

Guildhall Gainsborough
Lincolnshire DN21 2NA
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AGENDA

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

Planning Committee
Wednesday, 16th October, 2019 at 6.30 pm
Council Chamber - The Guildhall

Members:

- Councillor Ian Fleetwood (Chairman)
- Councillor Robert Waller (Vice-Chairman)
- Councillor Owen Bierley
- Councillor Matthew Boles
- Councillor David Cotton
- Councillor Michael Devine
- Councillor Cherie Hill
- Councillor Paul Howitt-Cowan
- Councillor Mrs Cordelia McCartney
- Councillor Giles McNeill
- Councillor Mrs Jessie Milne
- Councillor Keith Panter
- Councillor Roger Patterson
- Councillor Mrs Judy Rainsforth
- Councillor Mrs Angela White

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** (PAGES 3 - 6)
 - i) **Meeting of the Planning Committee held on 21 August 2019, 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** (VERBAL REPORT)

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**

i) 139520 - Scotton (PAGES 7 - 31)

ii) 139324 - Heapham Road, Gainsborough (PAGES 32 - 46)

7. **Determination of Appeals** (PAGES 47 - 79)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

Tuesday, 8 October 2019

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Planning Committee held in the Council Chamber - The Guildhall on 21 August 2019 commencing at 6.30 pm.

Present: Councillor Ian Fleetwood (Chairman)
Councillor Robert Waller (Vice-Chairman)

Councillor Owen Bierley
Councillor Matthew Boles
Councillor Stephen Bunney
Councillor Christopher Darcel
Councillor Michael Devine
Councillor Paul Howitt-Cowan
Councillor Giles McNeill
Councillor Mrs Jessie Milne
Councillor Keith Panter
Councillor Roger Patterson
Councillor Mrs Judy Rainsforth

In Attendance:
Russell Clarkson Planning Manager (Development Management)
Danielle Peck Development Management Officer
Martha Rees Legal Advisor
James Welbourn Democratic and Civic Officer

Apologies: Councillor David Cotton
Councillor Cherie Hill
Councillor Mrs Angela White

Membership: Councillor Stephen Bunney substituted for Councillor Angela White
Councillor Christopher Darcel substituted for Councillor Cherie Hill.

19 PUBLIC PARTICIPATION PERIOD

There was no public participation at this point of the meeting.

20 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 26 June 2019 were approved as a correct record and signed by the Chairman.

21 DECLARATIONS OF INTEREST

There were no declarations of interests at this stage of the meeting.

22 UPDATE ON GOVERNMENT/LOCAL CHANGES IN PLANNING POLICY

The Planning Manager provided the Planning Committee with an update to the following Neighbourhood Plans (NPs):

- Willoughton NP was made on 1 July;
- Glentworth NP had passed its examination, with a referendum to be held on September 5;
- Both Spridlington and Sudbrooke NPs were under examination;
- Bishop Norton NP was at the first draft stage and out for consultation until 7 October;
- Hackthorn and Cold Hanworth have applied to do a joint plan and this was out for consultation.

23 139558 - LAND AT SOUTH STREET NORTH KELSEY

Members considered a planning application for 1no. dwelling with detached garage at land to north of South Street North Kelsey Market Rasen LN7 6ET. There were no further updates to the application from officers.

The first public speaker to the application was Richard Alderson from Brown and Co, the agent for the applicant. He raised the following points during his speech:

- A principal of planning law is that applications should be in accordance with the Development Plan;
- The definition of an appropriate planning law depends on the Central Lincolnshire Local Plan (CLLP); LP2 of the CLLP categorises the way developments were rated for medium villages. The policy also confirms that no sites were allocated except for Hemswell Cliff and Lea;
- Policy LP4 (growth in villages) gives a sequential test for priority as follows:
 - Brownfield land or infill sites in appropriate locations, within the developed footprint of the settlement;
 - Brownfield sites at the edge of a settlement, in appropriate locations;
 - Greenfield sites at the edge of a settlement, in appropriate locations.
- The definition of an 'appropriate location' is contained within LP2 of the CLLP, along with provision for clear community support;
- The site was previously developed as a sand quarry. The officer's report suggested that the site in question was detached from the core settlement of North Kelsey. We believe that the site was protected from open countryside by vegetation. The archaeology response supported this view;
- The officer report confirmed that there was no issue with visual impact;
- The application met the stringent test of LP2 of the CLLP; it was necessary to consider the shape of the whole community. Weight has been placed on LP2 of the CLLP, but nothing from the National Planning Policy Framework (NPPF);
- The officer considered there would be little impact on the neighbouring property, and the visual impact and design were considered acceptable;
- There were no archaeological or highways concerns;

- Drainage was controlled by condition;
- The ecology report found no specific issues with vulnerable species;
- In the absence of a conflict with the NPPF, North Kelsey was a well established community. The application had received strong support from the Parish Council, and written support from residents.

The second public speaker was Jacqueline Duke, a local resident objecting to the application. She raised the following points on behalf of herself, her husband and another local resident:

- Nothing has changed following the last application in the area that was refused in January 2019;
- Her property was the nearest to the lane involved in the application. When moving into the house 28 years ago the sand quarry was still in use. Subsequently, it was left to go wild until the applicants purchased the site;
- The site had historically housed badgers and other wildlife; in the past planning applications had been turned down on this basis;
- There were great crested newts in the area, with a colony living on Carr Road within half a mile of the site;
- The sandpit started at the front of South Street and was excavated and backfilled. When the objector's bungalow was built, there were concerns around excavating the lane and further concerns with subsidence;
- The entrance to the lane was quite tight, and South Street was very narrow;
- If planning permission was granted it could set a precedent for development to the south of South Street. There was a planning application for 9 dwellings at Sheepcote Farm that had gone to appeal to the Secretary of State;
- A landowner for property to the west of the site had indicated they would apply for planning permission in the future.

The final speaker was Councillor Lewis Strange, Ward Councillor for the application. He raised the following points:

- He had asked this application to be considered by Planning Committee as it had been refused previously;
- If constructed sympathetically it would not be out of place in the village;
- Committee were asked to view the site for themselves to consider whether this application lay within the planning envelope. The village did not have a NP;
- Whilst the application had been supported by Councillor Strange and the Parish Council, a number of residents had expressed concerns around the parish boundary and the precedent it may set;
- A site visit could outline the adverse effects that some residents may face.

Note: Following his speech Councillor Strange left the Chamber and did not return.

Officers responded to the public speeches by informing committee that there was an indication that there is no record of badgers residing within the site itself and should not in itself be a bar to development.

Members then provided comment on the application and asked questions of officers.

Further information was provided:

- If a site visit was requested, the applicant could appeal against non-determination, if the applicant was not minded to agree an extension of time;
- It was open to applicants to make repeat applications; every application would be judged on its own merits. The previous application on this site had been assessed and it was important to be mindful of this application for consistency;
- The site immediately to the west of this application applied for 9 dwellings and was refused earlier in the year. One of the reasons for this was that it wasn't within the core shape of the village. This was a material consideration when considering this current application. The decision had now been appealed to the Secretary of State. The determination of this application would form a material consideration when the Planning Inspector considered the appeal ;
- The historic core of North Kelsey did not necessarily relate to the current "developed footprint" which is set out within the Local Plan; the Local Plan defines the footprint as the continuous built form of the settlement with specific exclusions given;
- The application refused in January 2019 and the current application were exactly the same.

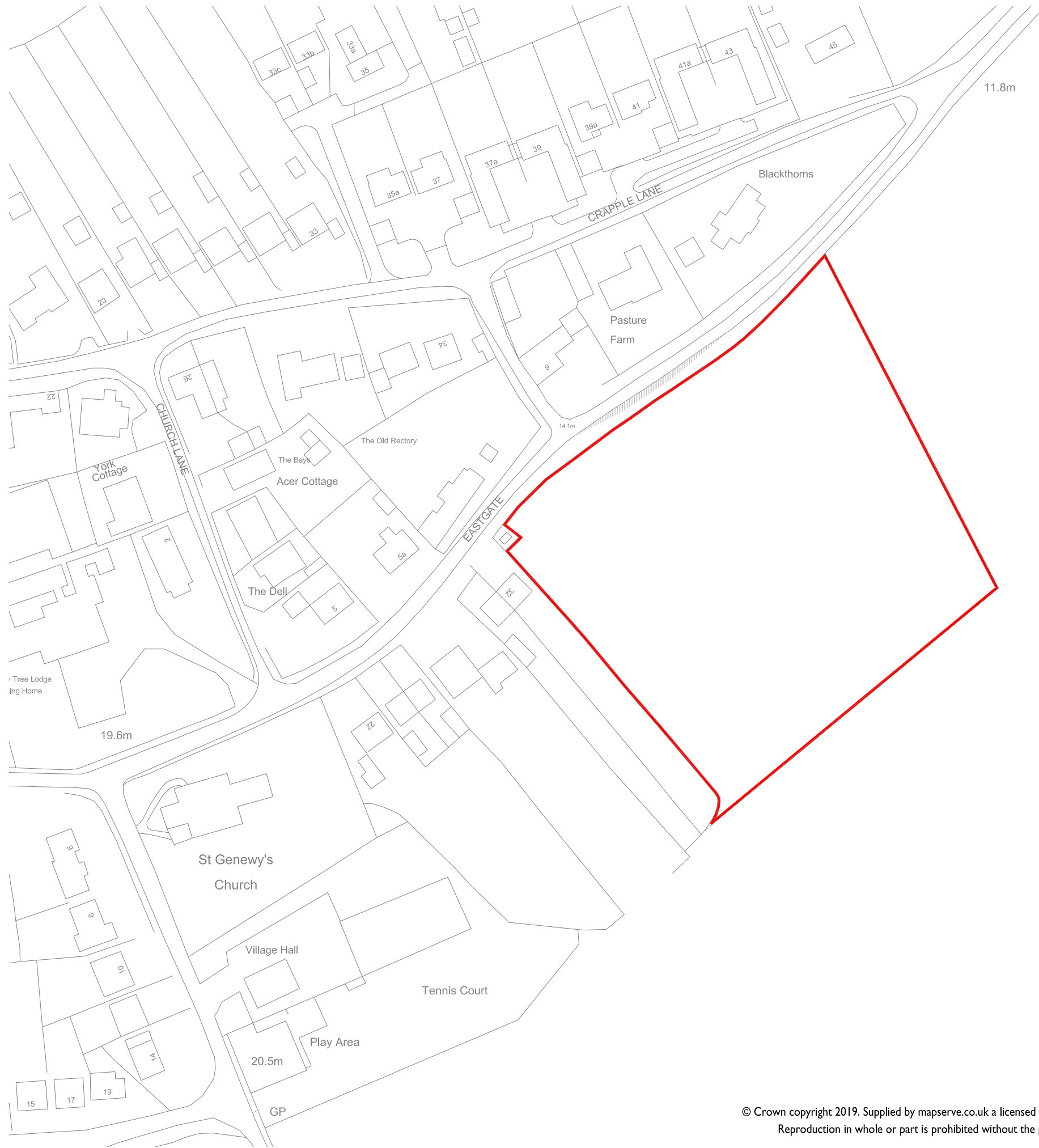
The application had earlier been moved, and seconded. With no further comments from the Committee it was voted upon and agreed that permission be **REFUSED**.

24 DETERMINATION OF APPEALS

The appeals were noted.

The meeting concluded at 7.06 pm.

Chairman



Application No. 139520

**JEM
MANAGEMENT
SERVICES**

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 Scunthorpe E - jem.manservices@btconnect.com
 North Lincolnshire DN15 7PN W - www.jemmanagementservices.co.uk

client:
Mr P Fox
 Land South of Eastgate, Scotton, Gainsborough

project:
**Proposed Residential Development
 For 9 Detached Dwellings**

drawing title:
Location Plan

drawn by: NWP	date: 30.03.2019	scale: 1 / 1250
drawing No: PF / 19 / 01	rev:	

Agenda Item 6a

Officers Report

Planning Application No: 139520

PROPOSAL: Outline planning application to erect 9no. dwellings with access to be considered and not reserved for subsequent applications.

LOCATION: Land south of Eastgate Scotton Lincolnshire DN21 3QR

WARD: Scotter and Blyton

WARD MEMBERS: Cllr Mrs L Clews; Cllr Mrs L A Rollings; and Cllr Mrs M Snee

APPLICANT NAME: Mr P Fox

TARGET DECISION DATE: 06/09/2019

DEVELOPMENT TYPE: Major - Dwellings

CASE OFFICER: Ian Elliott

RECOMMENDED DECISION: Grant permission subject to conditions and the receipt of a S106 obligation (Unilateral Undertaking) to bind the plots to:

1. Being sold individually for self-build.
2. Being serviced plots through the construction of the vehicular access, private road and services to the rear plots by A F Developments Ltd

Description:

The application site is an area of agricultural land to the south east of Eastgate, Scotton. The site is adjacent the settlement of Scotton which lies to the south west and north west. The site is overgrown currently not used for growing crops and slopes gently downwards from south west to south east. It is set just back from and above the level of the highway which has a 30mph speed limit. The site is open to the north east and south east boundaries. The south west boundary is screened by low fencing, some trees and hedging. The north west boundary is screened by high hedging and trees. Neighbouring dwellings are opposite or adjacent to the south west and north west with open field to the north east and south east. There are two Listed Buildings to the west of the site. These are:

- Church of St Genwys – Grade 1 Listed
- Acacia Cottage – Grade 2 Listed

Within the front north east boundary of the site is a tree protected by Tree Preservation Order (Scotton No.1) 2019. The site is also within a Sand and Gravels Minerals Safeguarding Area (MSA).

Planning permission is sought, in outline, for a proposed development of 9no. dwellings with access to be considered (and not reserved for subsequent applications).

Matters of of scale, appearance, layout and landscaping have all been reserved for subsequent approval (“reserved matters”).

The reserved matters will need to be considered through a subsequent reserved matters planning application, subject to approval of this outline application.

It has been requested by a ward member that the application goes to the planning committee on the grounds of the accesses impact on highway safety and the development impact on the existing tree and hedging.

Relevant history:

135056 - Outline planning application for proposed development for 9no. dwellings with access to be considered and not reserved for subsequent applications – 12/01/17 - Granted time limit and other conditions (Planning Committee)

139276 - Pre-application enquiry for 9no. dwellings - 08/05/19

Representations

Councillor M Snee: Requests application is considered by the Planning Committee

The draft Scotton Neighbourhood Plan stipulates design code principles, it is not clear from the revised proposals if these have been met:

- The Planning committee need to ensure there is provision of safe and accessible access from the site
- The Planning committee need reassurances that existing trees and Hedges at the front are being retained as part of the development
- Need to establish that the proposal does not cause any unacceptable detrimental harm to the private amenity of adjacent properties
- The need to establish that the orientation of the properties maximise the advantage of solar gain for renewable technologies.

Scotton Parish Council: Objections

Representation received 27th August 2019:

- The Applicant should follow all recommendations and conditions laid down in the original sanction for outline plan for 9 buildings.
- The new updated plan does not give sufficient clearance to allow vehicles to enter the main Eastgate Road safely. The visibility of oncoming traffic is insufficient. The road requires widening from Plot 1
- The plans show no indication that Transco or Cadent have been contacted regarding these plans. The let-down station and the main gas pipeline to the village are in the area of the plan and also there is a vent pipe crossing the road and in the area of indicted path.

- There is no indication of preservation of the sycamore tree which has a preservation order.
- The plan indicates using land which is not owned by the applicant. The owners of this land have not given the applicant permission to use their land.
- Once again this application is against the Neighbourhood Plan. No Large houses of any kind are required.
- There is no affordable housing as indicated in the original permission for this plan.

Representation received 7th August 2019:

- All conditions and recommendations to the approval of the original outline permission must be adhered to and enforced.
- The suggested three lane entrances to Eastgate are in themselves unsafe and as indicated by the Highways could only be allowed if the road width is increased and a footpath included.
- The Sycamore tree has a 6 month preservation order and the Parish Council will be supporting a life time preservation. This will also require further alterations to the suggested plan.
- Although the application goes to great length that it is only an outline plan. The applicant mentions bungalows next to the existing building. Therefore the Parish Council is totally against the extremely large buildings shown in the application. This is against all recommended buildings required by the Neighbourhood Plan.

Local residents: Representation received from a number of residents.

5A, 7, 9, 10, 32 Eastgate, Scotton
 Church View, Eastgate, Scotton
 Siennow, Eastgate, Scotton
 9, 31 Westgate, Scotton
 18 Northorpe Road, Scotton
 Pasture Farm, Crapple Lane, Scotton
 Cockthorn Farm, Scotton
 The Bungalow, 2A High Street, Scotton
 Three Ways, High Street, Scotton
 4 Orchard Drive, Pontefract

Objections, in summary:

Highway Safety

- There are too many accesses and unsafe at key times.
- Eastgate is very narrow with two vehicles unable to pass one another and used by agricultural machinery.
- There is no provision for a footpath for residents and school children.
- Road will not be able to cope with potential of 22 more vehicles.
- Will result in more street parking.
- Road widening is inadequate.

- The new proposed layout still only shows a visibility splay at one of the proposed access points not all 3 as required by Highways. This visibility splay should both be 43 metres minimum.
- The Highways Officer did state that the setback could be reduced to 2 metres if the Applicant could demonstrate a suitably low 85 percentile speed but I can confirm I have not seen any traffic monitoring done on the road and none is referred to in the revised submission.
- As a result of using a 2 metres set back this reduces the visibility to 38 metres.
- The re-siting of the middle vehicular access on a concealed S bend means that it is now in close proximity to the driveway for Blackthorns.
- The new amended proposed layout fails to address the issues raised on the 5th July 2019 by Lincolnshire County Council Highways case officer.
- The removal of all obstacles over 1 metre in height from the line of sight on access splays is unachievable.
- The road widening will give a false sense of leaving the village meaning vehicles will speed up only to be met by a car approaching on the single lane carriageway or pedestrians.

Heritage

- Loss of tree/hedging will spoil the view of the Church.
- Rural nature of listed building setting compromised.

Tree and Hedging

- Road widening will threaten the root system of the Sycamore.
- Tree and hedging frames the Listed Church and should be preserved.
- Removal contrary to policy 13 of the Scotton Neighbourhood Plan.
- No dig policy should be adopted around the tree and hedging root protection area.
- The road widening and footpath cannot be achieved without compromising the roots of the protected Sycamore tree and the Walnut tree on the extreme boundary of No 7 Eastgate.
- The tree with the TPO has a calculated RPA (of 11.64 metres, which clearly encompasses the proposed hatched area and 1.2 metre footpath and slightly further into 9 Eastgate's front garden.

Scale and Mix

- Last thing needed is more large detached homes.
- Shortage of bungalows for residents who want to stay in the village and starter homes.
- Need for affordable housing.
- Not a good mix of dwellings.

Layout

- Development will create ribbon development.

Visual Amenity

- Will alter beyond recognition the scenic single track green lane in and out of the village.

- Loss of tree/hedging will spoil the view of the village.
- Significantly alter the street scene.

Drainage

- No more housing can be connected to the sewage system.
- Multiple access points will increase the flood risk on the road from driveway run-off.
- The proposal still fails to address the drainage issues outlined by Highways.

Flood Risk

- Road is a medium surface water flood risk and turns into a mini river with moderate rainfall.

Ecology

- Bats could be roosting within the tree
- Biodiversity impact

Land Availability Sequential Test

- This has not been demonstrated as requested by LP4.

Land Ownership

- The new layout includes proposed development outside of the red line ownership boundary and included an enlarged plan to show in yellow some of the area outside of the Applicants' ownership.
- The above Application envisages widening the road by 2 metres and constructing a 1.2 metre wide footpath which the Application Plans show would then be running inside our garden wall obtained planning permission 134885 which is extant.
- The hatched area is outside the original line of development and belongs to No 9 Eastgate.
- The proposed 2 metre road widening and construction of 1.2 metre wide footpath can only be achieved by using part of my garden (Pasture Farm) which we strongly object to.

Other

- This application is for access to be considered and self-build plots and affordable housing should be considered irrelevant in any decision making process for this application.
- Severe disruption in terms of construction traffic on Eastgate, particularly for the local farmers as well as the residents potentially for years to come!

Historic England: No objection with advice

We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

WLDC Conservation Officer: No objections with advice

I am pleased to note that the layout of the proposed new dwellings will open up and frame a view of the grade I listed church. I also note the heritage

statement provides some details on the type of house design and materials. I am happy to support an application for outline development subject to all matters reserved regarding design and materials.

Whilst I concur with the basic heritage statement that traditional design, perhaps expressed with contemporary fenestration may be appropriate, locally distinctive materials will be required and this should not include bricks that look like recycled bricks (whether reclaimed or new bricks that look like reclaimed bricks). Traditional houses of the 18th and 19th centuries in Lincolnshire were built of fine facing bricks of one colour on the front elevation and often a complementing but less formal brick on the sides and rear. Reclaimed bricks were never used. Authentic design therefore carries a requirement for a more appropriate brick and roof covering detail.

LCC Education: Comment

The County Council has no comments to make on this application in relation to education as this falls below the trigger for a request for financial contribution.

LCC Highways/Lead Local Flood Authority: No objections subject to conditions and informatives.

- Recommend conditions in relation to the footpath, carriage widening and visibility obstructions.
- Layout has not been considered by the Highway Authority as part of this application, as it is a reserved matter.

They will need to intercept any private curtilage run-off so it doesn't discharge onto the highway. Any drainage required as part of the accesses, widening and footway works would get picked up by us when they formally apply to agree the detail of works within the highway.

Scunthorpe & Gainsborough Water Management Board: No objections with advice

LCC Minerals and Waste: No objections

LCC Archaeology: No objections

This office has previously commented on a number of similar proposals for this site. As part of which it was recommended that a programme of archaeological evaluation was undertaken in light of the proximity of the site to the medieval village core. However, the results of this evaluation have successfully demonstrated that the site lay outside of the medieval village, and was instead part of its open fields.

WLDC Tree and Landscape Officer: No objections subject to conditions
Representation received 2nd September 2019:

The plan shows the tree crown extents and its basic circular RPA (unadjusted to compensate for existing physical root obstructions). Due to this being an

'outline' I am happy to wait for RM application(s) for tree protection details, and any construction details in close proximity to the RPA.

Representation received 17th June 2019:

I have no objections to development of this land, however, the intended road widening for the new access is likely to sever important roots close to the tree. This is at risk of being detrimental to the future health and stability of the tree. Details for landscaping and a tree survey should be required to be submitted with any subsequent RM application if this outline application gains permission.

WLDC Senior Housing Strategy and Enabling Officer: Comment
Based on the size of the proposed dwellings at the above site, 20 % affordable housing would be required as per the Central Lincs Local Plan. This equates to either 2 dwellings - rounded from 1.8, or an off-site contribution of £151,920. WLDC preference is for on-site delivery of affordable housing, however, due to the size of the proposed properties, none would be suitable for affordable housing and so an off-site contribution would be acceptable on this site. I would expect to see the off-site contribution secured through a S106.

WLDC Housing Strategy, Health and Wellbeing Lead Officer: Supports
The proposal would contribute towards meeting our self-build requirement.

WLDC Planning and Housing Monitoring Officer: Comment
As the application is only for outline permission CIL will not be due at this time, however when the reserved matters is submitted I believe the best way to deal with this would be for the applicant to submit and masterplan and redline each plot individually. Offers advice on CIL process.

Lincolnshire Police: No objections with advice
The advice provided considers the landscaping and lighting of the site plus the position of utility meters and approved document Q of Building Regulations.

IDOX checked: 1st October 2019

Relevant Planning Policies:

Local Policy

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan in this location comprises the Central Lincolnshire Local Plan (April 2017) and the Lincolnshire Minerals and Waste Local Plan (June 2016).

Central Lincolnshire Local Plan 2012-2036 (CLLP)

The policies considered most relevant are as follows:

- LP1 A Presumption in Favour of Sustainable Development
- LP2 The Spatial Strategy and Settlement Hierarchy

LP3 Level and Distribution of Growth
LP4 Growth in Villages
LP10 Meeting Accommodation Needs
LP11 Affordable Housing
LP13 Accessibility and Transport
LP14 Managing Water Resources and Flood Risk
LP17 Landscape, Townscape and Views
LP21 Biodiversity and Geodiversity
LP25 The Historic Environment
LP26 Design and Amenity

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

Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies)

The site is within a Limestone Minerals Safeguarding Area. Policy M11 (Safeguarding of Mineral Resources) applies.

<https://www.lincolnshire.gov.uk/residents/environment-and-planning/planning-and-development/minerals-and-waste/>

Neighbourhood Plan

Scotton Parish Council have consulted on their draft Neighbourhood Plan and supporting documents under Regulation 14. The consultation ran for a 6-week period between the 11th February 2019 and closes on the 3rd April 2019. The results are unknown. The relevant draft policies are:

Policy 6 – Allocation of Site (15a)

Policy 13 – Safeguarding Important and Distinctive Landscape Features (View 1 on map 9 and Green Lane on map 10)

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

The National Planning Policy Framework (NPPF states (paragraph 48) that: Local planning authorities may give weight to relevant policies in emerging plans according to:

(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

National Guidance

National Planning Policy Framework (NPPF)

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

National Planning Practice Guidance (NPPG)

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

Other

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

<https://www.legislation.gov.uk/ukpga/1990/9/section/66>

Section 2A of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)

<http://www.legislation.gov.uk/ukpga/2016/22/part/1/chapter/2/enacted>

Natural England's East Midlands Agricultural Land Classification Map

Self-Build and Custom Housebuilding Guidance

<https://www.gov.uk/guidance/self-build-and-custom-housebuilding>

Main issues:

- Principle of the Development
Central Lincolnshire Local Plan 2012-2036
Draft Scotton Neighbourhood Plan
National Planning Policy Framework
Heritage
Protected Tree
Minerals
Agricultural Benefit
Concluding Statement
- Access

Assessment:

Principle of the Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The principle of accommodating 9 dwellings on the site has previously been established in extant outline planning permission 135056 dated 12th January 2017.

(Outline) planning permission (with access to be considered) was granted in January 2017 and requires reserved matters (appearance, layout, scale, landscaping) to be submitted within 3 years i.e. by January 2020. The existence of this extant permission is a fall back position that should be attached weight in the determination of this application.

This was determined against the provisions of the then extant West Lindsey Local Plan Review 2006, albeit the draft CLLP was at a very advanced stage.

For reasons of clarity this application was submitted due to the proposal including two additional vehicular access points off Eastgate. The extant permission only included approval of one vehicular access whereas this application proposes three vehicular accesses. The access nearest the north east edge of the site is very similar or identical in position to the single access in the extant outline permission.

A second key change to the site from the extant outline permission is the protected status given to the prominent tree to the front on 22nd July 2019 during the determination process.

Central Lincolnshire Local Plan 2012-2036:

Local policy LP2 sets out a spatial strategy and settlement hierarchy from which to focus growth. Submitted local policy LP2 states that development proposals in Scotton (Medium Village) will:

'Unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support, the following applies in these settlements:

- *they will accommodate a limited amount of development in order to support their function and/or sustainability.*
- *no sites are allocated in this plan for development, except for Hemswell Cliff and Lea.*
- *typically, and only in appropriate locations, development proposals will be on sites of up to 9 dwellings or 0.25 hectares for employment uses. However, in exceptional circumstances 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'.*

Local policy LP2 states that *'throughout this policy, the term 'appropriate locations' means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan (such as, but not exclusively, Policy LP26). In addition, to qualify as an 'appropriate location', the site, if developed, would:*

- *retain the core shape and form of the settlement;*
- *not significantly harm the settlement's character and appearance; and*
- *not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement'.*

Submitted policy LP4 additionally requires a sequential approach to be applied to prioritise the most appropriate land for housing within small villages. LP4 states that:

'In each settlement in categories 5-6 of the settlement hierarchy, a sequential test will be applied with priority given as follows:

- 1. Brownfield land or infill sites, in appropriate locations, within the developed footprint of the settlement*
- 2. Brownfield sites at the edge of a settlement, in appropriate locations*
- 3. Greenfield sites at the edge of a settlement, in appropriate locations*

Proposals for development of a site lower in the list should include clear explanation of why sites are not available or suitable for categories higher up the list'.

Local policy LP4 goes on to say that Scotton has a growth level of 10%. An updated table of remaining growth for housing (dated 16th September 2019) in medium and small village's states that Scotton has 256 dwellings which equates to a growth allowance of 26 dwellings. Since the publication of this growth level 13 dwellings have been approved, since 1st April 2012, with a remaining allowance of 13 dwellings. As this already includes the 9 dwellings approved in outline planning permission 135056 the level of growth in Scotton would remain at 13 dwellings.

Draft Scotton Neighbourhood Plan:

Since the determination of planning application 135056 the DSNP has identified the site as an allocated housing site (15a) and policy 6 sets out the criteria for development of the site.

As previously acknowledged the Scotton Parish Council have consulted on their draft Neighbourhood Plan and supporting documents under Regulation 14. The consultation ran for a 6-week period between the 11th February 2019 and closes on the 3rd April 2019. The results of the consultation are as yet unknown and the draft Neighbourhood Plan is open to amendments.

With consideration given to paragraph 48 of the National Planning Policy Framework the draft version of the Scotton Neighbourhood Plan can be afforded some limited weight.

National Planning Policy Framework:

Paragraph 213 of the NPPF states that 'However, existing [development plan] policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

Heritage:

The proposal has the potential to have an impact on the setting of nearby listed buildings (see description).

Local policy LP25 of the CLLP states that *'Development proposals should protect, conserve and seek opportunities to enhance the historic environment*

of Central Lincolnshire’ and provides a breakdown of the required information to be submitted as part of an application in a heritage statement. In the Listed Building section of LP25 it states that ‘Development proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building’.

Guidance contained within Paragraph 189 of the NPPF states that ‘In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation’.

Paragraph 193 states that ‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’.

Paragraph 195 provides guidance that ‘Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use’.*

The impact of a development of the setting of a listed building is more than just its visual presence and annex 2 of the NPPF defines the setting of a heritage asset as:

‘The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to

the significance of an asset, may affect the ability to appreciate that significance or may be neutral’.

Paragraph 13 (Conserving and Enhancing the Historic Environment) of the NPPG (Reference ID: 18a-013-20140306) further supports this definition declaring that *‘Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage’* and *‘although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors’.*

The application has included a Heritage Statement dated 10th June 2019. The Authority’s Conservation Officer has not objected to the proposal in outline form and welcomes the indicative layout as it *‘will open up and frame a view of the grade I listed church’*

The application is in outline and it is considered that the site can be developed without having a harmful impact upon the setting of the Listed Buildings. Due care will be required at the reserved matters stage to ensure scale and appearance do not adversely affect the setting of these heritage assets.

Protected Tree:

Objections have been received in relation to the impact of the development on the protected tree and an unprotected Walnut Tree at 7 Eastgate. It is important that the proposal does not impact on the health and future presence of the protected tree in particular. No development will occur which will impact on the Walnut Tree and the highway sits between the site and the road widening/footpath scheme. The Authorities Tree and Landscape Officer (TLO) has not objected to the proposal stating that *‘due to this being an ‘outline’ I am happy to wait for RM application(s) for tree protection details, and any construction details in close proximity to the RPA.’* A condition to secure tree protection measures is recommended.

Minerals:

Guidance contained within paragraph 203-211 of the NPPF sets out the needs to safeguard mineral resources through local plan policies *‘to support sustainable economic growth and our quality of life’*. Policy M11 of the Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) states that:

‘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 applicant can demonstrate to the Mineral Planning Authority that prior extraction of the mineral would be impracticable, and that the development could not reasonably be sited elsewhere; or*

- *the incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed; or*
- *there is an overriding need for the development to meet local economic needs, and the development could not reasonably be sited elsewhere; or*
- *the development is of a minor nature which would have a negligible impact with respect to sterilising the mineral resource; or*
- *the development is, or forms part of, an allocation in the Development Plan.*

The site is in a Sand and Gravels Minerals Safeguarding Area. The application has not included the submission of a Minerals Assessment but the minerals and waste assessment in section 5 of the submitted Planning Statement states *'as outline planning permission has already been granted for the site the development is clearly acceptable in this regard.'*

Along with the extant permission (135056) the site is allocated for housing (Policy 6) in the Draft Scotton Neighbourhood Plan (DSNP) which has increasing weight as part of the overall Development Plan. It is acknowledged that the DSNP is at a stage where it is still liable to amendments prior to and after examination by an allocated planning inspector. Therefore increasing weight has to be given to its allocated status which meets the final bullet point above.

The Minerals and Waste team at Lincolnshire County Council have no objections to the development due to there being an extant outline planning permission.

Therefore the proposal would potentially sterilise a minerals resource but this sterilisation can already be fulfilled by extant planning permission 135056 and weight is given to the sites draft allocation in the DSNP.

Agricultural Benefit:

Guidance contained within Paragraph 170 states that planning policies and decisions should recognise *'the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;'* The field is classed in Natural England's East Midlands Agricultural Land Classification Map as grade 3 (good to moderate). This designates the site as being fairly productive for agricultural use. The site is currently in an overgrown unused condition and the development is only building on part of the land (0.54 Hectares).

Concluding Statement:

The development is within the 9 dwellings limit set out in LP2 and Policy 6 of the Draft Scotton Neighbourhood Plan. The proposed development is a greenfield site adjacent but outside the developed footprint of Scotton to the south west and north west therefore has the lowest priority for housing. The principle of a 9 dwelling development on the site has already been established as acceptable in extant planning permission 135056 and although determined

under the revoked West Lindsey Local Plan the extant planning can still be invoked and this is a material consideration in the decision making process. The allocation of the site in the draft policy 6 of the DSNP should be recognised and is a material consideration, albeit this can only be afforded limited weight at this early stage in the Neighbourhood Plan's preparation. The development would sterilise a minerals resources but this sterilisation can already be fulfilled by extant planning permission 135056 and weight is given to the sites draft allocation in the DSNP. The development introduces 9 dwellings onto the site which subject to reserved matters would be expected to preserve the setting of the grade I listed Church. Providing appropriate protection measures are approved and installed during the construction phase then the development would not harm the protected tree to the front of the site. The extant planning permission has already established that the loss of the agricultural land is not considered as significant.

The development therefore subject to the submission of the reserved matters (scale, appearance, layout and landscaping) accords with policy LP1, LP2, LP3, LP4, LP21 and LP25 of the CLLP, Policy 6 of the DSNP, policy M11 of Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies), the statutory duty in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions of the NPPF.

It is considered that policy LP1, LP2, LP3, LP4, LP21, LP25, Policy 6 and M11 are consistent with the housing, sustainability, heritage, biodiversity and minerals guidance of the NPPF and can be attached full weight.

Access

Objections have been received in relation to highway safety. The application site is set just back from and above the level of the highway which has a 30mph speed limit and has a junction on the opposite side of the road between The Old Rectory and 9 Eastgate. The highway narrows to a single vehicle width after this junction as you drive out of the village. The proposed three accesses will be positioned:

1. Within the right hand side of the north west boundary opposite the shared boundary of 9 Eastgate and Pasture Farm.
2. Around the middle of the north west boundary opposite Pasture Farm.
3. Within the left hand side of the north west boundary opposite the Old Rectory.

The ISP additionally includes the position of a road widening scheme and a pedestrian footpath to the north west of Eastgate adjacent the boundaries of 9 Eastgate, Pasture Farm and Blackthorns. Representations have been made declaring that the road widening scheme is on land owned by the occupants 9 Eastgate and Pasture Farm. The Highways Authority have submitted a plan received 25th September 2019 identifying (highlighted yellow) land where they have highway rights.

From the site visit the highway does bend as you drive out of the village, however the visibility splays appear sufficient in both directions from each

access. The Highways Authority have not objected to the proposal but have recommended a number of conditions regarding the widening scheme, the pedestrian footpath and disposal of surface water. It is therefore considered that the proposal will not have an adverse impact on highway safety. The development therefore accords with policy LP13 of the CLLP, Policy 6 of the DSNP and the provisions of the NPPF.

It is considered that policy LP13 and Policy 6 consistent with the highway safety guidance of the NPPF and can be attached full weight.

Other Considerations:

Scale, Appearance, Layout and Landscaping

Details of scale, appearance, landscaping and layout cannot be assessed at this stage as they are reserved for subsequent approval. The application has included the submission of an indicative site layout plan PF/19/03 revision E (ISP) dated 30th March 2019.

Scale and Appearance:

Scale and appearance are reserved for subsequent approval.

Local policy LP10 of the CLLP states 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'*.

Criteria a), b) and c) of policy 6 of the DSNP sets out the mix of dwelling types, and sizes, the height and the materials that should be used for the development.

The submitted planning statement states that *'it is intended that the houses will have a traditional rural appearance that will be entirely in keeping with the rural village character of Scotton'*

The application has not included any indicative elevation plans. The ISP indicates that the proposal will include 7 large dwellings and 2 bungalows (plot 1 and 5).

The dwellings in the locality are mixed in size, type and appearance from bungalows to two storey dwellings. Any future details of scale and appearance through a reserved matters application would need to be informed by its locality, and comply with CLLP policy LP26 (and the Neighbourhood Plan, with weight dependent on its stage of preparation).

Layout:

Layout is a reserved matter for subsequent consideration.

Nonetheless, the ISP demonstrates that the site is capable of accommodating nine dwellings with sufficient parking and external amenity space. The layout will need to acceptably integrate into its location on the edge of the settlement

and the nearby residential form plus as previously stated preserve the setting of the nearby Listed Buildings.

Landscaping:

Landscaping is reserved for subsequent approval.

Nonetheless, there is plenty of scope for opportunities to provide new planting within the site and on the boundaries. The use of soft boundary landscaping on the outer north east and south east boundaries of the site is advised and important to retain an appropriate relationship with the adjacent open fields. This should additionally include infill planting to the frontage boundary.

Residential Amenity

The scale of the site should provide ample room to accommodate nine dwellings to negate any harm on the living conditions of existing and future occupants.

The ISP demonstrates this apart from the position of plot 1 which appears very close to the north east elevation of 32 Eastgate. It is acknowledged that 32 Eastgate sits slightly higher than plot 1. The proposed location of plot 1 is additionally set further back than 32 Eastgate therefore is likely to impact on the immediate rear garden space of 32 Eastgate. The ISP identifies plot 1 as accommodating a bungalow which along with the site levels could be appropriately constructed and landscaped to reduce harm on the occupants of 32 Eastgate. It is considered reasonable and necessary to condition plot 1 to be a single storey dwelling.

The ISP demonstrates that plot 9 has a shared boundary with the long narrow rear garden of 32 Eastgate. A dwelling and its garaging will need to be appropriately orientated and positioned to enable the enjoyment of the garden space to 32 Eastgate is not harmed to an unacceptable level.

It is advised that plot 1 and 9 have blank gable end facing 32 Eastgate.

Archaeology

As eluded to the Historic Environment Officer (HEO) at Lincolnshire County Council has previously commented on this site in outline permission 135056 where Archaeological Evaluation was professionally completed. Given this the proposal will not be expected to cause any significant adverse archaeological impacts.

Foul and Surface Water Drainage

The application states that foul water will be disposed of to an existing foul sewer. Surface water will be disposed of too soakaways which is a sustainable urban drainage system. No objections have been received by the Lead Local Flood Authority. It appears that foul and surface water can be appropriately dealt with from the site, however further details and evidence will need to be submitted and agreed through a condition on the outline permission.

Objections have been received in relation to surface water flooding of the highway. No objections have been received from the Lead Local Flood Authority at Lincolnshire County Council. As previously stated the drainage methods proposed are considered acceptable and it is the applicant's responsibility to submit an appropriate drainage system which will not further increase the risk of surface water flooding on and around the site including the use of permeable surfacing to the access roads and driveways.

The Highways Authority have stated that the development *'will need to intercept any private curtilage run-off so it doesn't discharge onto the highway. Any drainage required as part of the accesses, widening and footway works will get picked up by us when they formally apply to agree the detail of works within the highway.'*

Affordable Housing and Self Build

Local Policy LP11 of the CLLP states that:

'Affordable housing will be sought on all qualifying housing development sites of 11 dwellings or more, or on development sites of less than 11 units if the total floorspace of the proposed units exceed 1,000 sqm.'

Therefore, if the units exceed 1000sqm, an affordable housing contribution will be required under policy LP11.

LP11 should be considered for its consistency with the NPPF. The NPPF (paragraph 63) states that *'Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas..'* Annex 2 of the NPPF defines major development as: *'for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.'*

The proposed development is less than 9 dwellings but the site measures 1.2 hectares. The indicative plan also suggests that the development will far exceed the 1,000 square metre floor space restriction in local policy LP11. The development is therefore liable to an affordable housing contribution either on or off site secured through a S106 agreement.

However paragraph 64 of the NPPF states the following *'where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:*

- a) *provides solely for Build to Rent homes;*
- b) *provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
- c) **is proposed to be developed by people who wish to build or commission their own homes; or**

d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.'

The NPPF defines self-build housing as *'housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.'*

The applicant has submitted a head of terms document to the Local Planning Authority to create a legal Unilateral Undertaking to provide certainty and commitment to the site being a self-build development. The 9 plots will be sold on the general market and then each purchaser will submit their own reserved matters application to the Local Planning Authority.

Section 2A of the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) places a general "duty to grant planning permission etc.". The Planning Practice Guidance (Paragraph: 023 Reference ID: 57-023-201760728) explains:

Subsection (2) states that 'relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period.'

The first base period begins on the day on which the register (which meets the requirement of the 2015 Act) is established and ends on 30 October 2016. Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period. Subsequent base periods will therefore run from 31 October to 30 October each year.'

At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period.'

Paragraph 25 of the NPPG (Reference ID: 57-025-201760728) provides a list of methods of how relevant authorities can support self-build housing within their area.

The Authority's Lead Officer for Housing Strategy (LOHS) has commented that Government Self-Build and Custom Housebuilding Guidance¹ states in summary that:

¹ <https://www.gov.uk/guidance/self-build-and-custom-housebuilding#self-build-and-custom-housebuilding>

- Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.
- The level of demand is established by reference to the number of entries added to an authority's register.
- Relevant authorities should consider how they can best support self-build and custom housebuilding and this could include engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested.

The LOHS has stated that *'There are currently 7 individuals registered on the West Lindsey self-build and custom housebuilding register. Based on the above guidance we have a duty to permission plots within 3 years following the end of the base period for any registrations in that period (currently 3 x plots by 30/10/2020 & 2 x plots by 30/10/2021). Therefore the proposal would contribute towards meeting our requirement.'*

Accordingly, weight should be given to the consideration that the development will provide "self-build" plots and that there is a recognised demand on the Self Build Register. The submission of the proposed S106 unilateral undertaking is necessary in order to secure this.

Given the commitment through a legal S106 unilateral undertaking it is considered that an affordable housing contribution cannot be sought due to the self-build nature of the development.

Community Infrastructure Levy

West Lindsey District Council adopted a Community Infrastructure Levy (CIL) which will be charged from 22nd January 2018. The site is within zone 2 where there is a charge of £15 per square metre. This is an outline application with scale to be considered through the submission of a future reserved matters application.

However as previously described above the development will be a self-build site which would makes it exempt from paying CIL. The Authority's Planning and Housing Monitoring Officer has provided advice in the representations section of this report including how the self-build exemption can be forfeited if the correct processes are not followed prior to commencement of the development within each plots red line.

Paragraph 82 of the Community Infrastructure Levy section in the NPPG (reference 25-082-20190901) states that *'If the necessary qualification requirements are met and the application process is completed within required timescales, an exemption from the Community Infrastructure Levy will be available to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals benefiting from the exemption must own the property and occupy it as their principal residence for a minimum of 3 years after the work is completed.'*

Land Ownership

The ownership of the land proposed to be used to enable the widening of the road has been challenged by the residents of 9 Eastgate and Pasture Farm. This issue has been discussed earlier in the Highways section of this report.

Conclusion and reasons for decision:

The decision has been considered against local policy LP1 A presumption in Favour of Sustainable Development, LP2 The Spatial Strategy and Settlement Hierarchy, LP3 Level and Distribution of Growth, LP4 Growth in Villages, LP10 Meeting Accommodation Needs, LP11 Affordable Housing, LP13 Accessibility and Transport, LP14 Managing Water Resources and Flood Risk, LP17 Landscape, Townscape and Views, LP21 Biodiversity and Geodiversity, LP25 The Historic Environment and LP26 Design and Amenity of the Central Lincolnshire Local plan 2012-2036, policy M11 of the Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) and Policy 6 and 13 of the Draft Scotton Neighbourhood Plan in the first instance. Furthermore consideration has been given to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance. In light of the above assessment it is considered that the proposal is acceptable subject to certain conditions. The site currently has extant outline planning permission (access considered) 135056 and is allocated for housing (9 dwellings) in the Draft Scotton Neighbourhood Plan. The development will positively contribute nine dwellings towards the housing supply in Central Lincolnshire and the remaining housing growth allocated to Scotton. The proposed dwellings will additionally contribute towards the Authority's self-build register. The proposal will not have a harmful impact on highway safety, the protected tree to the front boundary, archaeology, a minerals resource or increase the risk of flooding. The development will additionally preserve the setting of the nearby listed buildings. The proposal is therefore acceptable subject to satisfying a number of pre-commencement conditions and the submission of a reserved matters planning application (scale, appearance, layout and landscaping).

Human Rights Implications:

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

Legal Implications:

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

Representors to be notified -

(highlight requirements):

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

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

1. Application for approval of the reserved matters must be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To conform with Section 92 (2) of the Town and Country Planning Act 1990 (as amended).

2. No development must take place until, plans and particulars of the **appearance, layout and scale** (see advisory note) 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 must be carried out in accordance with those details.

Reason: The application is in outline only and the Local Planning Authority wishes to ensure that these details which have not yet been submitted are appropriate for the locality.

3. The development hereby permitted must be begun before the expiration of two years from the date of final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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:

4. No development must take place until, details of the form and position of the protection measures to protect the protected tree adjacent the north west boundary have been submitted to and approved in writing by the Local Planning Authority. The approved protection measures must be installed prior to commencement. The protection measures must be retained until:

- The vehicular accesses, estate road, Plot 1 and Plot 2 are completed.

Reason: To safeguard the protected tree to the front north west boundary of the site during construction works, in the interest of visual amenity to accord with the National Planning Policy Framework and local policy LP21 of the Central Lincolnshire Local Plan 2012-2036.

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

5. With the exception of the detailed matters referred to by the conditions of this consent, the access hereby approved must be carried out in accordance with Location Plan PF/19/01 and Site Plan (vehicular access points only) PF/19/03 Rev E dated 30th March 2019. The works must 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: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework, local policy LP13 and LP26 of the Central Lincolnshire Local Plan 2012-2036 and policy 6 of the Draft Scotton Neighbourhood Plan.

6. No construction works above ground level must take place until details of a scheme for the disposal of foul/surface water (including any necessary soakaway/percolation tests) from the site and a plan identifying connectivity and their position has been submitted to and approved in writing by the local planning authority. No occupation must occur until the approved scheme has been carried out.

Reason: To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework, local policy LP14 of the Central Lincolnshire Local Plan 2012-2036 and policy 6 of the Draft Scotton Neighbourhood Plan.

7. No occupation on the site must occur until the works to improve the public highway by means of a 1.2m wide footway (including a tactile crossing point) and carriageway widening and realignment, in accordance with plan PF/19/03 Rev E dated 30th March 2019 has been certified complete by the Local Planning Authority.

Reason: To ensure the provision of safe and adequate means of access to the permitted development to accord with the National Planning Policy Framework, local policy LP13 of the Central Lincolnshire Local Plan 2012-2036 and policy 6 of the Draft Scotton Neighbourhood Plan.

8. Before the middle access is brought into use all obstructions exceeding 1 metre high must be cleared from the land within the visibility splays illustrated on plan PF/19/03 Rev E dated 30th March 2019 and thereafter, the visibility splays shall be kept free of obstructions exceeding 1 metre in height.

Reason: So that drivers intending entering the highway at the access may have sufficient visibility of approaching traffic to judge if it is safe to complete the manoeuvre to accord with the National Planning Policy Framework, local policy LP13 of the Central Lincolnshire Local Plan 2012-2036 and policy 6 of the Draft Scotton Neighbourhood Plan.

9. Before the middle access is brought into use the land between the highway boundary and the vision splays indicated on drawing number PF/19/03 Rev E dated 30th March 2019 shall be lowered so that it does not exceed 0.6 metres above the level of the adjacent carriageway (Eastgate) and thereafter the visibility splay shall be kept free of obstacles exceeding 0.6 metres in height.

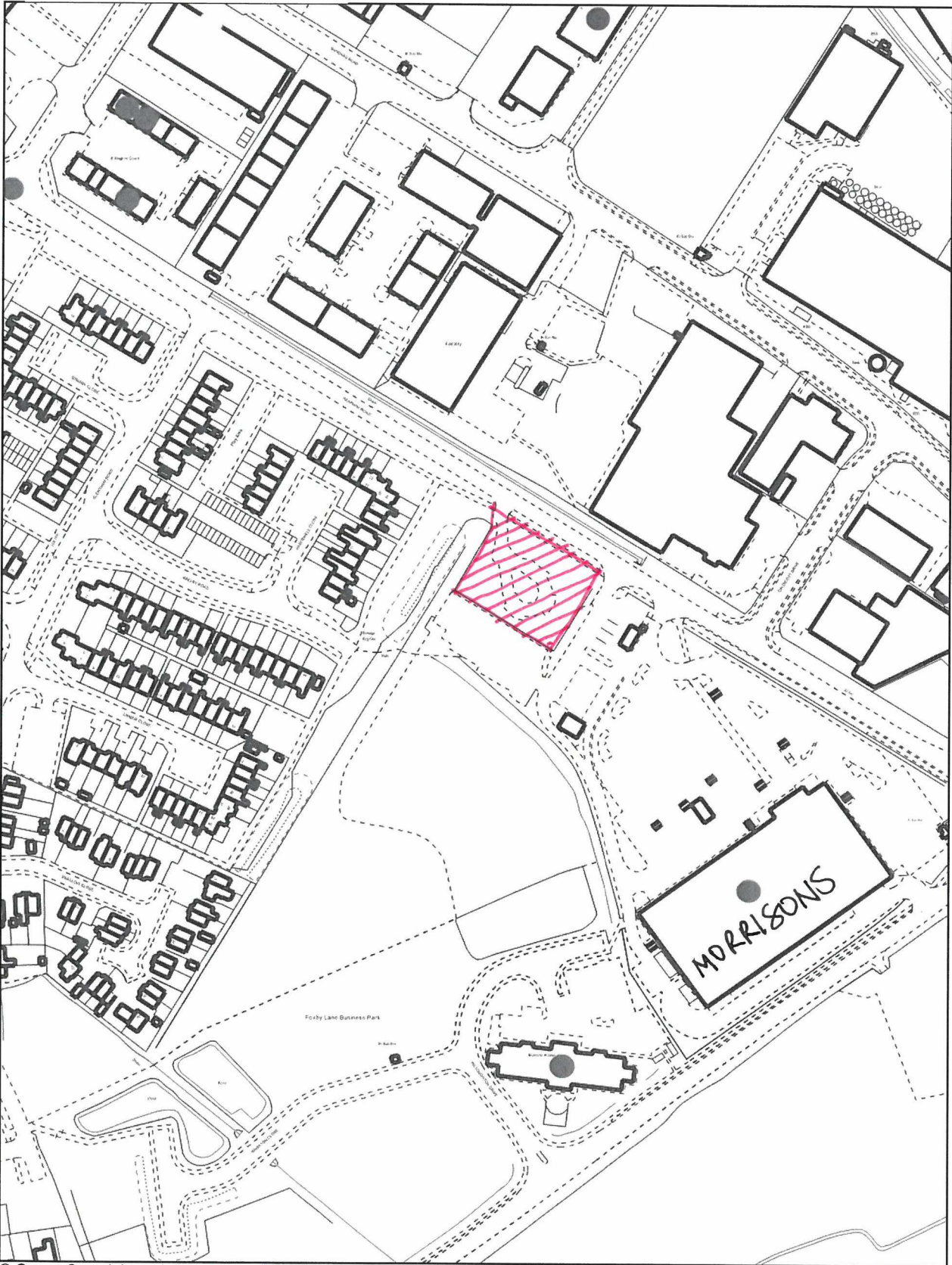
Reason: So that drivers intending entering the highway at the access may have sufficient visibility of approaching traffic to judge if it is safe to complete the manoeuvre to accord with the National Planning Policy Framework, local policy LP13 of the Central Lincolnshire Local Plan 2012-2036 and policy 6 of the Draft Scotton Neighbourhood Plan.

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

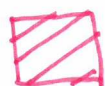
NONE



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Officers Report

Planning Application No: 139324

PROPOSAL: Planning application for erection of 2 single storey units to use for car rentals, including car wash, car parts and tyre sales with fitting services and associated parking spaces and new access.

LOCATION: Land adj Morrisons Supermarket, Heapham Road South, Gainsborough DN21 1XY

WARD: Gainsborough East

WARD MEMBER(S): Cllr Tim Davies, Cllr Mick Devine, Cllr David Dobbie

APPLICANT NAME: Mr Burney

TARGET DECISION DATE: Extension of Time to 18.10.19

DEVELOPMENT TYPE: Minor - all others

CASE OFFICER: Joanne Sizer

RECOMMENDED DECISION: Grant permission subject to conditions

Description: The site is located on the south eastern fringe of Gainsborough, to the immediate north west of the Morrison's supermarket and petrol station. It was formerly in use as a recycling centre and consists of grassland with an access off Heapham Road South that turns within the site to allow vehicles to enter and exit in the site in a single manoeuvre. There is some evidence of fly tipping. To the north, north east and north west on the opposite side of the road is a large important Established Employment Area (EEA) which is the "Gainsborough Industrial Area" with the reference E19 in the Central Lincolnshire Local Plan. South and south west is a large triangular area of important local green space. A wide grassed area runs along the western boundary of the site with a pedestrian/cycle path providing access to houses backing onto Marshall Close that face the footpath. A line of trees and a small earth bund run along this section of the site.

The proposal is for the erection of 2 units. One will be used in association with car rentals, including a car wash and valeting area for rental vehicles. The larger unit will sell and fit tyres and other car parts and offer vehicle servicing among other automotive services. The application as originally submitted proposed 2 separate access which was subsequently amended to a single centrally paced one.

This application has been referred to the committee in the interests of transparency as West Lindsey District Council are the owners of the land.

Relevant history:

139325 –Advertisement consent for 4 No fascia signs and 1 No free standing totem sign– Not yet determined.

138663 – Pre application enquiry for two units and car parking
130947 – County matters consultation
W33/989/93 – Application to use land as recycling centre – Permission granted.
W33/397/85 – Change of use from former oil well site to sale of motor vehicles. Permission granted.

Representations:

Chairman/Ward member(s):

No representations received

Parish/Town Council/Meeting:

Gainsborough Town Council resolved to support the application

Local residents:

No representations received

LCC Highways & Lead Local Flood Authority (Summary):

No objections and recommends conditions regarding closure of existing access within 7 days of the new access being brought into use and submission of a surface water drainage scheme; and informatives regarding the need for a legal agreement with LCC, new vehicular access construction to adoptable standards and arrangements for works within the public highway.

Health and Safety Executive: The proposed development site which you have identified does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site. However, should there be a delay submitting a planning application for the proposed development on this site, you may wish to approach HSE again to ensure that there have been no changes to CDs in this area in the intervening period.

There is at least one unidentified pipeline in this Local Authority Area. You may wish to check with the pipeline operator where known or the Local Authority before proceeding.

Environment Agency: We have assessed this proposal as having a relatively low environmental risk.

Environmental Protection (Summary):

No objections subject to the imposition of a suitable ground contamination investigation condition and also the following condition:

1. Prior to any works taking place on the unit in the south eastern section of the site intended to be used for the sale of car parts and tyres and associated fitting and other automotive services including vehicle servicing, full details of proposed noise attenuation measures including a noise report to BS4142 (2014) standards shall be submitted to and approved in writing by the Local Planning Authority. The proposed attenuation measures shall include details

of the intended hours of operation. The unit shall not be brought into use until the approved measures are implemented in full and retained thereafter

WLDC Growth Team: A new general industrial use would bring a disused site back into productive economic use. Somerby Park being more suited to accommodate larger scale development.

Tree and Landscape Officer: A tree report and associated protection plan has been submitted examining the existing trees on site and those in close proximity. These identify trees of low value which are to be removed as well as protection measures for those to be retained. A landscaping plan has been provided which shows trees to be planted to compensate for those removed and new hedgerow planting to help soften the impact. I confirm the proposed protection measures and planting scheme are acceptable providing the individual trees across the frontage will be the ornamental pears trees (*Pyrus chanticleer*) rather than the *viburnum tinus*, and will need amending on an updated plan. *Viburnum tinus* is a large evergreen shrub which is suitable for shrub areas or hedging for good screening and feature. The associated plans relate to a previously submitted layout and consequently although the details on species and planting are acceptable they will require updating

Relevant Planning Policies:

Planning law¹ requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan in this location comprises the Central Lincolnshire Local Plan (April 2017);

Relevant Policies are listed below;

LP1 – Presumption in Favour of Sustainable Development

LP2 – Settlement Hierarchy and Spatial Strategy

LP5 – Delivering Prosperity and Jobs

LP13 – Accessibility and Transport

LP14 – Managing Water Resources and Flood Risk

LP16 - Development on Land Affected by Contamination

LP17 - Landscape, Townscape and Views

LP26 – Design and Amenity

<https://www.west-lindsey.gov.uk/my-services/planning-and-building/planning-policy/central-lincolnshire-local-plan/>

With consideration to paragraph 213 of the National Planning Policy Framework the above policies are consistent with the NPPF and full weight can be attached to them.

Gainsborough Town Neighbourhood Plan

¹ [Section 38\(6\)](#) of the Planning and Compulsory Purchase Act 2004 and [section 70\(2\)](#) of the Town and Country Planning Act 1990

West Lindsey District Council has approved the application by Gainsborough Town Council to have the town of Gainsborough designated as a neighbourhood area, for the purposes of producing a neighbourhood plan. At the time of writing there are however no policies to consider.

National guidance

National Planning Policy Framework
National Planning Practice Guidance

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

Main issues

- Principle to include consideration of visual impact on character of wider area; amenity and highway
- Design and Amenity including trees
- Neighbouring Amenity
- Highways
- Drainage
- Contamination
- Other matters

Assessment:

Principle

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Central Lincolnshire Local Plan 2012-2036 (adopted in April 2017) contains a suite of policies that provide a framework to deliver sustainable development. The proposed site being located within the built up area of Gainsborough and seeking the provision of new business units would principally be considered against Local Plan Policies LP1, LP2 and LP5.

Section 2 of Policy LP2 relates to Main Towns and states that to maintain and enhance their roles as main towns, and to meet the objections for regeneration, Gainsborough will, primarily via sites allocated in this Local Plan, be the focus for substantial housing development supported by appropriate levels of employment growth, retail growth and wider service provision. Additional growth on non-allocated sites in appropriate locations within the developed footprint of Gainsborough urban area will also be considered favourably.

Policy LP5 relates to the Delivery of prosperity and jobs and looks to support proposals which assist in the delivery of economic prosperity and job growth in the area. This policy sets out a categorical and hierarchical approach.

It allocates Strategic Employment Sites, establishes Important Established Employment Areas and supports appropriate development within Local Employment Sites, Other Employment Proposals and Expansion of Existing Businesses subject to certain criteria being met.

The site is located on Heapham Road South, opposite Gainsborough Industrial Area which is categorised as an important established employment area within Policy LP5. The site is not allocated and falls to be assessed under the "Other Employment Proposals" category of Policy LP5

Policy LP5: Other Employment Proposals states that employment proposals that are in locations not covered by SES, ESUE and LES categories will be supported provided:

- *There is a clear demonstration that there are not suitable or appropriate sites or buildings within allocated sites or within the built up area of the existing settlement;*
- *The scale of the proposal is commensurate with the scale and character of the existing settlement;*
- *There is no significant adverse impact on the character of the area and/or the amenity of neighbouring occupiers*
- *There are no significant adverse impacts on the local highway network;*
- *There is no significant adverse impact on the viability of delivering any allocated employment site; and*
- *The proposals maximise opportunities for modal shift away from the private car.*

Paragraph 80 of the NPPF sets out that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Although this site does not fall within the allocated established employment area located across the road, it is situated within a built up area containing a mix of uses including residential, commercial and industrial

The comments of the Growth and Regeneration Team make clear that this small scale development would bring a disused site back into productive economic use without having an adverse impact on the allocated site opposite that it is envisaged would provide opportunities for larger scale development opportunities. It is also within walking distance of a bus stop that provides a twice hourly service to Gainsborough bus station. The scale of the development as set out below under consideration of visual impact is considered to be appropriate within the wider area. As it is also concluded below that there would no adverse impact on the amenity of neighbours or on highway safety it must be concluded that both the principle and details of the proposal are acceptable in accordance with Policies LP2 and LP5 of the Central Lincolnshire Local Plan

Design and visual amenity:

Local Plan Policy LP26 states that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they are well designed in relation to siting, height, scale, massing and form. The policy also states that the proposal should respect the existing topography, landscape character, street scene and local distinctiveness of the surrounding area and should use appropriate, high quality materials which reinforce or enhance local distinctiveness. Any important local view into, out of or through the site should not be harmed.

LP17 relates to landscape, townscape and views and state to protect the intrinsic value of our landscape and townscape, including the setting of settlements, proposals should have particular regard to maintaining and responding positively to any natural and manmade features within the landscape and townscape which positively contribute to the character of the area.

The site is located within an area characterised by a mixture of commercial, industrial and residential properties. There are a number of trees beyond the site along its western boundary within a grassed area which are a prominent and attractive feature within the wider landscape providing visual relief. There are also trees within the application site itself. A tree report and associated protection plan has been submitted examining the existing trees on site and those in close proximity. These identify trees of low value which are to be removed as well as protection measures for those retained. A landscaping plan has been provided which shows trees to be planted to compensate for those removed and new hedgerow planting. The tree officer has confirmed the proposed protection measures and planting scheme are acceptable subject to ensuring use of specified trees along the road frontage. The associated plans relate to a previously submitted layout and consequently although the details on species and planting are acceptable they will require updating. These will be submitted prior to planning committee. In the absence of such a plan a condition will be imposed requiring this. Subject to this it will be in accordance with LP 17.

The larger unit is the one that will be used for tyre fitting and associated services. This is set back within the site with a width of 14.5 metres and length of 18 metres. Although single storey the building will reach a height of 7.9 metres presumably due to its intended use. It will have a functional industrial appearance with a mix of vertical and horizontal profile metal sheeting not dissimilar to existing units on the opposite side of the road. The colour is not specified so there will need to be a condition requiring these details to be submitted to and agreed in writing, with subsequent implementation in accordance with the approved details. The single storey car rental unit is located centrally and is a modular building of modest proportions with the principal material being glazing and profile sheeting in a beige finish. To the rear of this unit will be a canopy covered wash bay.

The units which are located in an area of mixed uses are considered appropriate within their surroundings with particular reference to the industrial and commercial character of the surrounding area. No details have been submitted in relation to the finish of the external areas of the site or the proposed means of enclosure / boundary treatments and this will necessitate imposition of conditions to agree such matters and subsequent implementation in accordance with the approved details. In relation to the lighting of the site no details have been provided in this regard and consequently a further condition is proposed to limit the lighting of the site to that existing with details for any further lighting needing to be submitted to and approved by the Local Planning Authority prior to installation.

It is considered that the development subject to conditions ensuring the protection and retention of the trees, additional planting and agreeing boundary treatments external finishes, materials and lighting will not be detrimental to the overall character of the site or wider area. The development would be in accordance with policies LP17 and LP26

Neighbouring Amenity

Policy LP26 also relates to amenity and states that the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development.

The site was last used as a recycling centre which was accessible seven days a week. The car hire unit will be open to members of the public from 0800 to 1600 hours seven days a week. Staff will be present at the site from 0700 to 2200 to work in the office and on activities in association with car rental such as car washing and valeting. The noisiest activity would probably be from washing the cars particularly if a high pressure jet washer is used.

The closest residential properties are those that back onto Harpswell Close approximately 28m to the west of the site. These properties are separated by a grassed earth bund and trees and vegetation along the western boundary of the site which are to be retained and the washing bay and service/clean area is a further 17 metres away in the centre of the site. With a separation distance in excess of 45 metres and with the intervening topography noise from the jet wash operation would not be considered seriously detrimental to existing amenity.

The movement of vehicles to and from the site has the potential to create some additional noise however given the sites former uncontrolled use as well as the existing traffic noise from commercial vehicles and others along Heapham Road South this is not considered to be an issue that would warrant withholding consent. The only concerns raised by Environmental Protection in terms of potential impacts on existing residential amenities from noise and disturbance arise from the operation of the tyre and vehicle parts fitting operation due to the nature of machinery involved and tools required to carry out such works including compressor, air tools and a hydraulic press. This is

however capable of being addressed by use of a condition requiring details of noise attenuation measures including submission of a noise report and subsequent implementation in accordance with approved details. This condition has been agreed with the applicants' representatives.

It is therefore concluded that with such conditions in place, the proposed development and use of the site does not unduly harm the residential amenity of the nearby residential properties and is therefore in accordance with policy LP26 of the Central Lincolnshire Local Plan and guidance within the NPPF.

Highways

LP13 Development proposals which contribute towards an efficient and safe transport network that offers a range of transport choices for the movement of people and goods will be supported.

The site is currently served with an access which is located in the north east corner of the site. After consultation with the Highway Authority this access is now to be closed and a new access with footpath links created in a central point. Onsite parking is to be provided for staff and customers and a clear plan of how it is to be organised noted on the plans.

Various changes were made to the plans as originally submitted in response to comments from Highways and the latest plans received (Drawing Nos 190340-002A and 3892 PL03G) are now deemed acceptable in highway safety terms subject to the imposition of suggested conditions. The development accords with policy LP13 of the Central Lincolnshire Local Plan.

Drainage

Policy LP14 Managing Water Resources and Flood Risk relates to the risk of flooding, protection the water environment and includes the adequate provision of drainage.

The site is noted to be within Flood Zone 1 which is one at low risk of flooding. Flood data maps also indicate that the site is at a low to medium risk of surface water flooding. As the proposal would increase the amount of impermeable surface area any planning application will need to demonstrate how foul and surface water will be dealt with utilising SUDs principles.

Drainage details provided with the application indicate that foul water will be drained into the main system with a SUDS surface water strategy being proposed and set out in the report undertaken by Evans Rivers and Coastal.

The Lead Local Flood Authority have confirmed that the submitted drainage strategy is acceptable in principle for the management of surface water runoff, however the hydraulic design is based on a desktop study, an assumed rate of infiltration and water table level. It has therefore been recommended that a site specific ground investigation report is carried out to confirm the

findings of the desktop study and suitability of the proposed drainage strategy. This will also need to take into consideration the surface material of the site.

Concerns have also been raised over the past and proposed commercial use aspect of this site and the likelihood of ground contamination resulting from using infiltration techniques. It has therefore been suggested that as a minimum the drainage strategy will need to include a specific treatment design which will cleanse the water before it goes to ground. The car wash element of the site has also been noted to require its own separate drainage strategy due to the risk of pollution. The Environment Agency have also noted their expectation that detergents should drain to the foul sewer or a sealed system.

It is therefore concluded that further information is required to ensure that the site can be satisfactorily be drained. The agent has in this instance agreed to a pre commencement condition securing such details being added to any permission granted. With such a condition in place the proposals will be in accordance with LP14 of the Central Lincolnshire Local Plan.

Contamination

LP16 relates to development on land affected by contamination and states that Development proposals must take into account the potential environmental impacts on people, biodiversity, buildings, land, air and water arising from the development itself and any former use of the site, including, in particular, adverse effects arising from pollution.

Where development is proposed on a site which is known to be or has the potential to be affected by contamination, a preliminary risk assessment should be undertaken by the developer and submitted to the relevant Central Lincolnshire Authority as the first stage in assessing the risk of contamination.

Proposals will only be permitted if it can be demonstrated that the site is suitable for its proposed use, with layout and drainage taking account of ground conditions, contamination and gas risks arising from previous uses and any proposals for land remediation, with no significant impacts on future users, neighbouring users, groundwater or surface water.

It is evident from the planning history of the site that the site has the potential to be affected by contamination. A desk top report has been submitted with the application and based upon recommendations contained within Chapter 5 entitled Development Issues, West Lindsey Environmental Protection have recommended that a suitable ground contamination investigation condition is placed on any planning permission granted. The agent of the application has confirmed agreement of a pre commencement condition in this regard and accordingly one is proposed

Other matters:

Waste storage and collection

Bin storage has been noted on the site and the site is large enough to accommodate adequate provision. Waste removal is also controlled by other legislation and no further details considered necessary in this regard.

Gas and Oil Pipeline

It was identified at pre application stage that the site appears to contain a Pentex Oil and Gas pipeline. It was advised at this time that contact with the relevant bodies should be made in relation to understanding their requirements for easements etc. A matter not controlled by the Planning System. The plans submitted make reference to the gas easement and consultations undertaken with the Health and Safety Executive and National Grid plat protection. In response it was noted that the development site is not considered to lie within the consultation distance of a major hazard size or major accident hazard pipeline and no objections or concerns raised.

Conclusion

The proposal has been assessed against Policies LP1, LP2, LP5, LP13, LP14, LP16, LP17, and LP26 of the Central Lincolnshire Local Plan in the first instance as well as all other material considerations including the National Planning Policy Framework and Practice Guidance. In light of this assessment it is considered that the proposal subject to conditions is in an appropriate built up location of Gainsborough town which will bring this disused site back into a productive economic use; without having an adverse impact on the viability of other allocated sites. The scale of the development is also considered to be commensurate with those surrounding and forming the character of the area and therefore principally in accordance with polices LP2 and LP5 and guidance within the NPPF. The development subject to conditions does not raise any undue concerns in relation to visual and neighbouring amenity or highway safety and therefore in accordance with policies LP17, LP26 and LP13. Conditions are also proposed in relation to drainage and contamination and subject to these being satisfied the development in accordance with policies LP14 and LP16 of the Central Lincolnshire Local Plan. The development can therefore be supported by the relevant policies in the Central Lincolnshire local Plan and NPPF. Consequently grant of permission is recommended subject to the following conditions:

Recommendation: Grant permission subject to the following conditions

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

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

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

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

2. No development shall take place until a scheme for the disposal of surface waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- a. be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development
- b. 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;
- c. provide details of the timetable for and any phasing of implementation for the drainage scheme;
- 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 approved scheme shall be implemented in full prior to occupation of the hereby approved units.

Reason: To ensure adequate drainage facilities are provided to serve the development in accordance with policy LP14 of the Central Lincolnshire Local Plan and guidance within the NPPF and NPPG.

3. No development shall take place until a scheme for the disposal of foul waters and run off from vehicle washing and associated cleaning has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to occupation of the units and any vehicle washing and cleaning taking place.

Reason: To ensure adequate drainage facilities are provided and to prevent pollution of the water environment in accordance with policies LP14 and LP16 of the Central Lincolnshire Local Plan.

4. Before development is commenced a site investigation and assessment of possible contaminants on the site shall be submitted to and approved in writing by the local planning authority. Any measures shown in the assessment to be necessary, including either the removal or encapsulation of contaminants as required by the local planning authority, shall be undertaken before any of the proposed development is commenced.

Reason: In order to establish whether the site may be contaminated and if so to ensure that any measures of decontamination are undertaken to enable the development to proceed in accordance with policy LP 16 of the Central Lincolnshire Local Plan

5. Prior to any works taking place on the hereby approved unit in the south eastern section of the site intended to be used for the sale of car parts and tyres and associated fitting and other automotive services including vehicle servicing, full details of proposed noise attenuation measures including a noise report to BS4142 (2014) standards shall be submitted to and approved in writing by the Local Planning Authority. The proposed attenuation measures shall include details of the intended hours of operation. The unit shall not be brought into use until the approved measures are implemented in full and retained thereafter.

Reason: To minimise noise and disturbance to nearby residents in accordance with policy LP 26 of the Central Lincolnshire Local Plan

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

6. 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: 190340-002A, 3892_PL08B, 3892_PL03H, 3892_PL04, 3892_PL05A, 3892_PL06, 3892_PL07A, 3D visuals and material details, tree protection Plan and Soft Landscaping Report/Specification. 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

7. No development or site clearance/scraping shall take place until the fencing for the protection of trees on the site have been erected in the position(s) shown on the Tree protection Plan dated 29th March 2019. The protective fencing shall thereafter be retained until completion of the development. The development shall thereafter be undertaken in accordance with the approved Tree Protection Plan.

Reason: To safeguard important trees on and close to the site during construction works, in the interest of neighbouring and visual amenity in accordance with policy LP26 of the Central Lincolnshire Local Plan

8. Notwithstanding the submitted Landscaping Plan dated 29th March 2019, a further landscaping plan must be submitted to and approved in writing by the Local Planning Authority reflecting the approved site layout on drawing 3892 PL03H. This must be submitted prior to completion of the development or first use of the site (whichever is the sooner).

Reason: To ensure an adequate landscaping scheme is secured for the development in the interest of visual amenity in accordance with Policy LP26 of the Central Lincolnshire Local Plan.

9. Prior to any works above ground level taking place details of the proposed means of enclosure and other boundary treatments together with materials and finishes to all hard surfaced areas of the site including car parking and pedestrian paths must be submitted to and approved in writing by the Local planning Authority. The approved details must be implemented in full prior to bringing the site into the herby approved use.

Reason: As no details were submitted and in order to ensure a satisfactory visual appearance

10. Prior to any works above ground level taking place details of the colour and finish to the walling and roofing materials of the approved units shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: In the interest of visual amenity in terms of the appearance of the site within the wider area in accordance with Policy LP26 of the Central Lincolnshire Local Plan.

11. Within seven days of the new access being brought into use, the existing access onto Heapham Road South shall be permanently closed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To reduce to a minimum the number of individual access points to the development, in the interests of road safety in accordance with policy LP13 of the Central Lincolnshire local Plan

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

12. The car rental use of the site shall not be open to customers or deliveries taken or dispatched outside the hours of 8am and 7pm Monday to Saturday and 8am to 4pm on a Sunday unless otherwise agreed in writing by the Local Planning Authority. No washing, valeting or cleaning of vehicles shall take place before 7 am and no later than 10pm Monday to Sunday. The washing, valeting or cleaning shall be restricted to vehicles from the car rental business only.

Reason: To protect the amenities of adjoining properties from excessive noise and disturbance in accordance with Policy LP26 of the Central Lincolnshire local Plan 2012-2036 and guidance in the NPPF and NPPG.

13. No lighting shall be installed on the site unless details including hours of illumination have been submitted to and approved in writing by the Local Planning Authority. It shall then be operated in accordance with the approved details.

Reason: To safeguard the occupants of nearby housing from excessive illumination in accordance with Policy LP26 of the Central Lincolnshire local Plan

14. The approved landscaping scheme secured by condition 8 above shall be fully carried out in the first planting and seeding season following completion of the development or occupation of any unit whichever is the sooner. 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 specification.

Reason: To ensure the approved landscaping scheme is implemented in the interest of visual amenity in accordance with Policy LP26 of the Central Lincolnshire Local Plan 2012-2036 and NPPF.

Notes to the Applicant

In relation to satisfying the requirements of condition 8 the individual trees across the frontage should be ornamental pear trees (*Pyrus chanticleer*) rather than *viburnum tinus*.

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. For approval and specification details, please contact vehiclecrossings@lincolnshire.gov.uk

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

Please be aware that as of the 22nd January 2018 West Lindsey District Council implemented a Community Infrastructure Levy and that eligible development granted on or after this date will be subject to this charge. The development subject to this Decision Notice could fall within the definitions held within the adopted charging schedule and as such may be liable to pay the levy. For further information on CIL, processes, calculating the levy and associated forms please visit the Planning Portal www.west-lindsey.gov.uk/cilforms and West Lindsey District Council's own website www.west-lindsey.gov.uk/CIL

Please note that CIL liable development cannot commence until all forms and necessary fees have been submitted and paid. Failure to do so will result in surcharges and penalties.



Planning Committee

16 October 2019

Subject: Determination of Planning Appeals

Report by:

Executive Director of Resources

Contact Officer:

Ian Knowles
Executive Director of Resources
01427 676682

ian.knowles@west-lindsey.gov.uk

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 Mr and Mrs Heavens against the decision of West Lindsey District Council to refuse planning permission for a change of use from class A4 (public house) with first floor accommodation to a 3 bedroom residential dwelling house at Crown Inn, Main Street, Osgodby, Market Rasen LN8 3TA. This would have involved the construction of stud walling to separate the bar area into two rooms, along with the installation of a kitchen in the snooker room area, and the removal of the existing toilets to give space for a study.

Appeal Dismissed – See copy letter attached as Appendix Bi.

Officer Decision – Refuse permission

- ii) Appeal by Mr C Godley against the decision of West Lindsey District Council to refuse planning permission for a live-work unit at 89 Gainsborough Road, Lea, Gainsborough DN21 5JJ.

Appeal Dismissed – See copy letter attached as Appendix Bii

Officer Decision – Refuse permission

- ii) Appeal by Mr C Godley against the decision of West Lindsey District Council to refuse planning permission for a single storey dwelling with detached garage at 89 Gainsborough Road, Lea, Gainsborough DN21 5JJ.

Appeal Dismissed – See copy letter attached as Appendix Bii

Officer Decision – Refuse permission

- iii) Appeal by Mr Colin Daniels (on behalf of Waddington Developments Ltd) against the decision of West Lindsey District Council to refuse planning permission for a dwelling and attached garage on land to the west of affordable housing (approved by 134496), along with the relocation of previously approved garages to Plots 1 and 2 of the previously approved layout (134496) on land at Lincoln Road, Ingham, Lincolnshire.

Appeal Allowed – See copy letter attached as Appendix Biii

Officer Decision – Refuse permission

- iv) Appeal by Mr McCartney against the decision of West Lindsey District Council to refuse planning permission for an outline planning application to erect 1no. dwelling with all matters reserved on land

north of Linwode Manor, Main Road, Linwood, Market Rasen, LN8 3QJ.

Appeal Dismissed – See copy letter attached as Appendix Biv

Officer Decision – Refuse permission

- v) Appeal by Mr Maurice Brown against the decision of West Lindsey District Council to refuse planning permission for change of use from an existing domestic garage to a small commercial garage for an existing business at 14 North Moor Road, Scotter, Gainsborough, DN21 3HT.

Appeal Dismissed – See copy letter attached as Appendix Bv

Officer Decision – Refuse permission

- vi) Appeal by Mrs Carrie Pickerden against the decision of West Lindsey District Council to refuse planning permission for outline planning application for up to nine dwellings, at land to the rear of Sheepcote Hill Farm, South Street, North Kelsey, Market Rasen, LN7 6ET.

Appeal Dismissed – See copy letter attached as Appendix Bvi

Officer Decision – Refuse permission

Appeal Decision

Site visit made on 30 July 2019

by **Matthew Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th August 2019

Appeal Ref: APP/N2535/W/19/3229612

Crown Inn, Main Street, Osgodby, Market Rasen, LN8 3TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Heavens against the decision of West Lindsey District Council.
- The application Ref 138946, dated 24 January 2019, was refused by notice dated 5 April 2019.
- The development proposed is described as 'change of use from class A4 (public house) with first floor accommodation to a 3 bedroom residential dwelling house. This will involve the construction of stud walling to separate the bar area into two rooms, along with the installation of a kitchen in the snooker room area. Removal of the existing toilets to give space for a study.'

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have omitted part of the appellant's description of development from the banner heading above, which is taken from the application form, as part of it does not describe the development proposed.
3. The Osgodby Neighbourhood Plan 2019 was made following the submission of this appeal and now forms part of the development plan. Both main parties are aware of its existence. I have determined the appeal on this basis.

Main Issue

4. The main issue is whether the proposed change of use would result in the unacceptable loss of a community facility and employment site having regard to local and neighbourhood plan policies.

Reasons

5. The Crown Inn public house is situated along a main road in the village of Osgodby, which is a linear settlement set in rural surroundings. The appeal building has not operated as a public house since the latter part of 2016.
6. Policy LP15 of the Central Lincolnshire Local Plan 2012-2036 (2017) (the Local Plan) seeks to protect community facilities to ensure that existing settlements are well integrated and inclusive. The policy states that the loss of community facilities to non-community facility uses will only be permitted if the facility is no longer fit for purpose and not viable, or appropriate alternatives exists close

by, or the proposal includes appropriate new community facilities elsewhere. This is partly reflected in Policy 8 of the Osgodby Neighbourhood Plan 2019 (the Neighbourhood Plan), which also requires that the property has been advertised on the market for a period of at least 12 months, at a competitive price, without success. Policy 5 of the Neighbourhood Plan seeks to protect existing employment sites unless, as above, it can be demonstrated that the use is unviable.

7. Up until January 2019, the Crown Inn was listed as an Asset of Community Value (ACV). Despite it no longer being listed as an ACV, and even though the Neighbourhood Plan acknowledges that the public house is 'currently closed', it is nevertheless listed within it as an important community facility. I do not know why the community did not purchase the site despite having opportunity to do so under a 'Community Right to Bid', but this in itself does not preclude the value of the appeal site as a community facility.
8. There are a limited number of other community facilities in Osgodby, including a post office and village hall. However, none of the existing facilities offer social and local community benefits comparable with a functioning public house, which would be a place for people to meet, drink and socialise, particularly during evenings and on weekends. There are no other public houses close to the village, the nearest lie within surrounding settlements which are beyond reasonable walking distance of Osgodby. The Neighbourhood Plan describes the Crown Inn as a 'valued gathering point' and, given the location of the appeal site in the heart of Osgodby, I find that it is well positioned to serve residents of the village. Consequently, I also find that the appeal building comprises an important community facility, despite its current vacant state. Furthermore, a fully functioning public house would also be likely to offer limited employment opportunities for local people.
9. The Crown Inn ceased trading in 2016. As the then owner has since deceased, there is no documentary evidence or accounts relating to the time that the public house was operating. Instead, the appellant has provided me with a copy of property valuation information, which states that the turnover of the Crown Inn was £35,000. The turnover information appears to have been provided to the Valuation Office Agency during the previous landlord's tenure, based on accounts spanning three years, and used in order to calculate the business rates. The appellant has used the turnover estimate to project the net profit/loss of the business if it was to continue to be used as a public house, taking into account the average gross margin for drinks sales, along with other assumed expenses and rates. Based on this, the appellant projects that the business would operate at a net loss of £422 per annum, making it unviable.
10. The figures themselves are not disputed by the Council. However, third party evidence suggests that the public house was not operating at full capacity, and at times was only open for part of the weekend or by request during the week, particularly during the latter months of the landlord's tenure. I do not know whether these restricted hours were based on a declining customer base, or whether the previous landlord sought to maximise the potential of the business. The appellant has not clarified the basis on which the figures they have put to me have been calculated. The lack of evidence provided by the appellant does not give me the assurance necessary to demonstrate that the

future use of the building as a public house would not be viable, nor that it is no longer capable of providing an acceptable location for the current use.

11. Internally, the building lacks many of the fixtures and fittings required to use it as a public house. It was clear from my site visit that comprehensive improvements and refurbishment would be required. The exterior of the building and the grounds surrounding it also appeared rather tired and neglected. The totality of works required to bring the appeal site back into use as a public house are likely to result in significant expense. However, no information has been provided to me relating to the costs of such works. Furthermore, I do not know whether any such refurbishments would offer an opportunity to diversify and/or expand the business to provide food, accommodation, or other services, in order to increase income streams. Given the policy presumption against the loss of this community facility, I would expect a range of options to ensure the appeal property could operate as a community facility to have been explored and considered.
12. According to the appellant, the Crown Inn was put up for auction in 2016 but was then sold privately in 2017. The property was subsequently re-marketed as 'the former Crown Inn' in December 2017, before being purchased by the appellant in 2018. It appears to have been on the market in excess of 12 months. However, I am unclear whether the recent purchase price reasonably reflects the condition of the building and its current use class, so I do not know if that may have affected the viability of the business moving forwards. A lack of interest in operating the public house as a going concern during the period it was on the market is not sufficient in itself to demonstrate that continued use of it would not be viable.
13. In conclusion, the proposed change of use would result in the unacceptable loss of a community facility and employment site. The development would conflict with Policy LP15 of the Local Plan and Policies 5 and 8 of the Neighbourhood Plan as it has not been demonstrated that the continued use of the Crown Inn as a public house would not be viable, resulting in the loss of a valued community facility which would generate local employment opportunities. The proposal does not include alternative provision elsewhere, and no appropriate alternatives exist elsewhere locally. The development would fail to address the requirements of paragraph 92 of the National Planning Policy Framework which seeks to guard against the unnecessary loss of valued facilities.

Other Matter

14. The conversion and renovation of the appeal building to a single residential unit would result in visual improvements. However, the positive contribution the building would make to the character and appearance of the area would not compensate for the harm I have identified.

Conclusion

15. I therefore conclude that, for the reasons given, the appeal is dismissed.

Matthew Woodward

INSPECTOR



Appeal Decisions

Site visit made on 2 July 2019

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal Ref: APP/N2535/W/19/3226507 ('Appeal A')

89 Gainsborough Road, Lea, Gainsborough DN21 5JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Godley against the decision of West Lindsey District Council.
 - The application Ref 138711, dated 29 November 2018, was refused by notice dated 28 January 2019.
 - The development proposed is described as a live-work unit.
-

Appeal Ref: APP/N2535/W/19/3226509 ('Appeal B')

89 Gainsborough Road, Lea, Gainsborough DN21 5JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Godley against the decision of West Lindsey District Council.
 - The application Ref 138753, dated 10 December 2018, was refused by notice dated 4 February 2019.
 - The development proposed is a single-storey dwelling with detached garage.
-

Appeal A: Decision

1. The appeal is dismissed.

Appeal B: Decision

2. The appeal is dismissed.

Main Issues

3. Appeals A and B differ significantly in two respects. The first is that Appeal A seeks permission for a 'live-work' unit, rather than the dwellinghouse that is sought in Appeal B. Nevertheless, it does include a residential element and so the suitability of the site for housing, having regard to the effect of each of the proposals on the character and appearance of the area, is a main issue in both appeals. The second difference is that Appeal A seeks to utilise and extend an existing access into 89 Gainsborough Road, whereas Appeal B seeks to use an alternative access to the site, to the north of 91 Gainsborough Road. The Council's reasons for refusing the application comprised in Appeal B included an objection to the proposed access arrangements. Therefore the safety of the access arrangements is a main issue in Appeal B only.
4. A further reason for the Council's refusal of permission in both cases concerned whether there was evidence of community support for the development. This is

however encompassed by the first main issue concerning the suitability of the site for housing.

Reasons

Suitability of the site for housing

5. The appeal site comprises much of the extensive rear garden of 89 Gainsborough Road in Lea, near Gainsborough. No 89 is a semi-detached property, with No 91 to its northern side, and the appeal site lies mainly to the west of both rear gardens (and to the northern side of No 91, in the Appeal B proposal) as well as extending to the south beyond the rear garden of the property to its southern side, No 87. All of these properties, and a number beyond them on each side, front onto Gainsborough Road in a linear arrangement as it progresses south from the town of Gainsborough into the main settlement area of Lea. Further to the north lies Causeway Lane, a public right of way leaving Gainsborough Road to the west, with some housing development to the south of that. To the south of the site lies Lansdall Avenue which is an oval of 'backland' housing development behind the houses fronting onto Gainsborough Road.
6. In the immediate vicinity of the appeal site, however, it is surrounded to its sides by open gardens and fields, with occasional non-domestic outbuildings such as stables seen from the site, and beyond to the west by grazing land and open fields. The houses in this area are described in the Lea Character and Settlement Breaks Assessment 2016 as *reflective of the fringe of Gainsborough. The arrangement is simple and repetitive, enabling on-plot parking and active frontages, and with gardens to the rear offering a soft transition between the built form and the open countryside to the west.*
7. The land at No 89 rises as it meets Gainsborough Road to the east, and from the entrance into No 89 the cooling towers of the power station beyond the River Trent to the west are visible beyond the tree belt to the rear of the site. In the appeal site itself however there are very limited views owing to the extensive screening surrounding the site, with the only significant visibility off to the stables and houses beyond, on or near Causeway Lane, to the north of the site. The site lies in a designated Area of Great Landscape Value (although no character appraisal or copy of the policies map has been provided in the course of the appeal) to which the Central Lincolnshire Local Plan 2012 – 2036, adopted in April 2017, ('the CLLP') Policy LP17 has particular application.
8. The site is thus a greenfield site lying at the edge of the settlement. Policies LP2 and LP4 of the CLLP set out that Lea is a 'Medium Village' at level 5 in the settlement hierarchy, and is expected to grow by 15% over the plan period. The Council's officer reports set out that much of this growth has already been achieved. The policies of the CLLP set out that limited developments in appropriate locations to support the functioning or sustainability of the settlement will be accommodated. A sequential test will be applied, preferring brownfield or infill sites within or on the edges of settlements before greenfield sites, with any proposal departing from this sequence required to clearly explain why sequentially preferable sites are not suitable or available.
9. A Neighbourhood Plan for the area also exists. Made in January 2018, Policy 2 of the Lea Neighbourhood Plan ('the NP') supports small scale residential developments only where they fill a gap within the built up area of the village,

demonstrate clear evidence of community support, and do not result in back land development.

10. There is presently an ample supply of housing land in the local area (the Council's figure of 5.87 years' supply is not disputed) and these development plan policies are up to date, and consistent with the National Planning Policy Framework ('the Framework') in recognising the intrinsic character and beauty of the countryside by seeking to avoid unnecessary development of it. The appeal proposals in each case constitute the development of a greenfield, back land, site, with no evidence provided to justify not developing sequentially preferable sites. Therefore I conclude that the proposed development would in each case fail to comply with Policies LP2 and LP4 of the CLLP, and with Policy 2 of the NP.
11. The proposal in either case comprises low-rise single storey development that would not be readily visible from beyond the site. Nonetheless, development of the appeal site for residential purposes would considerably alter the setting of the settlement in this vicinity, from the existing linear housing backing onto open countryside, or the current undeveloped garden area of the appeal site, to houses that would lose this transitional aspect by becoming bounded to their rear by the domestic built form and garden of the proposed new dwelling or live-work unit. Policy 4 of the NP requires new developments to respect the linearity of the settlement, and Policies LP17 and LP26 of the CLLP require proposals to respond positively to the local character of the area. The introduction of back land housing development to the site would not reflect the existing local character and would be contrary to these policies.
12. In conclusion on this main issue I find that each of the development proposals would amount to the provision of housing on an unsuitable site, causing harm to the character of the area and to planning objectives safeguarding the countryside, and would be contrary to the development plan for the area.

Highway safety

13. The concern of the Local Highway Authority ('the LHA') relates to the proposed access for Appeal B, which appears to be an historic access lane to Gainsborough Road, leading to the appeal site on the northern side of No 91, but which is presently blocked off by a hedgerow. A telegraph pole stands immediately to the north of the proposed access in the highway verge, and a cherry tree also abuts it. The lane runs the entire length of the house and garden at No 91 and is passable for just one vehicle. The LHA's objection arises from the inability of two vehicles to pass on this lane, which could have consequences for the traffic flow and safety on Gainsborough Road where there are conflicting movements.
14. However, the risks of this happening appear to be reasonably remote and do not amount to such severe transport implications as to warrant dismissing the appeal on the grounds of conflict with CLLP Policy LP13 or NP Policy 2, or by reference to the Framework. Gainsborough Road is very busy, but traffic speeds are limited to 40mph and it is a wide road, with wide verges. The dwelling under Appeal B is designed as a 1 or at most 2-bedroomed house, so the likelihood of traffic conflicts at the site can be expected to be low. The access lane is straight with adequate visibility, with a turning area near to the proposed garage for use if necessary.

15. The LHA's objection also states that allowing this access would make it difficult to resist other applications of a similar nature on adjacent land with similar access deficiencies, to the detriment of highway safety. However, I have no details of any other proposed developments or their proposed accesses, and so give no weight to the risk of precedent in concluding on this issue.

Other matters

16. In relation to Appeal A, which is not purely a residential proposal but encompasses a 'work' element, the appellant seeks support from the Framework and particularly from paragraph 81. That paragraph relates to planning policies, rather than decisions but, although the employment aspects of the proposal attract some weight in favour of it, I have no evidence that these cannot be provided elsewhere.
17. Both proposals carry considerable sustainability credentials, being located close to a bus stop and 15 minutes' walk from the railway station, and less than 2 miles to the centre of Gainsborough. Bat boxes would be provided, and it is intended for either development to be self-sufficient in energy terms, making a net contribution to the grid. These matters attract weight in favour of the proposals. However, given the proposals are both for a single unit only, I attribute them only moderate weight.
18. The proposals would also have a low risk of flooding. However, this is a neutral effect that attracts no weight in favour of or against the proposals.

Planning Balance and Conclusion

19. Although I have found no harm to highway safety that would justify dismissing Appeal B, and that the employment aspect of Appeal A carries some weight in its favour, as does the contribution to the housing supply and some sustainability advantages of either proposal, overall I am unable to conclude that these considerations weigh heavily enough to overcome the conflict with the development plan. The proposals each amount to providing housing in an unsuitable location that would result in harm to the character of the area, and accordingly the appeals are both dismissed.

Laura Renaudon

INSPECTOR



Appeal Decision

Site visit made on 18 June 2019

by **M Seaton DipTP MRTPI**

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

Decision date: 05 September 2019

Appeal Ref: APP/N2535/W/19/3226219

Land at Lincoln Road, Ingham, Lincolnshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Colin Daniels (on behalf of Waddington Developments Ltd) against the decision of West Lindsey District Council.
 - The application Ref 138621, dated 7 November 2018, was refused by notice dated 10 January 2019.
 - The development proposed is for a dwelling and attached garage on land to the west of affordable housing (approved by 134496), along with the relocation of previously approved garages to Plots 1 and 2 of the previously approved layout (134496).
-

Decision

1. The appeal is allowed and planning permission is granted for a dwelling and attached garage on land to the west of affordable housing (approved by 134496), along with the relocation of previously approved garages to Plots 1 and 2 of the previously approved layout (134496) on Land at Lincoln Road, Ingham, Lincolnshire, in accordance with the terms of the application Ref 138621 dated 7 November 2018, and subject to the conditions set out in the Annex.

Main Issues

2. The main issues are;
 - whether the proposed development would accord with local and national housing policies;
 - the effect of the proposed development on the character and appearance of the street scene and area;
 - whether the proposed dwelling would make adequate provision for the living conditions of future occupiers, having regard to privacy and light; and,
 - whether there are any other material considerations which would weigh in support of the proposed development.

Reasons

3. The appeal site is set on the eastern side of Lincoln Road towards the southern end of the village of Ingham. The site is comprised of an area of land which is situated within a larger development for 47 dwellings (including 12 affordable units) previously granted planning permission on 12 May 2017 (Ref. 134496),

which has been implemented and at the time of my visit was well advanced. The site is shown on the previously approved plans as being an open area of land set between the rear boundary of a pair of detached dwellings facing on to Lincoln Road, and the neighbouring residential block and associated parking accommodating the affordable units.

Housing

4. The Council's reason for refusal refers me to Policies LP2 and LP4 of the Central Lincolnshire Local Plan 2017 (the Local Plan). These policies address the spatial strategy and settlement hierarchy as well as growth in villages.
5. Policy LP2 identifies Ingham as a Medium Village where, unless promoted via a neighbourhood plan or through the demonstration of clear local community support, only a limited amount of development to support the function and sustainability of the village would be allowed, with sites in appropriate locations being for up to 9 dwellings. Only in exceptional circumstances would proposals of a larger scale of up to 25 dwellings be justified.
6. Policy LP4 highlights that due to the key facilities provided in Ingham, a growth level of 15% is appropriate for the plan period, 2012 – 2036, which is identified as a figure of 65 dwellings. The Council has drawn my attention to its Growth Table from January 2019 which shows Ingham as currently having permissions and development at a figure of 91, comfortably in excess of the growth figure for the village. Policy LP4 indicates that in such a circumstance, further development would require a demonstration of local community support. This term is defined by Policy LP2 as meaning that at the point of submitting a planning application, there should be clear evidence of local community support for the scheme following a pre-application community consultation exercise. The Policy continues to state that if, despite the pre-application consultation exercise, demonstrable evidence of support or objection cannot be determined, then there will be a requirement for support from the applicable Parish or Town Council.
7. In this instance, whilst the proposal would accord with the requirement for development proposals to be on sites of up to 9 dwellings, the existing committed and completed development target set for Ingham within the Local Plan period has already been exceeded. Having regard to the requirements of Policies LP2 and LP4, there is no evidence of a clear demonstration of local community support at the point of submitting the planning application, and I note that Ingham Parish Council have objected to the proposal on the basis of the exceedance of the growth level for the village. Therefore, for these reasons the proposed development would not accord with the spatial housing policies of the Development Plan.

Character and appearance

8. I have noted that the Council has accepted that the proposed development would not encroach into surrounding countryside and despite being set within a locally designated Area of Great Landscape Value, there would be no adverse impact on the landscape due to its location within the context of an existing development.
9. However, in considering the impact of the proposal on character and appearance, I acknowledge that the presence of the existing sub-station

presents a visual difference to the street presence of the proposal within the wider development where development largely either directly addresses Lincoln Road or 'Wessex Way'. Nevertheless, I do not consider that the proposed development would appear harmful in its context particularly where the adjoining affordable units are also set back from the street frontage. Furthermore, the scale of the appeal site would not appear as a departure from other plots previously approved by the 2017 planning permission and the proposed footprint of development would not be uncharacteristic in the context of either the size of plot or the wider development. The proposal would in this respect make an effective and efficient use of land.

10. On this basis, I am not persuaded that the proposal would appear as an over-development of the plot or be visually harmful in the context of the wider development, and I therefore conclude that there would not be an adverse impact on character and appearance of the area. The proposed development would therefore accord with Policy LP26 of the Local Plan which seeks to ensure that all development must achieve high quality sustainable design that contributes positively to local character and townscape and reflect the architectural style of local surroundings.

Living conditions

11. The proposed dwelling would occupy a location to the rear of Plots 1 and 2 on Lincoln Road, and adjacent to the affordable housing block. The Council has assessed that these 2-storey properties would have the potential to overlook and overshadow the proposed dwelling and its amenity space to the detriment of the living conditions of future occupiers.
12. I have carefully considered the resultant relationships and have noted the identified distances between the boundaries of the curtilage to the proposed dwelling and the rear/side elevations of the neighbouring buildings. However, I disagree with the Council's assessment regarding the impact on living conditions and note that not dissimilar relationships would appear to have been approved to the rear of other dwellings on Lincoln Road and the proposed terraces to the east which are set perpendicular to the frontage dwellings. I am satisfied that distances and the resultant relationships would neither be uncharacteristic of the development as approved nor unexpected in the context of a development of a residential development of this layout and density.
13. The proposed development would make adequate provision for the living conditions of future occupiers, having regard to privacy and light. There would not be conflict with Policy LP26 of the Local Plan which requires all new development to not harm the amenity of existing and future occupants of neighbouring land and buildings, with regards overlooking and overshadowing or loss of light.

Other material considerations

14. The planning application addresses a proposal for a single dwelling. However, it is evident both from the submissions and my observations on the appeal site that the proposal is effectively an amendment to the previously approved May 2017 planning permission. With regards this earlier decision, it is clear that whilst the resolution to grant planning permission was reported prior to the adoption of the current Local Plan, the Council acknowledged the advanced

stage of the emerging Local Plan and attached substantial weight to it in making its determination.

15. In this respect, the delegated report for the proposal for the 47 dwellings concluded that it did not accord with Policy LP2 due to the scale of the proposed development, and that the resultant development level would exceed the set growth level for Ingham. However, the contribution to meeting an identified affordable housing need in the form of 12 units for Over 55's was afforded significant weight in the overall decision-making.
16. The appeal proposal would clearly read as part of the wider development which has already been assessed in the context of the current Development Plan policies. The overall resultant quantum of development would be for one more dwelling than as originally approved, but no evidence has been adduced to suggest that had an application for 48 rather than 47 dwellings been made that the principle of the development would have been resisted, setting aside the aforementioned concerns over character and appearance and living conditions which I have already addressed.
17. For this reason, whilst I acknowledge the conflict with the Development Plan, neither the Council nor interested parties have set out with any authority compelling reasons why the proposed development and resultant uplift of a single additional dwelling would be harmful in this instance or would not amount to sustainable development in the context of the settlement. I consider this to be a significant and fundamental omission in seeking to justify and resist further development in the context which has been specifically proposed, and I find that the absence of demonstrable harm in this regard would attract significant weight in support of the proposal.
18. The appellant has also drawn my attention to a number of other matters which it is contended provide support for the proposed development.
19. With regards the planned growth of housing for the Local Plan period, it is highlighted that the current requirement for 1540 dwellings per year (1846 with a 5 year buffer) is not being met with reference made to the latest monitoring within the Central Lincolnshire Five Year Land Supply Report (1st April 2018 – 31st March 2023) published in January 2019, with a slower than anticipated delivery on strategic allocations referred to. In this respect, I would agree that the importance of smaller/windfall sites would be heightened as a means of making a quick and important contribution to delivery, particularly in sustainable locations such as Ingham, and note that paragraph 68 of The National Planning Policy Framework (the Framework) reflects this point. Whilst the proposed additional dwelling would make only a limited contribution in terms of the quantum of development, in this regard it has to be a matter which in the circumstances would provide some moderate support for the proposals.
20. I have noted the appellant's references to the comments of the Examining Inspectors in their Report over the complexity of the application of the approach of Policy LP4 of the Local Plan in the area, particularly as a point of difference to the approach which preceded it. However, whilst the methodology may be complex in providing communities with greater responsibilities in effecting planning outcomes, this does not alter the fact that the Policy is a part of the Development Plan and cannot therefore be ignored.

21. I have had regard to the appellant's contention that concerns expressed by the Examining Inspectors about the approach being untried and untested are now emerging, and that the 'arbitrary standards' set are stifling the delivery of sustainable development in some villages whilst others are struggling to accommodate any development. However, even allowing for the absence of any conclusive evidence in support of this contention, the appropriate means of reviewing the effectiveness of the Development Plan policies would be through a full and thorough review of the Development Plan itself, rather than on individual development proposals. I have not therefore attributed any significant weight to this matter.
22. I have also been directed by the appellant to the contention that there is inconsistency in the application of the growth target in decision-making, both by an Inspector on a decision elsewhere in West Lindsey (*Appeal Ref. APP/N2535/W/18/3207425*), and also by the Council in their approach to development in other *Medium Villages*.
23. In respect of the other appeal decision, I do not have the benefit of the evidence placed before the Inspector in that instance in order to understand the rationale for the conclusions reached. However, whilst paragraph 1.1.1 of the Local Plan does state that *it (the Local Plan) contains planning policies and allocations for the growth and regeneration of Central Lincolnshire over the next 20 years*, I am not persuaded that it dictates an approach which would override the explicit reference to monitoring of growth of settlements as set out in Policy LP4, and which in the context of the Development Plan as a whole was found to be sound by the Examining Inspectors.
24. Turning to the reference to development in Swinderby, another 'Medium Village', there is an undoubted similarity in the allowance of development which would result in an exceedance of the target growth for the settlement. Nevertheless, there were clearly different circumstances related to the redevelopment of previously developed land, the re-provision of employment floorspace as part of a mixed use development, potential for a community shop, access to a train station, and the undertaking of pre-application engagement with the community, which, whilst not leading to full community support, did lead to support from the Parish Council.
25. In this regard, there are clear differences in the circumstances between the two proposals, albeit that despite the conflict with the spatial policies of the Development Plan, a detailed weighting exercise of the proposal in the context of other material considerations was undertaken by the Council as part of its assessment. No such exercise has been undertaken in this instance, or any response provided to the appellant's detailed and extensive submissions setting out contended material considerations as part of the appeal, which I find to be a fundamental deficiency of the Council's decision-making.
26. The appellant has raised other matters in support of the proposed development under the three overarching objectives of sustainable development as set out in the Framework. With regards economic objectives, the addition of a further dwelling would provide some limited support for existing services and facilities within Ingham, as well as short-term benefits during the construction period.
27. I have already referred to the weight to be attached to the provision of an additional dwelling in the village. However, other social benefits in the form of the provision of a fully accessible house achieving a higher standard for

accessibility than part M4(2) of the Building Regulations, and the provision of a family-sized dwelling as a potential means of contributing towards meeting the shortfall in pupils in the local school, would also attract some limited weight in support of the proposals.

28. Finally, the sustainable location of the proposed development has already been addressed, as has the efficient use of land in the context of the appeal site being located within the boundary of an existing approved development, both of which would attract a moderate amount of weight in this context.

Other Matters

29. The proposed dwelling would incorporate a pair of small dormer roof windows within the northern roof slope to serve Bedroom 2, and facing towards the boundary with the adjacent Medical Practice. Whilst not explicitly addressed within the reasons for refusal, concerns have been raised regarding the potential for an adverse impact on the privacy of patients within consulting rooms on the south-side of the main practice building.
30. On the basis of my observations of the relationship, I note that the Medical Practice is set at a lower ground level than the appeal site, but that the existing boundary treatment is relatively substantial and given the separation between the proposed windows and the boundary would provide a reasonable level of screening. However, even though I have noted that the closest windows of the affordable housing do allow some overlooking of the windows within the southern elevation of the Medical Practice, I also noted from my visit that the affected windows already possess internal blinds which I am content would allow consultations to be undertaken in privacy where so desired. I do not consider that the proposed development would therefore result in unacceptable conditions for patients of the neighbouring Medical Practice.
31. I have also noted the continued concerns over the impact of the wider development in respect of parking provision and the desire that the appeal site be designated as additional car parking to serve the demand. However, I am mindful that there is no objection by the Highway Authority to the appeal proposals with regards parking provision, and issues related to parking for the planning permission for the 47 residential units would have already been addressed at the time of the assessment of the earlier scheme. Irrespective of the desire for any alternative use of the appeal site, such a scheme is not before me as part of the appeal proposal and I do not give these concerns any significant weight.

Conditions

32. In addition to conditions addressing the timing of development and ensuring accordance with approved plans and documents, a condition guiding the provision of a scheme for the disposal of foul and surface waters would be required in order to allow the appropriate drainage of the proposed development. A condition to secure details of the treatment of all boundaries including fencing, walling, hedgerows and other means of enclosure would be necessary to both safeguard the character and appearance of the development and the living conditions of existing and future occupiers of the proposed and neighbouring development. The agreement of details of all external and roofing materials would also be secured by condition in the interests of the character and appearance of the development.

33. The Council has also suggested a condition to secure obscure glazing for the first floor windows of the proposed development on the elevation facing towards the neighbouring Medical Practice. However, for the reasons which I have already set out, I do not consider such controls to be necessary in the context of the proposed development, and I have therefore omitted this suggested condition.

Planning Balance and Conclusion

34. I have found the proposed development to not accord with the spatial housing policies of the Local Plan, given that the proposal would result in further development beyond the identified target growth for the settlement of Ingham. However, I have found there to be an absence of harm from the development with regards the effect on character and appearance and the provision of adequate living conditions for future occupiers. In addition, no conclusive details of harm related to an adverse impact on Ingham have been adduced from the resultant uplift of a single dwelling over the previously approved development of 47 dwellings, which is of considerable significance in supporting the proposal as sustainable development.
35. As a smaller/windfall site, the proposal would attract a further moderate level of support and weight in making a contribution towards addressing the slower than anticipated delivery of strategic allocations. Furthermore, the provision of an additional dwelling to the housing stock of the area and potential support for the shortfall in pupils at the local school would both attract some limited support, as would the high standard of accessible accommodation proposed. The provision of further support for local services and facilities through additional expenditure and benefits during the construction period would weigh with some limited weight in support of the proposed development, with the sustainable location and efficient use of land attracting a moderate level of weight in support of the proposal.
36. In this respect, despite the conflict with the spatial strategy I find that the above benefits of the proposed development, when taken cumulatively, would outweigh the identified harm and that the proposal would amount to sustainable development.
37. Therefore, for the reasons given above, and subject to the conditions listed, the appeal is allowed.

M Seaton

INSPECTOR

Annex

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Unless as otherwise required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing Nos. 1413W/15/461b Proposed Elevations/Floor Plans and 1413W/15/246 Site Location Plan.
3. No development shall take place until a scheme for the disposal of foul and surface waters have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.
4. No development shall commence until full details of the treatment of all boundaries of the site, including where appropriate, fencing, walling, hedgerows to be retained, or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the dwelling being first occupied and retained thereafter.
5. 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.



Appeal Decision

Site visit made on 18 June 2019

by **M Seaton DipTP MRTPI**

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

Decision date: 10th September 2019

Appeal Ref: APP/N2535/W/19/3224721

Land North of Linwode Manor, Main Road, Linwood, Market Rasen, LN8 3QG

- 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 Mr McCartney against the decision of West Lindsey District Council.
 - The application Ref 138028, dated 4 July 2018, was refused by notice dated 3 October 2018.
 - The development proposed is an outline planning application to erect 1no. dwelling with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application has been submitted in outline with all matters related to appearance, landscaping, layout, access and scale reserved for later consideration. I have therefore dealt with the appeal on this basis and treated the submitted plans as an indication only of how the appeal site might potentially be developed.

Main Issues

3. The main issues are:
 - whether the proposed development would accord with the housing policies of the Development Plan;
 - the effect of the proposed development on highway safety, having regard to vehicular access to and from the site; and,
 - the effect of the proposal on the biodiversity of the site.

Reasons

4. The appeal site occupies a parcel of grassed and overgrown paddock land set to the north of a large property identified as Lynwode Manor. The site boundary to the west is defined by a line of trees beyond which is located a further area of open land, as also appeared to be the case at the site visit with land to the south towards Lynwode Manor. To the east is a line of semi-detached and detached dwellings, with a short terrace and pair of semi-detached properties to the north on the opposite side of the B1202 from the appeal site.

Housing

5. The Development Plan is identified as comprising the Central Lincolnshire Local Plan (the Local Plan), which was adopted in April 2017. Policy LP2 of the Local Plan sets out the spatial strategy for Central Lincolnshire, with development to be directed in accordance with a settlement hierarchy.
6. For the purposes of the settlement hierarchy, it is agreed between the parties that Linwood is classified as a hamlet as it is not listed elsewhere in the various settlement classifications as set out in the policy. The settlement hierarchy defines a hamlet as possessing dwellings clearly clustered together to form a single developed footprint and as having a base of at least 15 units, and that single dwelling infill developments in appropriate locations would be supported in principle.
7. From my observations of Linwood, the development of the appeal site for a dwelling would inevitably extend the core shape of the settlement, but would not have an adverse impact on the overall form of the settlement which is clearly defined by the linear clusters of dwellings on both sides of the B1202 at this point. However, the policy also sets out that for infill development to be supported it must be both within the developed footprint of the village and within an otherwise continuous built up frontage.
8. The Council contends that the proposed development would be positioned within a clearly defined gap between No. 2 Manor Cottages and Birch Cottage to the south west. Whilst I have had careful regard to the appellant's submissions to the contrary, I would agree with the Council's contention and even allowing for the presence of the nearby cottages, the Manor House, and electricity poles, in the context of the current character of the appeal site and the adjacent field, it possesses an appearance which is more akin to the rural character of the surrounding countryside rather than the built-up character of the settlement.
9. Even if this conclusion had not been reached, the substantial gap between No. 2 Manor Cottages and Birch Cottage cannot be said to be a part of a continuous built up frontage. For this reason, rather than acting as an infill development within a continuous built up frontage, the proposal would in fact extend the existing adjacent built up frontage to the west on to open land. Contrary to the exclusions for development as set out in Policy LP2, this would result in the development of paddock land within the curtilage of a building on the edge of the settlement, where the character and appearance of the land clearly relates more to the open countryside than the settlement.
10. I have noted the reference made by the appellant to the existing mature planting on the boundaries to the appeal site, the visual mitigation of which it is contended would not result in a visual incursion into open countryside or harm to the rural character. However, even allowing for the absence of a detailed design and layout which would be provided at the reserved matters stage, the proposed development of the site would inevitably change the character of the land and vicinity through the introduction of built form, residential access and boundaries, and other paraphernalia associated with a residential development of the site.
11. I have also had regard to the appellant's reference to the Council's report as referring to the site appearing *large enough to accommodate an appropriately*

designed scheme for one detached dwelling. However, it is clear that this turn of phrase was employed in the context of the Council's assessment of the proposal and the impact on the living conditions of the neighbouring occupiers of No. 2 Manor Cottages, and I do not attach any weight to this reference in assessing the principle of the development.

12. For the above reasons, the proposed development would not accord with the spatial strategy and settlement hierarchy of the Development Plan, and I therefore find there to be conflict with policy LP2 of the Local Plan.

Highway safety

13. The means of access to the appeal site has been identified by the appellant as a reserved matter with the submitted proposed layout plan merely showing an indicative location and means of access on to the passing B1202 as a demonstration as to how the site might be developed.
14. Whilst access is a reserved matter, the Council has assessed the principle of the proposed development based on the indicative position of the access, as they are entitled to do. In this respect, I noted the 40 miles per hour (mph) speed limit on the B1202 passing the site as well as the proximity of the sharp bend to the west of the indicative access point.
15. In accordance with the technical advice on stopping distances and visibility requirements set out in the Manual for Streets, a 2.4m x 65m clear visibility for a 40mph road would need to be provided. However, given the position of existing mature planting and trees and the proximity of the access to the bend in the road, it appears evident that the visibility splay cannot be achieved towards the west for vehicles turning right out of the development and that adequate visibility in this regard would not be available to the detriment of highway safety.
16. In response to the reason for refusal the appellant has reiterated that the means of access is a reserved matter and that alternative options for access across land from the south or the acquisition of land to the west to improve visibility remain available. However, in the absence of any indicative plan demonstrating how an access to the south may be achieved or any certainty over the feasibility of acquiring land to the west, I am not persuaded on the basis of the evidence submitted that there would necessarily be a viable alternative, and I have not been able to attach any more than limited weight in support of the proposal to this contention.
17. In the submitted evidence, the appellant has also cited the decision by Lincolnshire County Council in June 2018 to investigate the reduction of the speed limit in Linwood from 40mph to 30mph. However, no realistic timescale has been adduced as to the potential delivery of the reduction in the speed limit or indeed a confirmation that the process has been commenced or is without objection to the required consultation. Furthermore, the appellant has not provided any further evidence in response to the reason for refusal to suggest that a reduction in the speed limit would be sufficient to allow the provision of a suitable visibility splay. I therefore attach only very limited weight to this matter in support of the proposed development.
18. Whilst recognising that access is a reserved matter in this instance, for these reasons I am not persuaded that an appropriate means of access would be able

to be provided without there being resultant harm to highway safety. I find the proposal therefore fails to accord with Policy LP13 of the Local Plan, which in addressing accessibility and transport seeks to ensure that all development should demonstrate the provision of a well designed, safe and convenient access for all. This is consistent with the requirement of paragraph 108 of the National Planning Policy Framework (the Framework).

Biodiversity

19. Great Crested Newts are protected by law and their presence is a material consideration in a proposal where there is a reasonable likelihood of a protected species being present and affected. Further to the submissions of an interested party regarding the potential presence of Great Crested Newts, the Council has identified the absence of sufficient information to ascertain the presence or otherwise of the protected species as being contrary to the provisions of Policy LP21 of the Local Plan, and the natural environment chapter of the Framework.
20. Paragraph 99 of Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System advises that it is essential that the presence or otherwise of protected species and the extent to which they might be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations will not have been addressed on making the decision. Circular 06/2005 advises that the need to ensure that ecological surveys are carried out should only be left to conditions in exceptional circumstances. The Circular continues at Paragraph 99 that “bearing in mind the delay and costs that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development”.
21. The appellant states that the Council did not request that an ecological survey was undertaken during the application process, even though the application was ultimately refused on the basis that insufficient information had been provided. However, whilst this may be the case, the delegated report makes it clear that this is a matter which any further planning application or appeal would need to grapple with in order to ascertain the presence or not of the protected species. The appellant has opted not to do so.
22. Whilst I have had regard to the appellant’s contention regarding the absence of any evidence of protected species on the site over the years, I am of the view that the appeal site and surrounding land may provide suitable habitat for Great Crested Newts and therefore the determination of the decision by the local planning authority without the presence of an ecological survey is a significant matter.
23. I have had regard to the appellants’ suggestion that this is a matter which could be adequately addressed by a pre-commencement planning condition. However, such an approach would be clearly contrary to the advice to establish the extent to which protected species might be affected before planning permission is granted, as set out within Circular 06/2005. I have therefore discounted this suggestion.
24. I therefore conclude that the proposal would have the potential to result in significant harm to protected species and would be contrary to Policy LP21 of

the Local Plan, which amongst other things seeks to minimise impacts on biodiversity and protect protected species in development proposals.

Planning Balance

25. The appellant has referred me to the three dimensions to sustainable development as set out in the Framework.
26. In respect of the environmental strand, I have already concluded that the proposed development would result in harm to the spatial objectives of the Local Plan, and also that in the absence of an assessment to ascertain the presence of protected species there would be the potential for significant harm in this regard. However, I note that Linwood has some limited access to public transport and that the distance from Market Rasen combined with a pedestrian environment, would support the potential for the use of means of travel other than the private motor car. This would provide some limited weight in support of the proposal.
27. Turning to the social dimension, the potential provision of an additional dwelling to the local housing market would be an undoubted benefit of the proposed development and would provide some limited support to the existing community of Linwood. However, the quantum of development would limit the weight to be attached in these respects.
28. The local economy would also have the potential to have some limited benefit during the construction period and from any expenditure from future occupiers going forward, as well as the financial benefits of the New Homes Bonus and from the additional generation of Council Tax payments. These are also factors which would provide some limited weight in support of the proposal.
29. Nevertheless, despite the benefits which I have summarised above, I am satisfied that they would not be sufficient to outweigh the harm which I have identified in the main issues.

Conclusion

30. For the reasons set out above, the appeal is dismissed.

Martin Seaton

INSPECTOR



Appeal Decision

Site visit made on 20 August 2019

by **Matthew Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th September 2019

Appeal Ref: APP/N2535/W/19/3230605

14 North Moor Road, Scotter, Gainsborough, DN21 3HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Maurice Brown against the decision of West Lindsey District Council.
 - The application Ref 138849, dated 3 January 2019, was refused by notice dated 1 March 2019.
 - The development proposed is change of use from an existing domestic garage to a small commercial garage for an existing business.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the living conditions of the occupiers of neighbouring properties having particular regard to noise and disturbance; and,
 - whether the proposed employment use would represent an appropriate use of the land.

Reasons

3. Policy LP5 of the Central Lincolnshire Local Plan 2017 (the Local Plan) seeks to ensure that development for employment purposes takes place within designated employment sites unless it can be shown that no other suitable sites are available within existing allocations or within the built-up area of the existing settlement. Policy LP5 also seeks to ensure that developments related to employment do not have a significant adverse impact on the amenity of neighbouring occupiers. Policy LP26 of the Local Plan seeks to ensure that developments do not unduly harm the living conditions of existing and future occupants of neighbouring land as the result of issues including adverse noise.

Living Conditions

4. The appeal site comprises a detached double garage which sits to the rear of, and is used for domestic purposes in connection with, 14 North Moor Road (No. 14). The garage is situated within a larger parcel of land which opens out to the rear of the appeal site and is occupied by a range of buildings

associated with a car repair business which is within the control of the appellant. Whilst I am told that the appeal building is used for domestic purposes, it has been built to commercial standards, and I saw on my site visit that it includes mechanically operated roller shutter doors, a vehicle lift, and a range of other fixtures and fittings.

5. The appeal site was the subject of a recent appeal decision, involving a similar proposal, which was dismissed by the Inspector partly on the basis that the proposed use of the appeal building for commercial vehicle repair purposes was considered to be incompatible with the residential use of the neighbouring land as it was found that it would lead to unacceptable levels of noise and disturbance¹.
6. Unlike the buildings used in connection with the larger parcel of land to the rear, the appeal building, and the roller shutter doors within it, are located close to the dwelling and garden associated with No. 16, and within proximity of the rear gardens of a number of other properties situated along North Moor Road. Despite the presence of substantial vegetation in between the appeal site and neighbouring properties, any works to vehicles carried out either outside the garage, or within the garage with the doors open, would generate noise which could be audible from the rear gardens and elevations of the closest properties. Like the previous appeal Inspector, I find that this would be harmful to the living conditions of the occupiers of nearby properties.
7. The appellant intends to carry out vehicle repairs during daytime hours each week between Monday and Saturday, which would limit the extent to which neighbours would be subject to noise and disturbance associated with the proposed use. Furthermore, the appeal building is a solid structure and one which is capable of being fully enclosed by the roller shutter doors, which could be closed when works to vehicles were being undertaken. I am satisfied that both measures would ensure sufficient mitigation of noise and disturbance arising as a result of the proposed use.
8. However, the closure of the roller shutter doors to effectively contain noise would be reliant on an appropriate level of ventilation in order to ensure that airborne pollutants arising from vehicle repair activities were properly extracted, and there was sufficient breathable air for workers and visitors to the garage. Whilst I noted the presence of ventilation points within the appeal building on my site visit, it is unclear from the Environmental Health comments made on the planning application whether the installed ventilation system would be adequate. Furthermore, I have no details or specifications relating to the ventilation system upon which to assess its suitability. Therefore, I have no way of knowing if the ventilation system would be fit for purpose in connection with the proposed use, both in terms of ensuring sufficient ventilation of the garage and ensuring that any noisy activities within the garage remained adequately contained.
9. As a result of my foregoing observations, I am not satisfied that it would be reasonable or enforceable to impose a planning condition requiring the roller shutter doors to remain closed when works to vehicles were being undertaken given the uncertainty over the adequacy of the building's ventilation. Such a condition would fail to meet the six tests².

¹ Appeal reference – APP/N2535/W/18/3200690

² Planning Practice Guidance '6 tests' - 003 Reference ID: 21a-003-20190723

10. It is proposed to cease the vehicle repair activities on the land and within the associated buildings to the rear. The business would be moved to the appeal site. The size of the appeal garage means that the extent of vehicle repair activities would be reduced in comparison with those which could be undertaken on the existing, larger site. However, I have not been provided with a copy of a S106 obligation in order to ensure the cessation of the existing use. Without it, the proposal would allow the garage to operate on a commercial basis, in addition to the established vehicular repair use to the rear, and would lead to the intensification of vehicular repair uses within the area, thus potentially increasing noise and disturbance, to the detriment of the living conditions of nearby occupiers.
11. In conclusion, the development would have an unacceptable effect on the living conditions of the occupiers of neighbouring properties having particular regard to noise and disturbance. It would be in conflict with Policies LP5 and LP26 of the Local Plan which collectively seek to ensure that proposals do not lead to an unacceptable impact on neighbouring land uses, including through an increase in noise. The development would fail to create a place with a high standard of amenity for future users, contrary to the requirements set out in paragraph 127 of the National Planning Policy Framework.

Land Use

12. I understand that activities associated with the proposal would be limited in frequency. Furthermore, the appeal building and land immediately surrounding it is much smaller than the land and buildings associated with the established vehicle repair business to the rear. It was clear on my site visit that these buildings were not being utilised to their full potential and therefore, there remains the prospect that commercial activities on the land could intensify, or the use proposed within the appeal building could simply remain on this land. Given that the site access would be unaltered, I am satisfied that the relocation of a less intensive use to the appeal building would, in principle, represent a suitable alternative site in an existing built up area.
13. Nevertheless, as I have already explained, I have no certainty that the use of the land to the rear of the appeal building would cease as it has not been secured through the submission of an acceptable S106 obligation. Consequently, the proposal would result in an additional employment use on a non-allocated site and it has not been demonstrated to my satisfaction that there are no other allocated sites available, nor any other suitable sites within the built-up area of Scotter.
14. For the foregoing reasons, the proposed employment use would not represent an appropriate use of the land. It has not been demonstrated that there are no other suitable or alternative sites within allocated sites or within the built-up area, contrary to the requirements of Policy L5 of the Local Plan.

Other Matters

15. Whilst the garage could be used to repair and work on vehicles as a hobby in connection with the existing residential use, this would not be likely to be on the same scale as commercial vehicle repairs. Therefore, as I find that the proposal would be harmful to the living conditions of nearby occupiers, this consideration does not outweigh the harm I have identified.

16. I am aware of the appellant's intention to use the garage for a limited period throughout the year. However, I have not been provided with specific dates or details upon which an appropriate planning condition could be framed. Furthermore, I have not been made aware of any complaints arising from the existing business activities. However, these considerations do not outweigh the harm I have identified, as I find that the commercial use of the garage would be harmful for the reasons given.
17. The lack of objection to the appeal scheme relating to highways, flood risk and a range of other matters are neutral factors which do not weigh in favour of the proposal.

Conclusion

18. I therefore conclude that, for the reasons given, the appeal is dismissed.

Matthew Woodward

INSPECTOR



Appeal Decision

Site visit made on 23 September 2019

by **Darren Hendley BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st October 2019

Appeal Ref: APP/N2535/W/19/3233236

Sheepcote Hill Farm, South Street, North Kelsey, Market Rasen LN7 6ET

- 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 Carrie Pickerden against the decision of West Lindsey District Council.
 - The application Ref 139029, dated 21 January 2019, was refused by notice dated 10 May 2019.
 - The development proposed is described as an "outline planning application for up to nine dwellings, at land to the rear of Sheepcote Hill Farm, South Street, North Kelsey".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with all matters reserved for future consideration. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. The appellant submitted a Preliminary Ecological Appraisal and an associated eDNA test (both dated July 2019) as part of the appeal submission. As the Council and interested parties have had the opportunity to comment on these documents during the course of the appeal, there is no possible prejudice. Accordingly, I have also considered them in my decision.

Main Issues

4. The main issues are (i) whether the proposal would be in a suitable location for housing with regard to the effect on the character and appearance of the area; (ii) whether the proposal would preserve the listed building, Drury House (or its setting or any features of special architectural or historic interest which it possesses); and (iii) the effect on a scheduled monument (SM), the medieval fishpond complex and associated features at North Kelsey Grange.

Reasons

Character and Appearance

5. The appeal site comprises land which is to the rear of the main house at Sheepcote Hill Farm. It consists mostly of areas of grassland or trees. There are some small ancillary domestic type structures and a container which are found within the part of the site nearer to the main house. A loose stone track

- runs from the access on South Street to the side of the main house and up to the site. A small bungalow-like building lies adjacent to the track and the site.
6. The site is also found to the rear of other residential properties on South Street and the land to the sides is garden or undeveloped paddock-like land. To the rear is woodland and fields. The village itself is set on a low hill and the land falls away beyond the site boundary. The area surrounding the village is distinctly rural in nature as an undulating agricultural landscape with occasional farmsteads and isolated dwellings.
 7. For the purposes of Policy LP2 of the Central Lincolnshire Local Plan 2012-2036 (2017) (Local Plan), North Kelsey is defined as a medium village. Where the policy permits proposals of up to 9 dwellings, this is only in appropriate locations, which is defined as a location which does not conflict, when taken as a whole, with national policy or policies in the Local Plan (such as, but not exclusively, Policy LP26). In addition, to qualify as an appropriate location, the site, if developed, is to retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance; and not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.
 8. When the site's largely undeveloped appearance, its location on the edge of the village and its proximity to further open land adjacent to its boundaries and beyond are considered together, its character is informed appreciably by the open countryside. This would be significantly reduced under the proposal with up to 9 dwellings on the site. It would project well beyond the extent of the existing built form of the village and be a marked incursion into the countryside. In this context, it would not constitute infill. It would be discordant and harmful to the rural setting.
 9. The pattern of development along South Street is largely linear in form, in particular on the same side as the site. The encroachment of up to 9 dwellings to the rear would substantially disrupt this aspect of the core shape and form of this part of the village. The bungalow-like building does not change this prevailing character to any great extent with its modest size, notwithstanding that the proposed dwellings are indicatively shown to extend well back from this building. Likewise, nor does the small number of dwellings that are found to the rear at the far end of South Street to the site. The mix of design and styles of the dwellings in the village does not have a particular bearing on the adverse effect on the shape and form of the village.
 10. Proposals for the retention of trees and new landscaping would not adequately blend the proposed dwellings into the surroundings because this would not overcome the projection of built development beyond the form of the settlement. The general lack of visibility due to the screening around the site also does not overcome the loss of this character.
 11. Both main parties have made reference to whether or not the site can be considered developed, in particular in relation to its planning history. I have, though, based my considerations on the effect of the proposal on the character and appearance of the area, as this is where the matter of dispute arises. Furthermore, that the proposal would be within the growth levels of North Kelsey that are set out in Policy LP4 of the Local Plan does not obviate the need to consider character and appearance matters.

12. I conclude that the proposal would not be in a suitable location for housing with regard to the effect on the character and appearance of the area. It would not comply with Policy LP2 because it would not be an 'appropriate location', for the reasons that I have set out. It would also not accord, in this regard, with Policies LP17 and LP26 of the Local Plan which seek to protect and enhance the intrinsic value of the landscape and townscape, including the setting of settlements, and state that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place, amongst other considerations.

Listed Building

13. The main house is grade II listed, and is named as 'Drury House' on the listing description. It is a well-proportioned early 19th century property that contains high gable ended sides with associated stacks, amidst other pleasing external features. It is of a typical rural vernacular of such a house from that era. With the presence that such a house has on the edge of the village, its rural agricultural surroundings also play an important role in relation to its significance.
14. The proposal would notably disrupt this setting of the listed building, with up to 9 dwellings being located on the site and as much of the land associated with it would be lost. It would also sever the role the wider countryside plays in its significance. Tree retention and new landscaping to lessen the visibility between the listed building and the proposed dwelling would not account for the detrimental effect of the proposed dwellings themselves on its setting.
15. The wall and pillars that are positioned around the site access are in keeping with the main house and provide an attractive entrance feature. Whilst access is not a matter before me, this is the only means that the proposed dwellings could be accessed from the public highway within the site boundary. The evidence before me does not demonstrate that access could be adequately achieved without disrupting the wall and pillars arrangement. With the strong protection that is afforded to the historic environment through the planning system, this could not be dealt with through reserved matters and the imposition of planning conditions without, in effect, nullifying the planning permission, even if I was minded to allow the appeal.
16. In pursuant of section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which I am bound to consider, the proposal would not preserve the listed building, Drury House (or its setting or any features of special architectural or historic interest which it possesses). For similar reasons, it would also not comply in this regard with Policy LP25 of the Local Plan which states that proposals should protect, conserve and seek opportunities to enhance the historic environment, including listed buildings. In coming to my views on the effect on the listed building, I have considered the totality of the evidence before me, including the appellant's heritage statement.

Scheduled Monument

17. The SM lies approximately 250 metres to the south and south east of the site, separated by areas of trees and fields. It comprises a series of earthworks, buried deposits, fishponds and water control features that were once

associated with a monastic community. Its significance is derived from these features, along with adjoining land in ridge and furrow cultivation.

18. As the site itself lies well outside of the extent of the SM and as there is not the information before me to suggest that the site itself is related to the significance of this asset, the proposal would be unlikely to have a discernible effect on the monument's conservation, including its setting. It is clearly distinct from it.
19. I conclude that the proposal would not have an unacceptable effect on a scheduled monument. As such, in this regard, it would comply with Policy LP25 by way of the protection it affords the historic environment, including archaeology.

Other Matters

20. The Council's reasons for refusal also stated that insufficient information had been submitted in relation to biodiversity interests. The Council has removed its objection on this matter, though, following the submission of the ecological appraisal. The appraisal itself provides an assessment of the potential effects on protected and other species, as well as habitats and plants species. It covers the site, as well as areas in its vicinity.
21. In relation to great crested newts, the appraisal found one pond in the vicinity of the site that had good suitability to support this protected species. An eDNA test was carried out on this pond, which proved negative. I acknowledge that interested parties have referred to further ponds in the vicinity of the site. However, the substantive evidence I have before me on this matter is contained in the appraisal. I concur with the Council's conclusions and find there is not a reasonable likelihood of protected species being affected. Hence, the proposal would comply with Policy LP21 of the Local Plan.
22. As regards the planning balance, in particular policies LP17 and LP25 provide for the benefits to be weighed against the harm. In the case of Policy LP25, it is public benefits that are to be considered against the harm to heritage assets.
23. In relation to the benefits, the proposal would contribute towards the supply of housing, and it is intended that it would provide for a housing mix with family accommodation and associated sizeable gardens. In terms of what are fairly limited local services in the village, the proposal would be in an accessible location and would support such services. With the number of units which arise, though, these benefits attract limited weight.
24. The proposal would not be unacceptable in respect of highway safety, flood risk and living conditions. These attract neutral weight. Whilst the appellant states that the proposal would make use of under-utilised and redundant land, this needs to be considered against the effect on the character and appearance of the area, and to the listed building. These count against the proposal, and attract significant weight in my decision. Whether or not the site constitutes previously developed land does not alter my views with this level of harm that would arise.
25. The appellant has also referred to the presumption in favour of sustainable development, including the 'tilted balance', that is set out in the National Planning Policy Framework (Framework). Even if I considered this was to apply, the application of policies in the Framework that protect areas or assets

of particular importance provides a clear reason for refusing the development proposed, in relation to designated heritage assets, namely the listed building. The presumption would, therefore, not apply in this case.

26. Overall, the harm that would arise is decisive in the balance. As a consequence, the proposal would also not accord in this regard with Policies LP17 and LP25.

27. Interested parties have raised a number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Conclusion

28. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. The proposal conflicts with the development plan as a whole and there are no material considerations to outweigh this conflict. Hence, the appeal should be dismissed.

Darren Hendley

INSPECTOR