach in fact allows the Council a longer time in which to make good that shortfall.

⁴ Mr Hylton's proof of evidence paragraph 5.20 and Appendix G

⁵ IQ6

⁶ Mr Braithwaite's proof of evidence paragraph 5.28

⁷ CD13 p.74

53. *Emerging allocations*: Again, the Appellant provides no written evidence to substantiate the point that emerging allocations should be discounted from the supply. The Appellant raises *Wainhomes*⁸ but fails to engage with the judgment in that case wherein it was made plain that weight to be attached to emerging allocations is dependent upon the site specific evidence available. The Court in *Wainhomes* and *St Modwen*⁹ is clear that there is no 'in principle' basis for not counting emerging allocations as part of a five year supply trajectory. It was only at the inquiry itself that, for the first time, the level of objections to allocations was considered.
54. Paragraph 34(iv) of *Wainhomes* states that an inspector is:
- a) Likely to require (not "must demand")
 - b) Significant site specific evidence that the sites are:
 - i) Suitably located for development¹⁰
 - ii) Achievable with a realistic prospect of delivery in 5 years¹¹.
55. Appendix A¹² sets out the rationale for why sites are considered to be developable and proceeds to allocate preferred sites for the plan period. Appendix I¹³ and IQ15 then provides the further gloss on this as to which sites are relied upon for the five year supply with and without objections and the nature of those objections. The Council has removed those sites that are considered not to be deliverable.
56. It must also be remembered that local plan allocations are frequently the subject of objections by competing landowners seeking to have their sites allocated in preference to others, so the mere existence of an objection, it is submitted, is insufficient to render the site "undeliverable". Indeed, that is not the approach taken in *Wainhomes* which makes it clear that the nature of objections is of relevance and advocates a more nuanced approach to the weight to be attached to the inclusion of such sites.
57. By contrast, there are other sites where the objections have been found to hold sway and these have been duly removed from the supply.
58. No evidence has been submitted to contradict the position set out within IQ15. Moreover, judgement as to whether this is "significant" evidence, must be made in the following context:
- a. The lack of any site specific challenge being made by the Appellant;
 - b. The origin of Appendix I/IQ15 is to meet a request for such a table by the CLLP Inspector. That document was submitted over the summer and no evidence of any further requests or challenge to that document is before the inquiry;

⁸ CD18 paragraph 35

⁹ CD20 paragraph 20

¹⁰ Refer to Mr Hylton's proof of evidence Appendix A LP48-54 Residential Allocations Evidence Report (April 2016)

¹¹ Mr Hylton's proof of evidence Appendix I and IQ15

¹² Mr Hylton's proof of evidence

¹³ Mr Hylton's proof of evidence

- c. An approach to taking the figures broadly is supported at Court in paragraph 35 of Wainhomes wherein it is considered that:
- i) Whether sites are or are not deliverable is fact sensitive;
 - ii) It is unlikely on the evidence available to a s.78 inspector that it will be possible to arrive at an exact determination of the numbers of dwellings that are deliverable;
 - iii) Inclusion by the planning authority is some evidence that they are deliverable;
 - iv) Paragraph 35 then goes on to tell us what we are looking for when seeking to attribute weight to the inclusion of such sites within the trajectory.
59. It is not a binary significant evidence/ not significant evidence test, otherwise what is the point of paragraph 35 and a discussion as to weight? The only sensible interpretation of paragraph 35 is that it tells the decision-maker how to consider weight and if enough weight can attach then that supports a conclusion that the evidence is "significant" in the terminology of paragraph 34. Additionally, the Inspector, whose approach was not the reason for the appeal succeeding, approached the issue in terms of weight, discounted the weight due to the evidence or lack of but proceeding to take a broad brush approach to the figures, considered the shortfall not to be significant and considered that a five year supply could be shown.
60. In that context, the Council has evidence as to deliverability¹⁴, it is agreed between the professional witnesses that the CLLP is at an advanced stage and the Inspector has knowledge of the nature of objections raised to the allocations (IQ15).
61. In cross examination, the main criticism appeared to be a complaint that the evidence underpinning each and every judgement for each and every site in the trajectory has not been provided. To comply with the Appellant's view here would be to impose a requirement on every LPA where the five year supply is the subject of evidence as part of an appeal to provide a simply disproportionate amount of evidence. The evidence would likely comprise objection letters, notes of site visits, evidence of correspondence with landowners, evidence of flood risk, viability reports etc. for each and every site.
62. Here, the Council provided not only the list of sites and the trajectory but each and every document which is listed in the PPG as a core output for assessing housing land availability¹⁵. It would be wholly unreasonable for the Council to be expected to produce site specific evidence on every site, beyond that submitted, in the context of an appeal where no particular site or sites are the subject of any challenge by the Appellant.
63. Taking a broad approach the Council can demonstrate a five year supply of sites. The sites are included within the CLLP evidence base which means that some weight may be attached to it as it constitutes the Council's reasonable attempt to comply with paragraph 47 and footnote 11 of the Framework. The particular

¹⁴ Mr Hylton's proof of evidence Appendices A and I and IQ15

¹⁵ Mr Hylton's proof paragraph 4.2

amount of weight to be attached can be increased here as the plan is at an advanced stage and Mr Hylton has provided evidence of the nature of the objections from which it can be seen that the Councils are alive to the nature of the objections and a commentary is provided.

64. Moreover, the Appellant produces no site specific evidence whatsoever and is therefore in no position to criticise the Claimant's assumptions on each site unless they can be shown to be, on their face, erroneous. No such contention was made.
65. The Appellant initially relied upon removing all emerging allocations from the trajectory but during the inquiry narrowed this challenge to removing sites with objections. However, that is an insufficient level of detail if one is seeking to make a challenge to sites with objections, Wainhomes makes it clear that the nature of those objections is of relevance. The Appellant has not engaged on this level of detail and seeks merely to suggest that all of the sites with objections should be removed from the supply. However, as set out above, when one interrogates the evidence the picture is more nuanced than that. Looking at it on that level, the Council's evidence is the only evidence before the inquiry.
66. It is therefore submitted that on the evidence, the Inspector can attach weight to emerging allocations within the CLLP.
67. *Windfalls in Lincoln*: The Appellant's criticism of the Council's reliance on windfalls in Lincoln was written prior to additional evidence submitted during the Inquiry which demonstrates a clear pattern of delivery well in excess of the assumption relied upon for the supply figure¹⁶. This evidence on this was not challenged by way of cross examination. In terms of paragraph 48 of the Framework there is considerable evidence as to previous supply and no evidence at all that this will not continue.
68. *Windfalls in the small/medium villages*: Mr Hylton's evidence together with the Committee's answer to the Local Plan Inspector's Question 9 explain the derivation of the windfall assumption here. It is derived from policy, however, the recent uptake in permissions within these areas is consistent with weight being given to the emerging policy as it moves towards adoption and a consequential increase in permissions in these areas. It is therefore reasonable to assume that as the policy becomes adopted and full weight can attach, dwellings in these areas will become policy compliant and permissions will continue to be granted. NPPF 48 requires regard to be had to expected future trends and be realistic, it is submitted that this is precisely what the CLLP has sought to achieve.
69. *Lapse rate*: The Council does not apply a lapse rate. However, the elements comprising the supply take no account of windfalls which fall outside either Lincoln or small and medium villages. This leaves the countryside, large villages and market towns unaccounted for. Consideration of the permissions granted on windfall sites in these areas in recent years shows an additional 8% on the supply, a comfortable margin above the Appellant's suggested 5% lapse rate.
70. It is not the case that the Council conflate the concepts of windfalls and lapse rates. Instead, the Council does not apply a lapse rate and the Inspector may

¹⁶ Mr Hylton's proof of evidence paragraphs 6.19 and 6.20

take some comfort in adopting this position that the lack of a lapse allowance will not affect the ability of the area to produce a five year supply as not all potential sources of supply are relied upon. Indeed considering the figures for 2014/15, 13.3% of the supply came from such sites and in 2015/16 this was 16%; a substantial portion of supply for these years. The Appellant agreed during the Inquiry that windfall sites in such locations would continue to come forward.

71. So yes, not all possible theoretical ways of discounting and building in a contingency have been taken, but neither is the supply figure relied upon the highest it could be. As with all assumptions relied upon by the Council, a middle ground has been taken.
72. In summary, none of the Appellant's criticisms survive scrutiny. Accordingly the Council's evidence should be preferred and weight may properly attach to the requirement and supply position advanced by the Council.

Effect of five year supply: relevant policies

73. Having demonstrated that there is a clear five year supply, the relevant policies fall to be considered in this light. As paragraph 49 of the Framework is of no relevance to the determination of the appeal, the relevant policies are not 'out of date' for the purposes of paragraph 14 of the Framework via this mechanism.
74. It should be noted that paragraph 49 of the Framework provides the clear route to "out of date" in relation to housing policies for the purposes of paragraph 14, as opposed to consistency judged with reference to paragraph 215. The Framework's paragraph 215 on its terms goes to weight rather than "up to date". As Mr Clarkson made clear during the Inquiry there is no other definition of "up to date" provided for by the wording of the Framework. Nevertheless, case law in this area has tended towards accepting that paragraphs 211-215 of the framework provide the mechanism by which "up to date" may be judged.
75. In any event, what is clear is that "up to date" or "out of date" for the purposes of paragraph 14 needs to be judged policy by policy. The plain wording of both paragraphs 14 and 215 provides for this. As Mr Clarkson stated under cross examination, the other two paths into the second bullet point of paragraph 14 (absence and silence) are both in relation to the plan as a whole, whereas "out of date" is separated out and is stated to be a judgement based on the relevant policy or policies in question in relation to a particular development. Here, that policy is STRAT 13.
76. Therefore, the Appellant's contention that the plan is out of date due to the lack of an ability to identify land suitable for development is misconceived. Paragraph 215 requires a consideration of Policy STRAT 13 on its terms against the policies of the Framework as a whole (not ruling out paragraph 17) and paragraph 14 permits only a consideration of the policy, not the plan. Here, where the only policy of the development plan which features in the reason for refusal is STRAT 13, that policy alone must be the focus of both our paragraph 14 and 215 exercises.
77. Paragraph 211 provides that older plans are not, without more, "out of date". What remains therefore is that "up to date" is a judgement call for the decision-maker. As with any decision, there may be factors pointing in both directions but

it calls for a balanced view of whether the policy, as a whole, is up to date. No one factor should be determinative.

78. When Policy STRAT 13 is considered against the policies in the Framework as a whole it is clear that its aims are not inconsistent with it. The Appellant provides Inspector's decisions or case law to support a contention that the principles of green wedge policies are not consistent with the Framework. Indeed, as accepted by Mr Braithwaite at the Inquiry the Appellant provides no written evidence as to the paragraph 215 exercise whatsoever, as this exercise was not undertaken. This is in contrast to Mr Clarkson's careful and considered approach.
79. Whilst there is no directly relevant green wedge policy within the Framework this does not render Policy STRAT 13 inconsistent. Whilst it has been suggested by the Appellant that STRAT 13 is not a consistent policy due to its lack of balancing exercise, the Appellant's written evidence proceeds upon the basis that STRAT 13 is a permissive policy and that the development in fact accords with it¹⁷. There is an inconsistency in approach here within the Appellant's case. In any event, it is not a common feature of even post Framework policies to set out the three strands of sustainability within the text of every policy. This is not a proper measure of consistency.
80. Rationally, only the spatial application of STRAT 13 may be attacked. This calls therefore for a site specific consideration as to whether the aims of STRAT 13, as applied to this site, are up to date. In making that assessment reference should be made to the recently examined and made WNP Policy EN4 which seeks to protect this site as part of the undeveloped settlement break and the equivalent policy (Policy 11) within the recently submitted Dunholme NP.
81. The Welton NP, despite the plan area not encompassing the site, has a legitimate concern with its development and is underpinned by a thorough landscape assessment which properly includes the site and the site to the north, neither of which fall within the Welton parish. This was not a concern to Inspector Schofield who plainly attached significant weight to both the policy and the underpinning landscape assessment¹⁸. Policy EN4 remains the most up to date formal expression of policy in relation to this settlement break.
82. Policy 11 within the DNP is now on its terms and application precisely in alignment with the wording of WNP Policy EN4 which has been found by the examining Inspector and the Council to meet the basic conditions and thus be in general conformity with the local plan and the Framework. Additionally, STRAT 13 is consistent with emerging CLLP policy LP22 which is not the subject of any meaningful objections and can therefore also be afforded weight.
83. As explained by Mr Clarkson, taking the policies together, this means that:
- a) as a result of paragraph 216 of the Framework, weight may attach to the wording of Policy 11/EN4¹⁹;
 - b) STRAT 13 is consistent with these recently examined policies;
 - c) STRAT 13 is consistent with LP22 which itself is in a plan at an advanced stage of preparation, subject to no meaningful objection in terms of its

¹⁷ Mr Braithwaite's proof of evidence

¹⁸ CD15 paras 5, 8-12

application to this site (other than by the appellant) and is demonstrably consistent with the Framework;

- d) Accordingly, STRAT 13 should be considered “up to date” for the purposes of paragraph 14.

84. Thus the spatial application of STRAT 13 is also up to date. And however one looks at it, STRAT 13 may be afforded significant weight. Neither route into paragraph 14 applies; paragraph 49 does not apply due to the demonstrable five year supply and paragraph 215 does not render the policy out of date through lack of consistency.

85. In relation to Policy STRAT 12, whilst the spatial application of STRAT 12 may properly be viewed as inconsistent with the Framework and thus out of date, its purpose and intent is consistent with the Framework, paragraph 17 in particular and thus as a whole the policy could not be said to be out of date for the purposes of the Framework’s paragraph 14. Thus, the appeal proposals fall to be judged on a standard planning balance.

86. However, should the Inspector prefer the Appellant’s evidence on supply, it is necessary to consider the application of paragraph 49 of the Framework. STRAT 13 is accepted to be a policy for the supply of housing. Thus, the combined effect of this and any lack of five year supply would be the application of paragraph 14 and the “significantly and demonstrably outweigh” test to the determination of the application. However, what paragraphs 49 and 14 of the Framework do not do is set aside the primacy of the development plan or prescribe that any less weight should attach to “out of date” policies.

87. Despite the contrary approach being taken by Mr Braithwaite in his written evidence, he properly accepted in cross examination, that there is no automatic result of a lack of supply that mean policies attract “little weight”. Weight is a matter solely for the decision maker. As such the Council contends that significant weight may be attached to STRAT 13 with or without a five year supply.

88. It is also of relevance that STRAT 13 is a policy with a specific purpose, it may have the effect of restraining housing supply and thus be a relevant policy within the meaning of paragraph 49 of the Framework but that is not its sole aim. This falls within the example given in Hopkins Homes as to a factor to be taken into account when giving weight to out of date policies. Additionally, any shortfall can be said to be short term, the Council has allocated sites in the locality for a substantial number of dwellings and the CLLP examination is imminent.

89. This accords with the approach of Inspector Lyons who considered that notwithstanding the policy was out of date in terms of its spatial application due to the lack of five year supply, it attracts significant weight as does any conflict with STRAT 13²⁰.

¹⁹ While the remainder of the policies in the DNP may be afforded less weight as they, on their terms, have not been the subject of examination, policy 11 is unique in this regard as having its special application and terms recently examined.

²⁰ CD14

Conflict with the development plan – Policy STRAT 13

90. There has been consistent pressure on the site and the field to the north to come forward for development. All previous attempts have been successfully resisted with a succession of case officers and Inspectors considering that the settlement break is far too important to be lost, even when applying the weighted balance within paragraph 14 of the Framework in the agreed absence of a 5 year supply of housing land in 2014²¹. The loss of this site to built development would be a permanent encroachment into the gap and a permanent narrowing of the settlement break.
91. The Council explained at the Inquiry that the proper approach to STRAT 13 is to consider paragraphs 1 and 3 first. Paragraph 2 is only of relevance if the tests in either of the other paragraphs are passed. It is noted that whilst Mr Braithwaite agreed wholeheartedly with this approach in cross examination, it is not the approach applied in his written evidence. Mr Braithwaite's proof at paragraph 5.14 proceeds to apply only paragraph 2, despite it being agreed that these criteria are only of relevance once the test in paragraph 1 has been considered.
92. Paragraph 1 provides that permission will not be granted for development which detracts from the stated aims of the allocated land i.e. being undeveloped land which prevents coalescence of settlements. In order to conflict with the policy a development does not need to eclipse the stated aim, merely "detract" from it. Thus a judgement is required as to whether there is harm to the stated aim. The Appellant agreed with this approach during the Inquiry.
93. The proposal would eclipse the site's contribution to that aim and in the context of the gap as a whole, it would detract from the ability of the allocated STRAT 13 land to prevent the coalescence of Welton and Dunholme by changing the status of the land from undeveloped to that of developed and thus removing the site from sum of sites comprising the gap. The gap in this location would become entirely dependent upon the northern field.
94. The Appellant suggests that the proposal would result in no material landscape or visual harm. The Council has always maintained that STRAT 13 is not a landscape policy; it is a settlement break policy. Thus it is not true to say that if there is no landscape harm there is no conflict with STRAT 13. In any event, Ms Buckingham's landscape evidence should not be simply accepted. In particular, heavy reliance should not be placed on the landscape conclusions as they are predicated upon a situation which cannot be guaranteed as coming to fruition:
- a) The indicative masterplan shows a development of 60 houses; the permission if granted would permit an additional 5 dwellings. It has not been shown that these can be accommodated on the site and allow for the planting schemes proposed by the Appellant;
 - b) The LVIA is heavily based upon the existing and extended screening of the site by vegetation. Aside from the time this would take to grow to sufficient height, the conditions proposed by the Appellant do not control this. Under the conditions as proposed, the Council would not be in a position to refuse a

²¹ CD14

landscape scheme which failed to provide for the 10m high 14m thick western planting, upon which the Appellant's case is heavily reliant;

- c) The same may be said for the "reduced height dwellings" shown on the masterplan to the south west corner. There is no provision for the scale and height of dwellings, this being an outline application and the reserved matters condition making no mention of this requirement. Again, it would be open to the Appellant, or any other developer inheriting the site, to submit a reserved matters application which was compliant with the conditions but failed to provide for the reduction in height. Ms Buckingham's assessment of visual impact to the rights of way has been entirely predicated on the reduction in height coupled with additional planting.
95. The Appellant agreed during the Inquiry that in terms of character, the site shares key features identified in the relevant landscape character assessment and falls within one of the most sensitive parts of the landscape²². The Appellant's judgements relating to the sensitivity and susceptibility of the site are surprising given this context and the agreement that impacts are to be judged with reference to receptors derived from the LCA and their presence on the site. The Appellant's view is that the character of the site is bound up in the boundary planting and this will not change. However, the Council is concerned about the loss of key landscape features as defined within the LCA i.e. loss of flat agricultural land and not loss of the features of this site per se.
96. In so far as the site currently detracts from the features of the LCA, that detraction will worsen with the appeal proposals. At present, the heavy boundary planting is at odds with the LCA and an increase in the screening and walling off of this site is at variance with the aims of the LCA to provide good integration between the open agricultural landscape and settlement edges.
97. In terms of the visual impact, Ms Buckingham's assessment of Cottingham Court being perceived as part of the settlement of Dunholme is at variance with the judgements reached by Mr Clarkson, Inspector Lyons²³ and those undertaking the DNP Landscape Assessment²⁴ who all describe Cottingham Court as an "enclave" with views to the break from the north and south of Cottingham Court.
98. In fact, paragraph 19 of CD14 shows that Inspector Lyons describes Cottingham Court as an "isolated enclave" and at paragraph 20 refers to the role of the site to the north and "*the field to the south [i.e. the appeal site] as a buffer to the northern limit of Dunholme can be readily appreciated.*" Ms Buckingham is entirely at variance with the weight of professional opinion on this point. Additionally, Cottingham Court has never been treated as part of the undeveloped break under Policy STRAT13.
99. The Appellant's suggestion that the only "real" part of the gap is a distance of 80m to the north of the gap is difficult to understand. Whilst the northernmost end of Ryland Road, where there is an open view to the east and west at that point may be, in the words of Inspector Lyons "the best expression" of the gap, it does not mean that the remainder of the STRAT13 land is pointless. The reference to the 80m stretch within both neighbourhood plan landscape

²² CD27 West Lindsey Landscape Character Assessment p.33

²³ CD14 paragraph 19

²⁴ Mr Clarkson's proof of evidence Appendix N page 45 4th bullet point

assessments is directly adjacent to a reference to the widest part being around 500m. This does no more than set the scene. The reports then go on to consider that “this undeveloped gap plays an important role in preventing the coalescence of the two settlements”. It would be a huge and unwarranted leap to consider that the following paragraphs refer only to the 80m stretch rather than the gap as a whole. Particularly as the document is drafted with reference to a plan showing “Green gap between Dunholme and Welton” (fig 36)²⁵ as extending further west than the woodland and further east than Ryland Road and plainly encompasses the appeal site.

100. If the northern edge of the settlement of Dunholme is, as Ms Buckingham suggests, the northern most part of the ribbon development to the east of Ryland Road, this would, first, be contrary to the view taken by Inspector Lyons²⁶ and second, render all other parts of the allocated green wedge entirely redundant.
101. The Appellant relies upon the 80m gap remaining in order to say that the wedge as a whole would be “preserved”. This cannot be sustained. The full extent of the green wedge in this location is accepted by the Council, those preparing the CLLP, previous Inspectors and the landscape architects responsible for the landscape assessment underpinning both neighbourhood plans as being a necessary tract of land which fulfils the aims of policies STRAT13 and LP22.
102. The value of the appeal site and the harm caused by the proposal lies in its status as either developed or undeveloped. It is entirely impossible to hide 65 dwellings and households behind a hedge, however large. For one, the formal access road with footpaths, visibility splays and lighting extends the perception of built form northwards beyond Cottingham Court. From the footpaths, only the trees at their 10 year height would provide screening of the rooftops. And these are not the only features of development, it is important to remember that 65 households moving around the site will have other impacts; children playing, car doors slamming, music being played, people mowing their lawns. All of this is perceptible, audibly if not visibly.
103. Even the presence of planting will not remove this perception of development and habitation. At this point it is noted that Ms Buckingham’s opinion on whether there would be views in and out of the site was wholly inconsistent:
 - a) Paragraph 8.2 of the LVIA concludes that the development will “not [be] visible”
 - b) Paragraph 8.2 of Ms Buckingham’s proof concludes that the development will “not [be] *particularly* visible” (emphasis added);
 - c) In re-examination Ms Buckingham stated in relation to views into the site that the development would be wholly screened and “you won’t see it”;
 - d) Also in re-examination Ms Buckingham stated, in relation to views out of the site that you would retain filtered views of the countryside beyond (when asked whether the development would retain a relationship with the countryside as recommended within the LCA);

²⁵ Mr Clarkson’s proof of evidence appendix N page 30

²⁶ CD14 para 19

- e) In paragraph 8.2 of Ms Buckingham's LVIA it is concluded that "*the current visual situation on Ryland Road would not change*";
- f) However, in cross examination Ms Buckingham, quite properly agreed, that the frontage to Ryland Road to the north of Cottingham Court would change from an agricultural field entrance to a formal carriageway with visible lights and movement and the car park entrance to the south would also be a perceptible change.

104. Filtered views or not, the development's mere presence is harmful, whether one can see one roof top or twenty. The result is the same, an understanding to those living in the locality that this site is a developed one. Indeed, Ms Buckingham accepted in cross examination that the local residents would be aware of the undeveloped nature of the appeal site at present and be aware of the change.

105. The Appellant places heavy reliance on a large, dense planting scheme to all sides of the site to, in effect, wall off the site from visibility from public vantage points. The vegetation planned to the western boundary of the site is particularly dense being a total of 14m of vegetation up to 10-15m in height²⁷. It will take in excess of 10 years for the vegetation to reach this height once planted, during which time the development would be visible and harmful to the landscape and to the purposes of STRAT 13 and LP22. A development which is only acceptable if it is behind a 10m high hedge is not acceptable in principle and it is not good planning.

106. The Appellant's contention that the development accords with policy is therefore misconceived.

Conflict – CLLP Policy LP22

107. Policy LP22 can be afforded weight, in accordance with paragraph 216 of the Framework²⁸. There is conflict with Policy LP22 where development is "*contrary or detrimental to*" one of the stated aims. Of relevance for this appeal is the first stated aim, the prevention of the physical merging of settlements, preserving their separate identity and local character. As with Policy STRAT 13, in order to conflict with the policy a development does not have to obliterate the aim, merely be detrimental to it. Thus it is not necessary for actual coalescence to be caused, merely for the development to be detrimental to the site's ability to fulfil a stated policy aim.

108. It cannot be sensibly argued that erecting a large residential development on a previously undeveloped site, that site being allocated precisely because it is undeveloped, is not harmful to its allocation. The land is allocated because its undeveloped status prevents the coalescence of Welton and Dunholme. Of course it does not act alone and of course some sites within the allocation contribute more to that gap than others, but all are important and every loss must be robustly justified. Nevertheless, it cannot properly be said that the loss of part of the allocated green wedge to development is not harmful to that aim.

²⁷ Appellant's LVIA Appendix 10

²⁸ Mr Clarkson's proof of evidence paragraphs 5.22 – 5.35 (pages 29-31)

109. As set out above, when one considers the scale of that harm, it is not a landscape judgement that is called for. Instead, it is harm to the contribution which this site makes to the gap. It is in this context no answer to say that the site contributes little already. Even if that were the case, to take away the small contribution made at present would be to prevent the site from contributing at all.

Sustainability

110. It is well established that paragraph 14 of the Framework provides the answer to whether development is or is not sustainable. It provides the mechanism by which proposals are to be judged.

111. The Council provides detailed evidence both on the standard planning balance and the application of a weighted balance should paragraph 14 be applied to the appeal proposals. Even on the weighted balance, the harm arising in terms of the conflict with STRAT 13 would significantly and demonstrably outweigh the benefits of the appeal proposals.

Conclusions

112. For the reasons set out above it is submitted that the Council's approach to and assessment of harm and conflict with LP22 and STRAT 13 should be preferred to that of the Appellant. Mr Clarkson's assessment takes the correct approach to STRAT 13 as agreed in the oral evidence of Mr Braithwaite, and also, it is submitted, takes the proper approach to the assessment of that conflict. STRAT 13 is not a landscape policy and yet the Appellant seeks to rely on a landscape assessment as sufficient evidence as to whether that policy is breached or not.

113. In any event, those conclusions are predicated upon a hypothetical scenario; the Inspector has no assessment of all potential 65 dwellings, no guarantee the requisite planting would come forward or be maintained and no guarantee that the reduced height dwellings to the western end of the site would be included. Accordingly, Mr Clarkson's assessment and conclusions should be accepted and the harm adjudged to be significant.

114. By contrast, any shortfall in housing land supply is firstly, not a feature of the local scene where permission has been granted recently for a total of 850 new dwellings²⁹ and secondly, temporary. The CLLP is currently being examined and all efforts made to produce a robust supply. As accepted by Mr Braithwaite, if the CLLP Inspector is not content with the methodology or the supply, this is likely to be remedied as part of the examination process over the coming months. The weight to be given to any shortfall is therefore much reduced.

115. Against this background, it is notable that the Council has already approved development proposals on the less sensitive parts of STRAT 13 land (soon to be LP22) i.e. Honeyholes Lane and made concessions in relation to the spatial application of STRAT 12. The Council is not adverse to releasing land for development where it can be justified. Here, that is not the case.

²⁹ Mr Clarkson's proof of evidence para 8.22 (page 52)

116. For the reasons set out above, the Inspector is respectfully invited to dismiss the appeal.

The Case for Gin Property Ltd

117. The summary of case now set out is based on the Appellant's closing submissions, with references given to relevant sources.

Five year housing land supply

118. Despite having failed on numerous previous appeals to successfully assert that they have a five year housing land supply, the Council sought to contend that this had been achieved in the context of these proposals. As became evident from the cross-examination of PH that was simply not correct.

119. Firstly, although the emerging CLLP has been submitted, its examination is still to begin. As a result, all the data upon which the Council relies is still to be scrutinised, along with the policies themselves. This inevitably has consequences for the weight that can properly be accorded to the emerging plan.

120. The first figure that will need to be determined is the Council's objectively assessed need (OAN). The Council refers to its SHMA³⁰. However, that document does not justify, in and of itself, the figure of 1540 dwellings per annum set out in the emerging CLLP³¹. The SHMA only identifies a range of 1432 dpa – 1780dpa. As PH conceded during cross-examination neither Turley nor Edge Analytics recommended a figure of 1540 dpa chosen by the Council. He also acknowledged that this is at the lower end of the range and it would not be correct to rule out that the local plan examining Inspectors could arrive at a different (and higher) figure consistent with the range set out in the SHMA. Certainly, that is what has been contended for by a number of objectors to the emerging plan as discussed during the Inquiry. The substance of those objections will clearly be heard during the course of the examination sessions. Hence, for the present one cannot have any particular confidence that the requirement will not increase.

121. Secondly, in respect of its supply the Council's case is fundamentally flawed. So much became evident during the course of the evidence of PH.

The arithmetic

122. The best that the Council can put its case is that it has a 5.26 year housing land supply³². If the correct assessment (and ignoring any other assumptions which are dealt with in these submissions) on the application of the buffer applies it achieves only a 5.02 year housing land supply³³. As PH accepted this is "marginal" and the Council is to be judged on whether its evidence is "robust" in accordance with the PPG³⁴. It is noted that the Council agrees that the appropriate approach is to apply the Sedgfield method of calculation. However the Appellant contends that the Council is a long way short of having a

³⁰ CD13

³¹ CD5 paragraph 3.3.3

³² Mr Hylton's amended summary proof

³³ IQ8

³⁴ see for instance PPG 3-031

demonstrable supply of specific deliverable sites together with the requisite buffer.

Buffer

123. Fortunately, it is agreed without further debate that it is appropriate to apply a 20% buffer given the Council's record of persistent failure to deliver housing in accordance with its identified requirement. However, the Council appeared to seek to persist with the contention that the 20% buffer should not be applied to its existing shortfall. That is at variance with the appeal decisions in Chard³⁵ and Davenham³⁶.

124. Chard - At paragraph 42 the Inspector stated:

"The Council suggests that the 20% buffer should not be applied to the backlog as this would result in additional housing. That is incorrect. All it would do is bring forward housing provision from later in the plan period to allow the backlog to be dealt with effectively in the first five years. The buffer affects the supply side; it does not alter the requirement."

125. Davenham - At paragraphs 19 and 20 the Inspector address this argument and some of the contrary decision letters put in by the LPA:

19. *"The only matter of disagreement regarding the housing requirement is whether the agreed 20% buffer should be applied to the base 5 year requirement as the Council considers or to the base 5 year requirement plus the mutually agreed shortfall as the appellants consider. In all three 2015 appeal decisions in the Borough cited in evidence the former approach was adopted but this may be because the Council's method was not challenged by the appellants in those cases."*

20. *As evidenced at the Inquiry other recent appeal decisions by both Inspectors and the Secretary of State have been inconsistent on this point and there is no specific mention of it in the NPPF or Planning Practice Guidance (PPG). But there is recent guidance by the Planning Advisory Service that the preferred approach is to apply the buffer to both the requirement and the shortfall which represents all the need that exists². It seems to me that this is the logical way of addressing the issue because the shortfall is part of the requirement that has not yet been delivered and so there is no 'double-counting'. This is also the methodology used by the LP Pt1 Examining Inspector³. For these reasons I favour the appellants' methodology and the 5 year housing requirement is therefore 7,603 dwellings."*

126. Mr Hylton sought to rely upon other decisions neither of which made reference to the updated guidance by the planning advisory service nor had sought to grapple with the logical conclusions of the Inspectors in Chard and Davenham (and doubtless numerous other instances). It is apparent that those Inspectors did grapple with other decisions (and the alternative approach that they

³⁵ Appeals APP/R3325/A/13/2209680 and APP/R3325/A/13/2203867 - Mr Braithwaite's proof of evidence Appendix C p28

³⁶ Appeal APP/A0665/W/15/3005148 - Mr Braithwaite's proof of evidence Appendix C p153

appeared to advocate) and deliberately rejected that approach in favour of that contended for by the appellant.

127. The reason for favouring that approach is, with respect, blindingly obvious. It does not lead to double counting and does not increase the requirement. The requirement remains the same. It is simply that the supply, which ought already to have been delivered but which has not been delivered (the shortfall) should also form part of the buffer figure to be brought forward.

The Supply

128. The Council is dependent for its five-year housing land supply on a large number of allocations in the emerging CLLP: 5,201 dwellings³⁷. PH accepted that a number of these were subject to objection and which had simply not been resolved at this stage (1913 dwellings). That would be the job of the forthcoming examination process.

129. Mr Hylton provided further revised update tables dealing with both tables 3 and 4 of Council's land supply report September 2016 (IQ15). The latter table identified that, in respect of those sites (1) proposed for allocation (2) not benefiting from planning permission (3) subject to objection and (4) counted by the Council in respect of its five-year housing land supply provision amounts to some 1913 dwellings³⁸. This is important as the Council has sought to rely upon all of the draft local plan allocation sites in supporting its five-year housing land supply.

130. It is important to bear in mind the judgment of Stuart-Smith J in the Wainhomes decision³⁹ at paragraphs 34 and 35, which was the subject of careful and detailed questioning at the inquiry.

131. Mr Hylton accepted in cross examination that he has not seen the site-specific evidence (it is apparently the role of the individual districts) and is simply unable to provide the inquiry with any significant site-specific evidence to justify a conclusion that 100% of all those sites offer suitable locations and are achievable with a realistic prospect that they will be delivered within five years. That is important in the context of the careful language used in Wainhomes. It is therefore not possible to endorse or give weight to this aspect of the Council's claimed supply.

132. Nor could Mr Hylton say that the exercise that any of those districts had carried out in submitting the suggested delivery from those sites had contemplated the required tests set out in Wainhomes. In short, there was no evidence before the inquiry to justify whether the quantum of development from each (and all) of those sites is deliverable within the identified five-year period. It is respectfully submitted that in the absence of that evidence it must be assumed, for present purposes that the quantum of development cannot form part of the Council's supply.

³⁷ Mr Hylton's summary proof with updated figures

³⁸ This comes from adding the figures for those sites shown in column five of the table. This exceeds the figure of 1850 referred to in the last line of the update table.

³⁹ CD18

133. As Mr Hylton accepted, the onus is upon the Council to robustly and transparently demonstrate a deliverable five-year housing land supply. In this respect it clearly has not done so. In the context of IQ8 1913 dwellings must be omitted from the Council's purported supply of 12,712 dwellings.
134. In respect of the use of a lapse rate, Mr Hylton accepted that this was a conventional and well-recognised approach to dealing with sites which may have planning permission but which do not ultimately come forward or do not provide the number of units originally anticipated. This same approach was recognised in, amongst other decisions, the Pulley Lane Droitwich decision⁴⁰. Paragraph 14 of the Secretary of State's decision letter endorses the Inspector's conclusions set out in paragraph IR8.55 that:
- "Plainly, a 10% lapse rate should be applied to the Council's supply. This approach is supported by the 'Housing Land Availability' paper by Roger Tym and Partners. The approach was accepted by the Inspectors at Moreton in Marsh, Marston Green, Honeybourne and Tetbury. A 10% lapse rate was affirmed in the High Court decision at Tetbury. Given the previous shortfalls of delivery within this LPA, a 10% lapse rate is entirely reasonable and should be applied here in order to ensure a robust 5-year supply figure".*
135. The sole justification for the Council not doing so is set out in IQ8, that the Council considers that its *"windfall allowance is very conservative when considered against actual delivery from small sites and other sources of windfall"*. That contention is erroneous on a number of bases. Firstly, there is no warrant for offsetting one category of allowance (lapse rate) against another (windfall). It is not an approach countenanced in any guidance and clearly was not the approach adopted at Pulley Lane Droitwich (see the discussion of this in IR8.53). PH could not point to any instance where the Secretary of State or his Inspectors had adopted such an approach. It is simply to conflate two very different assessments. Each component must be considered separately, particularly as there is no quantified relation between lapse rate and windfall allowance.
136. Further, for the reasons given below the Council's assessment of windfalls is itself deficient and unreliable. Mr Hylton identified that properly assessed the quantum of units attributable to applying a 10% lapse rate in this case would be 680 dwellings (in fact 676, on the Council's adjusted figures) with planning permission and 520 dwellings on allocation sites. These too should both be deducted from the Council's claimed supply.
137. In respect of windfalls paragraph 48 of the Framework is quite clear that *"Local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and should not include residential gardens."* (emphasis added).
138. The Council's claimed supply relies upon 112 dwellings per year between years two and five for sites in small and medium villages simply as an annualised projection from the Council's own projection. That amounts to 448 dwellings for

⁴⁰ Mr Braithwaite's proof of evidence Appendix C p214/392.

which there is no evidence, let alone compelling evidence, that any such number of units have consistently become available in the local area. This also should be omitted from the Council's claimed supply.

139. At best the Council claims a 5.26 year supply being 12,712 dwellings against a claimed five-year requirement of 12,092 (a difference of 620 dwellings). As identified elsewhere the Appellant considers that the requirement by properly applying the 20% buffer is 12,662 dwellings (a difference of 50 dwellings).
140. Applying the figures identified above the following figures should be added to arrive at the correct figure to deduct the Council's claimed supply: $1913 + 676 + 520 + 448 = 3557$.
141. One must then deduct that figure of 3557 from the Council's claimed supply of 12,712 and consider that supply against either a five-year requirement (with buffer) of 12,662 (appellant's case) or 12,092 (Council's case). On any basis and acknowledging the caution attributable to excessive mathematical exactitude the Council has substantially less than a four years supply of housing.
142. Even if the Inspector were minded to allow any discount on any of those components, upon any realistic basis (and given the marginal nature of even the Council's claimed supply) it is clear that the Council does not have anything approaching a demonstrable five-year housing land supply. On that basis it is clear that paragraph 49 of the Framework applies.
143. That is in addition to the Council's policies in respect of the supply of housing being out of date because, as the Council acknowledged, it is necessary for the Council to identify and release sites outside its existing development plan in order to meet any five-year housing land supply requirement. On that basis the Council's policies relevant to the determination of this matter, including policies STRAT 12 and 13 are self-evidently out of date. It should be noted that this consideration arises in context of the Government's a policy requirement to substantially boost supply of housing.

Development plan policy

144. As identified elsewhere in the submissions only Policy STRAT 13 is cited by the Council as representing a conflict with the development plan justifying refusal of consent. With respect, this policy is inconsistent with the Framework in that it contains no balancing aspect of social economic and environmental factors in accordance with judgement in Colman⁴¹. Further, correctly interpreting policy means that one must look at the words which are there and not words which one might wish to be there by means of a device such as "implying" their inclusion, as RC sought to try and do.
145. It was suggested that there was no such balancing exercise in Policy LP22 of the emerging CLLP. With respect that does not avail RC or the Council. The Council promotes policy LP1 which applies a presumption in favour of sustainable development as contained in the Framework. That incorporates the cost benefit balancing exercise in the consideration of development proposals. That is wholly

⁴¹ Mr Clarkson's proof of evidence Appendix P

different to the position which subsists under the extant plan and the consideration of the application of Policy STRAT 13.

146. Indeed, even Mr Clarkson accepted that the last part of STRAT 13 is clearly at variance with the Framework. It should be recalled that in respect of the Council's Planning Officer report for the Honeyholes Lane development⁴² the inconsistency with the Framework of that policy (and diminished weight that ought to be attributed to it thereby) was freely acknowledged by the officer and the Council.

147. That said, for the reasons given by Mr Braithwaite there is accord with that policy in that the proposed development will not detract from the open rural character of undeveloped land forming the break, the physical identity of the settlements is maintained and the coalescence of the settlements Dunholme and Welton will not occur.

148. It should also be noted that Mr Clarkson considered that the proposed development does not conflict with any of the policies contained in the Framework (which are contained in paragraphs 18 – 219). As a result it must logically follow that the proposal should properly be seen to accord with the Framework.

Welton and Dunholme Neighbourhood Plans

149. Curiously Mr Clarkson sought to place some reliance on the WNP by reason of it having been passed at referendum with an 85% approval on a 24% turnout. The particular reason for this curiosity is the extra territorial pretensions of the document to deal with development outside its own neighbourhood plan area. Although not apparently identified for his attention, the NP examiner appears not to have recognised that the policy went beyond that which the NP was entitled to do. Be that as it may Mr Clarkson suggested it still remained a material consideration although it is not part of development plan that includes determining this application.

150. With respect, it is simply unclear how a development plan document drafted in one authority's area can represent a lawful material consideration for the determination of planning applications in another area. That is simply not excused by reference to the draft form of the DNP. That NP will doubtless be the subject of representations and objections which will need to be considered by the examiner of that NP in due course.

151. The further curiosity is that the WNP and the draft DNP have both sought to extend eastwards the area of the green wedge. That goes beyond the extant West Lindsey local plan and insofar as the emerging development plan (the CLLP) also seeks to extend the green wedge, this is at variance with its own green wedge evidence report⁴³.

Landscape Character

⁴² Mr Clarkson's proof of evidence Appendix G pages 9, 10 and 18

⁴³ CD31 and Mr Clarkson's proof of evidence Appendix L pages 55 to 57

152. Only the Appellant produced an LVIA in respect of the site and the locality. Mr Clarkson made clear during the Inquiry that the Council had commissioned no LVIA of its own and he did not seek to contradict its methodology or its conclusions which he summarised at his proof (paragraph 8.6):

"The LVIA concludes the site itself to be of low sensitivity in landscape terms and the surrounding locality to be of medium sensitivity. The magnitude of impact on the landscape character of the site itself will be medium. Assessed alongside the low sensitivity of the site itself, it concludes this will result in a minor adverse effect at a site specific level. For the wider area, it considers that the magnitude of impact from the development on the local landscape character will be low. Assessed alongside the medium sensitivity, this will result in a neutral effect."

153. He also concurred with the assessment in both the Dunholme and Welton village character assessments⁴⁴ that *"much of the land along Ryland Road which forms part of the green gap is of a nondescript character, with no obvious function or value, other than that of ensuring separation between the two settlements."*

154. Mr Clarkson also agreed that the value of the site in landscape terms is limited⁴⁵. As a result it would not constitute a valued landscape within the terms of paragraph 109 of the Framework.

155. Despite these straightforward concessions Miss Hall in cross examination of Ms Buckingham sought to challenge the findings comprising the LVIA which her own witness Mr Clarkson accepted. Whilst doubtless an exercise of forensic interest, with respect, it does not materially advance the understanding of the principles of this case save to reinforce the conclusions which Ms Buckingham had already set out in her own evidence namely:

- a) the site is of low landscape value;
- b) the locality is of medium landscape value;
- c) other than its surrounding boundary vegetation (which will remain post development and, indeed will be reinforced⁴⁶) the site makes no particular contribution to local landscape character. The site is enclosed by substantial existing vegetation on all four sides. From any public viewpoint the ability to perceive any development is extremely limited⁴⁷. The only additional viewpoint suggested by Mr Clarkson was at the proposed site access on Ryland Road. As Ms Buckingham explained there will be very little if any view into the site due to existing and proposed vegetation and the proposed location of development well into the site behind Cottingham Court;
- d) the site has a low susceptibility for residential development and hence has a high capacity to accept residential development.

⁴⁴ Mr Clarkson's proof of evidence Appendices N and O

⁴⁵ Mr Clarkson's proof of evidence paragraph 8.8

⁴⁶ Indeed the reinforcement of landscape planting of hedgerows and trees together with habitat creation is specifically encouraged in the "principles for landscape management" in the West Lindsey landscape character assessment, LVIA Appendices pages 37 and 38 of 64

⁴⁷ LVIA pp21 24 for viewpoint plan and photographs

156. In short, the proposed development of the site does not give rise to any material landscape harm. Indeed, there are, if anything opportunities for landscape enhancement of the sort specifically identified in the West Lindsey LCA as referred to in the LVIA⁴⁸ and for that matter biodiversity enhancement opportunities presented by the proposed development of site.

Coalescence

157. The Council allege that if the development were to go ahead it would give rise to a perception of coalescence between the two settlements. With respect, the Council's case places an unwarranted reliance upon a selective reading of observations made by Inspectors in respect of previous decisions on land to the north of the appeal site and adjacent to the village of Welton⁴⁹. As will be evident both the plans and the evidence given here was for a very different parcel of land to that comprising the appeal site. As a result, how these two areas of land perform both in landscape terms and in informing any perception of coalescence between the two settlements are materially different:

- a) The site to the north is at a location where the perception of the break between settlements *"is located at a critical point immediately adjoining the built-up area of Welton"* (CD14 paragraph 17).
- b) CD14 paragraph 18 goes on *"the critical factor is the absence of the developed frontage to Ryland Road. It is particularly important that the undeveloped frontage is here reflected by the small field on the east side of Ryland Road. Two fields are not entirely opposite one another, so that the extent of the space they offer does not coincide. But the absence of built development both sides of the road and the ability to perceive the open land beyond provides a critical clear break between the two villages"*.
- c) The appeal site is located opposite the ribbon development on the east side of Ryland Road that extends well north of the proposed site entrance and behind the development at Cottingham Court on the west side of Ryland Road.
- d) That site was open (CD14 paragraphs 17 and 18) the appeal site is not: it is enclosed.
- e) CD14 paragraph 19 notes *"Further to the south, the northern edge of Dunholme has been allowed over time to extend outwards into the gap, with a ribbon of residential development on the east side of the road and the more isolated enclave at Cottingham Court on the west side. There remains a clear perception of being outside the village core, but the setting is more difficult to appreciate, despite glimpsed views of fields to the east and the impression of open land to the west. The appeal site and the field opposite provide a better expression of the gap from Ryland Road"* (emphasis added). With respect that must be right. That is consistent with the identified break in the Dunholme⁵⁰ and Welton⁵¹ village character assessments, both attest to the approximate 100 m undeveloped stretch providing *"a critical break between the two settlements and clearly communicates to the road-user that they*

⁴⁸ LVIA Appendices p 37 and 38

⁴⁹ CD14 and CD15

have left one distinct settlement and are approaching another, different settlement. Without this break in development, the distinction between where Welton ends and where Dunholme begins would be lost".

- f) That, with respect is the point. That same use of language "critical" is evident in paragraphs 17 and 18 of the 2014 appeal decision as is the use of the term "crucially" in paragraph 27⁵². Even this would not in fact have constituted coalescence though it was considered *"there would be the beginnings of coalescence of the two villages"*. That is a description that clearly cannot apply to the appeal proposals.

158. Mr Clarkson in essence accepted that his objection was one of planning policy principle. That itself was somewhat surprising given the terms of the 2014 Inspector decisions on the land to the north of the appeal site where the Inspector concluded that although the policy objective of protecting the gap remains an important element of the current development plan the policy is out of date in its spatial application⁵³.

159. That was the same conclusion formed by the Council's own officers and members in granting permission for the Honeyholes Lane development⁵⁴ which did not conclude that that development is contrary to the Council's development plan and to the extent that development plan policies such as STRAT 12 and 13 were relevant they were inconsistent with the Framework with consequent diminished weight⁵⁵. Further, *"development in a green wedge/settlement break is not necessarily unsustainable and each case must be considered on its own merits"*. With respect, that must be correct.

160. It might also be noted that the Council's Green Wedge and Settlement Breaks Review⁵⁶ stated that there is *"a clear visual break when travelling along Rylands Road from Dunholme to Welton and a sense of travelling through open countryside on leaving Dunholme before entering Welton. Both settlements are clearly visible within the settlement break, due to the closeness of the settlements to one another and relatively flat topography. There are no buildings within the break, however there are some temporary metal hoardings along Rylands Road which have a negative impact on the open character of break"*.

161. Ultimately, this will be a matter for the Inspector's assessment on site. However, in light of the clear assessment provided by Ms Buckingham, it is submitted that the development of the appeal site for housing will not give rise to the perception of coalescence of the two settlements.

⁵⁰ Mr Clarkson's proof of evidence Appendix N paragraphs 3.31 and 5, bullet point 4, p45

⁵¹ CD30 paragraph 3.17

⁵² CD14

⁵³ CD14 paragraphs 36 and 49

⁵⁴ Mr Clarkson's proof of evidence Appendix G

⁵⁵ Mr Clarkson's Appendix G pp 9, 10 and 18.

⁵⁶ CD31 page 56, paragraph 6.8

Sustainability

162. The Council contend that the paragraph 14 presumption in the Framework is not engaged. That is incorrect. It is the golden thread running through both plan making and decision-making. It is clear that STRAT 13, the only policy cited by the Council with which the development is said to be in conflict, is out of date, is inconsistent with the Framework and arises in circumstances where the extant development plan is unable to state where residential development should take place.
163. In addition, STRAT13 is plainly acknowledged by Mr Hylton to be a policy relevant to the supply of housing. In circumstances where the Council does not have a demonstrable five-year housing land supply the paragraph 14 presumption is again engaged.
164. That which constitutes sustainable development requires a consideration of all 3 strands of sustainable development: economic, social and environmental simultaneously. That does not of course mean that all 3 will need to be equally satisfied given the disparate and at time perhaps conflicting aspects for the consideration of such development. That, fundamentally, is a matter of planning judgement for the decision maker.
165. It is to be noted here that even the council accepts that Dunholme is a generally sustainable location for residential development. Given the acknowledged accord of the proposal with the policies contained in paragraphs 18 to 219 of the Framework by Mr Clarkson during the Inquiry, it is submitted that having carried out an appropriate balance this is a development which the Inspector may properly consider is sustainable.

Section 106 Obligation

166. This has now been agreed and forms a requisite feature in the consideration of the planning balance. The proposed development meets all of the identified and justified requirements including those relating to health and education. For the reasons explored during the course of the Inquiry those relating to primary education cannot extend beyond making the car park area within the development site available to the St Chads primary school. To go beyond that is not considered to be compliant with the CIL regulations, the position with which all of the principal parties are agreed.

Other Matters

167. Fire and rescue service representation is agreed between the LPA and the appellant that these matters can be dealt with by a separate code, namely the building regulations. None of the objections represent a reasonable principle to withhold permission. If the Inspector is unconvinced that the matter could, if need be, be satisfactorily dealt with by the imposition of an appropriate condition.

Planning Balance

168. As identified by Mr Braithwaite in his proof and Appendix B there are a range of economic and social benefits arising both provision of market and affordable

housing and the economic impacts that arise from it. Beyond that there are also environmental benefits in the provision of open space and the potential for enhanced biodiversity.

169. Further, Mr Clarkson accepted in the Inquiry that even if the Council did have a five-year housing land supply if the Inspector were to conclude that the proposed development represented sustainable development than the presence of five-year supply (however unjustified that proposition may be) would not be a bar to the Inspector granting planning permission. So much was the view of Inspectors at appeals at Davenham, Drakes Broughton, Mickleton and Ashby de la Zouch where in each case a five-year housing land supply existed⁵⁷.

Conclusions

170. In light of the foregoing it is submitted that the development represents sustainable development benefitting from the presumption in favour of sustainable development and that planning permission ought to be granted and the appeal upheld.

Points raised by interested persons/parties at the Inquiry

171. **Mr Gary Waite** is the Fire Safety Inspector for the Lincolnshire Fire and Rescue Service. He submitted a letter⁵⁸ to the Inquiry stating that there was an objection to the proposal on the grounds of inadequate water for firefighting purposes and inadequate access. It is requested that fire hydrants are installed as part of the development and that access to buildings meets the building regulations requirements.

172. **Mrs Angela Hopson** is a local resident and governor of St Chad's Church of England Primary School and the provision of the car park for the school within the appeal site would be a positive benefit and was supported. However the school is almost at capacity and needs further funding to expand to provide more places. This could be achieved by purchasing the neighbouring land. The DNP refers to the school as providing an important community service. However there is concern about the loss of the pre-school within the school site. Any additional funding to assist the school would therefore be appreciated. The planning obligations for this development should therefore contain contributions towards primary education rather than secondary. There should also be a contribution towards early years provision.

173. **Mrs Annette Lumb** represents NHS England and put the case forward for the healthcare contribution in the S106 agreement to be amended so that the funding could be used towards a mental health consulting room at the Lincoln Primary Care Hub. In line with the national healthcare strategy there is now a proposal, for reasons of effectiveness, to provide an extended range of primary care facilities at central hubs rather than at local doctors' surgeries.

174. Due to unprecedented demand for mental health services, a significant number of future occupants of the development will use the hub's facilities, increasing the

⁵⁷ Mr Braithwaite's proof of evidence Appendix C

⁵⁸ IQ12

existing demand. These facilities will not be provided directly at the local doctors' surgeries in Dunholme or Welton. Considers that this facility would be directly linked to the development and would be necessary for healthcare provision in the area.

175. **Mr Rex Gregson** is a Councillor for Dunholme Parish Council and is part of the team producing the DNP. There is considerable local support for the green wedge. There are already a number of sites for around 329 dwellings within Dunholme that have not yet been built.
176. Mr Gregson queried the meaning of the term 'sustainability' and whether the village of Dunholme is sustainable as facilities including the school and doctors surgery are at full stretch. This is already the case without further dwellings. The local amenities have not been planned to cope with the increase in the number of dwellings. There is no public house and whilst there is a co-operative store, this has led to the closure of the village shop within which was the post office. There is an outreach post office at the parish church but this is not open daily. Residents now need to go to Welton or further afield for some services and facilities.
177. The zig zag area on the highway outside the school is fairly lengthy but there is no restriction on parking along the rest of Ryland Road. There is concern that the proposed access to the development site will bring traffic in to conflict with parked cars on Ryland Road. The proposed car parking area for the school within the appeal site will not help the traffic and parking problems.

Written Representations

178. The Council's Planning Committee report dated 26 August 2015, summarises the consultation responses and third party representations that were received during its consideration of the application. In summary these include the following points:
179. Cllr S England (ward member) – the development will only serve to increase the burden on a totally inadequate infrastructure of Dunholme and severely impact on neighbouring Welton.
180. Dunholme Parish Council – object to the proposal for reasons of flooding, school traffic congestion on Ryland Road, the access is on a bend and is only for agricultural purposes, the car park access would be dangerous, there would be too many houses for the size of the site, the reduction in the historical green belt between Dunholme and Welton, there are pylons on the site, there would be a strain on village infrastructure, the site is within 20m of a pond and beck and the main road junctions (A15 and A46) are already dangerous.
181. Welton Parish Council – There are already permissions for 787 new homes in Dunholme (324) and Welton (463) with the potential for a further 2,500 people using the infrastructure in Welton which is already stretched to capacity. Dunholme is dependent on Welton for most of its infrastructure including the doctor's surgery, dentist and shopping. New development will have a major impact on these facilities. Problems of traffic flow and parking are already a problem and new development will escalate this. There are serious concerns

about the A46 and A15 junctions. Drainage systems and sewers are at full capacity and flooding is a common occurrence on Ryland Road. The site is not within easy walking distance of amenities, though it is on a bus route.

182. Statutory consultees raised no objections on matters including highways, drainage, archaeology, policing and wildlife.
183. Local residents objected to the planning application for a number of reasons, some of which have already been summarised above. Additional points raised about the proposal are:
- Road infrastructure will not cope and increase in traffic will result in highway safety concerns
 - School car park is not necessary and would provide dangerous access
 - Cumulative impact with Honeyholes Lane developments
 - Will be too close to Cottingham Court houses which will be overlooked
 - Proposed pond will be a health hazard and affect the stability and health of nearby trees
 - Visibility splay crosses third party land
 - Site becomes waterlogged
 - Noise from traffic and no details about the acoustic barriers
 - It will be visible from Dunholme Close
184. Following the submission of the appeal, no further written representations were received.

Planning Obligations

185. I assess the submitted planning obligation (IQ21) against the tests set out at paragraph 204 of the Framework.
186. The Agreement offers 25% affordable housing in accordance with the Council's affordable housing policy and sets out the terms of selection and priority for the occupiers of these homes. It also offers funding for secondary education and the provision of on-site public open space.
187. A healthcare contribution of £425 per dwelling is offered which would be used as funding towards a mental health consulting room at the Lincoln Primary Care Hub. It was explained to me at the Inquiry that in line with the national healthcare strategy there is now a proposal, for reasons of effectiveness, to provide an extended range of primary care facilities at central hubs rather than at local doctors' surgeries.
188. It was put to me at the Inquiry that due to unprecedented demand for mental health services, a significant number of future occupants of the development would be likely to use the hub's facilities, increasing the existing demand. As these facilities would not be provided directly at the local doctors' surgeries in Dunholme or Welton, I consider this contribution is reasonably related in scale and kind to the development and is necessary in planning terms.
189. The Council's Compliance Statement (IQ5) explains what the development plan policy context is for requiring such contributions, and gives a justification for

that being offered, except for the proposed healthcare contribution which was amended and discussed during the Inquiry.

190. Overall these are matters which are directly related to the development being proposed and are necessary to make the development acceptable in planning terms. Based on the justification provided I consider the sums proposed appear to be fairly and reasonably related in scale and kind to the development. It is also clear what the offered contributions would be used for.

191. The agreement also offers the provision of a car park for the sole use of St Chad's Church of England Primary School. As discussed during the Inquiry I recognise that the school has limited capacity to expand on-site and that this provision would enable more efficient use of the school site. I note that this car park provision is included within the description of the development and is shown on the illustrative layout plan.

192. However notwithstanding this, whilst I recognise that the local St Chad's Church of England Primary School is at capacity [31, 175], the evidence before me from the local education authority indicates that there are spaces available at other schools within the locality. As such there is no requirement for the development to contribute to primary education. I therefore do not consider that the provision of the car park is necessary for the development to be acceptable in planning terms. As such it does not meet the required tests and therefore cannot be taken into account.

193. It was also put to me at the Inquiry that there should be a contribution towards early years provision, but I have no substantive evidence that this is required and the education authority does not request this.

194. Overall I consider that it is appropriate to take the planning obligation into account in the determination of this scheme.

Conditions

195. A list of suggested conditions was agreed between the Council and the Appellant and included within the SoCG. They were discussed at the Inquiry. I have considered them in light of the advice given in the Planning Practice Guidance (PPG). As such I am satisfied that the conditions set out in Appendix A meet the tests within the PPG. Those conditions would be necessary in order to achieve an acceptable development, were the Secretary of State to consider the principle of the development to be acceptable.

196. Conditions 1, 2 and 3 are standard conditions for outline planning permissions. Condition 4 requiring a landscape management plan and biodiversity enhancement scheme is necessary in the interests of character and appearance, biodiversity and sustainability. Condition 5 would secure a Construction Management Plan in the interests of the living conditions of nearby residents and the protection of trees and hedgerows.

197. Conditions 6 and 7 require details of surface water drainage to be submitted in the interests of managing risks of flooding and pollution. Conditions 8, 9 and 10 relate to ground investigations and contamination and are necessary to safeguard

human health and the water environment. Condition 11 requiring a tree constraints plan is needed in the interests of character and appearance.

198. Condition 12 would secure a travel plan in the interests of environmental sustainability. Condition 13 requires the access to be constructed in accordance with the plans, reflecting advice in the PPG and in the interests of highway safety. Condition 14 is necessary for the avoidance of doubt and in the interests of proper planning, to define the plan with which the scheme would accord in relation to access. Condition 15 would secure safe pedestrian access to and from Ryland Road. Condition 16 which seeks the provision of an acoustic fence is necessary to protect the living conditions of neighbouring residents from noise.

199. As regards the Lincolnshire Fire and Rescue suggestion that the developer provide fire hydrants within the development and adequate building access for fire fighting [171] I do not consider this is necessary as a condition at this outline stage, as the form part of detailed layout discussions at the reserved matters stage and the latter can be dealt with through building regulations.

Inspector's Conclusions

200. My main issues, findings and conclusions are set out below. They are based on both written and oral evidence along with what I saw during the accompanied and unaccompanied visits that I made to the site and surrounding area. The numbers in small font square brackets [] refer to earlier paragraphs in this report.

201. I consider the main issue to be whether the proposal would amount to a sustainable form of development in accordance with local and national policy. In order to arrive at a recommendation in this regard, the main considerations I have set out before arriving at a planning balance are:-

- The effect of the development on the undeveloped break between the villages of Dunholme and Welton; and
- Whether the area has a 5 year supply of housing land.

Effect on the undeveloped break

202. There is no dispute that the appeal site is located outside, but adjacent to the settlement boundary of Dunholme, as defined by WLLP Policy STRAT12 and within the undeveloped break between Dunholme and Welton as defined in WLLP Policy STRAT13 [20, 29].

203. Whilst I recognise that Policy STRAT13 has the effect of restraining housing supply, its main aim and objective is to prevent the merger of the two villages and retain their separate identities [15, 88]. This principle is in accordance with paragraphs 154 and 157 of the Framework. It has been suggested by the Appellant that STRAT 13 is not a consistent policy due to its lack of balancing exercise. However there is no national requirement for each policy to set out the three strands of sustainability.

204. I note that the majority of the undeveloped break in this location has been a well-established and long standing feature within the locality. As the appeal site forms one of only two fields on the western side of Ryland Road, that separate

- Dunholme and Welton, it makes an important contribution to this undeveloped land.
205. I note that the illustrative masterplan indicates that the proposed open space would be located on the northern part of the site and the proposed houses would not extend further north than the existing Cottingham Court properties on Ryland Road. Cottingham Court, whilst within the settlement boundary, is distinctly separate from existing housing development to the south and appears as an isolated small group of buildings surrounded by undeveloped land.
206. Whilst the existing hedgerow and tree boundary along Ryland Road limits views of the site, those that are glimpsed through the vegetation and gaps reinforce the view that Cottingham Court is an 'enclave' surrounded by countryside [97, 98]. The proposal would clearly close the existing undeveloped break between these properties and the northern edge of Dunholme and extend development behind them to the west. This would result in a permanent reduction and narrowing of the undeveloped break [90,92].
207. As regards landscape impact, based on the available evidence I have no reason to disagree with the conclusions of the Appellant's LVIA. However whilst I accept that the landscape value of the site may be limited, I agree with the Council that Policy STRAT13 is not a landscape policy [94]. The pertinent point is that the site forms an integral part of the undeveloped break that is seen and experienced when travelling between the two settlements and from the nearby public footpaths. Furthermore whilst there are properties on the eastern side of Ryland Road extending towards Welton, their significant set back from the highway, together with the glimpses of fields beyond, contribute to the more open character of the gap between the settlements, rather than the more densely built up area to the south.
208. I note that the undeveloped break has been successfully retained through the dismissal of previous planning applications and appeals. In this regard, I refer to recent Inspectors findings and conclusions relating to the dismissal of residential development on the field to the north of the site. Whilst I must consider this appeal on its own merits, I nevertheless consider that the consistent approach to Policy STRAT13 in protecting the gap in this location as evidenced by the recent appeal decisions is a material consideration.
209. I accept that previous Inspectors have referred to the field to the north of the appeal site as forming a critical undeveloped gap along Ryland Road, in conjunction with the field to the east. However I do not consider that this necessarily lessens the importance of the appeal site as part of the settlement break. I concur with the previous Inspectors that the appeal site and the field to the north together form a buffer to the northern limit of Dunholme, particularly when viewed from the adjacent public footpaths. As I saw for myself on my site visits and notwithstanding the existing boundary hedgerows and trees, there are views across the adjacent large arable field from footpath 785 of the undeveloped nature of the appeal site. The existing fields give a clear definition of the extent of each village and the overall defined gap [98-101].
210. Due to the existing and proposed landscaping, views of the development would be likely to be filtered. Nevertheless, and as accepted within the LVIA there would be some degree of visibility, particularly of roof tops, from the adjacent footpaths, before the landscaping reached maturity which would be in excess of

10 years. Furthermore whilst the majority of the development would be set back from Ryland Road behind Cottingham Court properties, discernible changes including the access road, street lighting and some properties would still be visible from the highway [102, 103].

211. Whilst the proposed scheme would not result in the two villages actually merging and there would still be a degree of separation between the villages in this location, the overall perception would be a distinct narrowing of the gap due to the loss of the vast majority of the field to development. I acknowledge that there would continue to be a degree of visual separation because of the existing and proposed trees and hedgerows. However, notwithstanding this it is clear that the Council and the local community consider that the proposed development would unacceptably erode the sense of separation between Dunholme and Welton and compromise the integrity of the undeveloped break. It is this perception of separation which underlies the purpose of LP Policy STRAT 13, emerging CLLP Policy LP22 and emerging DNP Policy 11.
212. Whilst I note that the Council has more recently permitted development within the undeveloped break along Honeyholes Lane to the south west of the appeal site, I note that the break in this location is wider and arguably less sensitive than that located along Ryland Road [115]. In addition this site is proposed to be allocated within the CLLP, unlike the appeal site.
213. Emerging CLLP Policy LP22 and emerging DNP Policy 11 propose to continue to protect the appeal site as a green wedge. In this regard I note that the appeal site is not one of the locations where it is proposed to extend the settlement boundary to accommodate developments and site allocations within the plans. The site would remain outside the settlement boundary with the intention that it would be subject to the restrictive provisions of the above emerging policies.
214. Given that the CLLP is currently at examination and the DNP has yet to be examined, full weight cannot be afforded to their contents. However both plans are at advanced stages and CLLP Policy LP22 and DNP Policy 11 would both be consistent with the Framework. Whilst I recognise that outstanding objections to these policies will require consideration during their respective examinations, these do not appear to be substantial in nature. I therefore consider that these policies, due to their level of advancement and general consistency with the evidence should attract considerable weight in this appeal in line with paragraph 216 of the Framework.
215. Whilst concerns have been raised about the extension of the undeveloped break eastwards to form the proposed green wedge, as set out in the emerging CLLP and WNP, this extended area does not affect the appeal site. Nor does it take away from the review⁵⁹ conclusions about the existing gap and the fact that this has been part of a long established and well-recognised local strategic policy shaping the area and establishing where it is not appropriate to build. I consider the extension of the gap is a matter for the CLLP and DNP examinations and is not a determining factor in this case.
216. As regards the WNP, whilst this is a 'made' neighbourhood plan, the appeal site lies outside its designated area and therefore it does not form part of the development plan for this appeal, a matter that is agreed between the main

⁵⁹ CD31

parties. I recognise that the WNP contains Policy EN4 which seeks to preserve the settlement break between the villages of Welton as a green wedge, but this tract of land is outside the WNP area boundary. I therefore do not agree with the Council's view that this policy is a material consideration in this appeal case and I accord it no weight. Nevertheless this matter does not outweigh my concerns on this main issue.

217. Consequently I conclude that the development would result in significant and harmful erosion of the undeveloped break which would be of a permanent effect. The resultant incongruous addition to the settlement would intrude in to the undeveloped break, reducing the gap between the villages and increase the perception that the villages were close to merging. Consequently the proposal would not accord with WLLP Policies STRAT12 and STRAT13, or emerging policies CLLP Policy LP22 and DNP Policy 11.

218. The weight to be accorded to these policies is considered within the overall planning balance which is discussed later in this report. First I need to consider whether the Council is able to demonstrate a 5 year housing land supply.

Five year housing land supply (5YHLS)

Housing Requirement [42-46, 118-120]

219. The emerging CLLP identifies a housing requirement for 36,950 dwellings between 2012 and 2036 (1540 dpa). As such the basic 5YHLS requirement is 7700 dwellings. This is based on evidence in the SHMA. However I note that the SHMA does not specify a specific housing requirement but instead provides a range⁶⁰. I also note that the CLLP is currently at examination and therefore may be subject to change. On this point the Council acknowledges that the final housing requirement will be determined as part of the local plan process [45]. As such, it is not the role of a Section 78 Inquiry to examine what the full objectively assessed housing need should be.

220. Until such time as the CLLP objectively assessed housing need and housing requirement figures have been tested at examination and carried forward in to an adopted local plan, it would be reasonable to accept, in this instance, that the housing requirement for Central Lincolnshire is an average of 1540 dwellings per annum. To accept a lower or higher figure would imply acceptance of a particular housing strategy which is still to be determined through the CLLP examination. It would not be sufficiently justified for a decision in this appeal to pre-empt the outcome of the CLLP examination on this matter. I acknowledge the Appellant's concerns about using the 1540 pa figure, but I also note that this has been used by the Appellant in their calculations.

221. Furthermore the Council has assessed the implications of the DCLG 2014-based household projections for the OAN and housing requirement for the emerging CLLP and compared it to the 2012 figures⁶¹. Whilst the analysis results in some differences at the district level, overall there is no material change to the OAN and the housing requirement within the Central Lincolnshire area as a whole.

⁶⁰ CD13

⁶¹ IQ3

222. Taking the above into account I consider that the housing requirement of 1540 dwellings pa should be taken as the basis for assessing the 5YHLS.

Shortfall [42]

223. The shortfall of 2425 dwellings in delivery since 1 April 2012 over the four years to 31 March 2016 when compared against the requirement of 6160 dwellings (1540 x 4) is agreed between the main parties. I also note that there would be an additional shortfall in 2016/17 estimated by the Council to be around 427 dwellings. Whilst I recognise this is an estimate, no substantive evidence is before me to the contrary. As these figures are taken from the Council's latest 5YHLS Report I consider them to be a sound basis for analysis.

224. The PPG sets out the aim for a local authority to deal with any undersupply or shortfall within the first five years of the plan period where possible, which is the Sedgefield approach. I recognise that the Council has used this method in its assessment, though it does provide an alternative assessment using the Liverpool method of spreading the shortfall across the plan period⁶². I consider the Sedgefield approach is justified in this instance.

Buffer and its application [49-50, 123-127]

225. It is agreed between the parties that, due to persistent under delivery, a 20% buffer should be applied. As I have no persuasive evidence to the contrary, I do not take a different view.

226. However there is disagreement over whether the buffer should be applied just to the basic housing requirement or to the basic requirement and the shortfall. I note that the Council advocates the application of the buffer to the basic requirement only, as otherwise it would represent an unsustainable level of front loading of the supply [49].

227. Notwithstanding the Council's evidence [49-50], applying the buffer to the shortfall would not result in double-counting. It would simply bring forward further housing from later in the plan period [124]. This would accord with the preferred approach set out in recent guidance produced by the Planning Advisory Service, as recognised in the Inspector's decision for the Davenham case [125]. Whilst the Framework and PPG do not specifically suggest that the buffer should also apply to the shortfall, this shortfall already forms part of the overall housing requirement. Under the Sedgefield approach it also forms part of the 5-year housing requirement. The application of the buffer against the housing requirement, which includes the shortfall, is therefore justified and appropriate and accords with paragraph 47 of the Framework.

228. Furthermore I have no substantive evidence before me to support the Council's claim that bringing forward this further housing would be unsustainable.

229. Taking the above factors into account I consider that for the purposes of this appeal, the 5-year housing requirement for 2017 to 2022 comprises the basic requirement of 7700 dwellings, the shortfall of 2425 dwellings for 2012-2016, the estimated shortfall for 2016/17 of 427 and the 20% buffer of 2110. This provides a total requirement of around 12,662 dwellings (2532 dpa).

⁶² IQ8

Supply [53-72, 128-142]

230. Paragraph 47 of the Framework sets out the requirement for local planning authorities to identify and update annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements. The assessment as to whether a site can be considered deliverable is set out in footnote 11 to paragraph 47 of the Framework. This states that *'sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.'* The PPG also provides further guidance on the factors to be considered when assessing deliverability.
231. The Council's housing land supply position⁶³ provides a 5YHLS of 12,712 dwellings. When compared to the requirement of around 12,662 dwellings this equates to a surplus of 50 dwellings and 5.02 years housing land supply (12,712 supply/2532 requirement per annum).
232. Whilst around 53% of this supply is from sites with planning permission (6763 dwellings), about 41% is from proposed allocated sites within the emerging CLLP (5201 dwellings) and approximately 6% from windfall sites (748 dwellings).
233. It is clear from my reading of paragraph 47 and associated footnote 11 of the Framework, that it is the responsibility of local planning authorities to provide sufficiently robust evidence on housing land supply to demonstrate that sites are deliverable. Whilst I recognise that such evidence must be proportionate to the task, footnote 11 of paragraph 47 indicates that to be deliverable, sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect of being delivered within the 5 year period.
234. The evidence shows that a number of the proposed allocated sites within the 5YHLS have outstanding objections. Whilst there is disagreement over the exact amount of dwellings these sites would contribute to the 5YHLS the Council's calculated figure of around 1831 dwellings is significant.
235. In accordance with the judgement set out in Wainhomes I accept that inclusion of these sites by the Council is some evidence that they are deliverable. I also recognise that other sites with objections have⁶³ been removed from the 5YHLS. However the objection and status information provided by the Council for each of these allocated sites does not include clear details as to the number, nature and severity of the objections. It also does not provide definitive evidence as to whether there is any developer interest. As such I consider the information provided is limited, resulting in a level of uncertainty over their allocation and deliverability.
236. Taking these matters into account, together with the fact that the sites and any objections are be considered through the CLLP examination process and therefore are likely to change, I am not satisfied that all of these sites will come forward within the 5YHLS period.
237. As regards windfalls, the Framework clearly indicates that such an allowance within the 5YHLS is acceptable and their inclusion can be justified if there is *"compelling evidence that such sites have consistently become available in the*

⁶³ 1Q6

local area and will continue to provide a reliable source of supply". However this should be based on historic delivery rates [137].

238. Whilst evidence has been provided on past windfall delivery within Lincoln [67], no such evidence is before me regarding small and medium villages. Whilst the Council suggests a windfall supply of 448 dwellings over 4 years for these settlements, this appears to be based on policy and no substantive historic delivery evidence has been provided to support the figure [68, 138]. As no compelling evidence has been provided, these windfall figures do not accord with the Framework. Furthermore it has not been demonstrated to me that this housing supply would be deliverable in the future. Consequently I give limited weight to windfall figures for small and medium villages.
239. I note the Council's reference to other potential windfall sites within other parts of the plan area coming forward for development, not included in the housing land supply [68]. However no evidence has been provided to support this or that such sites will continue to come forward and I therefore also give this limited weight.
240. The Council accepts that it has persistently under delivered housing. The lack of a lapse rate is therefore surprising. Whilst the Council suggests that the supply does not rely on all potential sources [70], evidence to support the claim that these other sources will continue to come forward is not provided. As such, based on the available evidence, a 10% lapse rate would appear to be entirely reasonable in this instance, to ensure robustness in the housing land supply figure [134].

Conclusions on 5YHLS

241. I conclude that the Council has not presented sufficient evidence to this Inquiry to demonstrate that it has a 5YHLS. My conclusions regarding the delivery of the large number of sites that are currently unallocated, do not have planning permission and have unresolved objections, leave me with serious concerns that a five year supply of deliverable housing sites is currently not available. This is further enhanced by the Council's reliance on windfalls and the lack of a lapse rate.
242. Based on the evidence that is before me it is not possible to determine what the precise figure would be for the housing land supply. No definitive figure was provided by the Appellant at the Inquiry. However the 5.02 year supply is marginal and only provides a surplus of 50 dwellings. Clearly taking in to account reductions for some of the allocated sites and windfall sites and including a lapse rate would result in a housing land supply of less than 4 years. Even if the land supply was only reduced by one of these elements it would still result in an overall supply which would be below 5 years.
243. Accordingly I consider that the Council, for the purposes of this Inquiry, is unable to demonstrate a 5 year supply of deliverable housing site. My conclusions are based on the evidence before me and do not seek to prejudge the outcome of the CLLP examination process. In accordance with paragraph 49 of the Framework I therefore conclude that policies for the supply of housing are out-of-date and paragraph 14 of the Framework is engaged. This is considered further as part of the overall planning balance below.

Other matters

244. The proposal would provide up to 65 dwellings comprising of market housing and 40% affordable housing which would contribute towards the shortfall in housing within the district, particularly the unmet need for affordable housing, and overall boost the supply of housing. It was agreed between the main parties that these would be significant benefits [35]. Consequently I accord them significant weight. The delivery of housing would provide construction work and bring value to the local economy [168].
245. It is also claimed that the proposed scheme would include other social and environmental benefits including the provision of around 1.1 ha of public open space with increased public access to the adjacent open field to the west; the potential for enhanced biodiversity; the maintenance of trees and hedgerows; and increased planting/landscaping [168]. Overall, I give these matters moderate weight.
246. Whilst the provision of funding through the New Homes Bonus is referred to by the Appellant⁶⁴ this cannot be guaranteed and therefore carries no weight.
247. I have also considered the matters raised by interested persons/parties either at the Inquiry or through written submissions which have not already been addressed in my Report [175-183].
248. The highway concerns relating to increased traffic, the new vehicular access, car parking and pedestrian safety on the roads close to the appeal site, expressed by local residents, are not supported by the Council or Highway Authority. In addition whilst I note the concerns raised about the impact on local infrastructure, the Council and relevant infrastructure providers have not objected to the proposals, subject, in some respects, to the provision of planning obligations. Having considered the supporting documentation and evidence before me and taking into account my observations on site I have no reason to disagree with these conclusions.
249. Furthermore concerns about the pond, trees, noise and overlooking could be addressed by the imposition of suitable conditions or through careful consideration of design and layout at the detailed reserved matters stage. As I find no material harm on these matters they carry limited weight.

The Planning Balance

250. I have concluded that the Council cannot, in this instance, demonstrate a 5 year supply of deliverable housing sites and the relevant development plan policies are out-of-date. It therefore falls on the application of paragraph 14 of the Framework to determine whether the appeal proposal is sustainable development in this context. This indicates that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
251. I acknowledge that the proposal would provide significant economic and social benefits through the provision of market and affordable housing. The gains in housing delivery would contribute to both the current shortfall and the unmet need for affordable housing. The development would provide employment

⁶⁴ Mr Braithwaite's proof of evidence Appendix B

through construction and it would bring value to the local economy. The housing would be in a sustainable location and there would be good access to local facilities and services.

252. The scheme would also provide education and primary care health planning obligations. However these would be required to mitigate the impact of the development on local services and would not in themselves be additional benefits. As such and taking in to account the other relevant provisions proposed I consider the planning obligations only have limited weight.
253. In environmental terms, despite the lack of significance in terms of the site's landscape value, the loss of this land is of concern due to its location within an undeveloped break. Whilst the development would not result in the villages of Dunholme and Welton physically joining together, the erosion of this small gap along Ryland Road would have the effect of increasing the perception of the settlements being to merge. This would be experienced along the highway and from adjacent public footpaths. Whilst some environmental improvements are proposed as benefits to the scheme, to which I accord some moderate weight, I conclude overall that there would be environmental harm.
254. I have concluded that the proposal would be contrary to LP Policy STRAT12 as the site is outside the settlement boundary and located within open countryside. It was agreed at the Inquiry that this is a policy for the supply of housing. As such this policy is out-of-date. As the Council agrees that housing growth is not achievable within these defined boundaries I concur with the view that Policy STRAT12 should have reduced weight.
255. By contrast, STRAT13 is not simply a policy which restrains development as it seeks to retain a sense of separation between settlements and maintain individual village identities. Accordingly whilst I accept that the spatial element of this policy is out-of-date, the purpose of the policy is still consistent with the Framework. I have concluded in this respect that the appeal proposal would result in the significant and harmful erosion of the undeveloped break which would be of a permanent effect.
256. In the same way the development would conflict with the purposes of the proposed green wedge as set out in emerging Policy LP22 of the CLLP. Whilst this plan has yet to be adopted, it is currently at examination and is therefore at an advanced stage and carries significant weight.
257. Furthermore the appeal proposal would be contrary to Policy 11 of the emerging DNP which designates the site as part of a green wedge. Whilst this plan is also yet to be examined, it has been formally submitted to the Council and is therefore at a fairly advanced stage. Policy 11 has been prepared in line with Policy LP22 of the emerging CLLP. It is a clear core planning principle of the Framework that planning should be genuinely plan led, empowering local people to shape their locality through the production of local and neighbourhood plans which set out clear and positive visions for their area. This policy also carries significant weight.
258. Overall I consider that the environmental harm identified significantly and demonstrably outweighs the benefits. I conclude overall that the proposal would not be compliant with the development plan and Framework when considered as a whole and therefore cannot be considered sustainable development.

Recommendation

259. I recommend that the appeal be dismissed.

260. In the event that this recommendation is not accepted, and planning permission is granted, I recommend that the conditions at Annex A be imposed.

Y Wright

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Stephanie Hall, Barrister at Francis Taylor Building Chambers
Instructed by Lincolnshire Legal Services

She called:

Mr Philip Hylton
BA(Hons) MSc MRTPI

Planning Officer, Central Lincolnshire Local
Plan Team

Mr Russell Clarkson
BA(Hons) Dip TP MRTPI

Principal Development Management
Officer, West Lindsey District Council

FOR THE APPELLANT:

Mr Peter Goatley, Barrister at No5 Chambers
Instructed by Robert Doughty of Robert Doughty Consultancy Limited

He called:

Miss Wendy Buckingham
BA(Hons) MPhil CMLI MIEMA

Landscape Consultant, Robert Doughty
Consultancy Limited

Mr Michael Braithwaite
BA(Hons) Cert UED MRTPI

Planning Consultant, Robert Doughty
Consultancy Limited

INTERESTED PARTIES:

Mrs Angela Hopson

Local resident and governor of St Chad's
Church of England Primary School

Mr Gary Waite

Fire Safety Inspector, Lincolnshire Fire and
Rescue Service

Mr Rex Gregson

Councillor, Dunholme Parish Council

Mrs Annette Lumb

NHS England

DOCUMENTS SUBMITTED AT THE INQUIRY:

- IQ1 List of appellants witnesses
- IQ2 Agreed Statement of Common Ground
- IQ3 CLLP Examination – Initial questions from the Inspectors (26 July 2016) and the Committee's response to those questions (15 August 2016)
- IQ4 CLLP Examination Inspectors' initial question 11 response (addendum)
- IQ5 Additional statement of West Lindsey District Council in respect of CIL regulation compliance of a s106 agreement
- IQ6 CLLP Central Lincolnshire Five Year Land Support Report 1 April 2017 to 31 March 2022 (September 2016)
- IQ7 Appeal decision APP/R2520/W/16/3150595
- IQ8 Council's 5 year land supply update note
- IQ9 Appendix 1 – list of sites included in the Council's five year housing land supply
- IQ10 Appellant's opening statement
- IQ11 Council's opening statement
- IQ12 Lincolnshire Fire and Rescue letter dated 13 September 2016
- IQ13 Dunholme Neighbourhood Development Plan Submission Version September 2016
- IQ14 Council's revised table 3 from the CLLP Central Lincolnshire Five Year Land Support Report 1 April 2017 to 31 March 2022 (IQ6)
- IQ15 Council table indicating the relationship between the interim 5 year land supply update (IQ8) and the September 2016 5 year land supply report (IQ6)
- IQ16 Letter from Head teacher of the Dunholme St Chad's Church of England Primary School
- IQ17 Email correspondence dated 31 August 2016 regarding Dunholme St Chad's Church of England Primary School
- IQ18 Letter dated 2 September 2016 from Lincolnshire County Council Director of Children's Services regarding s106 funding
- IQ19 Council's closing submissions
- IQ20 Appellant's closing submissions
- IQ21 Section 106 Agreement

CORE DOCUMENTS:

- CD1 National Planning Policy Framework
- CD2 Extracts from Planning Practice Guidance
- CD3 Excerpts from West Lindsey Local Plan First Review, 2006
- CD4 Saved policies and Government Direction letter, June 2009

-
- CD5 Proposed submission Central Lincolnshire Local Plan, April 2016
 - CD6 Central Lincolnshire Local Development Scheme, June 2015
 - CD7 Regulation 22(3) Notice of submission of CLLP
 - CD8 Proposed submission consultation: Report on key issues raised, June 2016
 - CD9 Welton-by-Lincoln Neighbourhood Plan 2015-2035, July 2016
 - CD10 Welton-by-Lincoln Neighbourhood Plan Examiners Report, June 2016
 - CD11 Draft Dunholme Neighbourhood Plan Consultation Document, June 2016
 - CD12 Central Lincolnshire Five Year Land Supply Report (Republished 3 May 2016) – superseded at the Inquiry by IQ6, 8, 9, 14 and 15
 - CD13 Strategic Housing Market assessment, July 2015
 - CD14 Appeal decision APP/N2535/A/13/2207053 Land west of Ryland Road Dunholme, June 2014
 - CD15 Appeal decisions APP/N2535/W/16/3145353 Land adjacent to Dunholme Close, Welton, June 2016 and APP/N2535/W/16/3145351 Land south of Dunholme Close Welton, June 2016
 - CD16 R (Hampton Bishop PC) v Herefordshire Council [2014] EWCA Civ 878
 - CD17 Richborough Estates v Cheshire East Council [2016] EWCv 168
 - CD18 Wainhomes (South West) Holdings Ltd v SSCLG [2013] EWHC 597 (Admin)
 - CD19 Kings Lynn BC v SSCLG [2015] EWHC 2464
 - CD20 St Modwen Developments Ltd v SSCLG & East Riding [2016] EWHC 968 (Admin)
 - CD21 St Albans v Hunston Properties Limited and the SSCLG [2013] EWCA Civ 1610
 - CD22 Planning application forms
 - CD23 Drawing 606-10-A-MP01 revision C – Masterplan
 - CD24 Landscape and Visual Impact Assessment (606 10 LV1a/wb/FV), November 2015
 - CD25 Report to Planning Committee 26 August 2015
 - CD26 Minutes of the 26 August 2015 Planning Committee
 - CD27 West Lindsey District Council, 1999, The West Lindsey Landscape Character assessment (extracts only: Introduction pages 1-12 and the Lincoln Fringe Landscape Character Type
 - CD28 Natural England 2013 National Character Area Profile 45, Northern Lincolnshire Edge with Coversands

- CD29 The East Midlands Regional Landscape Character Assessment April 2010, Landscape Character Type 4a, Unwooded Vales
- CD30 Welton-by-Lincoln Landscape Character Assessment January 2016
- CD31 Central Lincolnshire Green Wedge and Settlement Breaks Review, Updated April 2016, Welton to Dunholme extract pages 55-57
- CD32 Countryside Agency and Scottish National Heritage 2000, Landscape Character Assessment: Guidance for England and Scotland
- CD33 Landscape Institute 2011, Photography and Photomontage in Landscape and Visual Impact Assessment, Advice Note 01/11
- CD34 Landscape Institute and Institute for Environmental Management and Assessment 2013: Guidance for Landscape and Visual Impact Assessment Third Edition

SUGGESTED PLANNING CONDITIONS

APPENDIX A

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission.
2. No development shall take place in each phase of the development until plans and particulars of the layout, scale and appearance of the buildings to be erected, and the landscaping of the site (hereinafter called "the reserved matters"), have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with those details.
3. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved, or, in the case of approval on different dates, the final approval of the last such matter to be approved.
4. The details to be submitted in accordance with Condition No 2 above shall include a Landscape Management Plan setting out management responsibilities and maintenance schedules for all landscaped areas inclusive of trees, hedges, ditches, and balancing ponds; a Biodiversity Enhancement Scheme setting out measures for habitat creation and management; including the provision of bat roosts and bird boxes. The approved details shall be implemented on site prior to the completion of each phase of the development.
5. No dwelling shall be commenced until a construction management plan has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - (i) the routing and management of construction traffic;
 - (ii) the parking of vehicles of site operatives and visitors;
 - (iii) loading and unloading of plant and materials;
 - (iv) storage of plant and materials used in constructing the development;
 - (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (vi) wheel cleaning facilities;
 - (vii) measures to control the emission of dust and dirt during construction;
 - (viii) details of noise reduction measures;
 - (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - (x) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
 - (xi) measures for tree and hedgerow protection;
 - (xii) a Construction Environmental Management Plan (CEMP) to ensure the protection of any habitats and protected species.
6. All construction shall be in accordance with the approved Management Plan required by this condition.

7. No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:
 - a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
 - b) Provide attenuation details and discharge rates which shall be restricted to 13 litres per second;
 - c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
 - d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

8. Prior to the commencement of development, a report detailing further ground investigations into Trial Pit 1 as identified in the Phase I & II Ground Investigation Report, shall be submitted to and agreed in writing with, the Local planning authority. The report shall include details for remediation if required. Development shall thereafter proceed in accordance with the agreed details.
9. No dwelling hereby permitted shall be occupied unless the necessary remedial works to the culvert under Ryland Road leading to Dunholme Beck, identified in section 6.10 of the Flood Risk Assessment has been carried out. The surface water system should not be connected to the culvert unless written confirmation that the culvert is fully functional has been submitted to the local planning authority.
10. Notwithstanding the details submitted, no development hereby permitted shall take place until a report detailing ground investigations into the Spoil Heaps and Bunds, as identified at appendix D (Topographical Survey) to the Flood Risk Assessment, has been submitted to and agreed in writing with, the Local Planning Authority. The report shall include details for remediation if required. Development shall thereafter proceed in accordance with the agreed details.
11. If during the course of development, contamination not previously identified is found to be present on the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.

12. No development hereby permitted shall commence until a tree constraints plan has been submitted to, and agreed in writing with, the Local Planning Authority. The final site layout should accord with the findings of the agreed Tree Constraints Plan.
13. No dwelling hereby approved shall be occupied until a residential travel plan has been implemented the details of which shall have been previously submitted to and approved in writing by the local planning authority.
14. Access shall be provided in accordance with drawing 130920-02 rev.A at appendix C of the Transport Statement.
15. No dwelling hereby permitted shall be occupied unless a 2 metre wide frontage footway, connecting to the existing footway within Ryland Road, has been provided.
16. The school car park shall not be brought into use, unless details of the pedestrian link, including visibility splays and the provision of an uncontrolled pedestrian cross over point (with tactile surfacing) have been submitted to and agreed in writing with the Local Planning Authority, and implemented in accordance with the approved details.
17. No dwelling hereby permitted shall be occupied unless details of the acoustic fence as recommended at section 5.0 of the Noise Impact Assessment, have been submitted to and agreed in writing with the Local Planning Authority and thereafter been fully implemented in accordance with the agreed details.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

This page is intentionally left blank



Department for
Communities and
Local Government

Our ref: APP/N2535/W/16/3152022

James Rigby
Globe Consultants Limited
The Tithe Barn
Greestone Place
Lincoln
LN2 1PP

06 July 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY JACKSON & JACKSON DEVELOPMENTS LTD
LAND OFF WEIR FARM PADDOCK, SCOTHERN, LINCS, LN2 2XD
APPLICATION REF: 133708**

1. I am directed by the Secretary of State to say that consideration has been given to the report of John Felgate BA(Hons) MA MRTPI who held a hearing on 25 October 2016 into your client's appeal against the decision of West Lindsey District Council ("the Council") to refuse planning permission for your client's application for outline planning permission for the erection of 36 dwellings including provision for 9 affordable homes with all matters reserved except for access, in accordance with application ref: 133708, dated 6 November 2015.
2. On 19 October 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted subject to conditions.
4. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions, except where stated, and disagrees with the Inspector's recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

5. On 15 February 2017 the Secretary of State wrote to the main parties to afford them an opportunity to comment on the fact that the Scothern Neighbourhood Development Plan (SNDP) had been formally "made" and on the publication of the Proposed Main Modifications to the emerging Central Lincolnshire Local Plan (CLLP). You submitted

representations on behalf of your client on 13 March 2017 and representations were also received from Scothern Parish Council dated 12 March 2017. These were circulated to the main parties on 17 March 2017; and a response from the Council dated 23 March 2017 was circulated on 28 March 2017. The Secretary of State wrote again to the main parties on 13 April 2017 to afford them an opportunity to comment on the publication of the final Inspector's Report on the CLLP. You submitted representations on behalf of your client dated 25 April 2017, and representations were also received from the Council and Scothern Parish Council, both dated 25 April 2017. These were all circulated to the main parties on 4 May 2017.

6. The Secretary of State received a further representation from Scothern Parish Council on 16 May 2017, but he is satisfied that no further issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties.
7. Copies of all the correspondence referred to above may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan consists of the CLLP, adopted on 24 April 2017, and the SNDP, made on 23 January 2017. The Secretary of State considers that the development plan policies of most relevance to this case are CLLP policies LP2, 3 and 4 and SNDP policies S1 and H1.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance') and the final Report by the CLLP Examining Inspectors.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR123.

The 5-year housing land supply

12. As the final Examining Inspectors' Report into the CLLP has been published and the CLLP has been adopted since the hearing into the appeal closed, the Secretary of State has given very careful consideration to that Report and to the responses received from the parties to this appeal as described in paragraph 5 above. In particular, he has taken account of the conclusion in paragraph 228 of that Report that, although there is a five-year housing requirement of 10,141 (2,028dpa), there is a good prospect of an up-to-date supply of specific deliverable sites sufficient to provide five years' worth of housing against the requirements of the plan upon adoption. On that basis, the Secretary of State is satisfied that there is a five year housing land supply across the CLLP area, and so he gives no weight to the appeal Inspector's conclusions on the 5 year housing land supply as set out at IR124-132 or the relationship with the now superseded West Lindsey local plan (IR133-138).

Compatibility with policies for the scale and location of development

13. The Secretary of State notes that the appeal Inspector considered that the scheme would conflict with Policies LP2 and LP4 of what was then the emerging CLLP, as it would exceed the proposed size limit for individual developments in a Medium Village (which is what Scothern would become); and that the proposed 10% growth limit in Medium Villages had already been exceeded (IR139). As the CLLP has now been adopted, the Secretary of State considers that adopted Policies LP2 and LP4 should both be given full weight as should the conflict with them; but he agrees with the Inspector (IR142) that any conflict with Policy LP3 would be insignificant and so he gives it less weight.
14. The Secretary of State has gone on to consider whether there is any conflict between the appeal scheme and the SNDP (IR143-146). He notes that the appeal site lies outside the SNDP area, so that it is not one of those identified in policy H1. He also notes the Inspector's argument at IR144 about Policy S1 not implying a presumption against development on unallocated sites. However, having regard to the conclusion in paragraph 12 above on the adequacy of the overall housing land supply position, the Secretary of State gives little weight to that argument.
15. Overall, therefore, the Secretary of State concludes that the appeal scheme would be in conflict with the adopted CLLP and the made SNDP. He has therefore gone on to consider whether there are any material considerations which might outweigh this.

Effects on local services and community vitality

16. The Secretary of State has carefully considered the Inspector's reasoning and conclusions on the adequacy of existing local facilities and services (IR152-157); the development's effects on local facilities and services (IR158-166); and the effects on community vitality and cohesion (IR167-172). The Secretary of State agrees with the Inspector that there is no evidence to support a refusal of planning permission based on any issues with regard to the availability of local services or the effects on such services or on the rural community life in Scothern. He agrees with the Inspector that, if the development were to have any noticeable effect at all in these respects, that would be beneficial in terms of providing support for local community groups (IR173), a factor to which he give moderate weight in favour of the scheme.

Other matters

17. For the reasons given at IR174-176, the Secretary of State agrees with the Inspector that development of the scale now proposed would not appear intrusive in the landscape; that there is no evidence that the development would give rise to any adverse traffic impacts; and that the proposed drainage system is a matter which can be secured by condition. He further agrees with the Inspector that the addition of 36 dwellings, 9 of which would be affordable, would be beneficial, both socially and economically, and that there would be economic benefits in supporting rural communities and building a strong, competitive national economy (IR177-178).
18. The Secretary of State has also taken account of the Inspector's consideration at IR179 of the previous Inspector's objection on grounds of character and appearance. He agrees with the current Inspector that such concerns could be dealt with satisfactorily at the detailed design stage, but he also agrees with the current Inspector that planning circumstances have changed since that earlier decision. Indeed, as set out above, the

proposed development would be in conflict with both the adopted CLLP and the made SDNP.

Planning conditions

19. The Secretary of State has given consideration to the Inspector's analysis at IR115-122, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

20. Having had regard to the Inspector's analysis at IR113-114, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR113 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework, and would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

21. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies LP2, LP3 and LP4 of the CLLP or policies H1 and S1 of the SDNP and is not in accordance with the development plan overall. Nevertheless the Secretary of State has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

22. The Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development, which includes economic, social and environmental dimensions. In this appeal there would be social and economic benefits from the addition of 36 dwellings, 9 of which would be affordable; and further economic benefits in supporting rural communities and building a strong, competitive national economy. These factors attract significant weight in favour of the proposal.

23. Overall, however, the Secretary of State is satisfied that, as the Council can now demonstrate a 5 year housing land supply, the appeal scheme would conflict with the development plan as a whole and, taking account of paragraph 198 of the Framework, the Secretary of State concludes that the weight to be given to the material considerations considered at paragraphs 16 and 17 above is insufficient to indicate that permission should be granted.

Formal decision

24. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline planning permission for the erection of 36 dwellings

including provision for 9 affordable homes, with all matters reserved except for access, in accordance with application ref: 133708, dated 6 November 2015.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
26. Copies of this letter have been sent to West Lindsey District Council and Scothern Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf



Report to the Secretary of State for Communities and Local Government

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 18 January 2017

TOWN & COUNTRY PLANNING ACT 1990

WEST LINDSEY DISTRICT COUNCIL

APPEAL BY:

JACKSON & JACKSON DEVELOPMENTS LTD

Hearing held on 25 October 2016

Land off Weir Farm Paddock, Scothern, Lincs LN2 2XD

File Ref: APP/N2535/W/16/3152022

File Ref: APP/N2535/W/16/3152022
Land off Weir Farm Paddock, Scothern, Lincs LN2 2XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Jackson & Jackson Developments Ltd against the decision of West Lindsey District Council.
- The application Ref 133708, dated 6 November 2015, was refused by notice dated 3 June 2016.
- The development proposed is "erection of 36 dwellings including provision for 9 affordable homes".

Summary of Recommendation:

That planning permission be granted subject to conditions

Procedural Matters

1. The application sought outline planning permission with all matters reserved except for access. In so far as the submitted plans include details relating to appearance, landscaping, layout, or scale, it is agreed that these are illustrative.
2. A Section 106 agreement has been entered into by the relevant parties, including the District Council and Lincolnshire County Council. The agreement provides for affordable housing and an education contribution.
3. The appeal was initially to be determined under the written representations procedure, as requested by both the main parties. On 26 August the Planning Inspectorate notified the parties that the procedure would be changed to a hearing, because it was considered that there would be a need for some of the evidence to be tested through questioning by the appointed Inspector.
4. On 19 October 2016, the Secretary of State directed that the appeal was to be recovered for his own determination. The reason for this Direction was that the appeal involved a proposal for residential development of over 25 units in an area where a qualifying body had submitted a proposal for a neighbourhood plan.
5. The hearing sat for one day, on 25 October 2016. I conducted unaccompanied site visits on 24 and 25 October 2016. It was agreed at the hearing that no accompanied visit was needed.
6. In November 2016, after the close of the hearing, the Examiner's Report on the Scothern Neighbourhood Plan (SNP) was issued¹. An opportunity was provided for further written representations on this document.
7. At about the same time, the judgement of the High Court was issued in the case of *Shropshire Council v SoS for Communities & Local Government, BDW Trading Ltd and Others [2016] EWHC 2733 (Admin)*². A further opportunity was provided for written comments in the light of this judgement.
8. On 12 December 2016, the Minister of State for Housing and Planning issued a Written Ministerial Statement (WMS) relating to neighbourhood planning. The parties were again invited to comment on any matters arising from this statement.

¹ Doc. 6: SNP Examiner's 'fact check' report, issued 4 November 2016; and Doc. 9: final report, issued 7 November

² Doc. 14: Shropshire Council judgement

The Site and Surroundings

9. Scothern is a village with a current population of around 900³, set within gently undulating farmland, about 3 miles (5km) by road from the edge of Lincoln. It has a primary school (the Ellison Boulters Academy), a village hall, the 'Bottle & Glass' public house, two churches, a garden centre, and a recreation ground with football and cricket pitches and a tennis court. Bus services run to Lincoln and other nearby service centres.
10. The appeal site is a roughly rectangular field of just under 2 hectares, on the village's northern edge. Its three outer boundaries are enclosed by trees, hedges and woodland. The land slopes slightly upwards away from the village⁴.
11. On its southern boundary, the site adjoins two existing cul-de-sacs, Weir Farm Paddock and Lime Tree Paddock. To the west is the village playing field. To the east, and beyond the small woodland to the north, are arable fields.
12. Vehicular and pedestrian access is available from Weir Farm Paddock. The existing cul-de-sac is laid out to modern highway standards, with a 5.5m carriageway, radiused kerbs, and footways on either side.
13. A public footpath crosses the site, from the south-west corner to the northern boundary. The present alignment departs slightly from the route marked on the definitive map, but its entry and exit points are correct. The path continues through the woodland, connecting with a wider network of local footpaths beyond.

Planning History

14. A previous appeal relating to the same site was dismissed in March 2016⁵. The proposal on that occasion was for full detailed permission for 33 dwellings, plus outline permission for a further 2 self-build plots.
15. The inspector considered that the main issue was whether the scheme constituted sustainable development, having regard to: the effects on character and appearance; the availability of local services and infrastructure; and the effects on best and most versatile agricultural land.
16. In concluding on these issues, the inspector found that the appeal site was a suitable location for housing, having regard for the availability of local services, and would not have a significant adverse impact on local infrastructure, subject to the mitigation proposed in the submitted undertaking. He also found no conflict with any policies for the protection of agricultural land.
17. However, the inspector found that the design and scale of some of the proposed dwellings would be out of keeping with the village, detracting from its character and appearance, and on this basis he concluded that the development would not be sustainable.

³ In the 2011 Census, the parish population was 860

⁴ Photographs of the site can be seen at Doc. No 5

⁵ APP/N2535/W/15/3138200; appellants' Statement of Case (Sept 2016) - Appendix 2

Planning Policy

The West Lindsey Local Plan First Review (WLLP), adopted June 2006

18. At the date of completing this report, the Development Plan comprises the saved policies of the WLLP.
19. Policy STRAT 3 defines a settlement hierarchy, the purpose of which is stated to be to ensure that developments are appropriately located. Scothern is identified as a Primary Rural Settlement, in the hierarchy's second tier. Such settlements are described as "*key service centres, meeting most of residents' day to day needs, and of those villages in its rural hinterland*". The appeal site is adjacent to, but outside, the defined settlement boundary⁶.
20. The Council's refusal reason relies on Policies STRAT 9 and STRAT 12. Policy STRAT 9 sets out a sequential approach to the release of land for housing, prioritising previously developed land (categories A-C), then greenfield land which provides for economic regeneration (category D), and lastly other greenfield sites (E). The policy goes on to state that decisions will have regard to the land supply situation, and the need for a balance between greenfield and brownfield sites.
21. Policy STRAT 12 provides that development outside of settlements will not be permitted, except for certain limited exceptions, none of which are relevant to this appeal. Paragraph A96 of the supporting text states that the purpose of the policy is to conserve the open countryside for, amongst other things, its beauty, its landscape, its natural resources and its biodiversity.
22. At the hearing, my attention was also drawn by other parties to various other WLLP policies. Amongst these, Policy NBE 10 gives high priority to conserving the district's landscapes, and their character and amenity value. And Policy NBE 20 seeks to protect the rural character of the edges of settlements, and to ensure that development in such locations respects and maintains their existing character and appearance.

The emerging Central Lincolnshire Local Plan (CLLP), submission draft April 2016

23. The draft CLLP is a joint local plan covering the districts of West Lindsey and North Kesteven, and the City of Lincoln. The plan was submitted in June 2016. As at the date of the present hearing, the examination was in progress, but the examination has subsequently closed⁷, and the Examining Inspectors' report is awaited.
24. Draft Policy LP2 sets out the proposed spatial strategy and settlement hierarchy. Scothern is proposed to be classified as a Medium Village, which is the fifth tier of the hierarchy. Medium Villages are to accommodate a limited amount of development, to support their function or sustainability. Typically, developments will be up to 9 dwellings, or exceptionally up to 25 dwellings where justified by local circumstances.

⁶ Doc. 4: WLLP Proposals Map

⁷ Doc. 23: Council's email dated 16 December 2016

25. Draft Policy LP3 sets out the proposed levels and broad distribution of growth for the period to 2036. About 88% of the new development required is proposed to go to the three largest towns, with the remaining 12% spread between the smaller settlements including Scothern.
26. Draft Policy LP4 states that most Medium and Small Villages (categories 5 and 6), including Scothern, will be permitted to grow by 10% over the plan period (2012-36). The policy goes on to state that cumulative development above this level will require evidence of support from the local community.
27. The draft CLLP does not propose any settlement boundaries.
28. Policies LP 2, 3 and 4 are subject to unresolved objections, including objections made by the present appellants⁸.

The emerging Scothern Neighbourhood Plan (SNP), July 2016

29. The draft SNP was submitted for examination in September 2016. The Examiner's report has now been published⁹, and the recommended modifications have been accepted by the Parish's plan-making body¹⁰. A local referendum is scheduled for 19 January 2017¹¹.
30. The plan's aims are to retain the village's distinctiveness and high quality environment; to meet the housing needs of current and future residents; and to sustain a thriving community.
31. Draft Policy S1, as modified, requires all development to be focussed within the built up area. The plan does not define a settlement boundary, but the supporting text states that the built up area is defined as the village's continuous built form.
32. Draft Policy H1 allocates three sites for housing, with a stated total capacity of 71 dwellings. The supporting text notes that all of these sites now have planning permission¹².

The Appeal Proposal

33. The present proposal differs from the previous appeal in that all detailed matters, except access, are reserved. The proposed access would pass through the existing turning head and parking area in Weir Farm Paddock. It would require some minor alterations to the existing highway layout, primarily relating to footways, kerbing and road markings¹³. These details are not objected to by the Highway Authority or others.
34. The illustrative Block Plan and Scale Parameters Plan show how a development of 36 dwellings, comprising 1 and 2-storey houses, might be accommodated on the site. The dwellings are shown grouped around a central landscaped pond, which would serve to attenuate surface water drainage flows. The

⁸ Appellants' Statement of Case (Sept 2016) - Appendices 8 and 9: objections to draft CLLP policies

⁹ Doc. 9: SNP Examiner's final report

¹⁰ Doc 23: Council's email dated 16 December 2016; and Doc. 25: SNP incorporating Examiner's modifications, Dec 2016

¹¹ Doc.19 (notice of local referendum)

¹² At the time of my site visit, development at the Heath Road site (30 units) was under way; the other allocated sites were not started

¹³ Drawing No. SCP/14942/001 (Appendix 5 to the Transport Statement): proposed site access

suggested layout would also preserve a footpath route through the site, roughly along the line of the designated public footpath.

Agreed Matters

35. The Statement of Common Ground confirms that the Council takes no issue with regard to drainage and flood risk, highway and traffic matters, ecology and protected species, archaeology, residential amenity, or any effects on public rights of way.
36. In its submissions at the hearing, it was also confirmed that the Council takes no issue with regard to any impacts on the character or appearance of the settlement, or of the surrounding countryside or landscape, or with regard to the loss of agricultural land.
37. Some of these issues are however raised in the submissions of other interested parties, and I have addressed them accordingly.

The Case for the Appellants

The appeal site's suitability for development

38. The appellants argue that the appeal site is a good location for the proposed development. The site is within easy walking distance from all of the main facilities within Scothern, including the primary school, village hall, playing field, churches and pub. It is also within cycling distance, or a short bus ride, from a choice of convenience shops, doctors' surgeries, and employment opportunities, which are available in the neighbouring villages of Nettleham, Welton, Dunholme and Sudbrooke, or on the fringes of Lincoln¹⁴. Welton is also the location of the William Farr Secondary School.
39. Bus services on route no 11/11A, connecting Scothern with Nettleham, Welton and Lincoln, run hourly throughout the day, from 06.45. Services linking with other villages also pass through Scothern daily, albeit less frequently. The bus stop in Main Road is convenient for the appeal site¹⁵.
40. The site benefits from a strong existing landscape framework to its outer boundaries, which could be retained and reinforced if necessary. Consequently it is well screened from inward views.
41. The Inspector in the previous appeal found the site suitable for development, and supported that scheme in principle, although not the detailed design as then proposed.

The merits of the scheme

42. In the appellants' view, the Inspector's concerns regarding the previous scheme were centred on certain specific plots and proposed units, and in particular their height, scale and roof forms. It is contended that the present outline proposal overcomes these concerns, by showing how the site could be developed using only one-and two-storey buildings, including 'dormer bungalows', of more modest proportions¹⁶.

¹⁴ Appellants' Statement of Case, paras 5.6.2 – 5.6.6

¹⁵ Appellants' Statement of Case, para 5.6.8

¹⁶ Appellants' Statement of Case, paras 6.0.1 – 6.0.7; and Appendices 3 and 4 (application correspondence); and Appendix 5 (Integrated Planning Statement); and illustrative plans Nos 8001, 8100 and 2220A

43. These types of dwellings could be sympathetically designed, using local vernacular styles, and traditional design features. The individual building heights could be kept to less than 8.1m for the 2-storey houses, and no more than about 6.2m for those with a single-storey.
44. It is also stated that the illustrative plans show how the development could be laid out to create an attractive and high quality residential environment, respecting the local context. In this way, it would enhance the village's character, by creating a sympathetic transition from the existing low-rise development and presenting a soft edge to the countryside.
45. The existing public footpath could be accommodated, without the need for any diversion.

Housing land supply

46. The appellants submit that the Council's assessment of housing land supply is based on figures which have yet to be tested in the CLLP Examination¹⁷. Although the Council's 'objectively assessed need' figure has some regard to the Strategic Housing Market Assessment (SHMA) published in July 2015¹⁸, the actual figure chosen by the Council is towards the lower end of the range suggested in that document¹⁹. In any event, the housing requirement figure also needs to be considered against alternative economic projections and the duty to co-operate with neighbouring authorities.
47. Furthermore, the 20% buffer should be applied to the backlog as well as the basic requirement figure. This adjustment alone would add around 570 dwellings to the requirement, pushing it well above 12,600²⁰.
48. On the supply side, a large proportion of the sites do not have planning permission and are dependent on draft allocations in the emerging CLLP. Their deliverability is therefore open to question²¹. This especially applies to those that are still subject to unresolved objections, understood to be around 1,830 dwellings²². In particular, the appellants voice doubts about the proposed Sustainable Urban Extensions and other strategic sites²³.
49. The relevant CLLP policies are subject to objections, not only by the present appellants but also from many others²⁴. In the case of draft Policy LP3, which proposes to set the level and distribution of housing growth, there were a total of 112 objections at the previous consultation stage in October/November 2015, and a further 44 at the submission draft stage in May 2016. The Inspectors' note in September 2016 raises a large number of questions that are relevant in this context²⁵. In particular, attention is drawn to Matters 2-6, dealing with objectively assessed housing needs, the spatial strategy and housing distribution, proposed housing allocations and land supply.

¹⁷ Appellants' Statement of Case, paras 5.2.6 – 5.2.10

¹⁸ Doc. 17 (the SHMA)

¹⁹ Doc. 16 (Appellants' letter dated 7 December 2016)

²⁰ Oral submissions at the hearing

²¹ Appellants' Appendix 6 (legal opinion)

²² Oral submissions at the hearing

²³ Doc. 16 (Appellants' letter dated 7 December 2016)

²⁴ Appellants' Statement of Case, paras 5.2.14 – 5.2.15 and Appendices 8 and 9 (objections to CLLP)

²⁵ Appellants' Statement of Case, Appendix 25 (Inspectors' list of Matters, Issues and Questions, Sept 2016)

50. The appellants contend that where the requirement figure has not yet been established through the Local Plan process, the weight that is given to it should take account of the quality of the evidence base, the stage that the local plan has reached, and the number and nature of any objections. In this context, attention is drawn to relevant advice in the Planning Practice Guidance (PPG)²⁶, and to the *Wainhomes* judgement²⁷. In the latter case, the Court held that where sites did not benefit from planning permission, and in the absence of other compelling evidence, it was not safe to assume that all such sites would be deliverable.
51. A series of other appeal decisions, spanning the last 12 months, have all found that the Central Lincolnshire area does not have a 5-year land supply²⁸.
52. Overall, it is argued that no robust evidence has been produced to support the Council's land supply assessments. As the CLLP examination progresses, and more detailed evidence is brought forward, the appellants suggest it is likely that the housing requirement will increase, and the deliverable supply will reduce. An adequate 5-year supply has therefore not been demonstrated.

Policy considerations

53. In the light of their submissions as to the lack of a 5-year supply, and having regard to paragraph 49 of the National Planning Policy Framework (the NPPF), the appellants contend that the housing supply policies of the adopted WLLP are out of date, and carry limited weight. These include Policies STRAT 9 and 12, and the plan's spatial strategy. Similar conclusions have been drawn by other inspectors in many of the appeals referred to above²⁹.
54. In any event, the appellants point out that the WLLP has reached the end of its intended plan period, which was to 2016. The plan does not address any development requirements arising after that date, and there is therefore a need to look outside the settlement boundaries as currently defined, if the present and future needs are to be met. Policies STRAT 9 and 12 imply a degree of blanket protection which in these circumstances is not compatible with meeting housing needs. On this basis, the appellants contend that the adopted plan is out of date and inconsistent with the NPPF, irrespective of the current housing land supply position.
55. With regard to the CLLP, in addition to their reservations about housing supply matters, the appellants have made objections to Policies LP2 and LP4, regarding the spatial strategy, housing distribution, and growth levels in villages³⁰. In their view, these objections raise valid questions as to whether the draft policies are consistent with the NPPF, and whether they will be effective in delivering sufficient new housing. If there is not an adequate land supply in the district, it cannot be reasonable to put an arbitrary limit on growth in sustainable locations such as Scothern, as proposed in Policy LP4.

²⁶ PPG 3-030-20140306

²⁷ Appellants' Statement of Case, paras 5.2.10 – 5.2.14; and Appendix 7 (*Wainhomes SW Holdings v SoS* [2013] EWHC 597 (Admin))

²⁸ Appellants' Appendices nos 10 -14, 18, 19, 21, 26 and 27; and Docs 1 and 2

²⁹ As in Footnote 19

³⁰ Appellants' Appendices 8 and (objections to the CLLP)

56. Draft CLLP Policy LP2 is also subject to a large number of other unresolved objections by other parties³¹. All of these objections to Policies LP2 and 4 remain to be considered by the Examining Inspectors. Having regard to NPPF paragraph 216 therefore, these CLLP policies should carry limited weight.
57. Regarding the emerging Neighbourhood Plan, the draft SNP has been examined for conformity primarily against the adopted WLLP, because the emerging CLLP is not yet part of the development plan. In the appellants' submission, if the WLLP is out of date, so must be the SNP. In any event, under NPPF paragraph 49, the SNP's housing policies cannot be up to date if there is not a proven 5-year land supply. These housing policies include Policies S1 and H1. Consequently, limited weight can be attached to these policies.
58. All of the sites allocated in Policy H1 already had planning permission before the Neighbourhood Plan completed its consultation stages. Furthermore, none of the SNP policies defines the approach to be taken to windfall sites, and so the plan does not provide any means of making up a housing shortfall. This further undermines its credibility, and the weight that it can command. But notwithstanding this, both S1 and H1 are primarily permissive, and neither policy rules out development on additional sites such as the appeal site.
59. The principle that even a brand new neighbourhood plan can be out of date as soon as it is made, if it is not based on an up-to-date local plan, has been established in High Court judgements, including the *Woodcock* and *Richborough* cases³². Various SoS appeal decisions have also established that conflict with a neighbourhood plan is not necessarily decisive, where there is an unmet housing need³³.
60. The WMS of December 2016 is noted, but it conflicts with NPPF paragraph 49, in terms of the requirement for a 5-year supply, and with the NPPF aim of boosting housing supply. In addition, the WMS has not been subject to any public consultation. In the appellants' view these shortcomings render the WMS unlawful and vulnerable to legal challenge³⁴.
61. In any event, the SNP is not yet made, and therefore cannot carry full weight.

Benefits and other effects of the proposed development

62. The appellants contend there is no evidence that the development would exceed the capacity of local services, or harm community vitality. Rather, it would help to support the viability of local enterprises. A letter from the proprietor of the local pub supports this view³⁵.
63. The development would also help to meet the District's unmet housing needs, including the provision of 9 units of affordable housing. Letters from potential purchasers and local estate agents confirm that the development would find a ready market³⁶.

³¹ Appellants' Statement of Case, para 5.2.15

³² Appellants' Appendices 28 and 29 (*Woodcock Holdings and Richborough Estates* judgements)

³³ Appellants' Appendices 20 and 30 (*Earls Barton and Lydney SoS* decisions)

³⁴ Doc. 22: appellants' email dated 16 December 2016 re the WMS

³⁵ Appellants' Appendix 15 (Letter from landlord of the 'Bottle & Glass')

³⁶ Appellants' Appendices 16 and 17 (Letters from potential purchasers and agents)

64. The scheme would also have economic benefits in terms of construction jobs, investment, the multiplier effect, Council Tax receipts and new household expenditure. It is argued that most of these sums would stay within the local economy.
65. The appellants argue that the development would protect the character and appearance of the countryside, due to the existing boundary vegetation and topography. It also need cause no harm to the character of the village, if carried out in accordance with the indicative layout and other illustrative details.
66. The development's impact on local education services would be fully mitigated by the proposed contribution, which would provide for additional classroom space at both the local primary and secondary schools. There is no evidence of any other impacts requiring mitigation.
67. Consequently, the appellants suggest the development's benefits outweigh any harm, and any policy conflict, and the presumption in favour of sustainable development therefore applies.

The Case for the District Council

Housing land supply

68. The September 2016 Housing Land Supply (HLS) report for Central Lincolnshire shows a deliverable supply of 5.26 years³⁷.
69. The housing requirement figure is derived from the July 2015 SHMA³⁸, which includes an assessment of full objective need. The requirement includes an allowance for a 20% buffer, due to past under-delivery, and provides for the backlog to be made up within the next five years, in accordance with the 'Sedgefield method'³⁹. On this basis, the Council calculates a 5-year requirement figure, for the period 2017-22, of 12,092 dwellings. Further justification for this level of growth is contained in the 'Level and Distribution of Growth' report, prepared for the CLLP examination⁴⁰.
70. The available supply is set out in Appendix 1 to the September 2016 report, and this shows a 5-year supply of 12,712 units. A large number of these sites, amounting to 7,314 units, have planning permission⁴¹.
71. In addition, the Council has tabled a document entitled 'Update on Sites'⁴². This was produced in response to the Examining Inspectors' questions dated September 2016, but pre-dates the September 2016 HLS report⁴³. It contains a breakdown showing which sites were, or were not, subject to unresolved objections in the CLLP examination. This shows that at that time a further 2,341 units, over and above those with planning permission, could be

³⁷ Council's Appendix C (Housing Land Supply report, Sept 2016).

³⁸ Doc. 17 (the SHMA)

³⁹ The Land Supply report also includes an alternative calculation using the 'Liverpool method', but at the hearing, the Council made it clear they did not wish to rely on that figure

⁴⁰ Council's Appendix D: Policy LP3 Level and Distribution of Growth evidence report, April 2016

⁴¹ Council's Appendix C, Appendix 1: 6,763 units on sites with permission at March 2016, plus 371 permitted since.

⁴² Doc. 3 ('Update on Sites')

⁴³ Doc. 15 (Council's email explaining status and timing of Doc 3)

delivered from draft allocation sites which were uncontested in terms of local plan objections.

72. The Council also anticipates 748 units from windfall sites. In total, the Council estimates that permissions, uncontested sites and windfalls together could provide around 85% of the 5-year requirement.
73. The PPG allows weight to be given to policies in emerging plans, and this must apply equally to draft allocations. All of the sites in this category that the Council relies on have been subject to sustainability appraisals.

Policy considerations

74. Irrespective of the housing supply position, the Council accepts that the adopted WLLP's spatial strategy is out of date, because departures from it are inevitable if housing needs are to be met. This means that some saved policies, including Policy STRAT12, are no longer up to date⁴⁴. Nevertheless, it is argued that while the WLLP remains in force, even those policies which are out of date should still carry some weight, in accordance with the *Hopkins* judgement⁴⁵. Policy STRAT 12 is regarded as consistent with the NPPF's core principles, in so far as it seeks to recognise the countryside's character and beauty, and this partly mitigates any reduction in weight.
75. Policy STRAT 9 is seen as consistent with the NPPF with regard to its emphasis on brownfield land and regeneration.
76. The draft CLLP has been tested through three rounds of public consultation, and several of its housing proposals have now been tested further through planning applications. As such, it is contended that the draft plan carries as much weight as is possible for any plan prior to full adoption.
77. Draft Policy LP2 better reflects the facilities now available at Scothern than the equivalent policies of the adopted WLLP. The village has very limited facilities. The closure of the village shop and Post Office in 1999 has weakened the service base, to the point where the existing village facilities meet few of local residents' everyday needs. Further justification for downgrading the village is contained in the Spatial Strategy and Settlement Hierarchy report⁴⁶. This enhances the weight to be given to LP2.
78. Similarly, draft Policy LP4 is the most up to date guidance available in terms of the appropriate level of growth to maintain and enhance the vitality of rural communities. The justification for this approach is further explained in the 'Growth in Villages' evidence report⁴⁷. In this respect, Policy LP4 reflects the advice in NPPF paragraph 55, and should be afforded weight accordingly.
79. The emerging SNP should also be given significant weight. The allocation of three sites in Scothern under Policy H1 is consistent with its status under the relevant CLLP policies. The plan does not prevent further development in Scothern, but is designed to provide some flexibility for future needs. To this extent the SNP is compatible with the relevant strategic and national policies.

⁴⁴ Council's statement paras 5.14 and 5.15.7; and oral evidence at hearing.

⁴⁵ Council's Appendix E: *Suffolk Coastal DC v Hopkins Homes etc [2015] EWHC 410 (Admin)*

⁴⁶ Council's Appendix D (Spatial Strategy and Settlement Hierarchy evidence report, April 2016)

⁴⁷ Council's Appendix D (Policy LP4 Growth in Villages evidence report, April 2016)

80. Even if it were considered that a 5-year housing supply has not been proven, for recently made neighbourhood plans the WMS only requires a 3-year supply, and this requirement is easily met here⁴⁸. Consequently the SNP policies should carry full weight, even if the 5-year supply were found to be in doubt.

The proposed development's effects

81. The Council argues that the proposed development would be outside the adopted settlement boundary, and thus contrary to WLLP Policies STRAT 3 and STRAT 12. It would also take greenfield land, which is in the lowest priority category in Policy STRAT 9.
82. In relation to draft CLLP Policy LP4, the development would also exceed the proposed 10% maximum village growth level, and the size limit of 9 units on any single site. In Scothern, 10% would amount to about 36 new dwellings⁴⁹. However, since April 2012, planning permissions have already been granted for 75 dwellings, on five sites⁵⁰. This is already double the level of growth regarded as sustainable. The appeal proposal would increase this to triple.
83. The Council asserts that the 10% growth level was intended to be enough to ensure that village vitality is maintained, but also to ensure that developments are proportionate to the scale of existing communities. In granting permissions for 75 dwellings, the Council has already done what is necessary to maintain vitality. Exceeding that level would result in excessive housing development in a settlement with limited services, and which has already reached its desirable growth limits. Further development, such as that now proposed, could not be serviced and would put a strain on local facilities and infrastructure.
84. Residents of the proposed development would need to travel, for work, secondary schools, shopping, doctors and many other purposes. Many of these journeys would be by car. This would be contrary to the settlement strategy in both the adopted and emerging local plans, and would undermine the emerging plans' aims for sustainability of new development.
85. Further development would also threaten to overdevelop the village and damage its rural character.

Other Oral Submissions

Councillor Curtis

86. Cllr Curtis is the local ward member on West Lindsey District Council. At the hearing, he emphasised that planning permissions granted in Scothern already exceed the level of growth envisaged in the emerging CLLP and SNP. In his view, these emerging plans should carry more weight now than they were given in the last appeal, because they have progressed further towards adoption.
87. Further housing development would go beyond what is necessary to maintain vitality, and would risk over-developing the village. There are particular

⁴⁸ Doc. 23: Council's email dated 16 December 2016 re WMS

⁴⁹ Council's Statement, para 5.19.3

⁵⁰ Council's Appendix F (existing commitments in Scothern); Cllr Nicoll states that this is now 76 on 6 sites (Doc. 18)

concerns regarding the capacity of the local schools and doctors' services. The health centre in Welton has limited scope to expand.

88. Cllr Curtis also drew attention to various additional policies in the WLLP, over and above those cited in the Council's refusal reasons. These included Policies NBE10 and NBE 20⁵¹ relating to landscape and character, STRAT 1 requiring safe access to the road network, and STRAT 19 relating to infrastructure. In his view the proposal would conflict with these.

Councillor Mrs Nicoll

89. Cllr Nicoll is the Chair of Scothern Parish Council, and spoke on behalf of that Council. In her view the problems of building height and scale identified by the previous inspector would not be fully overcome by the present scheme.
90. Within the last year or so, a pre-school playgroup, a 'Rainbows' group, and a Women's Institute group have all ceased operating in Scothern, due to a lack of demand. These losses illustrate that the village does not have the facilities for higher levels of housing growth.
91. Although the proposal includes affordable housing, this should not be seen as a benefit, because Scothern was assessed in 2013/14 as needing only 10 affordable units, and this will be more than met by the other developments already approved. If more homes are needed at a later date, the SNP provides some flexibility to allow them then.
92. Access from the site to the primary school is difficult because of a lack of parking. Many parents park at the village hall and walk, but safety is a concern.
93. Government ministers have promised that the views of local people will be given weight in planning decisions.
94. Cllr Nicoll also made a post-hearing written submission which draws attention, amongst other things, to WLLP Policies STRAT6 (windfall and infill in Primary Rural Settlements), RES2 (range of housing), RES3 (backland and tandem development), RES6 (affordable housing), and RES7 (rural exceptions)⁵².

Steven Taylor

95. Mr Taylor is a Trustee of the Scothern Village Hall charity. He stated that he was neither for nor against the proposed development. His concern was that any development should be required to make a financial contribution to the upgrading of the Hall. The Hall is used daily for a range of activities, including an after-school children's club, scouts and guides, a drama group, a choral society, a cricket academy, indoor bowls, public meetings, social functions and private hirings, and changing facilities for football and cricket teams. The Hall already needs money spent on it, and this will become more pressing as the village population increases. Mr Taylor sees this as a greater priority than providing any more affordable housing.
96. There is also a need to extend the existing playing field. The only way to do this would be by utilising part of the present appeal site, but the proposal does

⁵¹ Policies NBE 10 and NBE 20 are summarised in para 22 above, together with the other principal WLLP policies

⁵² Doc. 20 (WLLP policies, attached to Cllr Nicoll's email doc. 18)

not allow for this. WLLP Policy RES5 requires on-site open space to be provided.

Robert Creaser

97. Mr Creaser, a local resident, was concerned that the development would breach the draft CLLP's proposed limits on village growth, and on the size of individual developments. The development would add to the demands on local services and facilities, without providing any new capacity. It would go against the wishes of local people.
98. Concern was also expressed about the safety of children playing in Weir Farm Paddock. The route that vehicles would need to take to access the development, through the end of the existing cul-de-sac, is not currently delineated, and this would be a potential danger area.

William Payne

99. Mr Payne, another local resident, voiced concerns about the development's impacts on the rural character of the village, and on surface water drainage. In heavy rainfall, run-off from the appeal site causes ponding in Lime Tree Paddock, and at its junction with Main Street, and the development could exacerbate this.
100. He also made the point that many of the shops and facilities that serve Scothern are located in other nearby villages, so the benefits of any extra custom do not necessarily go to Scothern itself.

Peter Dray

101. Mr Dray, also a local resident, expressed concerns about the effects on flooding and on the village school. With regard to the latter, his view was that the school cannot currently accommodate all of the demand from within Scothern, and he doubted whether the proposed contribution would be enough to remedy this.
102. Scothern should not have to bear the brunt just because housing supply elsewhere in central Lincolnshire was deficient.

Other submissions

103. Most of the other oral submissions involved some reiteration of the above arguments, and these are not repeated here.
104. Mrs Raby made the point that the local roads connecting to neighbouring villages are mostly country lanes with no footpaths or lighting, and thus are not suitable for journeys on foot.
105. Mrs Housego pointed out that traffic generated from the appeal site would have to pass through village centre, with consequential impacts on the environment and safety.
106. Mr Newborough asserted that views from the north-east towards Lincoln Cathedral would be affected.
107. Mr Dray doubted whether houses offered for sale at market prices would be affordable to local people.

Written Representations

108. Many of the written representations cover similar ground to the oral submissions, and again these are not repeated.
109. There is photographic evidence of flooding at the entrance to Weir Farm Paddock in June 2016, and also regarding a traffic accident at the same spot in August 2016.
110. A number of respondents refer to developments recently permitted at other nearby villages, including Welton, Dunholme, Sudbrooke and Hemswell Cliff, and the potential cumulative effects of the present proposal in combination with these.
111. The local Member of Parliament draws attention to concerns regarding lack of amenities, traffic, car parking, and the capacity of local health services⁵³.
112. The representations also include a number from respondents who support the proposed development, and who express interest in opportunities to purchase a property at the appeal site. These include some from persons currently living outside Scothern, but with local connections to the village.

Obligations and Conditions

The Section 106 agreement

113. The S.106 agreement requires 9 of the proposed dwellings to be provided as affordable housing. This level of provision accords with Policy RES6 of the WLLP. To this extent, it seems to me that the obligation is necessary and reasonable, and meets the relevant legal and policy tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 (the CIL Regulations) and NPPF paragraph 204.
114. The agreement also provides for an education contribution of just under £200,000, which would be used to provide an additional classroom at Ellison Boulters Primary Academy, and to provide additional secondary and sixth-form capacity at William Farr School. The need for this contribution is set out in the consultation response from the County Council dated 7 December 2015. On this basis, I am satisfied that the contribution is necessary to meet WLLP Policy STRAT 19, and consequently that it satisfies Regulation 122. The same letter also confirms that the pooling restriction in Regulation 123 of the CIL Regulations is met.

Conditions

115. An agreed set of draft conditions is contained in the Statement of Common Ground, and these were discussed at the hearing. If permission is granted, in addition to the standard conditions relating to reserved matters and time limits for submission and commencement, a condition will be needed to ensure that the proposed access to the site is constructed in accordance with the relevant approved plan, since access is not a reserved matter.

⁵³ Letter dated 22 February 2016 from Sir Edward Leigh MP (in Questionnaire bundle)

116. The Council proposes that a construction method statement is needed, and given the proximity of neighbouring properties, I agree. The condition is necessary to ensure that the impacts during construction are adequately managed. In response to concerns raised by Cllr Curtis, I have modified this condition to include a requirement relating to the treatment of the existing public footpath during construction. However, there is no need for any further condition relating to this path, because its status is fully protected by rights-of-way legislation, and there is no apparent reason why any other details relating to it cannot be dealt with as part of the reserved matters.
117. A requirement is needed for an initial short section of road within the site to be provided in advance of the rest of the development, to ensure that construction vehicles do not cause obstruction in any of the adjoining residential streets. A further condition is needed to secure the satisfactory provision of the remaining estate roads, and to control the details of these, in the interests of highway safety and the appearance of the development, and for the convenience of occupiers. At the hearing it was agreed that these conditions should allow construction initially to base course only, with completion to follow in accordance with an agreed programme. However, it is not necessary for either of these to require full engineering or construction details, as these matters can be controlled under highway powers.
118. A condition relating to surface water drainage is necessary, to protect occupiers of the development and the surrounding area from any risk of flooding. The condition need not specify the requirements for the drainage system in detail, as further details will remain to be approved; in this respect a reference to the submitted drainage report⁵⁴ would suffice. In this context, Mr Thomson raised a question as to whether the appellants have sufficient legal rights to connect into the drains in Weir Farm Paddock. However, it was confirmed at the hearing that this could be dealt with by means of an application for adoption by the water authority. In the circumstances, I am satisfied that a negatively-worded condition is appropriate.
119. Although only low risks of ground contamination have been identified⁵⁵, nevertheless a condition in this respect is justified, to ensure adequate protection for construction workers and future occupiers.
120. Whilst the development does not require the removal of any existing trees or hedges, a condition requiring their retention is justified, to protect the character of the landscape, and the appearance of the settlement edge, during and after development. To this I have added provision for replacement planting in default. However, I have also modified the condition further, to limit its effect to a period of up to five years after completion, since permanent protection would require a preservation order. I have also omitted the Council's proposed condition relating to works during the nesting season, as it lacks precision, and is covered by other legislation.
121. In addition to the above, Mr Newborough questioned whether a condition might be needed in relation to the existing power lines that cross the site. However, these appear to be low-voltage lines on wooden poles. They are not

⁵⁴ 'Flood Risk Assessment in Accordance with NPPF, and Drainage Strategy': Ward & Cole, Dec 2014

⁵⁵ Phase 1 desk Study report, by Delta-Simons Environmental Consultants, Oct 2014

unduly intrusive, and there is no evidence to suggest that they are harmful. I see no necessity for any conditions in this respect.

122. Based on the above, I have attached at Appendix 1 to this report a list of recommended conditions, which I consider should be imposed if planning permission is granted. In doing so, I have undertaken some further minor editing and rationalisation of those proposed by the Council, in the interests of precision and clarity. I have also limited the number of pre-commencement clauses to those cases where this is essential for the condition to achieve its purpose.

Inspector's Reasoning and Conclusions⁵⁶

Main Issues

123. In the light of all the evidence and submissions, and the other matters set out above, I find that the main issues in the appeal are as follows:

- (i) Firstly, whether there is an unmet need for more housing land in Central Lincolnshire, in terms of the 5-year supply;
- (ii) Secondly, whether the proposed development would be compatible with either the current or emerging planning policies regarding the scale and location of housing growth in West Lindsey;
- (iii) And thirdly, whether the development would be adequately served by local facilities and services; and its effects on those services and on the vitality and cohesion of Scothern as a rural community.

(i) The 5-year housing land supply

124. Looking first at the requirement side, the basic annual rate which the Council have used as the starting point for their housing calculations is 1,540 dwellings per annum. This figure has its basis within the estimates of full objective need in the SHMA [69]. It is true that the figure is towards the lower end of the range; and indeed in relation to the alternative higher job-growth forecasts, it represents the very bottom end [46]. And other factors, such as the extent of inter-authority co-operation, may also come into the equation. As such, the figure that finally emerges from the CLLP Examination could well be different. But even so, the Council's figure has a credible basis, and as far as their evidence to this appeal is concerned, the appellants have not put forward any specific alternative. For the purposes of the appeal I see no reason not to accept 1,540 p.a. as the starting point.
125. The backlog of 2,852 dwellings over the period 2012-17 is apparently not disputed⁵⁷. Nor is the applicability of the higher, 20% buffer level, or the 'Sedgefield' method [69]. However, I agree with the appellants that the decision as to whether to apply the buffer before or after adding in the backlog is a significant one [46], which could potentially make a difference of around

⁵⁶ In this section, the numbers in square brackets [] refer to earlier paragraphs of this report.

⁵⁷ Council's Appendix C (HLS report), Table 2: 2,425 units shortfall for 2012-16, plus 427 units estimated undersupply 2016-17

- 570 units⁵⁸. On this, the two main parties have opposing approaches, but neither has provided any convincing justification. Hence, I find no reason to prefer one over the other, and based on the evidence before me, the 5-year requirement could be either 12,092 or 12,662 units, depending on this point.
126. Turning to the supply side, based on the September 2016 HLS report, the Council claims a land supply capable of delivering 12,712 dwellings [70]. However, the same report shows that 4,830 of these do not have planning permission, and are dependent on their status as proposed allocation sites in the draft CLLP [48]. Whilst some of the sites in this category are unopposed, the 'Update on Sites' report⁵⁹ also shows a residual figure of 1,831 units which are subject to unresolved objections. Although the two sets of data relate to different dates, they appear broadly comparable, and both are part of the Council's case [71]. There is nothing to suggest that the 1,831 has reduced since the 'Update' report was produced⁶⁰. Consequently, it seems that something in the order of around 1,800 dwellings out of the Council's claimed supply are likely to be dependent on the outcome of the CLLP Examination.
127. It is possible that many of these sites will survive the Examination and be confirmed as allocations in the adopted CLLP. But the requirement in NPPF paragraph 47 is for a supply of sites that are deliverable, within the terms of Footnote 11 to that paragraph. Based on the evidence before me, this particular group of sites, lacking either a planning permission or any certainty of being carried forward into the adopted plan, cannot be said at the present time to have a realistic prospect of being delivered within the requisite period. As such, it seems to me that they should not be counted as part of the deliverable supply for the purposes of this appeal.
128. In round figures, subtracting 1,800 dwellings from the Council's figure of just over 12,700, brings the supply down to around 10,900 units. Compared to a 5-year requirement of either 12,092 or 12,662 units, this would represent only about 4.5 years or 4.3 years' worth respectively. To my mind, this range represents the most realistic assessment of the 5-year supply that can be made based on the evidence before me. In the light of this finding, it is evident that the area does not have a 5-year supply, irrespective of any disputed issues relating to the 20% buffer.
129. The appellants have also alluded to more detailed criticisms of the Council's assumptions relating to various individual sites [48]. As I understand it, these comments are based on more detailed evidence which was to be put to the CLLP Examination. In the present appeal no such evidence is before me, and I therefore cannot form any view on those matters. Nevertheless, in the light of my findings as set out above, it is not necessary for me to pursue this any further.
130. I am conscious of the fact that when the Examining Inspectors report their findings on the CLLP, having considered a great deal more evidence, from

⁵⁸ 20% x backlog of 2,852 = 570 units

⁵⁹ Doc. 3: 'Update on Sites'

⁶⁰ In the Update on Sites, the total number of dwellings without planning permission (draft allocations) is 4,172 (2,341 uncontested, plus 1,831 contested). In the September 2016 HLS report, which came later, the total number without permission is 4,830. The breakdown between contested and uncontested draft allocations is not given, but given the increase of 658 in this category as a whole, the number of contested sites seems unlikely to have reduced.

many more parties than those involved in the present appeal, it is quite possible that they may come to conclusions on these matters which differ from mine. Nonetheless, following the approach set out in the *Shropshire* judgement⁶¹, I have formed my view on the evidence before me in this case.

131. In coming to this view, I am also very aware of the efforts that the Council has made in recent times, to rectify the shortfall in the housing supply identified by inspectors in other appeals [51], and the considerable progress that has been achieved towards that aim. It may well be that there is little more that the Council could have done during this time. Nevertheless, I must judge the land supply situation as it is now, based on the approach advocated in the NPPF and Planning Practice Guidance. Whilst the Council has presented considerable evidence to show how a 5-year supply might potentially be achievable, it has not been able to show that sufficient numbers of units have yet reached the point where they can properly be counted as deliverable within the parameters of national policy.
132. On this basis, I find that for the purposes of this appeal it has not been demonstrated that a 5-year supply of housing land currently exists in the Central Lincolnshire area. At the hearing, it was confirmed that the appeal site is available for immediate development, and that if planning permission is granted, there are no impediments to early delivery. The site could therefore make a worthwhile contribution to meeting part of Central Lincolnshire's unmet housing needs, and this carries significant weight in the planning balance.

(ii) Compatibility with policies for the scale and location of development

Relationship to the adopted WLLP

133. As set out above [19-21] the most relevant policies in the adopted WLLP are Policies STRAT 3, 9 and 12, which seek primarily to direct most new housing to the most sustainable locations in the settlement hierarchy, and as far as possible to contain such development within settlement boundaries. Thereafter, the strategy seeks to exhaust brownfield sites and economic regeneration opportunities, before turning to 'other greenfield' land.
134. Given Scothern's status as a Primary Rural Settlement, development at the appeal site would accord in general terms with Policy STRAT 3. However, in being outside the village boundary, it would conflict with STRAT 12. With regard to Policy STRAT 9, although the latter does not preclude development on unallocated greenfield sites such as this one, it equally provides little or no support, especially since no particular regeneration benefits have been identified. Taking the WLLP plan as a whole therefore, the proposed development would not accord with the main relevant policies.
135. However, Policies STRAT 9 and 12 relate to the supply of housing. Consequently, in the light of my finding on the 5-year supply, and having regard to NPPF paragraph 49, these can no longer be regarded as up-to-date.
136. In addition, in the case of Policy STRAT12, the Council accepts that reduced weight is due in any event, irrespective of the land supply position, because

⁶¹ Doc. 14 (the *Shropshire* judgement)

the planning strategy embodied in the WLLP is unable to provide for future housing needs beyond 2016 [74]. I agree with this view. Indeed, having regard to NPPF paragraph 215, it seems to me that the same must apply to Policy STRAT 9, since it is clear from the evidence that the national policy aims of boosting the District's housing supply and meeting future needs cannot be met without taking greenfield land.

137. In the light of the *Hopkins* judgement [74], the Council's argument that reduced weight need not mean no weight, is correct. The Council also makes a fair point in arguing that STRAT 12 still serves another purpose in helping to safeguard open countryside. But in seeking to do so in a 'blanket' fashion, it goes beyond what is required merely to recognise intrinsic character and beauty, as required by NPPF paragraph 17. Given the combination of the lack of a 5-year supply, an out-of-date planning strategy, and a policy which imposes an unnecessary degree of restraint, I consider that Policy STRAT 12 should carry little weight in this appeal.
138. With regard to Policy STRAT 9, the policy's aim of steering development to sequentially preferable sites is generally consistent with the NPPF [75]. However, there is no evidence of any further brownfield or regeneration-linked sites, outside of those already included in the Council's figures, which could be substituted for the appeal site. Consequently, I afford only limited weight to Policy STRAT 9, in the context of this appeal.

Relationship to the draft CLLP

139. Turning to the emerging CLLP, if the plan is adopted in its present form, Scothern would become a Medium Village [24]. In that case, the proposed development would conflict with draft Policy LP2, by exceeding the proposed size limit for individual developments. Also, with regard to draft Policy LP4, in Scothern's case the proposed 10% growth limit in Medium Villages has already been exceeded, at least in terms of outstanding permissions granted since April 2012 [26, 82]. In that context, the development now proposed would exacerbate the policy conflict that has already occurred.
140. The CLLP has passed through several stages of consultation, and can therefore be afforded some weight. However, having regard to NPPF paragraph 216, Policies LP 2 and 4 are subject to significant unresolved objections [55, 56], the outcome of which remains to be seen. And whilst it is not my intention to prejudge the merits of the policies themselves, the approach that is taken, in terms of size limits for settlements and individual developments, does not appear to align directly with anything actually advocated in the NPPF. In the circumstances, having regard to NPPF paragraph 216, the weight that can be given to draft Policies LP 2 and 4 at this stage is limited, and the potential conflict with them is not determinative.
141. In addition, both of these policies potentially affect the supply of housing, and thus any weight that may be given to them at this stage is further reduced somewhat by this consideration.

142. In the case of draft CLLP Policy LP3 [25], although the Council alleges conflict⁶², there is no quantified evidence as to the breakdown of future housing between the larger towns and the smaller settlements. There is thus nothing to substantiate any conflict with LP3. Given the size of the appeal scheme compared to the overall numbers in the emerging plan, it seems unlikely that any such conflict would be significant.

Relationship to the draft SNP

143. I now turn to the emerging Neighbourhood Plan. Draft Policy S1 seeks to focus new development within the existing built-up area, and to support developments within that area [31]. The appeal site is outside that area. But nonetheless, the intention to focus and support development in one part of the plan area, does not necessarily mean excluding all other sites [58]. Indeed none of the sites which the SNP itself allocates for housing could be said to be within the existing built up area; all three are outside the village boundary⁶³ as defined in the WLLP, and all are very much towards the village's outer peripheries. In contrast, the appeal site is adjacent to the central core, and close to all of the village's main facilities [38]. As such, the development now proposed would be well located and well-focussed in the context of the particular settlement.
144. I appreciate that the intention may have been to strictly limit any further development, over and above the allocated sites, to within the existing built up area. But that is not the way that Policy S1 is expressed. To interpret the policy in that way would be to imply a presumption against development on unallocated sites, which would not sit comfortably with the general thrust of national policy, and particularly the presumption in favour of sustainable development. In the circumstances of this case, I find no clear evidence of any conflict with Policy S1.
145. With regard to draft Policy H1, the appeal sites is not one of those allocated, but again the policy does not preclude development on other sites, and there is thus no conflict.
146. For the purposes of the NPPF, both Policies S1 and H1 are housing supply policies. However, in the light of my finding that there is no conflict with these two policies, it is not necessary for me to consider the consequent effects of either paragraph 49 or the December 2016 WMS.
147. In any event, at the time of writing, the SNP has yet to be endorsed in a referendum, and the result of that referendum clearly cannot be prejudged. For this reason, the SNP does not yet command full weight.

Conclusions on relationship to policies

148. For the reasons set out above, I conclude that although the proposed development is contrary to policies STRAT 12 and STRAT 9 of the adopted WLLP, those policies carry significantly reduced weight.

⁶² Policy LP3 is cited in the Council's refusal notice

⁶³ Doc. 4 (WLLP Proposals Map inset for Scothern)

149. I further conclude that although the proposal conflicts with Policies LP 2 and 4 of the emerging CLLP, those policies cannot be decisive while the CLLP remains subject to the outcome of the examination process.
150. Although the development is not specifically envisaged in the emerging SNP, neither is it precluded, and in any event that plan too has yet to complete the plan-making process.
151. Consequently, although the proposed development is not directly supported by any of the adopted or emerging plans, neither does any of these plans provide a clear-cut basis for refusal.

(iii) Effects on local services and community vitality

The adequacy of existing local facilities and services

152. The Council and others argue that the existing facilities in Scothern [9, 38], are inadequate to serve any further development beyond that already permitted [77, 90]. However, while those facilities are not very numerous, they are not insignificant. Indeed the fact that the village has, amongst other things, a primary school, a village hall, two churches and a functioning pub, gives it an advantage over many other similarly sized settlements. Furthermore, from the evidence presented, it is clear that the village hall in particular provides for a wide range of leisure and other activities, which contribute to the vitality and viability of the rural community [95].
153. Within the village itself there is no convenience shop or doctors' practice, nor does it have a secondary school or a designated employment area. However, all of these facilities are available within a relatively short distance, at neighbouring villages or on the fringes of Lincoln [38]. These facilities are beyond normal walking distance but not beyond cycling range, and all can be accessed by a reasonable range of bus services [39]. The village is therefore not in any sense remote or isolated. Clearly residents are likely to also make journeys to other destinations, including some which require the use of a car, but this would be equally true of almost any location.
154. Scothern's position as one of the better served and more sustainable villages in West Lindsey is indicated by its status as a Primary Rural Settlement in Policy STRAT 3 of the WLLP [19]. The adoption of that policy in 2006 came well after the loss of the village post office in the 1990s [77], and there is no evidence that any other significant change has occurred since then. Although the draft CLLP proposes to reduce Scothern's position in the hierarchy [24], that change has not yet been adopted, and as far as this appeal is concerned, the evidence supporting such a change is limited [77]. For the present, STRAT3 remains the statutory development plan policy on this point.
155. Whilst I have found certain other policies of the WLLP to be out of date or inconsistent with the NPPF, the logic behind that reasoning does not support treating Policy STRAT 3 in the same way. Indeed, in the case of the Primary Rural Settlements, giving reduced weight to STRAT 3 would be likely to further inhibit the provision of sufficient new housing. For the purposes of this appeal therefore, I give the adopted policy full weight.

156. I note that the Inspector in the March 2016 appeal on the same site concluded that the proposal would provide a suitable location for housing, having regard to the availability of local services⁶⁴. I find no reason to disagree.
157. I conclude that, for the population that it serves, and for a development of the size now proposed, Scothern is a reasonably accessible location, with an adequate range of facilities and services.

The development's effects on local facilities and services

158. The Council and local residents argue that the proposed development would lead to adverse impacts on various existing local services and facilities [83, 87, 95, 97]. In terms of school provision, the development is estimated to generate 7 children needing places at primary schools, plus 6 at secondary schools, and one school-based 6th-form place⁶⁵. Both the village school and the nearest secondary school are either already at capacity, or are projected to reach that point by September 2018. However, the S.106 agreement in the present appeal provides for a financial contribution of £199,427.00, which is intended to enable the provision of additional places at these schools.
159. I note the views of local residents who consider this sum inadequate, or that there is insufficient space available to provide the required capacity [101]. But that view is evidently not shared by the Education Authority, and the sum agreed accords with that which the Authority itself requested. I appreciate that other housing developments are planned in the area too [110], but I have no reason to doubt that these have been taken into account by those responsible for managing school capacities. I am aware that the Ellison Boulters School currently serves other villages as well as Scothern, but catchment areas can be adjusted to take account of new development. None of these matters causes me to doubt that the proposed contribution would adequately mitigate the development's effects on education provision.
160. The development would also give rise to additional demands for healthcare services, including doctors. The view of several objectors is that the local GPs are already overstretched, and some doubt whether any expansion is feasible [87, 97, 111]. I appreciate the strength of feeling behind these concerns. However, the responsibility for identifying future healthcare needs and making adequate provision rests with the service provider, NHS England. In this case, that body has had the opportunity to comment on the appeal proposal, and has expressly declined to do so⁶⁶. As such, it has consciously chosen not to object to the development, nor to seek any financial contribution or other mitigation.
161. I am mindful of local residents' concerns in this regard, but these are not unique to Scothern. Nor is it unusual for enhanced health service provision to follow after population growth, rather than to precede it. In any event, the development now proposed would be fairly modest in relation to the likely population in a typical GP surgery catchment area. In the circumstances, I find no convincing grounds for a refusal of planning permission on this basis.

⁶⁴ Appellants' Appendix 2 (March 2016 appeal decision - para 34)

⁶⁵ Consultation response from S Challis, LCC Corporate Property Service, dated 7 Dec 2015

⁶⁶ Email dated 17 December 2015 from Brenda Clayton, Primary Care Support Officer (questionnaire bundle)

162. Any further development in Scothern would be likely to contribute to some further wear and tear on the village hall [95]. But additional usage could reasonably be expected to be accompanied by increased revenues from users. And in any event, whilst it might sometimes be reasonable to expect a development to mitigate its own impact, this would not include making good any previously existing deficiencies. In the present case there is no clear evidence as to the nature and scale of the works envisaged at the village hall, and thus no means of establishing to what extent, if any, the proposed development should be liable to pay a share of the cost. Neither is there any apparent support from the District Council for requiring such a contribution. Similar considerations apply to the village recreation ground [96].
163. There is no suggestion that any other facilities or services would come under excessive pressure, and in the circumstances I consider that this is not a factor that should weigh heavily in the present decision.
164. On the contrary, it seems to me that it is more likely that some existing facilities and services could benefit from an increase in the local population. The evidence regarding the recent closure of some local voluntary groups [90] suggests that the main risk is from too little rather than too much demand. In this context I note that the proposed development is supported by the landlord of the local pub⁶⁷. At a time when many rural businesses and services are under threat of closure, it seems to me that the prospect of increased support for some existing facilities in Scothern is a consideration in favour [62].
165. I again note the finding of the Inspector in the previous appeal on the site, that the proposal would not have a significant adverse impact on local infrastructure, subject to the mitigation proposed⁶⁸. Again, I find no reason to disagree in this case.
166. I conclude that there is no evidence that the proposed development would have any adverse effect on existing village services or facilities, and indeed if anything, its net effect would be beneficial.

The effects on community vitality and cohesion

167. Both the Council and other objectors refer to adverse impacts on the vitality of the rural community, and some local residents fear an effect on community cohesion. The Council also argues, in the alternative, that the proposed development is not necessary to maintain community vitality. However, none of these submissions are supported by any evidence, nor indeed by any cogent reasons.
168. As already noted, in so far as it would be likely to add further support for local community groups and for commercial services such as the village pub, the proposed development could be expected to enhance the village's vitality rather than damage it. Despite my questioning on this point at the hearing, no party has identified any aspect of local vitality which could reasonably be expected to suffer any adverse impact.

⁶⁷ Appellants' Appendix 15 (Letters of support)

⁶⁸ Appellants' Appendix 2 (March 2016 appeal decision - para 34)

169. The points made regarding cohesion are understood. The concern expressed is not only about the appeal proposal itself, but the cumulative increase in Scothern's population, taking account of the other committed sites. But nevertheless, neither the numbers of dwellings involved nor the percentage increase are particularly unusual. In these kind of circumstances, it would be rare to find any significant issues of community cohesion or assimilation arising from development on this relatively limited scale, especially where that development is spread between a number of small-to-medium sized sites in different parts of the village, as would be the case here.
170. Although draft CLLP Policy LP4 proposes a 10% ceiling on village growth, none of the evidence before me suggests that this figure is based on any empirical evidence. Consequently, irrespective of whether Policy LP4 becomes adopted in its present form, the fact that in Scothern's case the cumulative increase would exceed this threshold is not in itself evidence of any likely adverse effects on either vitality or cohesion.
171. In this context the further question raised by the Council as to whether the development is unnecessary for vitality, seems to me to have no bearing.
172. I therefore find nothing to support the concerns expressed regarding community vitality or community cohesion.

Conclusions on local services and community vitality

173. I conclude that there is no evidence to support a refusal of planning permission based on any issues with regard to the availability of local services, or the effects on such services, or on rural community life in Scothern. As noted above, it seems to me that if the development were to have any noticeable effect at all in these respects, that effect would be beneficial, in terms of providing added support for local community groups.

Other matters

174. I saw on my visits that the appeal site comprises a visually unremarkable small field, with no significant landscape qualities. This judgement is not disputed by any party. Although slightly elevated above Weir Farm Paddock and Lime Tree Paddock, the site is well contained by the existing boundary trees and hedges. Development of the scale now proposed would therefore not appear intrusive in the landscape, and would not unduly detract from the rural character of the settlement edge. On my final visit I took careful note of the distant views towards the Cathedral **[106]**, but given the distance, and the extent of the intervening vegetation and other buildings, to my mind the proposed development would have little impact on these views. In all these respects, I find no conflict with WLLP Policies STRAT 6, NBE 10 or NBE20.
175. There is no evidence that the development would give rise to any adverse traffic impacts, in terms of safety, noise, or any other environmental effects **[88, 92, 98, 105 and 109]**. The number of vehicles generated by 36 dwellings would be fairly low, and well within the physical and environmental capacity of the existing highway network. In percentage terms, the increase in traffic through the village would not be especially significant. The proposed access details include provision to improve the definition of the carriageway and footway areas in Weir Farm Paddock, which mitigates any concerns about safety for children or other pedestrians in that area. I saw on my visit that

visibility at the junction with Main Street is adequate. Despite the evidence of one particular incident, there is nothing to suggest that this section of Main Street has a bad accident record generally. Pedestrian access to the primary school also appears adequate. The Highway Authority does not object⁶⁹. In all these respects I find no conflict with WLLP Policy STRAT 1, or any other relevant policies relating to traffic or highway matters.

176. With regard to drainage and flooding, I appreciate the concerns expressed [99, 109] and am mindful of the photographic evidence regarding past events. However, the proposed drainage system as set out in the Drainage Strategy report⁷⁰ seeks to limit surface water run-off to no more than the equivalent greenfield rate, and this is a matter that can be secured by condition.
177. The addition of 36 dwellings to the housing stock would be beneficial, both socially and economically, irrespective of the whether there is currently a 5-year land supply. The fact that 9 of these dwellings would be provided as affordable housing, in accordance with the S.106 agreement, increases that benefit. Notwithstanding Cllr Nicoll's submissions regarding the 2013 survey [91], the most up to date evidence of the need for affordable housing is that in the SHMA. Across Central Lincolnshire as a whole, this indicates a substantial backlog of unmet need, which will require 911 units per annum for the next 5 years, and an on-going need of 676 units pa after that⁷¹. The provision of 9 affordable units at Scothern would help towards meeting this need, and would more than meet the requirement in WLLP Policy RES6. The terms of the S.106 agreement also give priority to occupiers with local connections. In the light of these matters I give significant weight to the benefits accruing from the provision of housing on the site, and especially the proposed affordable element.
178. The development's economic benefits [64] also attract some weight, in view of the importance that the NPPF attaches to supporting rural communities and building a strong and competitive national economy.
179. The previous Inspector's sole objection, on grounds of character and appearance, was confined to details of height and scale on certain proposed plots [17]. The present appeal proposal overcomes this by omitting those details. There seems no reason to doubt that a satisfactory scheme can be devised without exceeding one or two storeys. The submitted illustrative scheme indicates one way, although not necessarily the only way, that this could be achieved [34, 42-44]. Although the planning circumstances have changed since that decision, in terms of the progress of the CLLP and SNP, the elapse of time has been short. All other things being equal, granting permission for the present scheme would be in the interests of consistent decision making. Whilst this is not an overriding consideration, it carries some weight nonetheless.
180. I note the further submissions made by Cllr Nicoll [94] with reference to other policies of the WLLP, including RES2, RES3 and RES7. But the proposed development is neither a backland nor a tandem site, nor is it advanced as a

⁶⁹ Consultation response dated 5 February 2016 from J Clifton, Lincs County Council

⁷⁰ 'Flood Risk Assessment in Accordance with NPPF, and Drainage Strategy': Ward & Cole, Dec 2014

⁷¹ Doc 17 (the SHMA), paras 7.95 – 7.96

rural exception site, and the range of house types and sizes is not for determination. I therefore find little in any of these policies to influence my recommendation.

Overall planning balance and conclusions

181. The proposed development would conflict with the provisions of the adopted WLLP, and in particular Policies STRAT 9 and STRAT 12, because it would represent a loss of undeveloped countryside outside the village boundary. Permission should therefore be refused unless other material considerations indicate to the contrary.
182. However, these two policies can no longer be regarded as up to date, because they do not allow for current or future development needs in the District, and there is not currently a 5-year housing land supply.
183. Furthermore, the development would add to the supply of housing, including 9 affordable units. In the light of the shortfall in the overall supply, and also the particular need in the affordable sector, this is a factor that commands considerable weight. The scheme would also bring significant benefits to the local and national economy, to which I give some further weight, and would provide added support for the vitality of a small rural community. Against these social and economic benefits, no significant harm of any tangible nature has been identified.
184. Having regard to NPPF paragraph 14 therefore, the benefits of the development would not be significantly and demonstrably outweighed by the adverse effects. It follows that the proposed development would be sustainable, and should benefit from the presumption in favour of such development.
185. Although the scheme would conflict with the emerging policies of the draft CLLP, by exceeding the proposed limits on village growth and the size of individual developments, those policies carry only limited weight, because they have not completed the examination process. The development would not conflict in any material way with the emerging Neighbourhood Plan.
186. Taking all these matters into account, I conclude that the conflict with the development plan is outweighed by the other material considerations that I have identified. For these reasons, the appeal should succeed.

Recommendation

187. I recommend that the appeal be allowed, and outline planning permission be granted, subject to the conditions set out in the attached Appendix 1.

John Felgate

INSPECTOR

APPENDIX 1: SCHEDULE OF RECOMMENDED CONDITIONS

- 1) No development shall be commenced until details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") have been submitted to the local planning authority and approved in writing. The development shall thereafter be carried out in accordance with the details thus approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The access to the site shall be constructed in accordance with the submitted plan 'Proposed Site Access', Drawing No. SCP/14942/001.
- 5) No development shall take place until a Construction Method Statement has been submitted to the local planning authority and approved in writing. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the routeing and management of construction traffic;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoardings;
 - vi) wheel cleaning facilities;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) the control of noise arising from the construction works;
 - ix) a scheme for recycling or disposing of all construction wastes;
 - x) controls over the hours during which construction work, deliveries, vehicle movements and the operation of machinery may take place;
 - xi) measures for the safety of users of the existing public footpath across the site during construction.
- 6) No other development shall commence until the first 60m of an estate road into the site has been constructed, at least to base course level, in accordance with the layout details to be approved as a reserved matter under Condition 1. During construction, this section of road shall be kept open and unobstructed during the working hours agreed under Condition 5.
- 7) No dwelling on the site shall be occupied until the estate road or roads serving that plot have been provided, at least to base course level, in accordance with an estate roads scheme to be submitted to the local planning authority and approved in writing. The scheme shall include details of routeing, surfacing materials, lighting, drainage, footways and street furniture, and a phased programme for the implementation of these works. Thereafter, all of the estate roads, including that to be provided under Condition 6, shall be completed in accordance with the approved programme.
- 8) No dwelling on the site shall be occupied until it has been provided with the surface water drainage infrastructure needed to serve that plot, in accordance with a detailed drainage scheme to be submitted to the local planning authority and approved in writing. The scheme shall follow the general proposals set out in the submitted Drainage Strategy, and shall be designed to ensure that the existing run-off rate is not exceeded, including the rate for a 1 in 100 year critical storm event, plus an allowance for climate change. The scheme shall also include details of the arrangements for the future management and maintenance of the drainage system, and thereafter the system shall be managed and

maintained in accordance with these agreed details throughout the life of the development.

- 9) If during the course of development contamination is found to be present on the site, no further development shall be carried out until a Contamination Method Statement has been submitted to the local planning authority and approved in writing. The Method Statement shall contain details of any measures necessary to deal with the contamination, and a timetable for these to be carried out. The works specified in the Statement shall then be implemented in accordance with the details and timetable thus approved.
- 10) During the course of the development, and within a period of five years after its final completion, no existing tree or hedge on or adjoining the site shall be felled or removed, other than in accordance with details that shall first have been submitted to the local planning authority and approved in writing. Notwithstanding this condition, if during this period any tree or hedge is felled or removed, or damaged beyond recovery, or dies for any reason, it shall be replaced with another of similar species, of a size to be approved by the local planning authority in writing.

APPENDIX 2: APPEARANCES

FOR THE APPELLANT:

Mr James Rigby, BSc MRTPI	Globe Planning Consultants
Mr Will Thomas, BA(Hons) LLB	Browne Jacobson Solicitors
Ms Sarah Howe, CMLI	'Influence' Landscape Architects
Mr Wayne Hansard, BSc(Hons) CEng MStructE	Ward Cole Engineers
Mr Geoff Bowman, BEng CEng MICE MIHT	WSP Transport
Mr Andrew Brown,	STEM Architects
Mr Dominik Jackson	Jackson & Jackson Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr George Backovic, BA(Hons) BTp MRTPI	Principal Development Management Officer
---	--

OTHER INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Cllr Stuart Curtis	District Council ward member for Scothern
Cllr Cathryn Nicoll	Chair and acting Clerk of Scothern Parish Council
Mr Steven Taylor	Trustee of Scothern Village Hall Charity
Mr Robert Creaser	Local resident
Mr Michael Thomson	Local resident
Mr William Payne	Local resident
Mr Peter Dray	Local resident
Mrs Doreen Raby	Local resident
Ms Karen Raby	Interested person
Mrs Kathleen Housego	Local resident
Mrs Janet Dray	Local resident
Mr Rod Newborough	Local resident
Mrs Lorraine Thomson	Local resident

APPENDIX 3: DOCUMENTS TABLED AT THE INQUIRY AND SUBSEQUENTLY

- 1 Appeal decision APP/N2535/W/16/3152199: Church Road, Laughton
- 2 Appeal decision APP/R2520/W/16/3151360 etc: station Road, Waddington
- 3 'Update on Sites': detailed breakdown of sites included in Council's 5-year housing land supply calculations
- 4 Proposals Map extract, from West Lindsey LP First Review, June 2006
- 5 Appellants' photographic views nos 1 – 4 (enlarged to A3 size)
- 6 Scothern Neighbourhood Plan: Examiner's 'Fact Check' report, Nov 2016
- 7 Email from the Council dated 17 November 2016, re the Scothern Neighbourhood Plan
- 8 Letter from Scothern Parish Council received 22 November 2016, re the Scothern Neighbourhood Plan
- 9 Examiner's final report into the Scothern Neighbourhood Plan, dated 7 November 2016 (enclosed with Doc. 8 above)
- 10 Email from Council dated 15 November 2016, re the Scothern Neighbourhood Plan (enclosed with Doc. 8 above)
- 11 Appellants' statement in response to Scothern Neighbourhood Plan Examiner's report, received 23 November 2016
- 12 SoS appeal decision APP/R0660/W/15/3128707 – Sandbach (Appendix 1 to Doc. 11 above)
- 13 SoS appeal decision APP/R0660/W/15/3100555 – Holmes Chapel (Appx 2 to Doc.11 above)
- 14 *Shropshire Council v BDW Trading Ltd and Others: [2016]EWHC2733(Admin)*
- 15 Email from Council dated 8 December 2016, re status of Doc. 3 'Update on Sites', in response to Inspector's request.
- 16 Letter from the appellants dated 7 December 2016, re Doc. 14 *Shropshire* judgement, in response to Inspector's query
- 17 Strategic Housing Market Assessment, July 2015 (attachment to Doc. 16 above)
- 18 Email from Cllr Nicoll dated 9 December 2016, in response to Inspector's question re Doc.14.
- 19 Notice of local referendum to be held on the Scothern Neighbourhood Plan (attachment to Doc. 18 above)
- 20 Extracts from WLLP, supplied by Scothern Parish Council (attachment to Doc. 18 above)
- 21 Email from the appellants, received 16 December 2016, responding to SPC comments
- 22 Email from the appellants, dated 16 December 2016, re the Written Ministerial Statement on neighbourhood plans issued in December 2016
- 23 Email from the Council, dated 16 December 2016, re the WMS
- 24 Email from Scothern Parish Council, dated 17 December 2016, re the WMS
- 25 Scothern Neighbourhood Plan (incorporating Examiner's recommended modifications), December 2016Dec



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

This page is intentionally left blank

Appeal Decision

Site visit made on 28 March 2017

by Mrs Zoë Hill BA(Hons) Dip Bldg Cons(RICS) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 July 2017

Appeal Ref: APP/N2535/W/17/3167415

Land off Main Drive, Sudbrooke, Lincoln LN2 2QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs S Waite and Mrs M and Mr A Curtis against the decision of West Lindsey District Council.
 - The application Ref: 134726, dated 18 July 2016, was refused by notice dated 11 October 2016.
 - The development proposed is described as outline planning application for the erection of three dwellings with all matters reserved.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the first reason for refusal is expressed in terms of one additional dwelling there is nothing before me to indicate that the appeal is for anything other than the three dwellings sought on the application form. I shall therefore deal with the appeal on that basis.
3. On 24 April 2017, during the appeal process the Council adopted a new policy document entitled the Central Lincolnshire Local Plan (CLLP). In so doing the policies of the West Lindsey Local Plan First Review (2006) were superseded and they no longer carry weight as policy. As a consequence, the Council has confirmed which policies of the new Local CLLP they rely upon. The appellants have been given the opportunity to comment upon that correspondence. I have to determine the appeal upon the policies which are in force at the time of my Decision.

Main Issues

4. In determining this appeal I shall first consider the planning policy context for the proposed development and then consider the main issues as follows:
 - (a) the effect of the proposals on the character and appearance of the locality;
 - (b) the effect on trees protected by Tree Preservation Order; and,
 - (c) having in mind the above matters, the planning balance in this case.

Reasons

Policy and context

5. The Council seeks to rely on the recently adopted CLLP allocations to demonstrate that there is a five year housing land supply available. Whilst the appellants draw attention to the poor record of housing delivery within West Lindsey, there is no substantiated evidence before me to conclude that the recently adopted CLLP, with its allocations, fails to provide for a five year housing land supply. I shall, therefore, not consider this matter further.
6. The CLLP for this area allocates Sudbrooke as a medium village (category 5) under Policy LP2 with scope for limited development (classed by the policy as typically up to 9 dwellings or 0.25 ha) to support its facilities. Policy LP4 permits growth of up to 10% during the plan period for Sudbrooke. However, in Sudbrooke planning permission has been granted on appeal for up to 130 dwellings and 25 apartments for retired living. These 155 dwellings significantly exceed the 68 dwellings that the Council considers would amount to the 10% growth addition envisaged in the CLLP. Whilst the appellants seek to use this Decision to support their case that local plan policies should not be adhered to, the policy position has changed and I am therefore considering this scheme in materially different circumstances, particularly in respect of the five year housing land supply.
7. Policy LP4 sets out that for proposals within or on the edge of a village in category 5-6 of the settlement hierarchy where any development combined with extant permissions, amongst other things, exceeds that 10% figure, the proposal should be accompanied by demonstrable evidence of clear local community support for it. This acknowledges that the 10% addition figure is not a ceiling (a maximum) but that to exceed it there needs to be support. The policy provides a definition which explains that the evidence of community support should be provided at the application stage and explains how it is to be gathered and considered. Should the evidence not be clear Parish or Town Council support will be required.
8. In this case there are a number of objections to the scheme, including from the Parish Council. Thus, whilst the approach of gaining support prior to submission of the application would not have been a policy requirement at the time of the application it seems to me that the balance of local opinion, including that of the Parish Council, is against this proposal. As such, and having in mind the localism approach sought by the relevant policies, the scheme would fail to accord with the recently adopted development plan in respect of policies LP2 and LP4.

Character and Appearance

9. The character and appearance of this settlement is established by relatively low density housing in a rural setting often, and particularly in this area, with a significant degree of tree planting. The area close to the appeal site is at the edge of the settlement. Here development is characterised by its ribbon form along the main road. However, Main Drive, a single track driveway originally associated with a country house in a parkland setting, has development of frontage houses. That development is largely limited to the opposite side of the drive to the appeal site.

10. The appeal site is situated within an area of woodland with an indicative access via driveways (as shown in the Arboricultural Impact Assessment plans) from Main Drive, so creating a small enclave of houses without road frontage. As a consequence the indicative plans for the proposal show dwellings that would be of an uncharacteristic form for this area. Moreover, the proposal would introduce housing onto the east side of Main Drive, an area in which the parkland setting remains undeveloped, albeit not intact. Despite the frontage screening and noting the proposal is an outline scheme, the development would be likely to be seen given the site area, tree constraints, and likely access arrangements. Those access points would also detract from the verdant frontage. This would be harmful to the character and appearance of the surrounding area and settlement at this point. As such, the development would fail to accord with CLLP Policies 17 and 26 which seek, amongst other things, that proposals should have particular regard to maintaining and responding positively to any natural and man-made features within the landscape and townscape which positively contribute to the character of the area.

Trees

11. The site is situated within an area covered by a Tree Preservation Order (TPO) which was served and confirmed, subject to some modifications, in 2002. At the application stage, the Council's Tree Officer considered that there would be adequate space for three dwellings on the site, such that there was no concern about that aspect of this outline application. However, the Tree Officer was concerned that the driveways and underground utilities would not be so easy to accommodate without causing harm to the trees. As such, she sought clarification to confirm that two access drives and underground cabling could be accommodated.
12. As part of the appeal process the appellants have submitted further evidence in this regard. Their Arboricultural Report acknowledges that the proposed development would be within the root protection area of TPO protected trees. As such, conventional methods of construction would not be acceptable. The Arboricultural Consultant explains trees can accept some changes in rooting environment and concludes that would be the case here for both the driveways, the construction traffic route and temporary parking, provided that specialist techniques are used. Given the trees on the site it is acknowledged that root protection areas could not be avoided so that trench-less techniques are suggested to enable services to be provided. The Arboricultural Consultant explains that an Arboricultural Method Statement would be required as part of any permission.
13. However, the assessment before me seeks to provide solutions to gaining site access rather than commenting on the long term impact on the trees as a whole. It seems to me that the access arrangements would impact on the trees in other ways. In particular, in addition to the removal of trees of lesser quality (T6, T7, T38 and G6 as shown on the Arboricultural Plan) there would be a pruning requirement to a number of trees including those at the access points. This would significantly alter those trees and their amenity value. In addition, despite this being an outline scheme, it seems likely that the trees would cause overshadowing, result in leaf and branch drop, and restrict views out such that future occupiers would be likely to seek further works to the retained trees.

14. As a consequence, even were the extensive arboricultural techniques successful, such that the trees remained in long term health, the pruning works likely to be required would harm the amenity value of the trees. This would have a harmful effect on the character and appearance of the surrounding area. Additionally, it is likely that there would be pressure for further works to retained trees once the properties were occupied. As a consequence, the appeal scheme would not respond positively to the key characteristics of the site and so fails to accord with the provisions of CLLP Policies LP17 and LP26.

Other Matters

Heritage Assets

15. The Council, in its committee report, explains that the appeal site is on Main Drive which provides access to Sudbrooke Park from Wragby. However, little else is provided by way of evidence regarding the 'historic park and garden' which is referred to in the reason for refusal. Indeed my colleague in dealing with an appeal in 2015 made it clear that the park is not on the English Heritage (Historic England) List of Registered Parks and Gardens. No evidence has been provided that this situation has changed. Nor is there any evidence before me that the parkland forms any part of a local list. I therefore have not considered the parkland as a designated heritage asset.
16. Having looked at the site, I share my colleague's view that much of the historic parkland has been lost through a combination of development and neglect. Moreover, there is limited evidence before me regarding this matter. Thus, I have dealt with the development in terms of the impact on the character and appearance of the surrounding area, which includes the parkland as set out above.
17. Local residents make particular reference to the listed gates and lodges. It is apparent that these grade II listed buildings, dating from 1795 with later alterations, along with the nearby bridge on Main Drive, would be near to the site but that none would be physically altered by the proposal. These buildings are of architectural interest and are of historic interest because of their association with the former house 'Sudbrooke Holme' and its associations with historic figures including the Ellison Family of whom Richard Ellison was Lincoln MP from 1790-1810. These matters establish the significance of these listed buildings.
18. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special regard to the desirability of protecting the setting of those listed buildings. While the use of the driveway through the listed gates and lodges would see additional activity this would not alter the setting of those buildings rather it would reflect their function. The proposed dwellings would be adequately distant and screened by remaining trees so that they would have little impact upon them, but there would be a marginal change because the area beyond the gates would no longer remain free from development at this side of the drive, where it has previously been an entrance to a parkland landscape. This would detract from the understanding of their role as an entrance to the parkland and, in terms of the Framework, result in less than substantial harm of a modest level.
19. In terms of the heritage assets I conclude, on the evidence before me, that the appeal scheme would have a modest harmful impact upon the setting of the

nearby heritage assets. This matter, although of little weight, is one for the planning balance.

Highways

20. The Parish Council and other local residents express concern at the width of Main Drive as an access road. Having seen this access, I consider that highway access would be adequate for the number of dwellings proposed such that this does not count against the scheme. I have noted the appellants' suggestion of adding a passing bay. However, this would further urbanise the area. Moreover, the driveway to the proposed dwellings would provide some scope for passing such that a formalised bay would be unnecessary. I have noted the Irish Highways Guidance note supplied by one objector. However, that is not planning advice which applies here. I therefore do not attach weight to this matter in coming to my decision. Rather, I note that the local Highway Authority does not object to the scheme and I concur with that view.

Ecology

21. Local residents express concern regarding the impact on wildlife in this location. However, there is no substantiated evidence before me regarding this matter. Concerns regarding nesting birds and development activity would be covered under the provisions of the Wildlife and Countryside Act.

Archaeology

22. The County Council's archaeological officer does not object to this proposal or seek conditions. However, a neighbour points to a number of archaeological finds close to the Lodges. Had I come to a different conclusion in respect of the appeal I would have sought further information as it would have been necessary to consider this matter and its implications, including possibly in respect of planning conditions.

Flood Risk

23. Much of the site lies within Zone 1 which is land at the lowest risk of flooding and which is, therefore, suitable for housing. Whilst part of the site falls within Flood Zone 3, which is not suited to housing, I am satisfied that the outline scheme could be designed to avoid use of this area. I note that the Environment Agency does not object to the scheme on that basis.

24. There is concern raised by a local resident about proximity to the sewage pumping station. However, I note that the corner of the site where the pumping station is located includes many TPO trees so it is likely that the dwellings would be some distance from this infrastructure.

Housing Mix

25. The appellants suggest that 'non-estate' larger dwellings, as proposed here, are needed to retain a housing mix. However, there is no substantiated evidence of such a need in this locality.

Planning Balance and Conclusions

26. As set out above I conclude that the proposed development would harm the character and appearance of the locality, and would have an adverse impact upon trees. In Policy terms the housing need in this location is being met. The

proposal would fail to accord with CLLP policies LP2, LP4, LP17 and LP26. Thus there would be conflict with the Local Plan. There would also be a very modest harm in terms of the setting of listed buildings although I note this is not a determinative factor in this case such that, in Framework paragraph 134 terms, the modest public benefits of providing new housing stock would outweigh the very modest harm.

27. S.38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine the appeal in accordance with the development plan unless material considerations indicate otherwise, which they do not. Thus, for the reasons set out above and having had regard to all other matters raised I conclude the appeal should fail.

Zoë H R Hill

Inspector