

**AGENDA**

**This meeting will be broadcast live and the video archive published on our website**

**Planning Committee**

**Wednesday, 3rd February, 2021 at 6.30 pm**

**Held virtually MS Teams and available to watch on:**

**<https://west-lindsey.public-i.tv/core/portal/home>**

**Members:**

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

**1. Register of Attendance**

**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 6 January 2021, previously circulated.

4. **Declarations of Interest**  
Members may make any declarations of interest at this point but may also make them at any time during the course of the meeting.
  
5. **Update on Government/Local Changes in Planning Policy**  
**Note** – the status of Neighbourhood Plans in the District may be found via this link  
<https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/>
  
6. **Planning Applications for Determination**
  - a) 141033 - Bardney (PAGES 7 - 29)
  - b) 142065 - Nettleham (PAGES 30 - 64)
  - c) 142148 - Sudbrooke (PAGES 65 - 97)
  
7. **Determination of Appeals** (PAGES 98 - 123)

Ian Knowles  
Head of Paid Service  
The Guildhall  
Gainsborough

Tuesday, 26 January 2021

## WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Planning Committee held Virtual - MS Teams on 6 January 2021 commencing at 6.30 pm.

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

Councillor Owen Bierley  
Councillor Matthew Boles  
Councillor David Cotton  
Councillor Michael Devine  
Councillor Jane Ellis  
Councillor Mrs Cordelia McCartney  
Councillor Mrs Jessie Milne  
Councillor Keith Panter  
Councillor Roger Patterson  
Councillor Mrs Judy Rainsforth  
Councillor Mrs Angela White

**In Attendance:**  
Rachel Woollass Development Management Team Leader  
Daniel Evans Senior Development Management Officer  
Danielle Peck Development Management Officer  
Martha Rees Legal Advisor  
Ele Snow Democratic and Civic Officer  
James Welbourn Democratic and Civic Officer

**Apologies:** Councillor Cherie Hill

### 83 REGISTER OF ATTENDANCE

The Chairman undertook the register of attendance for Members and each Councillor confirmed their attendance individually.

The Democratic Services Officer completed the register of attendance for Officers and, as with Members, each Officer confirmed their attendance individually.

### 84 PUBLIC PARTICIPATION PERIOD

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

## **85 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING**

**RESOLVED** that the minutes of the meeting of the Planning Committee held on Wednesday, 9 December 2020 be confirmed as an accurate record.

## **86 DECLARATIONS OF INTEREST**

Councillor J. Milne declared a personal interest in application number 141017 in that the application site was close to where she lived and she knew others in the area.

Councillor M. Devine also declared a personal interest in application number 141017 that he knew the applicant personally and the Union branch with which he was involved had donated money for benches in the park. He declared he had spoken with the applicant about the process at Planning Committee, in terms of how it worked but not in an advisory capacity.

Councillor M. Boles declared a personal interest for application number 141017 as he knew the application and had previously supported another of the applicant's business through Lincolnshire County Council but was not connected with this application.

## **87 UPDATE ON GOVERNMENT/LOCAL CHANGES IN PLANNING POLICY**

The Committee heard from the Development Management Team Leader regarding updates and changes in planning policy. She stated that the Government currently had a consultation seeking the views on permitted development rights, changes of use and speeding up planning permission for public service infrastructure. The consultation would close on 28 January 2021 and a response was being prepared for agreement by the Prosperous Communities Committee.

With regard to Neighbourhood Planning, the Committee heard that the examinations for the Scotton Neighbourhood Plan and the Bishop Norton Neighbourhood Plan were successful and decision statements had been issued. The referendums were due to be held 6 May 2021.

The examination of the Gainsborough Neighbourhood Plan was complete and the examiner's draft final report had been issued for fact checking purposes only. Assuming the examination was successful, the referendum would be held on 6 May 2021.

The examination process had started for the Morton Neighbourhood Plan and was at the stage of appointing the examiner. Assuming the examination was successful, the referendum would be held on 6 May 2021.

Consultation on the Draft Corringham Neighbourhood Plan would end on 8 January 2021; the plan carried some weight. The consultation on the Draft Sturton and Stow Neighbourhood Plan was completed on 14 December 2020 and carried some weight. Finally, consultation on the site assessment report for the Ingham Neighbourhood Plan was completed on 11 December 2020.

## **88 PLANNING APPLICATIONS FOR DETERMINATION**

**RESOLVED** that the applications detailed in agenda item 6 be dealt with as follows:

### **89 141017 - "LAND AT", NORTH STREET AND SPITAL TERRACE, GAINSBOROUGH**

The Chairman introduced application number 141017, for change of use of land to park including siting of vehicle for hot & cold foods, seating, raised area, perimeter fencing, and siting of a storage shed. The Planning Officer stated to Members that there had been an additional public consultation response received. It was a supportive comment, describing the site as a great addition to the town and an amazing transformation by a local organisation.

The Chairman noted there was one registered speaker, by way of a statement to be read by the Democratic and Civic Officer. The following statement from Mr Steve Ralf, the applicant, was read aloud.

"I would like to say that we are delighted to have transformed this long standing piece of waste land into a community park, in the heart of town, that Gainsborough can be proud of. As custodians of the site and a charitable community organisation we have no desire to upset other local businesses or residents and many have been involved in the development of the park including attending test events and activities. We look forward to offering a wonderful green space and a range of family activity and events for all."

The Chairman invited comments from Members of the Committee. There was discussion regarding the merits of the concept however concerns were raised in relation to comments made by the Environmental Health Officers stating the need for customer toilets, whether licences would be needed for food, drink and evening events. It was also highlighted that comments from the Highways Agency were not conclusive nor was it clear whether there was an issue with the site in relation to nearby heritage buildings. A Member of Committee agreed with these comments and, based on concerns that the proposal was not in keeping with the area, proposed refusal of the application.

The Planning Officer noted that concerns regarding food hygiene, licences and provision of customer toilets were not covered by planning legislation and highlighted that the recommendation was to grant the principle of development, subject to deferral back to Officers for resolution of outstanding matters in relation to odour. With regard to concerns of evening events, he highlighted the proposed condition that stated no live event would take place from the site. He also commented that, in relation to concerns of the impact on nearby heritage buildings, the NPPF advised that where the proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal. He commented that the improvement to the public realm was to be weighed against the harm caused by the structures on site and, in this instance, the benefits to the public realm outweighed the harm identified.

A Member of Committee enquired about how the odour reports had been conducted and it was confirmed that Environmental Health had requested the odour report and what had been submitted was based on informal assessment by people who had used the site and

their judgement as to the impact of any odour. There had been no professional testing and the Environmental Health team had suggested there to be further work undertaken using professional equipment.

There was further discussion regarding the impact of the site on the conservation area, and, whilst this was recognised to be important, it was highlighted that the original plan for the site had been to build flats and there had very recently been a new hotel built on the opposite side of the road. It was suggested that the improvement to the site that had taken place was preferable and less obstructive to the conservation area than other developments. In contrast to this, further concerns were raised regarding the mention of live events to be held on the site and the Member proposal to refuse permission was seconded.

The Chairman invited any other comments from Committee Members. Members reiterated previously stated supportive comments regarding the application and the Officer recommendation was moved and seconded.

With no further comments from Members, the Chairman took the vote for the Officer recommendation to grant permission subject to further odour testing. With six votes against, five votes for and two abstentions, the vote was lost.

The Chairman then took the vote on the second proposal, to refuse permission. With five votes against, six votes for and two abstentions, it was agreed that permission be **REFUSED** as contrary to LP25, LP26, LP38 and NPP 18.

## **90 142050, 81 SUNNINGDALE WAY, GAINSBOROUGH**

The Chairman introduced the second application of the evening, number 142050, to remove existing single storey garage and replace with two storey side extension. The Planning Officer advised there had been a further three consultation responses received, none of which raised any objections. She reiterated to Members that the recommendation was to delegate the decision to Officers at the close of the consultation period.

With no speakers registered and no Committee Members indication to speak, the Chairman highlighted that the application was being presented to the Committee as the applicant was a family member of a Council Officer. Had that not been the case, the application would have been decided under delegated authority.

Having been moved, seconded and taken to the vote, it was unanimously **AGREED** that the decision be delegated to the Planning Officer to grant permission, subject to conditions.

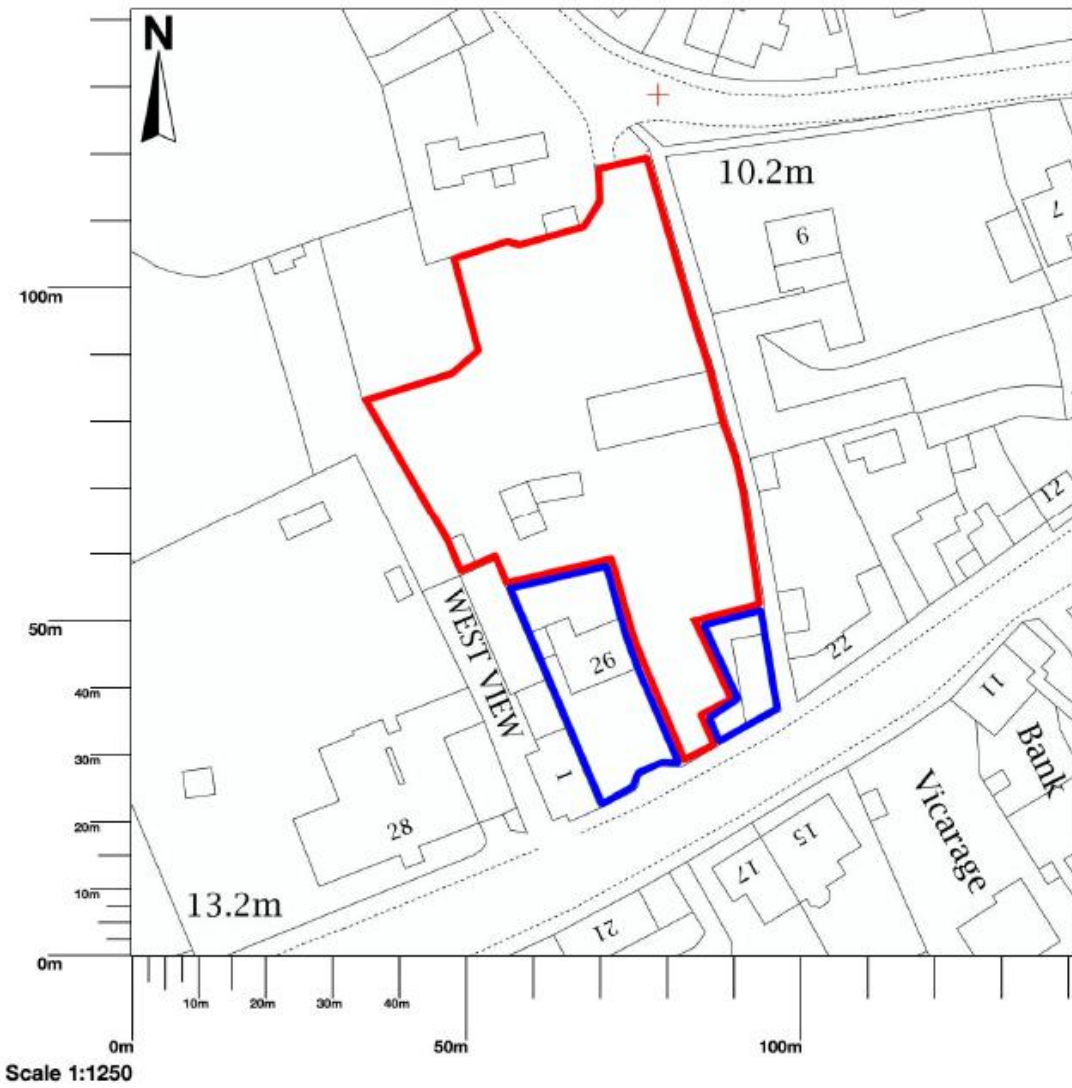
## **91 DETERMINATION OF APPEALS**

The determination of appeals was **NOTED**.

The meeting concluded at 7.22 pm.

Chairman

LAND ADJACENT 15 ABBEY ROAD REF 141033



## **Officers Report**

### **Planning Application No: 141033**

**PROPOSAL:** Outline planning application to erect 5no. dwellings with access and layout to be considered and not reserved for subsequent applications

**LOCATION:** Land adj 15 Abbey Road Bardney LN3 5XA

**WARD:** Bardney

**WARD MEMBER(S):** Councillor I G Fleetwood

**APPLICANT NAME:** Mr Hubbard "MWH Property Management", 15 Abbey Road, Bardney

**TARGET DECISION DATE:** 14/07/2020

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** George Backovic

**RECOMMENDED DECISION:** Grant Conditional Permission

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This application has been referred to planning committee because of the correspondence from third parties, including the Parish Council, on planning matters relating to this application

**Description:** The site comprises two garages, a former workshop, an air raid shelter and open fronted barn on rough grassland located off Abbey Road to the north and Station Road to the south. A public footpath runs along the eastern boundary Bard/101/1) and beyond this is a single-storey brick and pantile barn that has been converted to two dwellings (known as Mill Yard, Station Road). There are concrete posts to the south of the site that define the rear garden of the adjacent property and a variety of timber fencing to the north and west. Existing development within the surrounding area is predominantly residential in character. A large detached house 26 Station Road located to the immediate west which also includes 2 flats is owned by the applicant, as is a single storey dwelling 24 Station Road located next to the existing entrance to the site. To the west of 26 Station Road is a small street "West View" providing access to the pharmacy and numbers 2 and 3 West View. The site is considered to fall within the developed footprint of Bardney.

Following amendments to that originally submitted the application seeks outline planning approval for 5 dwellings with matters of access and layout considered at this stage and not reserved for future consideration.

Matters of scale, appearance and landscaping are reserved for subsequent approval (reserved matters).

**Original Proposal:** Access to the site on the north side from Abbey Road is planned to be as existing, which is between the public footpath 'Bard/101/1'



and 17 Abbey Road. A new vehicular access is planned on the south side of the site between 24 and 26 Station Road to serve 24 Station Road and 26 Station Road as well as the new development. The existing vehicular access to 24 Station Road is to be bricked up to match the existing wall, and the existing vehicular access to 26 Station Road is to be for pedestrian use only.

The 6 dwellings were to be provided in the form of a single terraced block of 5 running north to south on the eastern end of the site with a single large detached house on the western section of the site.

**Amended proposal.** Access remains unchanged from Station Road and Abbey Road. The main change is the reduction in the number of dwellings by 1 to 5 and the omission of the terraced housing block with 5 detached dwellings now spread across the site.

**Relevant history:** None relevant

**Representations:**

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

**Bardney Group Parish Council: Object (Summary):**

**Comments on amended scheme:**

It appears that the layout of the revised application does not reflect the situation at the site. The large house facing Station Rd, close to West View and the Pharmacy, is actually two flats (26a and 26b), both properties have allocated parking. The proposed footpath access will actually cross the garden of flat 26a (which they also use for parking). The property adjacent to Station Rd and the public footpath also comprises to two houses. There are also two cottages facing Abbey Rd, one has allocated parking at the front, whilst the other uses the proposed primary access to the site. Therefore the revised proposal has actually removes parking allocation for those who already reside at the site. Parking on Station Rd and Abbey Rd is also very difficult due to existing businesses and the narrow width of the highway. In short there is nowhere else for the current residents to park.

No parking provision has been made in the revised plans for those residents who live in the existing properties. Those residents currently have parking provision and it appears that these plans will remove it from them. The current residents have allocated parking at the site and have 13 vehicles between them, not including parking for visitors. Although parking on the public highway is allowed, unfortunately parking on Station Rd has deteriorated due to the expansion of the local care home further down the road. In addition to this parking is an issue on Abbey Rd due to the line of sight and narrowness of the road. The local care home only has parking for 18 vehicles (not 30 as claimed) and as such Staff Park on this stretch of Station Rd, parking provision at their site has been reduced due to an application submitted in September 2020. It must also be noted that the site is close to the local pharmacy.

BGPC note the claims by LCC however we are aware that Google earth is used in the decision making process. Unfortunately neither the camber of the road or the incline on to the site from the Abbey Rd access has been taken into account. Neither has consideration been made in relation to the proximity to the line of vision for vehicles at the Station Rd access. It must be noted that a delivery lorry could not access the site via Station Rd this month due to the road width and vehicles. Concern must be raised about how construction vehicles will access the site.

The proposed drainage solution of soakaways based on a 1:10 years risk is not acceptable, either for those in the new properties or for those living further down Abbey Rd, which already has a history of flooding. The requirements stated by Anglian Water must be fully addressed and complied with.

### Original Comments

- Design is not in keeping with other properties
- No request has been made by the developer to amend public footpath Bard/101/1 which belongs to Bardney Parish not Lincolnshire County Council Highways
- Highway Safety concerns – insufficient parking proposed. A rat run will be created between the two access points on Station Road and Abbey Road.
- Public transport provision is poor
- No spare capacity in the drainage system for both foul and surface water disposal. In heavy rainfall properties are flooded with effluent
- Local primary and secondary schools oversubscribed and at capacity
- Policy LP10: Meeting Accommodation Needs highlights that 'new residential development should cater for the needs of less mobile occupants. The proposed development does not comply with this as vehicles will pass directly in front of the access into the properties
- This proposal does not offer any positive impact to local residents and will not create jobs, services or facilities
- The Parish Council have been made aware of the fact as part of the site was previously used as a petrol station, there is in fact a large underground fuel tank on the site. There isn't either an Environmental or Minerals report showing as submitted with the planning application. BGPC would also request that the EA are consulted over this matter.
- The Parish Council have also been made aware of the Tree Preservation order on the Walnut Tree on the site, which also does not appear to be referenced in any documentation.

If the development were to be approved then BGPC request the following;

- The access on to Station Rd is blocked and access must be via Abbey Rd.
- Planning gain must be implemented to ensure that the situation regarding drainage is fully addressed.

- If the application is granted then BGPC would like restrictions to be placed on the hours that construction can take place due to the close proximity to other properties. Namely, no working before 8am and after 6pm weekdays, not before 8am and no activity after 1pm on Saturdays, with no activity in any capacity on a Sunday.

**Local residents:**

Comments received following submission of amended plans:

16 Abbey Road: we still object to any building on to this land, due to potential flooding of our property, the access on either street is not safe, Abbey Road has had increase traffic over the years, and farm machinery has got larger and often has difficulty in passing parked cars. Turning into and out of the access from Abbey Road would make using the public footpath unsafe.

17 Station Road: I have major concerns in regard to the parking situation if the planning is approved. There is not sufficient parking for the buildings currently opposite my property currently and this will only be worse with the additional properties. Station road is already heavily congested with parked cars and my drive is often blocked and or access is made difficult due to the high number of parked cars. Also if approved the access road will greatly increase traffic noise outside my house with vehicles using it as a short cut to Abbey Road. This will impact on my quality of life and the value of my property. I do not feel the proposal is appropriate and approval will have detrimental impact on me and surrounding properties. In addition I am led to believe the drainage of the area being built on is sufficient which may lead to flooding on Abbey road.

3 West View: Clearly, two basic options exist for the site in question. It can either remain undeveloped or it can be developed.

Option 1 (Remains Undeveloped): Anyone who visits this site will quickly observe that it is essentially just a neglected wasteland containing an ugly collection of derelict and semi-derelict outbuildings. The site includes a large area of asbestos roof sheets supported on rusty old metal beams and this obviously poses a significant risk to anyone who may stray there. There is also a sizable rat population that lives amongst the buildings and this has caused a lot of distress and nuisance to nearby properties. The site is, in essence, a horrible eyesore that has been a visual scar on the landscape of this village for far too long.

Option 2 (Site is developed): The site is a reasonably sized plot of land at the heart of the village. Despite this, it has been totally redundant for decades and is, self-evidently, a textbook brown-field site. Unless a wealthy philanthropist comes along, with plans to build a small school, hospital or museum for the benefit of the village, this site is unlikely ever to be developed for any purpose other than housing. The site is, after all, surrounded 360 degrees by residential properties. Although the design proposals were drawn up and submitted last year, they have recently been radically amended in response to local concerns. I truly believe that they are now of the very highest standard

and would, if approved, greatly enhance the village. I therefore fully support them.

### Comments on the original scheme

15 Station Road (object): Our house directly overlooks the site and when we moved here in 2005 there were several petrol pumps on the site. The pumps were removed circa 2007, however the planning document does not make any reference to the position or removal of the tanks. In addition to this, there is a Tree Protection Order on a walnut on the site and again, no reference is made towards this. The designs do not reflect the historical nature of the surrounding buildings. Our major objection relates to the proposed access to the site. The proposal is simply creating a link road between Station Road and Abbey Road. The proposed access point/junction on Station Road is not suitable for a number of vehicles to use. Residents at the existing properties struggle to exit the site and therefore it is simply incomprehensible that a greater volume of vehicles will be expected to use this ingress and egress to the site. Traffic along Station Rd has increased greatly over the last five years. We witness 'stand offs' between vehicles travelling along the road on a daily basis

Due to the fact that there are problems leaving the site via Station Rd, current residents at the site are now parking on Station Rd. This is currently creating an even greater safety risk for those travelling along Station Rd. People are parking across drives and elderly people are struggling to access the pharmacy. If this development were to proceed then the situation will deteriorate further. Lincolnshire County Council appear to have rejected calls to paint double yellow lines in the vicinity and as such parking problems are being compounded

16 Abbey Road (object): the opening on to Abbey Road is not safe, it is on a corner where cars are already parked and we already have an increase of traffic, the tractors from the farms are bigger and have difficulty often getting passed as well as having the HGVs and the top of the junction is a nightmare when cars park at the top, if the access has to be made wider then that will impact on the safety of the public footpath, also if this becomes hard standing the rain will come down their driveway and straight across the road into our drive flood us and also terrace houses of this style is not in keeping with the any houses in this road or the village . We fully oppose this planning application.

9 Abbey Road (object) (approximately 10 metres to the east of the site)  
My main concern is the blocking of light and being overlooked from the buildings which appear to run along the other side of my wall and the alley. At present we enjoy views from the west facing windows. However if the buildings were to be bungalows that would be less of a problem.  
Another important concern is the there will be an increased volume of traffic at that corner between No. 9 and No.15. The road is already too busy from increased traffic over the last few years but mainly the volume of Lorries and farm vehicles that struggle to pass parked vehicles on that corner. The

present problems has caused large vehicles to manoeuvre up onto the verge outside my house (No. 9) destroying the grass verge but more importantly Vibrations have disturbed my brick wall. This at present is being monitored by my builder but as the cracks increase the wall will have to be replaced

I believe the large barn which will be demolished if the application is approved, houses bats, as they fly over the wall from that land into my garden every night. I also want to mention the walnut tree which someone else has pointed out, has a preservation order on.

33 Abbey Road (Object): There is no requirement other than greed to build more housing in Bardney, Chestnut homes already has expanded the housing in our village, we should not allow the loss of any more of the village . This if approved will lead to the second phase, in the field behind abbey road, the proposed site would also mean the destruction of a ww2 air raid shelter.

3 West View (Support): In response to the recent letter from Bardney Parish Council regarding drainage, I would just like to let it be known that the village of Bardney has never suffered from flooding. The development site in question, for example, is approximately 16 metres above sea level and 10 metres above the level of the River Witham. Regarding the area along Abbey Road that the Parish Council has referred to, I think the correct expression they should have used is surface water 'ponding' not 'flooding'. I have indeed heard that there is an area along Abbey Road where a dip in the contours of the land has, on occasions, caused surface water ponding to occur due to the clayey nature of the soil, but I am confident that this particular area would not be adversely affected by the proposed development of this site. If anything, the risk of ponding there would be less likely as a new drainage system would have to be installed on the development site, and this would need to be carried out in accordance with current Building Regulations. Such a drainage system would need to be approved and monitored by the WLDC Building Control Department and built to their complete and total satisfaction.

I have to say this most recent response seems to be yet another example of the Parish Council doing almost everything within their power to block this relatively modest development proposal at the centre of the village. To date, they have written four letters of opposition (or five letters if the one from the address of the Parish Clerk were to be included). I also have a strange feeling that another one will follow at some point. In a previous letter, the Parish Council was adamant that this site is 'agricultural' despite the fact that there are no cows, no sheep, no crops, no tractors and no farmers. It may well have been used for agricultural purposes in the distant past, and it may even be listed as 'agricultural land' at the Land Registry, but I am absolutely sure that in the minds of most thinking people this plot could not, in any way, be described as agricultural. As stated in a previous comment, this small piece of neglected wasteland is full of ugly derelict and semi-derelict buildings and it is, in my view, a complete visual scar on the village landscape. It is a site that is simply screaming out to be developed and given a useful purpose like housing for which there is known to be a serious national shortage.

The site is presently surrounded (on all sides) by residential buildings, and therefore it is by any (common sense) definition, an absolutely perfect 'brown

field' site and would surely be ideal for residential development. This, of course, stands in complete contrast to the 400 odd dwellings that have been approved or built since 2010 on prime unspoiled agricultural green field land around Bardney.

3 West View (Addendum) The site in question is a small piece of land at the heart of the village, which at present is a derelict site. It may have been used for agricultural purposes in the past, but since I have been living here (over 40 years) it has just been an area of neglected wasteland, peppered with an unsightly collection of derelict or semi-derelict sheds, stores, garages, and an underground air raid shelter (grassy hump), which thankfully nobody ever uses. This site is, in my view, a complete eyesore. Even the largest of these buildings (an old tractor garage) is constructed out of ugly concrete blocks and bricks with massive structural cracks on at least one façade. The ironwork roof trusses supporting the asbestos sheet roof are rapidly rusting away and I am very surprised that, for health and safety reason alone, it wasn't demolished years ago. This site is, by any definition, a perfect 'brown field' site, absolutely ripe for development

### **LCC Highways:**

#### Comments on amended plans

No further comments to add in relation to the revisions.

#### Original Comments:

Requests that any permission given by the Local Planning Authority shall include the conditions and informatives below.

1. Before the access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land within the visibility splays illustrated on drawing number H/3356 - 3006 dated August 2019 and thereafter, the visibility splays shall be kept free of obstructions 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.

2. Within seven days of the new access being brought into use, the existing access onto Station Road shall be permanently closed in accordance with a scheme to be agreed in writing by the Local Planning Authority.

Reason: To reduce to a minimum the number of individual access points to the road, in the interests of road safety.

3. The minimum width of the access shall be 4.1 metres.

Reason: To ensure safe access to the site and each dwelling/building in the interests of residential amenity, convenience and safety.

#### Highway Informatives

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. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application. For approval and specification details, please contact [vehiclecrossings@lincolnshire.gov.uk](mailto:vehiclecrossings@lincolnshire.gov.uk)

The road serving the permitted development is approved as a private road which will not be adopted as a Highway Maintainable at the Public Expense (under the Highways Act 1980). As such, the liability for the future maintenance of the road will rest with those who gain access to their property from it.

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.

22.05.20: Additional information requested:

- The access served from Abbey Road is required to be a minimum of 4.1 metres in width, please demonstrate this on a scaled drawing
- A plan identifying the 12 proposed car parking spaces, please note that a space in front of a garage is classed as one parking space.
- How will the parking be allocated within the site?
- Is it proposed that access will be available and maintained between the access points, therefore, providing full access through the site?

**Anglian Water (24.12.20)**

Assets Affected: There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991, or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

Wastewater Treatment: The foul drainage from this development is in the catchment of Bardney Water Recycling Centre that will have available capacity for these flows.

### Surface Water Disposal:

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments in the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction with Anglian Water operated assets, we would wish to be reconsulted to ensure that an effective surface water drainage strategy is prepared and implemented.

### (29.10.20) Summary:

Surface Water Disposal: The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable there are no public surface water sewers and alternatives must be investigated in accordance with Building Regulations Part H3. We would therefore recommend that the applicant needs to consult with Anglian Water and the Lead Local Flood Authority (LLFA). We request a condition requiring a drainage strategy covering the issue(s) to be agreed.

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

Condition: No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

**Senior Environmental Health Officer:** I note from online comments in terms of the site historically being used as a petrol station, from information held on file and reviewing old historical maps there would be evidence to suggest this. However our records may be incomplete. I also note the applicant has provided information of a diesel pump used for farm vehicles which ceased in 2007. I would therefore suggest that a suitable contaminated land condition is placed on any planning permission granted to protect the future occupants of the site.

Noise: The use hereby permitted shall only take place between the hours of 7:30 to 18:00 Mondays to Fridays, 08:00 to 13:00 on Saturdays, with no



working at any time on Sundays, Bank or Public Holidays and no deliveries taken at or despatched from the site outside those hours.

Drainage: I would advise that the water company should be consulted to consider whether the existing drainage system and sewage treatment works have the capacity to adequately deal with the proposed new development. Advice to applicant: I note the above proposal is within close proximity to residential dwellings, so I would recommend a note to the applicant: - No burning of any materials shall take place at the site during demolition or construction.

**LCC Historic Services:**

27:10:20(Following trial trenching on site and submission of an archaeological evaluation report): I can confirm given the largely negative results we would not recommend any further archaeological requirements for this development.

20.05.20: The proposed development is located within the medieval and post-medieval core of the historic settlement of Bardney. It is therefore within an area of archaeological interest, where the remains of former buildings and activity might be expected. Medieval finds have also been uncovered during a community test pit project both to the north of the site on the western side of Abbey Road, and also to the south west at No. 28 Station Road where there was evidence for occupation from the 13th to the 16th centuries.

It is possible that the present footpath may preserve the route of a former medieval village street. It can be noted that Abbey Road runs in a straight line southwards from the medieval abbey in the direction of the parish church, with the footpath continuing this alignment. Research by English Heritage has also suggested that the roughly triangular block of land to the east of the footpath may have originally served as the medieval market place. If so, the present site would have been had a prominent position on the market place where remains of craft and trading activity may also survive.

However, no information has been provided on the significance of any below ground archaeology, or how this may be impacted by development. This is not in accordance with the National Planning Policy Framework, section 16, paragraph 199:

"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."

Insufficient site specific information is available at present with which to make any reliable observation regarding the impact of this development upon any archaeological remains. I recommend that further information is required from the developer in the form of an archaeological evaluation to be considered alongside the application. This evaluation should provide the local planning authority with sufficient information to enable it to make a reasoned decision on this planning application. This evaluation should consist of trial excavation.

## Relevant Planning Policies:

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

### Development Plan

- **Central Lincolnshire Local Plan 2012-2036 (CLLP)**

Relevant policies include:

LP1 A presumption in Favour of Sustainable Development

LP2 The Spatial Strategy and Settlement Hierarchy

LP13 Accessibility and Transport

LP14 Managing Water Resources and Flood Risk

LP16 Development on Land Affected by Contamination

LP17 Landscape, Townscape and Views

LP21 Biodiversity and Geodiversity

LP26 Design and Amenity

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

- **Lincolnshire Minerals and Waste Local Plan (LMWLP)**

The site is not within a Minerals Safeguarding Area, Minerals or Waste site / area.

### National policy & guidance (Material Consideration)

- **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

*"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)."*

- **National Planning Practice Guidance**
- **National Design Guide (2019)**

## **Bardney, Southery, Stainfield and Apley Designation as a Neighbourhood Area**

West Lindsey District Council has approved the application by Bardney Group Parish Council to have the parishes of Bardney, Southery, Stainfield and Apley designated as a neighbourhood area, for the purposes of producing a neighbourhood plan. There are no published policies or documents that can currently be taken into consideration in the determination of this application.

### **Main issues**

- Principle
- Highway Safety including displacement of parking
- Residential Amenity
- Drainage
- Biodiversity
- Archaeology
- Contamination

### **Assessment:**

#### **Principle**

Bardney is designated as a Large Village (policy LP2). To maintain and enhance their role as large villages which provide housing, employment, retail, and key services and facilities for the local area, they will be a focus for accommodating an appropriate level of growth. Most of this growth will be via sites allocated in the CLLP (not applicable here), or appropriate infill, intensification or renewal within the existing developed footprint. The term 'developed footprint' of a settlement is defined in LP4 as the continuous built form of the settlement and excludes:

- a. individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement;
  - b. gardens, paddocks and other undeveloped land within the curtilage of buildings on the edge of the settlement where land relates more to the surrounding countryside than to the built up area of the settlement;
  - c. agricultural buildings and associated land on the edge of the settlement;
- and
- d. outdoor sports and recreation facilities and other formal open spaces on the edge of the settlement.

Section 11 in the NPPF (paragraphs 117 to 123) sets out the importance of making effective use of land in meeting the need for homes and other uses and for policies and decisions to "give substantial weight to the value of using suitable brownfield land within settlements for homes" and to "promote and support the development of under-utilised land and buildings". The site which is not detached from the continuous built area of Bardney, does not relate to "surrounding" countryside and is considered to fall within the developed

footprint of this large village. On this basis the principle of development attracts support. Its acceptability in part rests on the details of the proposal.

### **Highway Safety including loss of parking**

Policy LP13 requires well designed, safe and convenient access for all and that appropriate vehicle parking provision is made for development users. This is consistent with NPPF paragraph 108 requiring proposals ensure safe and suitable access to the site can be achieved for all users and paragraph 109 requiring that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. The policy is therefore attributed full weight.

The number of objections on the grounds of existing poor access are acknowledged although a new vehicular access from Station Road is proposed with the existing vehicular access to 24 Station Road closed off by a new wall and the existing vehicular access to 26 Station Road changed for pedestrian use only. Subject to the imposition of recommended conditions no objections are raised by the Highway Authority to the access arrangements. It is considered that, subject to the imposition of such conditions, highway safety and access arrangements are acceptable and compliant with LP13.

The concerns in relation to loss of parking spaces are noted and relate to existing provision on private land that is in the applicants' control. LP 13 in relation to parking requires that "appropriate vehicle, powered two wheeler and cycle parking provision is made for residents, visitors, employees, customers, deliveries and for people with impaired mobility. The number and nature of spaces provided, location and access should have regard to surrounding conditions and cumulative impact. The plans submitted show the parking provision for the proposed dwellings. A detached double garage is proposed for plots 3 and 5. A single detached garage with the drive in front a minimum of 13 metres is proposed for plots 1 and 4. Plot 2 has a space approximately 6m by 5m to the side for on plot parking. The plans submitted show that all the houses are to have 3 bedrooms and excluding the proposed garages will each have a minimum of 2 car parking spaces. This is considered satisfactory and no objections have been made by Highways to the level of parking proposed. The proposal also includes for an additional 4 parking spaces not related to the proposed dwellings within the site, immediately opposite no.26.

The submitted plans indicate permanent bollards on the new drive to the rear of plots 2 and 3, 3metres apart with a central retractable bollard. With the central bollard in place it would prevent vehicles travelling from Station Road to access Abbey Road and vice versa.

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy all of the following tests:

- 1.necessary;
- 2.relevant to planning;

- 3.relevant to the development to be permitted;
- 4.enforceable;
- 5.precise; and
- 6.reasonable in all other respects

The highways authority has confirmed by email dated 27<sup>th</sup> October 2020 that in the absence of a condition relating to provision of the bollards they would not recommend a refusal on Highway Safety grounds. This means that the condition cannot be considered “necessary”. Furthermore there would also be difficulties in being able to take enforcement action. The provision of the permanent bollards would not be an issue, however if the retractable bollard was not put back up following access by a resident, It would be difficult to establish who was responsible and enforce against any breach. It would therefore not be necessary or enforceable as a minimum and would not meet the required tests to allow a condition to be imposed.

Subject to the imposition of the other suggested conditions there would no expected adverse impacts on highway safety and the development would be in accordance with LP13.

### **Surface Water Drainage**

Policy LP14 in the section on Flood Risk requires that all development proposals will be considered against the NPPF, including application of the sequential and, if necessary, the exception test. This is in accordance with the Planning and Flood Risk section of the NPPF commencing from paragraph 155 and is afforded full weight. It also requires no unacceptable increased risk of flooding to the development site or to existing properties;

It is noted that Anglian Water in their most recent comments stated they were unable to provide comments as to the suitability of the surface water management. No objections have however been raised by the Lead Local Flood Authority to the proposals and a condition will be imposed requiring drainage details to be submitted for approval.

The site falls within Flood Zone 1 which is that identified as having a low probability of river or sea flooding. A drainage strategy has been submitted which refers to “*online British Geological Survey maps indicating that the site is located on superficial deposits of sand and gravel, which are likely to support the use of infiltration.*” Subject to the imposition of a condition requiring details of proposed surface water drainage to include the results of site investigation, to be submitted to and approved in writing by the local planning authority it is considered that disposal of surface water would not give rise to flooding of adjacent properties as alleged in the objections and does not therefore constitute a reason to withhold consent.

Foul drainage will be to a mains sewer in accordance with guidance – Anglian Water have indicated that there is sufficient capacity.

The proposal is therefore found to be in accordance with LP 14.

### **Residential Amenity**

Policy LP26 requires high quality design that that contributes positively to local character, landscape and townscape and also that 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. This is consistent with section 12 of the NPPF Achieving well-designed places and in particular paragraph 127 f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and is afforded full weight.

The objections raised in relation to access difficulties and potential flooding of adjacent properties have been addressed earlier in this report.

Objections on the grounds of overlooking and loss of light were made to the original scheme with a terraced block running along the eastern section of the site. No objections on these grounds have been made to the revised scheme and the only building now proposed along this boundary is labelled as car parking and bin storage for “unit 3”. This is not likely to lead to overlooking or loss of light. There are now only 2 dwellings proposed on the site of the former terrace and there is a minimum distance of approximately 6 metres from the sides of the dwellings to the footpath. The proposed dwellings are well spaced around the site with sufficient distance separation between proposed dwellings and those that surround the site to ensure that no significant impacts arise. There is a distance of approximately 15 metres from the side of plot 1 to the rear of 17 Abbey Road. Plot 4 is set back from West View by 5 metres rising to 12 metres.

Objections are also raised on the grounds of increased noise and disturbance from vehicles accessing the site from Station Road to residents on the opposite side of Station Road. These residents are separated from the site by Station Road and an increase in usage of the new access within the context of the sites location and surrounding character is not considered unacceptable. Conditions will be placed in line with environmental health recommendation on working hours.

The proposals are in accordance with LP 26.

### **Design and appearance**

Objections have been raised to the indicative character and appearance of the dwellings shown on the submitted drawings. These are matters (scale & appearance) reserved for future consideration. Nevertheless there is an eclectic mix of design, form and materials present in the area in varying degrees of quality and the indicative designs are considered acceptable. There is no reason to withhold consent as it will be possible to design a satisfactory scheme for a future reserved matters submission. The indicative designs would be in accord with LP26.

### **Biodiversity and Geodiversity**

LP21 seeks to minimise impacts on biodiversity and geodiversity. An Ecology and Protected Species Survey has been carried out on site. The results of which are:

Bats: No evidence of bats was recorded from the buildings on the survey site. Common pipistrelle bats have all been recorded within 1km of the survey site between 1998 and 2016. The buildings are generally light, draughty and constructed of roofing materials which would have little potential for use as a long term, significant roost site in the active season.

Birds: Disused nests were noted in the open fronted barn and the workshop during the survey. The buildings are considered to have potential for nesting by common bird species. Birds noted during the survey were blackbird, collared dove, great tit, robin, house sparrow, greenfinch and common chaffinch. A single kestrel pellet was also noted within the open fronted barn although there are no records of kestrel in the area.

Barn Owls: Only two barn owl pellets were noted during the survey, both in the open fronted barn. Records show 105 sightings of barn owl within 1km of the survey site between 1998 and 2016. No potential nest sites for barn owls were recorded

Habitats and Plant Species: The habitats and plant species recorded on the site are common and widespread in the local area and in the country. The plant species recorded on the site are not listed on Schedule 8 of the Wildlife and Countryside Act 1981 (as amended). There are no species that are listed in the Vascular Plant Red Data List for Great Britain and no invasive plant species listed on Schedule 9 were recorded.

Recommendations (Summary):

Install four integral bat roost units within the new dwellings. These should be placed on the southern elevation of the buildings avoiding windows and doors.

The buildings, trees and grassland have potential to be used for nesting by species of common bird. Any works to the buildings and site should ideally commence outside the active nesting season which typically runs from March through to late August. If work commences during the bird breeding season, a search for nests should be carried out before it begins, and active nests should be protected until the young fledge.

Consideration should be given to the provision of nest boxes within the development. For this site provision of sparrow terrace boxes would be appropriate. Details of nest boxes suitable for use by a range of common bird species can be obtained from [www.wildcare.co.uk](http://www.wildcare.co.uk).

Subject to conditions ensuring works take place in accordance with the protected species report and requiring details of biodiversity enhancements to be submitted to and approved in writing by the local planning authority it will accord with LP21.

**Archaeology:**

Policy LP25 is in accordance with section "16. Conserving and enhancing the historic environment" of the NPPF (paragraphs 184 to 202) and is afforded full

weight. Due to the potential for historic remains on site trial trenches were dug which formed the basis for an archaeological evaluation report. Based on the largely negative results there are no further archaeological requirements for this development. It would be in accord with LP 25.

### **Contamination**

LP16 is in accordance with consistent with NPPF paragraph 170 which requires planning policies and decisions should contribute to and enhance the natural and local environment by.... (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. It is afforded full weight. Due to the history of the site a planning condition requiring a contaminated land report including remediation works to be submitted to and approved in writing will be imposed. On this basis it would be in accordance with LP16.

**TPO** – Reference has been made to a Tree Preservation Order on the site. There is an individual TPO Bardney No.3 1989, however, this is outside the application site approximately 7 metres to north west.

### **Conclusion**

Having considered the proposal against the provisions of the Development plan in in the first instance, specifically policies LP1: A Presumption in Favour of Sustainable Development, Policy LP2: The Spatial Strategy and Settlement Hierarchy;; Policy LP13: Accessibility and Transport; Policy LP14: Managing Water Resources and Flood Risk; Policy LP17: Landscape, Townscape and views; LP21: Biodiversity and Geodiversity; and Policy LP 26: Design and Amenity of the Central Lincolnshire Local Plan (2012-2036) as well against all other material considerations including the Revised National Planning Policy Framework 2019 and Planning Practice Guidance it is considered that the proposal would, subject ,to the imposition of safeguarding conditions not have any significant adverse impacts and approval is recommended.

### **Conditions requiring reserved matters and stating the time by which the development must be commenced:**

1. No development shall take place until, plans and particulars of the **scale** and **appearance** of the buildings to be erected, and the **landscaping** of the site (hereinafter called “the reserved matters”) have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with those details.

**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.

2. Application for approval of the reserved matters shall 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).

3. The development to which the permission relates must be begun not later than the expiration of two years from the 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 commences:**

4. No development shall take place until, suitably qualified contaminated land assessments and associated remedial strategy with none technical summaries, conclusions and recommendations, together with a timetable of works, have been submitted to and approved in writing by the Local Planning Authority (LPA) and the measures approved in that scheme shall be fully implemented. [Outcomes shall appropriately reflect end use and when combining another investigative purpose have a dedicated contaminative summary with justifications cross referenced]. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically in writing

- a) The contaminated land assessment shall include a desk study to be submitted to the LPA for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the LPA prior to investigations commencing on site.
- b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
- c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA. The LPA shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
- d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the LPA.
- e) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the LPA. The closure report shall include details of the proposed remediation works and quality

assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

**Reason:** In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration to accord with the National Planning Policy Framework and policy LP14 and LP16 of the Central Lincolnshire Local Plan 2012-2036.

**5.** No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

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

**Reason:** To ensure that surface water run-off from the development will not adversely affect, by reason of flooding, neighbouring land and property in accordance with policies LP 14 and 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 approval and the outline planning permission, the development hereby approved shall be carried out in accordance with the following drawings and documents:

The Layout and Access shown on drawing no. H3356-3007 Revision A date October 2020; Layout and Access shown on drawing no. H3356-3005 Revision E date March 2020; Highway Drawing H3356 -3006 Revision B date August 2019;

**Reason:** To ensure the development proceeds in accordance with the approved plans in the interests of proper planning.

7. Within seven days of the new access being brought into use, the existing access onto Station Road shall be permanently closed in accordance with a scheme to be agreed in writing by the Local Planning Authority.

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

8. Before the access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land within the visibility splays illustrated on drawing number H/3356 - 3006 dated August 2019 and thereafter, the visibility splays shall be kept free of obstructions 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.

9. The minimum width of the access shall be 4.1 metres.

**Reason:** To ensure safe access to the site and each dwelling in the interests of residential amenity, convenience and safety and in accordance with policies LP13 and LP26 of the Central Lincolnshire Local Plan

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

- (i) the routeing and management of construction traffic;
- (ii) the parking of vehicles of site operatives and visitors;
- (iii) loading and unloading of plant and materials;
- (iv) storage of plant and materials used in constructing the development;
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vi) wheel cleaning facilities;
- (vii) measures to control the emission of dust and dirt during construction;
- (viii) details of noise reduction measures;
- (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- (x) the hours during which machinery may be operated, vehicles may

enter and leave, and works may be carried out on the site;  
(xi) Measures for tree and hedgerow protection;

**Reason:** In the interests of existing residential amenity and in accordance with policy LP26 of the Central Lincolnshire Local Plan.

**11.** The details to be submitted in accordance with condition no. 1 above shall include existing and proposed finished ground levels.

**Reason:** In order to be able to assess the impact of the development on existing dwellings in the interests of amenity in accordance with policy LP 26 of the Central Lincolnshire Local Plan.

**12.** The development hereby approved shall not exceed 5 dwellings.

**Reason:** The application was found to be acceptable on this basis in accordance with policy LP26 of the Central Lincolnshire Local Plan.

**13.** If any works to the buildings and site take place outside the active nesting season from 1<sup>st</sup> March through to 31<sup>st</sup> August a search for nests must be carried out before it begins, and active nests should be protected until the young fledge.

**Reason:** To protect biodiversity in accordance with policy LP21 of the Central Lincolnshire Local Plan.

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

**14.** No dwelling shall be occupied, unless the approved surface water scheme and foul water drainage connection to the public sewer has been implemented in full.

**Reason:** To ensure satisfactory drainage of the site in accordance with policy LP14 of the Central Lincolnshire Local Plan.

**15.** No dwelling shall be occupied until details of the position and form of 4 integral bat roosts and 2 nest boxes across the site have been submitted to and approved in writing by the local planning authority and the approved details fully implemented.

**Reason:** In the interests of bio diversity enhancement to accord with the requirements of Policy LP21 of the Central Lincolnshire Local Plan.

**Notes**

Highway Informatives

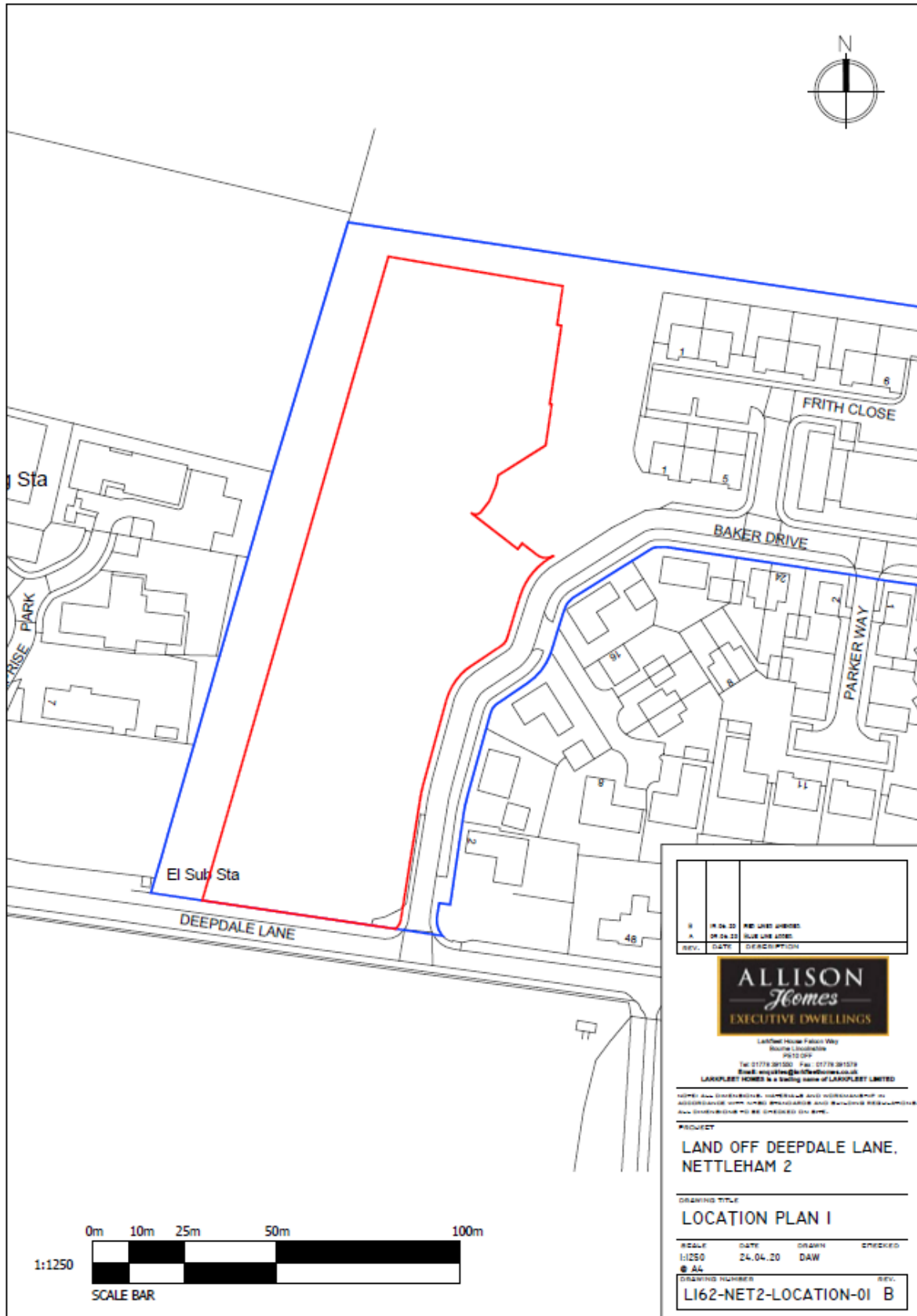
The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works

should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application. For approval and specification details, please contact [vehiclecrossings@lincolnshire.gov.uk](mailto:vehiclecrossings@lincolnshire.gov.uk)

The road serving the permitted development is approved as a private road which will not be adopted as a Highway Maintainable at the Public Expense (under the Highways Act 1980). As such, the liability for the future maintenance of the road will rest with those who gain access to their property from it.

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.

# Agenda Item 6b



# Officers Report

## Planning Application No: 142065

**PROPOSAL:** Planning application for construction of 30no. Entry Level homes and associated infrastructure - resubmission of 140938

**LOCATION:** Land off Deepdale Lane Nettleham Lincoln LN2 2LT

**WARD:** Nettleham

**WARD MEMBER(S):** Cllr G P McNeill, Cllr Mrs A White

**APPLICANT NAME:** Larkfleet Homes

**TARGET DECISION DATE:** 25/02/2021

**DEVELOPMENT TYPE:** Major - Dwellings

**CASE OFFICER:** Rachel Woolass

**RECOMMENDED DECISION:** Grant permission subject to a s106 agreement securing the affordable housing in perpetuity and NHS contribution of £18,975.00 and delegate back to officers to resolve any outstanding highways matters.

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The application is reported to planning committee following a member call-in request received from Cllr Mrs A White, and following objections from the Parish Council and local residents, which consider the development would not be compliant with paragraph 71 of the National Planning Policy Framework, nor the provisions of the Nettleham Neighbourhood Plan

**Description:**

The site is located to the west of Nettleham. The proposed site is situated off Larkfleet Home's previous scheme (Nettleham Chase) on land north of Deepdale Lane. The application site is currently being used for construction purposes as a compound for the previous scheme, this will be referred to as phase 1. Phase 1 (comprising 50 homes) is still in the process of being built out.

The site is bounded to the west by the Deepdale Lane enterprise park. The northern boundary of the site is bound by an established hedgerow and beyond this agricultural land.

The application seeks permission for the construction of 30no. Entry Level homes and associated infrastructure, being a resubmission of planning application 140938, refused permission in August 2020.

An "Entry Level Exception Site" is defined in the National Planning Policy Framework (NPPF) as "A site that provides entry-level homes suitable for first time buyers (or equivalent, for those looking to rent), in line with paragraph 71<sup>1</sup> of this Framework."

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<sup>1</sup> Paragraph 71 of the National Planning Policy Framework <https://www.gov.uk/guidance/national-planning-policy-framework/5-delivering-a-sufficient-supply-of-homes#para071>

This is a re-submission application to address the previous reason for refusal by reducing the number of housing to 30 dwellings from 34 and increases the level of parking.

**Relevant history:**

135567 – Planning application for residential development comprising: a new access road and road junction to Deepdale; 50 dwellings with estate roads, public open space and associated development; a scheme of 22 apartments and 14 bungalows for the over 55s with communal areas, shared open space and off street car parking. Permission granted 08/11/17

138469 – Application for non-material amendment to planning permission 135567 granted 8 November 2017 (amendments to flat block, site sections, apartments and bungalows). Permission granted 01/11/18

140110 – Application for non-material amendment to planning permission 135567 granted 8th November 2017 re: sprinkler tank. Granted 06/12/20

140938 – Planning application for construction of 33no. Entry Level homes and associated infrastructure - Phase 2. Permission refused 25/08/20 for the following reasons –

1. The proposal would not be in-keeping with the character of the area contrary to policy LP26 of the Central Lincolnshire Local Plan and D-6 of the Nettleham Neighbourhood Plan. The design and density of the development would be contrary to the principles of policy D-6 of the Nettleham Neighbourhood Plan. The proposal would therefore be contrary to the requirements of paragraph 71(b) of the NPPF. Furthermore the proposal would not provide adequate parking contrary to policy D-3 of the Nettleham Neighbourhood Plan.

141032 – Planning application for erection of 2no. affordable elderly persons bungalows and 5no. homes. Granted at planning committee and delegated back to officers for the completion of s106.

**Representations:**

**Ward member:** Call in request received from Cllr Mrs Angela M White with the following comments –

This application for entry level housing does not fulfil the requirements of NPPF (February 2019) paragraph 71b. It does not comply with the local design policies set out in the Nettleham Neighbourhood Plan (D6).

*New developments should recognise and reinforce the local character in terms of height, scale, density, spacing and layout orientation. Housing proposals should reflect the existing residential densities. Maximum density was set as 20 per hectare, whereas the density of this proposal is in excess of this and of the adjacent developed site.*



Neither does it comply with CLLP 26 c) Design and Amenity, particularly in relation to 'siting, height, scale, massing, form and plot width.'

It is contrary to the requirements of the Central Lincolnshire Local Plan Policies LP2 for development on unallocated sites and LP4 Growth in villages, that it has demonstrable community support.

Nettleham Parish Council has made a strong objection to this application. This is supported by many objections from the residents.

It does not comply with CLLP 9 Health and Well-being as unlikely to support high quality outcomes in relation to mental and physical health.

Entry level housing is not just for first time renters and owner occupiers. It includes other types of affordable housing, as demonstrated in the application form: - social, affordable and intermediate renting and affordable housing.

There is no further need for affordable housing in Nettleham. We have exceeded our designated share. Nettleham has planning permission for 71 affordable homes, although only 37 homes were identified as required in the Nettleham Neighbourhood Plan, with 45 homes now already delivered.

It does not comply with CLLP 11 that '*affordable homes should integrate seamlessly into the site layout amongst the private homes.*'

Finally, it does not comply with CLLP 11 that '*in rural areas there should be a local needs assessment that there is both a need and clear community support (with support well-demonstrated in the same way as LP2.*'

The LACE development provided 22 apartments for rent and 14 bungalows for shared ownership for the over 55s. It is proposed to develop Linelands as an extra-care facility. So, we already have extensive resources in Nettleham.

**Nettleham Parish Council:** (In brief) Strongly objects to this application.

- Not an allocated site in the adopted Nettleham Neighbourhood Plan (NNP) or CLLP.
- Contrary to para b) of the NPPF 71 as it does not comply with the design policies or standards as per D6 of the NNP.

- NNP identifies max. density for Nettleham as 20 homes per ha. For new housing developments. The proposal seeks to increase the maximum density by 65% an inappropriate urban density in a rural village setting. On this basis it would be contrary to NPPF 127 and 130.

- Design and access statement makes reference to under delivery of affordable houses in the area. Nettleham alone has had planning permission approved which includes 71 affordable homes, a significant over delivery against the 37 identified in the Neighbourhood Plan. The applicant fails to demonstrate substantive evidence of local need over that already provisioned for contrary to LP11 of the CLLP.

- Nettleham Parish Council submits that whilst the latest revision of the NPPF post dates the CLLP and the NNP, the NPPF only takes precedence where it is in conflict with other adopted plans. Based on the above grounds there is no conflict between cited policies. This opportunistic planning application should be refused.

- However should the LPA be minded to approve the development then provision for children's play equipment on site should be required (via s106 agreement) as the distance to the nearest play area is some 700m away.

- Recent monitoring on Deepdale Lane has shown an average of 6400 movements per day over 23 days with a peak flow into the village of 307 vehicles/hour. Deepdale Lane lacks a footpath on the development side of the lane so for safety and amenity purposes there should be a s106 requirement for the developer to provide one from the site to meet up with the start of the existing path on Deepdale Lane.

**Local residents:** Objections received from the following properties –

7 Parker Way  
29 High Leas  
2 Brookfield Avenue  
15 Ridgeway  
5 The Steepers  
8 Baker Drive  
10 Baker Drive  
11 Greetwell Lane  
14 Baker Drive  
14a Deepdale Lane  
2 Washdyke Lane  
6 Scothern Road  
61 All Saints Lane  
68 Scothern Road  
9 Parker Way  
Westcot  
10 Riverdale  
18 Deepdale Lane  
28 Baker Drive  
59 All Saints Lane  
1 Becksid  
43 All Saints Lane  
54 Washdyke Lane  
7 Baker Drive  
16 Baker Drive  
19 Deepdale Lane  
25 Dalderby Crescent  
4 Willowfield Avenue  
7 Ridegeway  
11 Parker Way  
41 High Street  
Beech Cottage  
21 Becksid  
38 Baker Drive  
42 Baker Drive  
57 All Saints Lane

11 Wold View  
12 Cotton Smith Way  
15 Deepdale Lane  
22 Cherry Tree Lane  
29B Lodge Lane  
31 Kingsway  
43 Brookfield Avenue  
6 Cross Street  
7 High Leas  
Sunnyside, 2 Cross Street  
10 Parker Way  
16 Baker Drive  
38 Washdyke Lane  
1 Midway Close  
12 Baker Drive  
3 Frith Close  
8 Paker Way  
8 Poplar Farm Court  
20 Baker Drive  
30 Baker Drive  
32 Cliff Avenue  
4 Shaw Way  
4 The Hawthorns  
8 Midway Close  
Aurora

With the main objections –

- Larkfleet (Allison Homes) have always said that the proposed application land would return to farmland
- submitted over Christmas period in hope of fewer objections
- highway safety
- does not allow for the efficient delivery of goods, access by service and emergency vehicles
- developer has dismissed a new road off Deepdale Lane
- contrary to paragraphs 109, 110 and 130 of the NPPF
- Contrary to policy D6, H4 and Appendix F car parking of the neighbourhood plan
- too high density
- too much pressure on infrastructure of the village
- flooding
- now becoming urban sprawl of Lincoln
- no need for more properties
- levels of traffic
- not in-keeping with the neighbourhood plan
- re-submission does little or nothing to mitigate earlier objections
- parking issues

- no justification for the type of housing
- infant school and primary school over populated
- too much development for the village
- pedestrian safety
- devaluation of property
- medical centre under pressure
- Larkfleet still haven't finished the roads, path, public spaces and grassed areas on the original development
- noise and disruption the proposed development would bring
- loss of green space
- impact to wildlife
- if minded to grant, place a covenant on these properties in perpetuity that they be first allocated to residents of Nettleham, then children of residents of Nettleham, parents of residents of Nettleham and if not taken then out to residents of Welton, Dunholme, Scothern and surrounding countryside and only offered on the "open market" if and when there are any vacancies after that in West Lindsey. If permission is granted for these dwellings on the basis that a requirement is needed in West Lindsey then the residents of West Lindsey should benefit.
- since the Linelands development has been sourced and this will provide a large amount of single person dwellings which will more than cover the needs highlighted in the neighbourhood plan
- if granted the hedgerow along the front of the site should be professionally laid and two small trees be planted for visual and wildlife purposes. The hedge and adjoining green area should be maintained and public use guaranteed.
- a concentration of one size of housing in one area goes against the very mixed housing provision over the rest of the village.
- together with ongoing developments there would be a total of 235 dwellings, far in excess of the number in the neighbourhood plan of 150 up to the year 2031. So does this mean no more homes will be built in Nettleham for the next 10 years or will the neighbourhood plan simply be disregarded?
- poorly designed
- Larkfleet should concentrate on remedying existing residents' poor build issues before building further homes
- not allocated in the CLLP or neighbourhood plan
- development shows no green space
- sewerage infrastructure issues
- inadequacy of single footpath on Deepdale Lane
- the adverse effects of the potential isolation of people within this development, with the lack of open spaces and small plots has already been highlighted through COVID-19
- not in-keeping with the village aesthetic
- should be kept as a village and not continue to expand to become a borough of Lincoln
- contamination
- will add to the car parking problem in the centre of the village
- poor aftercare service of developer on previous/existing homes
- no local support

- not in-keeping with the character of the village
- overlooking
- loss of privacy
- exceptional circumstances test not met in the CLLP
- is paragraph 71 of the NPPF actually applicable when considering in conjunction with 141032
- existing path would not benefit from natural surveillance
- enforcement should investigate the existing access
- drainage issues

**LCC Highways and Lead Local Flood Authority:** 18/01/2021 - The Highway and Lead Local Flood Authority would make the following comments: Highways  
The general layout is acceptable along with the access point shown, subject to the following changes:

- Removal of, or confirmation that there are no vertical deflections shown on the submitted layout.
- Removal of the footpath across the swale on Plot 8.

A shaded plan showing areas proposed for adoption will be required, upon receipt of that further changes may be needed.

A frontage footway connecting the western boundary footpath to the site access is required. The Highway Authority will confirm in due course the suitability of the proposed bus stop at the front of the site.

Drainage

It is requested the applicant submits the ground investigation report for consideration.

**LCC Education:** The County Council has no comments to make on this application in relation to education as there is projected to be sufficient primary capacity for the 2 primary age children the scheme is projected to generate and the secondary contribution that would have been requested (£33,982) falls under the Community Infrastructure Levy under the Developer Contributions Supplementary Planning Document.

**NHS England:** The development could impact on Nettleham Medical Practice, Welton Family Health Centre, Brayford Medical Practice, Glebe Park Surgery, Lindum Medical Practice and Minster Medical Practice as patients would be able to register at either of the above practices. Lincolnshire Clinical Commissioning Group (LCCG) wishes for the Section 106 contribution to contribute to the refurbishment of existing rooms at Nettleham Medical Practice to increase clinical capacity. The contribution requested is £18,975.00.

**Strategic Housing:** The site in Nettleham is in a sustainable location for affordable housing, within walking distance of amenities such as shops, doctors surgeries, schools etc and close to a bus route allowing access to both Lincoln and Gainsborough. As with the previous submission of planning on this site, Larkfleet housing have liaised with Strategic Housing regarding this scheme and have reflected the identified housing

need within Nettleham from the WLDC housing register which shows a high need for one bedroom general needs housing.

On the previous application, I was concerned over the ability of this scheme to be delivered as affordable based on the lack of RP engagement. Since then, Larkfleet have appointed a consultant to engage with RP's for this scheme.

This proved a popular scheme with RP's and Larkfleet received a number of suitable offers from RP's in relation to obtaining the properties and delivering them as affordable. This has given confidence in the ability to deliver this scheme as fully affordable.

The tenure mix has not been detailed as part of the application, with a scheme of this size, it would be expected that a larger proportion of the scheme is delivered as low cost home ownership options than the policy position of 70% affordable rent and 30% shared ownership. The scheme will need securing as a fully affordable scheme through a S106 agreement.

**Lincolnshire Police:** Have no objections to this re-submitted application.

**Environment Agency:** We have no objections to this application we would like to draw your attention to the following –

The pre-planning statement by Anglian Water states that the Nettleham Water Recycling Centre (WRC) does not currently have capacity to treat the flows from this proposed development. Therefore should this development be granted planning permission, we would strongly recommend that conditions are included to ensure no occupation of the dwellings takes place until the Nettleham WRC has capacity to treat the waste water flows that the development will generate.

This is important to protect the Nettleham Beck (WFD waterbody ID: GB105030062210) by ensuring the development does not make the current phosphorous issues worse and cause any other water quality pollutions. The Water Framework Directive (WFD) status for the Nettleham Beck was classified as poor for phosphate in 2019. The major reason for this failure was identified as continuous discharges from sewage treatment works. There is a Phosphorous improvement scheme due to be completed by 22 December 2024. However we are not aware of any plans to increase capacity before 2040.

**Archaeology:** No representations received to date

### **Relevant Planning Policies:**

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2017); the Nettleham Neighbourhood Plan (made March 2016); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Under planning law<sup>2</sup>, if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved

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<sup>2</sup> S38(5) of the Planning & Compulsory Purchase Act 2004

in favour of the policy which is contained in the last document to become part of the development plan.

#### Development Plan

- ***Central Lincolnshire Local Plan 2012-2036 (CLLP), adopted April 2017***

Relevant policies of the CLLP include:

LP1: A Presumption in Favour of Sustainable Development

LP13: Accessibility and Transport

LP14: Managing Water Resources and Flood Risk

LP17: Landscape, Townscape and Views

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

LP25: The Historic Environment

LP26: Design and Amenity

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

- ***Nettleham Neighbourhood Plan (NP), adopted March 2016***

Relevant policies of the NP include:

D-1 Access

D-2 Pedestrian and Cycle Access

D-3 Parking Provision (New Housing)

D-4 Water Resources and Flood Risk

D-6 Design of New Development

H-2 Housing Mix

H-4 The Provision of Affordable Housing

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

- ***Lincolnshire Minerals and Waste Local Plan (LMWLP), adopted June 2016***

The site is in a Minerals Safeguarding Area and policy M11 of the Core Strategy applies.

<https://www.lincolnshire.gov.uk/downloads/file/2361/core-strategy-and-development-management-policies>

#### National policy & guidance (Material Consideration)

- ***National Planning Policy Framework (NPPF)***

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions.

The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

*"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)."*

Paragraph 30 states:

*"Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently."*

Paragraph 71 states:

**71.** *Local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:*

*(a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and*

*(b) be adjacent to existing settlements, proportionate in size to them <sup>33</sup>, not compromise the protection given to areas or assets of particular importance in this Framework <sup>34</sup>, and comply with any local design policies and standards.*

((33) Entry-level exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.)

((34) i.e. the areas referred to in footnote 6 in chapter 2. Entry-level exception sites should not be permitted in National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty or land designated as Green Belt.)

- **National Planning Practice Guidance**
- **National Design Guide (2019)**

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

### **Main issues**

- Principle
- Highways
- Infrastructure
- Flood Risk and Drainage
- Design
- Open Space
- Residential Amenity



- Minerals
- Ecology
- Archaeology

**Assessment:**

Principle

Planning law requires that applications for planning permission must be determined in accordance with the development plan, **unless material considerations indicate otherwise** (emphasis added). The statutory plan for the area is the Central Lincolnshire Local Plan (CLLP) and the Nettleham Neighbourhood Plan (NNP).

The site is not allocated for residential development in either the CLLP or NNP. Within both plans, the land immediately east, currently under construction, is allocated.

However, both plans pre-date the latest iteration of the NPPF (February 2019) which introduces (paragraph 71) that *“Local planning authorities should support the development of entry-level exception sites... These sites should be on land which is not already allocated for housing”*

The NPPF sets out the Government’s planning policies for England and how these should be applied. It is a significant material consideration in planning decisions. The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

*“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).”*

Paragraph 71 of the NPPF states that local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority’s area. These sites should be on land which is not already allocated for housing and should:

*a) comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and*

*b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.*

Footnote 33 of the NPPF establishes the acceptable scale of entry-level exception sites. Applying the provisions of the NPPF, the Council will *require the site size to be no larger than one hectare and not to exceed 5% of the area of the host settlement.*

The proposal is in accordance with these provisions.

The application site is not already allocated for housing in the development plan (as required under paragraph 71), and is adjacent to the existing settlement, immediately alongside an allocated site under construction. The site measures 0.9118 hectares and would not exceed 5% of the area of the host settlement.

This is a material consideration which carries significant weight.

The CLLP and the NNP predate the latest NPPF and are otherwise silent on the approach to **entry-level exception sites** for the delivery of affordable housing on appropriately sized sites adjacent to settlements, therefore the authority will look to **apply the provisions of the NPPF** (in particular paragraph 71), alongside the wider provisions of the CLLP and NNP, when determining the acceptability of such proposals.

It is a requirement under para 71 that the development is on land not already allocated for housing. Only a small amount of the access is within the residential allocation (CL4660). All 30 dwellings proposed, would be on unallocated land.

When determining the need for such homes and whether this has been met within the authority's area, a Parish is not an authority in this sense and so it cannot be the area of the need being met. Therefore in line with statutory instruments the authority's area would be that of Central Lincolnshire. The Strategic Housing Market Assessment states that as per the PPG, Lincoln, North Kesteven and West Lindsey (Central Lincolnshire) can be jointly considered as a single housing market area.

There has been an under delivery of affordable housing in Central Lincolnshire compared to the need identified in the Strategic Housing Market Assessment. Whilst the need in paragraph 71 needs to relate to the authority's area, the development itself has acknowledged the local need in terms of term of tenure, need and size of properties. Currently, the only tool to identify the current need in Nettleham - with the absence of a current local needs survey, is the housing register.

The below figures are numbers of people who are registered for housing in Nettleham by bedroom size, age and local connection.

<b>Nettleham housing register information 14<sup>th</sup> January 2021</b>				
<b>One bedroom</b>	<b>Total</b>	<b>Of total, those over 55</b>	<b>Of total, those with a local connection*</b>	<b>Of total over 55, those with a local connection over 55</b>
1 bed	132	85/132	116/132	78/85
2 bed	59	8/59	44/59	7/8

3 bed	31	2/31	29/31	2/2
4 bed +	9	2/9	7/9	1/2
Total	231	97/231	196/231	88/196

\* This is based solely on address, which is only one element of the local connection criteria.

The Strategic Housing Officer has stated that they understand need for an exception site of this nature is already determined through the Central Lincolnshire Strategic Housing Market Assessment. However, they feel the above information supports the scheme dwelling sizes and shows a high need for smaller housing. They also feel the local connection of people registered for Nettleham is higher than average for West Lindsey depicting it is local people who are actively seeking to remain within Nettleham.

This shows a need for one bedroom properties to rent.

Consultation has been carried out with Strategic Housing and they state that as with the previous submission of planning on this site, Larkfleet housing have liaised with Strategic Housing regarding this scheme and have reflected the identified housing need within Nettleham from the WLDC housing register which shows a high need for one bedroom general needs housing.

On the previous application, there was concern with the ability of this scheme to be delivered as affordable based on the lack of RP engagement. Since then, Larkfleet have appointed a consultant to engage with Registered Provider's (RP's) for this scheme.

Larkfleet received a number of suitable offers from RP's in relation to obtaining the properties and delivering them as affordable. This has given confidence in the ability to deliver this scheme as fully affordable.

The tenure mix has not been detailed as part of the application, with a scheme of this size, the strategic housing officer advises that a larger proportion of the scheme is delivered as low cost home ownership options than the policy position of 70% affordable rent and 30% shared ownership. The scheme will need securing as a fully affordable scheme through a S106 agreement.

Whilst the CLLP and the NNP are silent on entry level exception sites, policy LP11 of the CLLP states that affordable housing will be sought on all qualifying housing development sites of 11 dwellings or more and policy H-4 of the Nettleham Neighbourhood Plan states that new residential developments will be required to include an element of affordable/low cost housing in accordance with policies contained in the development plan.

The affordable housing element will be expected to provide an appropriate balance of house size, type and tenure to meet the housing needs of the local community.

The proposal would be in accordance with LP11 and H-4. The policies are consistent with the NPPF in terms of major development and carry full weight.

All affordable dwellings provided through the development of entry-level exception sites *will be subject to restrictions that limit occupation to eligible households identified as being in affordable housing need.* Such restrictions can be achieved through the imposition of planning conditions, planning obligations or other legally defensible mechanisms available to the local planning authority.

The Village Design Statement and Character Assessment of the NNP states that the completed Parish Plan clearly revealed the village's higher than national average elderly and retiree population, and the need for smaller, more affordable homes, both as retirement dwellings for elderly persons wishing to 'downsize' and to encourage younger people to either remain in, or join, the village community.

One of the aims of the Nettleham Neighbourhood Plan is "To maintain and where possible enhance the character and vitality of the village of Nettleham by encouraging the rebalancing of the community's demographic profile towards young families by provision of smaller and more affordable housing."

National planning policy necessitates that the development of entry-level exception sites does *not compromise the protection given to areas or assets of particular importance.*

The proposal is not within an area of particular importance such as a conservation, Area of Great Landscape Value or Area of Outstanding Natural Beauty and thus would not compromise any protection. The land is not designated open space within the CLLP of the NNP.

The NPPF provides that proposals for entry-level exception sites should also *comply with any local design policies and standards.* On this basis, the provisions of the *wider general policies of the CLLP and the Nettleham Neighbourhood Plan will be applied,* such as (but not limited to) those on design, amenity, parking, highways, biodiversity and landscape where they may be applicable to the proposal. This will be discussed further in the report.

As the proposal would comply with the general requirements of Paragraph 71 of the Framework (subject to a further assessment of 71(b)), there should be a presumption in favour of granting planning permission.

### Highways

Policy LP13 states that 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.

Policy D-1 states that new residential developments (other than infill and extensions) must demonstrate that there is sufficient capacity within the local highway network to ensure the free and safe flow of traffic from the sites concerned both to the village centre and development to either the A158 or A46 trunk roads.

Policy D-2 states that proposals for residential and commercial development will be expected to incorporate both pedestrian and cycling access into their design. Where relevant and appropriate development proposals should:

- a) Incorporate routes and access arrangements that minimize distance to travel to the village centre; and
- b) Connect with existing cycle routes and rights of way; and
- c) Address existing physical impediments to safe and easy pedestrian and cycle access; and
- d) Safeguard any wider strategic opportunities for cycling and walking facilities in the immediate locality.

Concerns have been raised with regards to the increase in traffic, access and congestion during busy periods at the junction with Deepdale Lane and the A46. There has also been concerns raised with regards to pedestrian safety, a footpath and parking.

A Transport Statement has been submitted with the application and concludes the following –

- There are opportunities for sustainable travel, proportionate to the scale and location of the development. There are footways on one side of Baker Drive and along the southern edge of Deepdale Lane, providing access to the centre of Nettleham and local services and amenities. There is a public footpath network running through the Phase 1 development, and a bridleway south of the site on the opposite side of Deepdale Lane, which provides an alternative pedestrian route to the centre of Nettleham. The Sustrans National Cycle Network Route 1 passes the site along Deepdale Lane and provides a direct cycle route to Lincoln city centre via a combination of segregated cycle tracks alongside the A46 and B1182, and quiet local streets.
- The nearest bus-stops are less than 400m from the centre of the proposed development, on Deepdale Lane. An hourly service operates on weekdays linking the proposed development with Lincoln city centre in approximately 24 minutes. Lincoln railway station is situated approximately 5.5km southwest of the proposed development, providing regular intercity services to London, Nottingham, Leeds and Sheffield, as well as local services to a number of surrounding towns and villages.
- The proposed development therefore has opportunities for sustainable travel, proportionate to its scale and location.
- The development will generate up to 26 two-way vehicle movements in a peak hour. These movements will divide at the junction with the Deepdale Lane/Bakers Drive access junction and therefore, there will not be a material increase in traffic on the off-site highway network. There have been five reported personal accident injuries on Deepdale Lane during the three years from 2014 to 2019. This does not constitute an

existing accident problem, and as conditions would not materially alter, an adverse impact would not occur. Therefore, the additional traffic as a result of the development will not result in a severe detrimental impact.

- Overall, the proposed development would accord with the aims of the NPPF. Safe and suitable access can be achieved by all modes of travel, and the proposed development would not result in a severe impact. Therefore, it would be unreasonable to prevent the development on transport grounds.

Concern has been raised regarding turning within the site and access for service and emergency vehicles. However a swept path analysis plan has been submitted which shows that the turning can be accommodated for large vehicles such as a bin lorry/emergency vehicle.

Policy LP13 requires “The number and nature of spaces provided, location and access should have regard to surrounding conditions and cumulative impact”.

Policy D-3 states that new residential developments must provide the following minimum number of off street car parking spaces per dwelling:

1 or 2 bedrooms	2 spaces
3 or 4 bedrooms	3 spaces
5 or more bedrooms	4 spaces

Accessible communal car parking areas of an equivalent provision will be considered as an acceptable alternative in appropriate locations.

LCC Highways advise 1 space for one bedroom, 2 spaces for two and three bedrooms and 3 spaces for four or more bedrooms, although this is not part of the development plan – the standards set out in adopted policy D-3 therefore take priority

4 out of 8 of the one bedroomed dwellings have 2 spaces and the other 4 have 1 space with 2 visitor spaces. This would accord with LCC guidance and policy D-3 apart from the 4 with 1 space. The two bedroomed dwellings have at least 2 spaces which is in accordance with LCC guidance and policy D-3. The three bedroomed dwellings and 4 bed dwelling have 3 spaces which is in accordance with LCC guidance and policy D-3.

The proposal is short by 2 spaces in meeting the neighbourhood plan policy D-3 which, comprises a minor conflict with the development plan – although communal “visitor parking” is provided which the policy will consider.

There is considered to be a conflict between the more recently adopted CLLP and the older NNP.

Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the

policy which is contained in the last document to be adopted, approved or published.

Paragraph 30 of the NPPF states that once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.”

Appendix A of CLLP says LP13 is strategic policy, and CLLP was adopted subsequently.

Under the more recently adopted CLLP “The number and nature of spaces provided, location and access should have regard to surrounding conditions and cumulative impact”. The provision of 1 car parking space for one bedroomed properties, which is recommended by LCC Highways, is considered appropriate.

Concerns have been raised regarding construction traffic and mud and debris on the road. A construction management plan can be conditioned in order to manage this appropriately.

Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 110 of the NPPF then goes on to state that within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

LLC Highways have been consulted on the application and state that the general layout is acceptable along with the access point shown, subject to the following changes:

- Removal of, or confirmation that there are no vertical deflections shown on the submitted layout.
- Removal of the footpath across the swale on Plot 8.

They also require a shaded plan showing areas proposed for adoption will be required. These have been requested.

A frontage footway connecting the western boundary footpath to the site access is required. This is shown on the plan and can be conditioned.

Parking has been significantly improved and turning can be achieved. Whilst third party representations are noted, subject to further information being received and final conditions it is not considered that there would be an unacceptable impact on parking, highway safety, or that the residual cumulative impacts on the road network would be severe. There is also pedestrian and cycle connectivity. The proposal would comply with LP13 and the NPPF in this regard.

Policy LP13 is consistent with the NPPF and is given full weight.

#### Infrastructure

Policy LP12 states that developers will be expected to contribute towards the delivery of relevant infrastructure. They will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments.

LCC Education and NHS England have been consulted on the application.

LCC Education have stated that there is projected to be sufficient primary capacity for the 2 primary age children the scheme is projected to generate and the secondary contribution that would have been requested (£33,982) falls under the Community Infrastructure Levy under the Developer Contributions Supplementary Planning Document.

NHS England have stated that the development could impact on Nettleham Medical Practice, Welton Family Health Centre, Brayford Medical Practice, Glebe Park Surgery, Lindum Medical Practice and Minster Medical Practice as patients would be able to register at either of the above practices. They have requested £18,975.00 to contribute to the refurbishment of existing rooms at Nettleham Medical Practice to increase clinical capacity. This can be secured by s106.

The proposal would therefore be in accordance with policy LP12.

#### Flood Risk and Drainage

Policy LP14 states that all development proposals will be considered against the NPPF, including application of the sequential and, if necessary, the exception test.

*Through appropriate consultation and option appraisal, development proposals should demonstrate:*

*a. that they are informed by and take account of the best available information from all sources*



*of flood risk and by site specific flood risk assessments where appropriate;*

- b. that there is no unacceptable increased risk of flooding to the development site or to existing properties;*
- c. that the development will be safe during its lifetime, does not affect the integrity of existing flood defences and any necessary flood mitigation measures have been agreed with the relevant bodies;*
- d. that the adoption, ongoing maintenance and management of any mitigation measures have been considered and any necessary agreements are in place;*
- e. how proposals have taken a positive approach to reducing overall flood risk and have considered the potential to contribute towards solutions for the wider area; and*
- f. that they have incorporated Sustainable Drainage Systems (SuDS) in to the proposals unless they can be shown to be impractical.*

Policy LP14 states that development proposals should demonstrate:

- g. that water is available to support the development proposed;*
- h. that development contributes positively to the water environment and its ecology where possible and does not adversely affect surface and ground water quality in line with the requirements of the Water Framework Directive;*
- i. that development with the potential to pose a risk to groundwater resources is not located in sensitive locations to meet the requirements of the Water Framework Directive;*
- j. they meet the Building Regulation water efficiency standard of 110 litres per occupier per day;*
- k. how Sustainable Drainage Systems (SuDS) to deliver improvements to water quality, the water environment and where possible to improve amenity and biodiversity have been incorporated into the proposal unless they can be shown to be impractical;*
- l. that relevant site investigations, risk assessments and necessary mitigation measures for source protection zones around boreholes, wells, springs and water courses have been agreed with the relevant bodies (e.g. the Environment Agency and relevant water companies);*
- m. that adequate foul water treatment and disposal already exists or can be provided in time to serve the development;*
- n. that no surface water connections are made to the foul system;*
- o. that surface water connections to the combined or surface water system are only made in exceptional circumstances where it can be demonstrated that there are no feasible alternatives (this applies to new developments and redevelopments) and where there is no detriment to existing users;*
- p. that no combined sewer overflows are created in areas served by combined sewers, and that foul and surface water flows are separated;*
- q. that suitable access is safeguarded for the maintenance of water resources, flood defences and drainage infrastructure; and*
- r. that adequate provision is made to safeguard the future maintenance of water bodies to which surface water is discharged, preferably by an Agency, Internal Drainage Board, Water Company, the Canal and River Trust or local*

council).

Policy D-4 states that applications for planning permission will be required to demonstrate that they have satisfactorily addressed the water resources available in the plan area and the associated flood risks.

*Flood Risk:*

*Proposals for development in flood zone 2 as identified on the plan at Appendix L will be required to demonstrate through reference to the West Lindsey Strategic Flood Risk Assessment and to a site specific flood risk assessment that the proposed development will not increase the flood risk to the site and to other parts of the Plan area in general, and to the Nettleham Beck in particular.*

*Sewage and Drainage:*

*Applications for new development (other than for minor extensions) will be required to demonstrate that:*

- a) The development contributes positively to the water environment and to its ecology where possible and does not adversely affect surface and ground water quality; and*
- b) Any development that has the potential to pose a risk to ground water resources is not located in a sensitive location; and*
- c) Appropriate sustainable urban drainage systems have been incorporated into the proposals unless they can be shown to be impractical; and*
- d) The design of the scheme incorporates appropriate measures that contribute to the conservation and enhancement of biodiversity and green corridors in the Plan area in general, and to the Nettleham beck in particular.*

A flood risk assessment has been submitted with the application. This concludes that –

- The assessment of flood risk undertaken for this development confirms that the risk of flooding is **LOW** from all sources of flooding.
- The recommended mitigation measures will provide further protection to the development and reduce any residual risk (however low) as far as practicable. It is recommended that compliance with the recommendations of this FRA are conditioned as part of any planning permission.
- This assessment concludes that the site is suitable for development for residential use without unacceptable risk of flooding from all sources to the site itself and elsewhere as long as the essential and recommended mitigation measures are implemented.

It is considered that the proposal would be acceptable in terms of flooding subject to a condition for the proposal to be in accordance with the flood risk assessment.

With regards to drainage, The Environment Agency note the pre-planning statement by Anglian Water states that the Nettleham Water Recycling Centre (WRC) does not currently have capacity to treat the flows from this proposed development. This was dated 01/10/2019 within the Flood Risk Assessment. However Anglian Water's pre-

planning statement on the previous application dated 12/05/2020 stated that there would be capacity.

The site is currently 100% Greenfield, with no formal surface water drainage and therefore the surface water run-off has been calculated using the UK SuDS Greenfield run off estimation tool. These results are contained within Appendix C of the flood risk assessment.

The results suggests infiltration is likely and would be the preferred method of disposal of surface water.

Infiltration testing has been undertaken within the development boundary. Soakaway testing was undertaken in the south western corner of the site. There are clays to the north and limestone to the south of the site. The results concluded that there is natural infiltration.

Infiltration would be at the top of the SUDS hierarchy<sup>3</sup> and a final drainage scheme can be conditioned.

Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the planning authority grant planning permission.

Paragraph 156 of the NPPF states that strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.

Paragraph 163 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Paragraph 165 of the NPPF states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

Policy LP14 is consistent with the NPPF and is attached full weight.

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<sup>3</sup> Paragraph: 080 Reference ID: 7-080-20150323, <https://www.gov.uk/guidance/flood-risk-and-coastal-change#sustainable-drainage-systems>

### Design

Policy LP17 states that to protect and enhance 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 man-made features within the landscape and townscape which positively contribute to the character of the area.

Policy LP26 states that all development, including extensions and alterations to existing buildings, must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all.

Policy D-6 states that new development, including infill development and residential extensions, should preserve and enhance the village of Nettleham by:

- a) Recognising and reinforcing the district local character (as set out in the character assessment and the Village Design Statement) in relation to height, scale, density, spacing, layout orientation, features and materials of buildings.
- b) Designing housing proposals to reflect existing residential densities in the locality of the scheme.
- c) Respecting and protecting local heritage assets and their settings, including Scheduled Ancient Monuments and Conservation Areas.
- d) Protecting natural assets, enhancing the natural environment and biodiversity.
- e) Incorporating adequate landscaping to mitigate the visual impact of the development and to ensure that proposals merge into the existing rural village context and respond to the wider countryside setting.
- f) Seeking to retain mature or important trees. Development that damages or results in the loss of ancient trees, or trees of good arboricultural and/or amenity value, will not normally be permitted unless justified by a professional tree survey and arboricultural statement. Where removal of a tree(s) of recognised importance can be justified, a replacement(s) of similar amenity value and maturity should be provided on site.
- g) Ensuring boundary treatments reflect the distinct local character in relation to materials, layout, height and design. In areas where there is no boundary treatment and gardens are unenclosed, new development should seek to replicate this openness.
- h) Incorporation of appropriate methods of energy generation and conservation in all new builds.

New development should provide sufficient external amenity space, refuse and recycling storage facilities and car parking. The appearance and location of such features should be considered early in the design process to ensure that they are well integrated into development proposals and form part of a cohesive and visually appealing environment.

The character assessment of the NNP states that the long history of Nettleham and the surge in growth over the course of the twentieth century, has resulted in an eclectic mix

of architectural styles, representing progressive developments in house design, construction materials and building technology.

It also states that Nettleham has a wide range of house sizes from very small cottages to much larger houses and it is this variety in size that is part of the attraction of the village.

New estates have largely comprised detached houses and bungalows having 3 and 4 bedrooms, with the later buildings constructed on ever-decreasing plot sizes.

For the village to maintain its essential character, buildings of different sizes should be part of future planning. The proposal is for a mix of 1, 2, 3 and 4 bed properties which would be in accordance with the NNP.

The Village Design Statement states that the scale and proportion of buildings should complement and reflect surrounding dwellings and buildings.

The design and appearance of the homes will very much echo those currently being built in Phase 1, with some of the house types being the same.

Supporting text of the neighbourhood plan states that a maximum density of 20 homes per ha should set a bench mark for maximum density for future development.

In the case of *R (Cherkley Campaign Ltd) v Mole Valley DC*, the decision detailed how development plan policies and their supporting text *should be* interpreted. In this case for a construction of a golf course they determined whether the applicant should have demonstrated need. On its proper construction, the golf course policy in the Local Plan did not require the applicant to demonstrate a need for further facilities. That requirement was not stated in the policy itself, but only in the supporting text. The supporting text was relevant to interpretation of the policy but could not itself “trump” the policy or insert new requirements.

This case also stated that supporting text “*should not contain policies and proposals that will be used in themselves for taking decisions on planning application*”

As with policy D-6 of the NNP the requirement of 20 homes per hectare is not contained within the policy it is contained within the supporting text.

Planning law decision-making is a process informed by policy.

The Village Design Statement acknowledges that there are a wide variety of building styles, sizes and densities exist within the village. Furthermore criteria b of policy D-6 states that housing proposals should reflect existing residential densities in the locality of the scheme.

The site is approximately 0.97 ha which would work out as 31 dwellings per hectare compared to 21 dwellings per hectare on the estate built under 135567. The LACE element of 135567 entails 22 apartments and 14 bungalows which are 39 dwellings per hectare. It can be argued that the proposal “reflects existing residential densities in the locality of the proposal”.

Then also comparing the hectare opposite the Lace Scheme this would be 25 dwellings per hectare.

The proposal would sit in-between these two larger densities that are closest to the site and would be in-keeping with the locality. The proposal has also reduced the density from the previous scheme which was 34 dwellings per hectare. Whilst the proposal would still be over 20 dwellings per ha, if the NNP character assessment and village design statement “need for smaller, more affordable homes, both as retirement dwellings for elderly persons wishing to ‘downsize’ and to encourage younger people to either remain in, or join, the village community” is to be addressed it is likely to be through proposals such as this. To provide required smaller houses on larger plots, to reduce the density, would increase the price meaning they would no longer be a downsizing option for older people and encourage younger people to remain in or join the village.

Paragraph 122 of the NPPF states that planning policies and decisions should support development that makes efficient use of land.

The density of the proposed site is also based upon the efficient use of land. The proposal would be in accordance with the NPPF.

Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

It is not considered that the proposal constitutes poor design.

The Village Design Statement states that new buildings should generally not exceed two storeys and not be significantly higher than surrounding buildings.

All the dwellings are proposed at two storeys and would be in keeping with the surrounding areas. In terms of massing, the properties would be seen in context with

the other properties adjacent, is relatively well contained by the surrounding existing buildings and the topography and landscaping of the area.

A limited palette of materials is again envisaged, comprising of red and/or buff facing brick, white painted render and red and/or grey roof tiles. The materials used in construction will be sympathetic to the local context, and in particular phase 1, whilst enhancing the distinctive identity of the development.

A detailed landscaping scheme has not been provided but this can be conditioned. This can detail boundary treatments.

It is therefore considered that the proposal would be in accordance with policies LP17 and LP26 of the Central Lincolnshire Local Plan and policy D-6 of the Nettleham Neighbourhood Plan.

Policy H-2 of the Nettleham Neighbourhood Plan states that applications for 11 or more dwellings will be required to produce a mix of dwelling types and sizes to meet the identified needs of current and future households in Nettleham.

Policy LP10 states that developers are expected to provide housing solutions that contribute to meeting the housing needs of the housing market area, as identified in the latest Strategic Housing Market Assessment (SHMA) and in any other appropriate local evidence. This means new residential development should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.

The proposal consists of a mix of 4 one bed roomed 10 two bed roomed, 18 three bed roomed and 1 four bed roomed dwellings.

The proposal would be in accordance with policy LP10 of the CLLP and policy H-2 of the NNP.

Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies LP10 and LP26 of the CLLP and policy D-6 and H-2 of the NNP are consistent with the NPPF and are attached full weight.

#### Open Space

Policy LP24 states that Residential development will be required to provide new or enhanced provision of public open space, sports and recreation facilities.

For applications of 11-49 dwellings there is a requirement for the provision of on-site local useable green space. Within the red line plan is an area to the south of the pond which can be utilised which meets the SPD for space standards of providing open space. A condition is recommended to be attached to secure details of a final landscaping scheme along with the management and maintenance of the area.

#### Residential Amenity

Policy LP26 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.

Concerns have been raised regarding overlooking, loss of privacy and size of plots with regards to garden space.

The proposal is not deemed to give rise to any adverse impact upon residential amenity for both existing and proposed residents. There is considered to be appropriate separation throughout and opposite existing dwellings with adequate circulation space.

The garden sizes of the proposed are considered to be acceptable.

The 1 bedroomed properties do not have garden space however they can utilise the open space beyond the pond and the existing open space on the adjacent site.

Paragraph 127 of the NPPF states that Planning policies and decisions should ensure that developments:



(f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users

Policy LP26 is consistent with the NPPF and is attached full weight.

### Minerals

The site sits within a Minerals Safeguarding Area and therefore policy M11 of the Lincolnshire Minerals and Waste Local Plan Core Strategy is applicable.

This requires applications for non-minerals development to assess the implications of the development on the Minerals Safeguarding Area allocation to ensure that the granting of permission would not sterilise mineral resources within the Minerals Safeguarding Area or prevent the future minerals extraction on neighbouring land.

Whilst the Minerals Safeguarding Area allocation does not mean that extraction will take place, an assessment of the impact of the proposed development on the designation is required.

Policy M11 lists criteria that should be considered in the preparation of a planning application in order to demonstrate policy compliance.

The justification and need for the development proposed have therefore been assessed against the policy objectives set out in policy M11 of the Lincolnshire Minerals and Waste Local Plan Core Strategy, and in reference to the British Geological Survey document '*Mineral Safeguarding in England: Good Practice Advice*'

A Minerals and Waste Assessment was submitted in the previous application.

This concluded that –

- The amount of mineral at risk is miniscule even compared to the current, consented extraction sites, which are themselves miniscule compared to the total amount of Limestone available in the MSA.
- There is a general decline in the demand for Limestone in the area as highlighted in the Minerals and Waste Local Plan and whilst this may change, the Plan also acknowledges that it is of rather poor quality.
- It is not viable to extract the Limestone on this scale (one hectare) and whilst it could be developed with the open land to the north, the implications in terms of the impacts on the living conditions of those living close to the site, would make it very much a suboptimal site.
- For the same reasons, prior extraction is also not appropriate on this site.
- In respect to Policy M11 it is clear that the development is of a minor nature which would have a negligible impact on the mineral resource.

The Minerals and Waste Team were consulted on the assessment.

They considered that having regard to the scale, nature and location of the proposed development, the applicant has demonstrated that in accordance with the criteria set out in policy M11 prior extraction of the mineral would be impracticable and the site is of a minor nature which would have a negligible impact with respect to sterilising the mineral resource. Accordingly, the County Council has no safeguarding objections.

The proposal is therefore deemed to be in accordance with policy M11 of the Lincolnshire Minerals and Waste Core Strategy.

### Ecology

LP21 states that all development should:

- protect, manage and enhance the network of habitats, species and sites of international, national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a Local Site;
- minimise impacts on biodiversity and geodiversity; and
- seek to deliver a net gain in biodiversity and geodiversity.

The site is of little ecological value with the site currently being used as a construction compound.

The creation of the pond however will improve on the ecological value of the site.

The proposal would be in accordance with policy LP21 of the CLLP.

### Archaeology

Policy LP25 states that development affecting archaeological remains, whether known or potential, designated or undesignated, should take every practical and reasonable step to protect and, where possible, enhance their significance.

This site has previously been subject to archaeological evaluation and therefore no further archaeological input required.

Paragraph 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected. 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.

Policy LP25 is consistent with the NPPF and is attached full weight.

### *Other matters*

Devaluation of property is not a material consideration.

Whilst it is noted that third parties claim the developer has made promises to purchasers of the dwellings adjacent to the site that the land was not to be developed. The developer's claimed failure to disclose the intentions of the land at the sale of those adjacent properties is not a material consideration. To note, no condition, or planning obligation requires this land to be kept in agricultural use.

With regards to issues existing owners are having with outstanding matters in their homes with the build or the existing site, this is not material to the consideration of this application.

It is not considered that contamination is an issue. Public protection have not raised any concerns on the application.

There are no restrictions to an applicant applying over the Christmas period. Consultation takes account of the Bank Holidays and the time for representations to be received, is extended by planning law.

A resident has requested covenants to be placed on the properties in order to first allocate the housing to residents in Nettleham. Planning has no jurisdiction to place covenants on properties. The properties are all affordable and would be retained in perpetuity through a Section 106 legal agreement and would not be open market dwellings. However, Section 106 does contain terms for the selection of occupiers of the affordable homes. First being a resident of Nettleham within certain stipulations.

With regards to the Linelands site providing alternative accommodation, no such planning permission is in place.

The application can only consider the red line boundary, of which, is under 1ha. 141032 has been granted planning permission subject to the signing of a s106 in its own right and therefore the land area would not be added in this application.

Concern has been raised that the existing path would not benefit from natural surveillance. However the houses would have rooms with habitable windows that would view the path.

### **Conclusion**

The proposal has been considered against the Development Plan namely policies LP1: A Presumption in Favour of Sustainable Development, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk, LP17: Landscape, Townscape and Views, LP24: Creation of New Open Space, Sports and Recreation Facilities, LP25: The Historic Environment and LP26: Design and Amenity in the Central Lincolnshire Local Plan, policies D-1 Access, D-2 Pedestrian and Cycle Access, D-3 Parking Provision (New Housing), D-4 Water Resources and Flood Risk, D-6 Design of New Development, H-2 Housing Mix and H-4 The Provision of Affordable Housing in the Nettleham Neighbourhood Plan, policy M11 of the Lincolnshire Minerals and Waste

Core Strategy including the advice given in the National Planning Policy Framework and the National Planning Practice Guidance.

The CLLP and the NNP are silent on the approach to *entry-level exception sites* for the delivery of affordable housing on appropriately sized sites adjacent to settlements, therefore the authority will look to apply the provisions of the NPPF (in particular paragraph 71).

The proposal is in accordance with the provisions of paragraph 71. This is a material consideration which carries significant weight.

The proposal would be an effective use of land in accordance with the provisions of the NPPF.

The proposal is considered to be appropriate in its scale, design and density and would be in-keeping with the character of the area in accordance with policies LP17 and LP26 of the CLLP and D-6 of the NNP. The proposal would provide a suitable mix of dwellings in accordance with policy LP10 of the CLLP and H-2 of the NNP

The proposal would be in accordance with the affordable housing policies of LP11 of the CLLP and H-4 of the NNP

The proposal would not have a detrimental impact on the highway, residential amenity or ecology in accordance with policies LP13, LP21 and LP26 of the CLLP and H-1 of the NNP. There is some conflict with policy D-3 in regard to parking provision, however the CLLP is the more recently adopted document for which the proposed parking is deemed to accord with.

The proposal includes the provision of open space in accordance with policy LP24 of the CLLP. There is also pedestrian and cycle connectivity in accordance with LP13 of the CLLP and D-2 of the NNP.

The proposal would not have a detrimental impact on archaeology or a minerals resource in accordance with policy LP25 of the CLLP and M11 of the Lincolnshire Minerals and Waste Core Strategy.

The proposal would be acceptable in terms of drainage subject to conditions, would not increase the risk of flooding elsewhere and is at low risk of flooding in accordance with policy LP14 of the CLLP and D-4 of the NNP.

The proposal includes a contribution to the NHS in accordance with policy LP12.

The proposal is recommended for approval 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 Construction Management Plan and Method Statement has been submitted to and approved in writing by the Local Planning Authority which shall indicate measures to mitigate against traffic generation and drainage of the site during the construction stage of the proposed development. The Construction Management Plan and Method Statement shall include;

- phasing of the development to include access construction;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- wheel washing facilities;
- the routes of construction traffic to and from the site including any off site routes for the disposal of excavated material and;
- strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction.
- construction working hours

The Construction Management Plan and Method Statement shall be strictly adhered to throughout the construction period.

**Reason:** To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development during construction and to ensure that suitable traffic routes are agreed.

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

3. 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 details shown on the approved plans:

L162/S2/2112/DS  
L162/S2/2228/DS/MID  
L162/S2/2228/DS/SEMI  
L162/S2/2318/DS

L162/2324/DS  
L162/2324/DS/SEMI  
L162/S2/2434/DS  
L162-NET2-LOCATION-01 Rev B  
SK-02 Rev F

and in any other approved documents forming part of the application.

**Reason:** To ensure the development proceeds in accordance with the approved plans.

**4.** No development other than to foundation level shall take place until full details of foul and surface water drainage has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.

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

**5.** The development hereby permitted shall not be occupied until the Nettleham WRC has capacity to treat the waste water flows that the development will generate.

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

**6.** Prior to occupation, a scheme of landscaping to include an area of open space including details of the size, species and position or density of all trees to be planted, fencing and walling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

**Reason:** To ensure that a landscaping scheme to enhance the development is provided in accordance with policy LP17 of the Central Lincolnshire Local Plan.

**7.** Prior to occupation, a schedule of landscape management and maintenance for a minimum period of five years from the completion of the development shall be submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation and the development shall be carried out in accordance with the approved details.

**Reason:** To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome, in the interests of the visual amenities of the locality and in accordance with LP17 of the Central Lincolnshire Local Plan.

**8.** No development, other than to foundations level, shall take place until the proposed new walling, roofing, windows, doors and other external materials have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details. The details submitted shall include; the proposed colour finish, rainwater goods and type of pointing to be used.

**Reason:** To ensure the use of appropriate materials to safeguard the character and appearance of the street scene in accordance with the NPPF and Policies LP17 and LP26 of the Central Lincolnshire Local Plan and D-6 of the Nettleham Neighbourhood Plan.

**9.** The development shall be carried out in accordance with the submitted flood risk assessment dated October 2020 by Millward Consulting Engineers. Any mitigation measures shall be fully implemented prior to occupation and shall be retained and maintained thereafter throughout the lifetime of the development.

**Reason:** To reduce the risk of flooding to people and property in accordance with policy LP14 of the Central Lincolnshire Local Plan and policy D-4 of the Nettleham Neighbourhood Plan

**10.** The development hereby permitted shall not be occupied before a 1.8 metre wide frontage footway connecting the western footway to the access, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.

**Reason:** To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property.

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

None

**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





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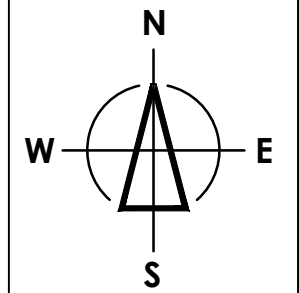
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KEY:

N/A



CLIENT:

Vaddaram Ltd

PROPERTY:

30 Wragby Road,  
Sudbrooke, Lincoln

DRAWING REF:

L-ADD-026 - 01

DRAWING TITLE:

Site Location Plan

NORTH ↑	STATUS Planning
DRAWN BY: CAH	CHECKED BY: SV
SCALE: 1:1250 @ A3	DATE: 08.2019

0300 303 8600

**Buildrow**   
65 High St, Lincoln, LN5 8AD

Agenda Item 6c

## **Officers Report**

### **Planning Application No: 142148**

**PROPOSAL:** Planning application for demolition of the existing dwelling and erection of a large house of multiple occupation (sui generis use class) with associated access alterations, vehicle parking and landscaping - resubmission of planning application 140180

**LOCATION:** Rosemary Villa 30 Wragby Road Sudbrooke Lincoln LN2 2QU

**WARD:** Sudbrooke

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

**APPLICANT NAME:** Mr Vaddaram

**TARGET DECISION DATE:** 08/02/2021

**DEVELOPMENT TYPE:** Minor - all others

**CASE OFFICER:** Martin Evans

**RECOMMENDED DECISION:** Approve subject to conditions

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This application is reported to Planning Committee as Senior Officers consider it appropriate to do so following the recent planning history of the site and following the request of Cllr Waller.

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#### **Description:**

This is an application for planning permission for demolition of the existing dwelling and erection of a large house of multiple occupation (sui generis use class) with associated access alterations, vehicle parking and landscaping.

The existing vacant two storey dwelling has three bedrooms and is fairly modest in scale with a traditional brick and tile construction. It is approximately 8m to ridge height and 4.5m in width.

The proposed house in multiple occupation (HMO) features ground floor living area, separate kitchen/diner and car underpass, with eight en-suite bedrooms on the two floors above. The roof is part pitched and part flat. It is approximately 8.3m to ridge height and 11.6m wide with a 0.75m gap to the common boundary with 28 Wragby Road along which it is proposed to erect a new masonry wall.

Proposed materials for walls are red facing brickwork and through coloured render. Proposed roofing materials are dark grey eternit thrutone artificial slates. Windows and door to be dark grey upvc/aluminium. A streetscene elevation is submitted showing the proposal in context with the two dwellings adjacent.

The proposed block plan shows the existing vehicular access from the A158 widened to 5.6m and a driveway with parking spaces to the front of the proposed HMO. Eight car parking spaces are proposed with four to the front of the HMO and four to the rear accessed via an underpass through the building.

Garden beyond the rear parking spaces would be retained as would the existing hedge to the eastern and southern boundaries. The proposed site plan shows a new masonry wall (height not specified) along the common boundary with 28 Wragby Road. It is proposed to drain surface and foul water to main sewer.

Public right of way Sudb/129/1 is immediately to the north east of the site. The site forms part of a cluster of four dwellings on the southern side of Wragby Road which are surrounded by arable farmland to the south.

Under the Town & Country Planning Use Classes Order 1987 (as amended):

*Class C4. Houses in multiple occupation*

*Use of a dwellinghouse by not more than six residents as a "house in multiple occupation".*

*Interpretation of Class C4:*

*For the purposes of Class C4 a "house in multiple occupation" does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004.*

As the proposal provides bedrooms and car parking spaces for eight persons, it is considered to be a large HMO, outside of a C4 class use, and is otherwise a *sui generis*, or unclassified, use that is being proposed.

### **Relevant history:**

140180 Planning application for demolition of the existing dwelling and erection of a large house of multiple occupation (*sui generis* use class) with associated access alterations, vehicle parking and landscaping. Refused 9/1/2020 for the following reason:

*"The proposal does not meet the requirement to deliver sustainable growth, growth that is not for its own sake, but growth that brings benefits for all sectors of the community- for existing residents as much as for new ones. The proposal would intensify the use of the site and is in an unsustainable location, physically separated away from the main settlement by the A158 (Wragby Road), leading to an overreliance on the private car and lack of public transport to access the proposal and for occupants to access services and facilities in Sudbrooke and beyond resulting in a failure to minimise the need to travel and, where travel is necessary, to maximise opportunities for sustainable modes of*

*travel. The proposal is not located where travel can be minimised and the use of sustainable transport modes maximised.*

*The proposal has unacceptable design principles as it would harm the coherent group of four dwellings and would discord with the character of the area. The proposal would not function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; would not be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; would not be sympathetic to local character and history, including the surrounding built environment and landscape setting, and would not amount to appropriate innovation or change; would not establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; and would not create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Therefore, the proposal is not sustainable development and is contrary to Policies LP1, LP13a, LP18 and LP26 of the Central Lincolnshire Local Plan and Paragraph 127 a to d and f of the National Planning Policy Framework.”*

An appeal was lodged against the refusal of the above (Appeal Ref: APP/N2535/W/20/3245962). The Sudbrooke Neighbourhood Plan was made before the appeal was determined. The appeal was dismissed on 15/6/2020. The Inspector identified the following main issues:

*“Accordingly, the main issues in this case are:*

- Whether this would be a suitable location for the proposed development having regard to the accessibility of local services and facilities including by sustainable modes of travel;*
- The effect of the proposed development on the character and appearance of the area; and*
- The effect on the living conditions of the occupiers of No 28 Wragby Road (No 28), having particular regard to light levels and noise and disturbance.”*

On the first issue, the Inspector concluded:

*“9. The scale of development proposed would not undermine the aim of LP Policies LP13 and LP18 to minimise the need to travel and maximise the use of sustainable transport. The proposal would not conflict with LP Policy LP1 which seeks sustainable patterns of growth in the District nor with LP Policy LP2 which allows for a limited amount of development to support the function and sustainability of Sudbrooke. Overall, I conclude that this would be a suitable location for the proposed development having regard to the accessibility of local services and facilities by sustainable modes of travel.”*

On the second issue, the Inspector concluded:

*“13. The scale and appearance of the proposed development would be acceptable and it would not adversely affect the character and appearance of the surrounding area. The proposal would accord with LP Policy LP26 in so far as it requires new development to respect landscape character and relate well to the site and surroundings. It would also comply with NP Policy 9 in so far as it requires new development to respond to the distinctive character areas in Sudbrooke and make a positive contribution in terms of design quality including scale, height, form, massing, style, detailing, landscaping and use of materials.”*

On the third issue, the Inspector concluded:

*“14. The proposed new building would be approximately 0.75 metres from the common boundary with No 28. The proposed 2 metre boundary wall and flank wall of the new building would be positioned alongside the two high level windows in the side elevation of No 28 which serve a dining room. The high level position and limited size of these existing windows will already compromise levels of daylight and sunlight reaching that room to some degree and any further reduction in light levels would be likely to be marginal and would not cause material harm to the occupier’s living conditions. Another high level window in the side elevation of the ground floor extension to the rear of No 28 would also be affected, but as that room is also served by a large south facing patio window it would continue to receive adequate levels of daylight and sunlight.*

*15. In the rear first floor elevation of No 28, the closest window to the appeal property is a bay type window serving a bedroom. I note that the occupier has submitted plans confirming the correct position of this window and that the proposed building would breach the ‘45 degree’ guideline. Whilst there would be some loss of daylight and additional shadowing particularly during the morning period, due to the generous size of the window and its orientation facing south, the room would be likely to continue to receive adequate levels of daylight and sunlight.*

*16. The appeal proposal includes four parking spaces to the front of the building and four to the rear which would be accessed by a passageway through the building and alongside the common boundary with No 28. An outdoor patio to the rear of the property and rear garden area would also be provided.*

*17. Although the location of the property means that walking, cycling and use of public transport would be possible, it is reasonable to expect that some of the occupiers would use cars. The differing patterns of activity throughout the day associated with the individual lifestyles of eight occupiers would be likely to result in more frequent trips to and from the property including by car compared with occupation by a single household.*

18. At my site visit, traffic noise from the A158 was audible from the rear garden of the appeal property. Notwithstanding this, the rear garden to No 28 is private and established and enjoyed in conjunction with the dwelling. The noise and disturbance from vehicles moving through the passageway and manoeuvring in the rear parking area would be in close proximity to the side windows and rear garden of No 28 and would be noticeable above the existing background noise levels. The proposed 2 metre high wall would not mitigate this impact, particularly when ambient noise levels are lower such as during the evening and night time. The patio and rear garden area would also be likely to be used more intensively compared with use by a single household.

19. Overall, whilst there would be no material harm to the living conditions of No 28's occupiers arising from the loss of daylight and sunlight, the noise and disturbance arising from the daily activities of eight people living in close proximity would be significantly different when compared to occupation of the appeal property by a single household and would cause material harm to the living conditions currently enjoyed by the occupiers of No 28. I have considered whether this could be mitigated by means of a planning condition, but since it would be likely to be necessary to restrict hours of use and occupancy levels such a condition would not be reasonable and would not meet the tests for conditions set out in the Framework and the Planning Practice Guidance.

20. The appeal proposal would conflict with LP Policy 26 which states that the amenities of existing and future occupants of neighbouring buildings may reasonably expect to enjoy must not be unduly harmed by development, including through adverse noise. There would also be conflict with NP Policy 9 which seeks to protect the amenity of neighbouring occupiers. Whilst I acknowledge that the appeal scheme has been amended to take account of the impact on the living conditions of the adjoining occupier and that I have reached a different conclusion from the Council on this issue, I have come to my conclusion based on the circumstances of the site, the proposed development and the evidence before me."

141550 Planning application for removal of existing dwelling and erection of 1no. dwellinghouse with associated access alterations, vehicle parking and landscaping. Refused 15/10/2020 for the following reason:

"1. It is considered that the proposed development would result in undue harm to the amenities enjoyed at neighbouring properties, in particular 28 Wragby Road, through noise and disturbance. This would be contrary to the development plan, in particular policy LP26 of the Central Lincolnshire Local Plan, and Policy 9 of the Sudbrooke Neighbourhood Plan."

## **Representations:**

### **Councillor Waller:**

"I understand that a further application has been submitted for 30 Wragby Road in Sudbrooke. Due to the history of the previous applications and the fact that this one does not appear to be too dissimilar I would like for it to be "called in" and discussed at a full planning meeting by the committee".

### **Sudbrooke Parish Council:**

"Sudbrooke Parish Council has the following objections to make to the above application:-

In addition to reiterating those objections made to application 140180 the Council add the following and request that they are taken into consideration by the West Lindsey District Council Planning Committee.

The development will cause material harm to the occupants of 28 Wragby Road for the following reasons:-

- It will cause overshadowing of the property due to the overbearing nature of the size of the structure and proximity.
- It will generate significant traffic with attendant risk for access onto the A159.
- The occupancy of up to 16 persons and their vehicles will cause noise and disturbance from their arrival, departure and their enjoyment of the outside space afforded in the design.
- The relevant planning history of this site shows that the application has been rejected on the previous two occasions. It has been re-presented in almost identical form and should be rejected.

It is also brought to the Planning Committee's attention that the current application is an inaccurate representation of the state of the building in that it has been made habitable and no longer appears derelict as in the photographs included with the application. This should be inspected by the Planning Officer to confirm."

### **Local residents:**

Residents of 24, 26, 27, 29 and 33 Wragby Road, Sudbrooke object (summary):

- Size not in keeping with neighbouring properties
- Loss of privacy, overlooking, overshadowing and overbearing appearance, occupants coming and going at all hours, vehicle movements and disturbance for immediate neighbour especially compared to use as a family home
- Fence will not mitigate noise and fumes
- Infrastructure in Sudbrooke is insufficient for 8 people and 8 cars. Additional traffic and highway safety. Car movements conflict with right of way users and neighbouring dwellings. Car ownership would be high

because of remote nature of services and facilities. Lack of public transport. Busy road and lack of parking

- Neighbourhood plan does not support the need for a HMO. Loss of modest family home
- No community support as required by the neighbourhood plan and it is contrary to it. No community benefit
- Antisocial behaviour and noisy activity- nobody on hand to deal with this
- Not in keeping with the area. no demand for a proposal of this nature
- Loss of peaceful family orientated area. Downgrades sought after area
- Public right of way would be disturbed by cars in the rear garden
- Loss of countryside views
- It should be refused like the appeal and previous applications
- Sets precedent for other HMO's
- Existing house is being renovated

**WLDC Environmental Protection Officer:**

**“Waste Management:** As per the previous application the applicant has advised that there will be no area to store waste and that waste from the proposed HMO will be collected daily by the applicant himself, transported to a central depot, sorted and disposed of. My concerns remain that the applicant has not justified why he is not utilising the Councils household waste and recycling services and why he has not provided details of how or where the waste is to be stored prior to this daily collection.

There is a requirement for any transfer of waste from one premises to another to be done so by a suitably registered carrier with proper waste transfer paperwork, for the waste to be transferred to a proper waste facility and disposed of by proper methods. As such the applicant ought to be required to provide relevant details.

**Noise:** the applicant has provided a noise assessment in response to the Planning Inspectorate's dismissal of the previous appeal against the refusal of planning permission. I have conducted a sample assessment of the background noise at the location using similar location points of reference to those used by NoiseAssess in their report. The results of my sample assessment are in line with those within the assessment supplied by the applicant and as such I have no reason to dispute or disregard its findings. The acoustic barrier as recommended within the conclusion of the report will have a positive benefit and should be conditioned.

Once built, should individual residents of the HMO cause excessive noise disturbance this can be dealt with under suitable existing legislation.

Demolition phase: prior to demolition of the existing building a full demolition management plan ought to be submitted to and approved by LPA. The management plan should detail how all forms of noise, dust and vibration will be dealt with during the demolition to protect neighbouring residents. No burning should take place on the site during demolition and all waste



materials should be removed from site by licensed persons and disposed of correctly. Given the age of the existing building on site a suitable asbestos assessment will also need to be undertaken prior to works.

Construction phase: prior to construction a suitable management plan ought to be submitted to and approved by LPA. The plan should include suitable methods for protecting neighbours from all forms of noise and dust, a suitable scheme for parking of contractor vehicles and managing deliveries. Working and delivery times should be subject to restrictions of between 07:30 to 18:00 Mon-Fri, 07:30 to 14:00 Saturday and at no time on a Sunday or Bank Holiday. No burning should occur onsite during construction.”

And:

“I would say that without the acoustic barrier the noise created by vehicles on the site (particularly at the rear) would be in the lowest observable adverse effect level, as vehicle movement and door closing etc. would likely be heard during quiet periods, with windows open, and with the perceived effect being more likely due to the controversial nature of the build. As such mitigation to reduce this to a minimum is required and the acoustic barrier is a suitable solution in my opinion, not only will this reduce the actual level but it is also likely to have a reduction in the perceived effect as a physical barrier.”

#### **LCC Highways and LLFA:**

No objection.

“The above proposal does not have an impact on the public highway in terms of safety and capacity. The dimensions of the proposed access are adequate to enable two cars to pass in opposing directions and the proposal would therefore not result in an unacceptable impact on highway safety. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to surface water risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water risk for this planning application. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage on all Major Applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the drainage proposals for this planning application.” Informatives regarding access works and works within the highway.

#### **Relevant Planning Policies:**

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2017); the Sudbrooke Neighbourhood Plan (made 2 March 2020); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Planning Practice Guidance states:

“What approach must be taken where development plan policies conflict with one another? Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. Conflicts between development plan policies adopted, approved or published at the same time must be considered in the light of all material considerations, including local priorities and needs, as guided by the National Planning Policy Framework. Paragraph: 012 Reference ID: 21b-012-20140306. Revision date: 06 03 2014”

### Development Plan

#### • **Central Lincolnshire Local Plan 2012-2036 (CLLP)**

Relevant policies of the CLLP include:

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

Policy LP1: A Presumption in Favour of Sustainable Development

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP4: Growth in Villages

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP17: Landscape, Townscape and Views

Policy LP26: Design and Amenity

#### • **Sudbrooke Neighbourhood Plan (SNP)**

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

Relevant policies of the NP include:

Policy 7: Public Rights of Way

Policy 9: Local Design Principles

Sudbrooke Village Character Assessment- the site is within the ‘Wragby Road’ character area.

#### **Lincolnshire Minerals and Waste Local Plan**

<https://www.lincolnshire.gov.uk/residents/environment-andplanning/planningand-development/minerals-and-waste/minerals-andwaste/88170.article->

Core Strategy and Development Management Policies

- Site locations

No relevant policies.

#### National policy & guidance (Material Consideration)

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

- **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government’s planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

*"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)."*

- **National Planning Practice Guidance**
- **National Design Guide (2019)**

### **Main issues**

- The principle of development
- Design and visual impact
- Impact on residential amenity
- Impact on highway safety
- Flooding and drainage

### **Assessment:**

#### **The principle of development**

Policy LP2 designates Sudbrooke a medium village, stating:

##### *"5. Medium Villages*

*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."*

*Policy LP4 establishes the total level of % growth for each Medium Village, and further policy requirements in respect of identifying whether a site would be suitable for development.”*

*“\*\* 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.”*

Policy LP4 permits 10% (71 dwellings) growth in Sudbrooke and states:

*“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.*

*A proposal within or on the edge of a village in categories 5-6 of the settlement hierarchy should be accompanied by demonstrable evidence of clear local community support\*\* for the scheme if, in combination with:*

- a. other development built since April 2012;*
- b. any extant permissions; and*
- c. any allocated sites,*

*the proposal would increase the number of dwellings in a village by more than 10% or, where relevant, the identified growth level in the above table; or for non-dwellings, have a floorspace of 1,000 sqm or more or have an operational area (including, for example, parking and storage spaces) of 0.5ha or more.”*

The proposal entails a replacement dwelling, albeit, in the form of a larger HMO. This accords with the requirement for a limited amount of development of up to 9 dwellings. This is considered an appropriate location as defined because a replacement dwelling would retain the core shape and form of the settlement and there is considered to be no harm to the character of the area nor that of surrounding countryside. This is reinforced by the aforementioned

findings of the Inspector on the matter of character impacts for a proposal with the same built form. The latest Monitoring of Growth in Villages table dated 8/1/21 available on the Council's website shows the 10% growth in Sudbrooke has been met and exceeded. However, the proposal is not for an additional dwelling but a replacement HMO. There will be no net increase in the number of dwellinghouses, meaning the requirement for clear local community support is not engaged. The proposal entails development of brownfield land in an appropriate location within the developed footprint of Sudbrooke making this a sequentially preferable site for development.

Policy 1 of the SNP relates only to *additional* residential development. Therefore, it does not apply to a replacement HMO and is not engaged.

Policies LP2 and LP4 are consistent with the NPPF paragraph 78 requirement for policies to "identify opportunities for villages to grow and thrive" so is attributed full weight. The principle of development is acceptable. This view is reinforced by the Inspector's aforementioned findings that this is a suitable location for development of this nature.

The principle of development is acceptable, and deemed to comply with policy LP2 of the CLLP.

### **Design and visual impact**

Policy LP26 requires all development must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all. It requires all development must take into consideration the character and local distinctiveness of the area and where applicable must demonstrate that they make effective and efficient use of land; maximise pedestrian permeability; respect existing topography, landscape character, relate well to the site and surroundings with regard to siting, height, scale, massing, form and plot widths; incorporate as far as possible existing natural features; incorporate appropriate landscape treatment to ensure assimilation into the surrounding area; provide well designed boundary treatments and hard and soft landscaping; reflect or improve on the original architectural style of the local surroundings or embrace opportunities for innovative design and new technology which sympathetically complement or contrast with the local architectural style; use appropriate high quality materials which reinforce local distinctiveness.

Section 12 of the NPPF seeks to achieve well-designed places. Paragraph 124 states "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve". Paragraph 127 requires policies and decisions ensure developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); optimise the

potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. LP26 is consistent with section 12 of the NPPF in requiring well designed places. It is therefore attributed full weight.

Policy LP17 relates to landscape, townscape and views. It requires proposals have particular regard to maintaining and responding positively to natural and man-made features within landscape and townscape which positively contribute to the character of the area including hedgerows. It requires proposals take account of views in to, out of and within development areas. LP17 is consistent with NPPF paragraph 170 as they seek to protect valued landscapes and recognise the intrinsic character and beauty of the countryside. It is therefore attributed full weight.

Policy 9 states:

*“In conjunction with the Sudbrooke Character Assessment, development proposals will be supported where they have considered the following:*

*1. In relation to site context:*

*a) the proposal responds positively to the specific character area as identified within the Sudbrooke Character Assessment, the local distinctiveness and form of its surroundings;*  
*b) key views of village, as identified within the Sudbrooke Character Assessment, and the important landscape views, as identified on figure 16, should be safeguarded. Development proposals should demonstrate that they will not have an unacceptable adverse impact on the views listed 1-11.*

*2. In relation to site design, layout and access: The arrangement of buildings, structures and spaces within the site, including density and layout, and the alignment and orientation of buildings, relates positively to the character and form of the surroundings, achieves a high quality of design and meets all of the following criteria:*

*a) integrates well with the existing street patterns and characteristics which define that specific character area*

*b) protects the amenity of neighbouring occupiers; and*

*c) creates well-connected and attractive outdoor areas*

*3. In relation to the design of buildings and structures:*

*a) proposals make a positive contribution to their surroundings through the quality of their design in terms of scale, height, form, massing, style, detailing, landscaping and use of materials and meet criteria (b) to (c) listed in part (2) above;*

*b) proposals for non-residential buildings consider flexibility in design to facilitate conversion to other uses in the future;*

*c) proposals for residential buildings consider the accessibility and adaptability of new homes to meet the long-term needs of residents; and*

*d) proposals are designed to take advantage of renewable and low carbon energy sources, including natural solar gain.”*

Relevant sections of the Sudbrooke Character Assessment state:

*“5.65 The final key characteristic of Character Area 5 is derived from the influence of the southern side of Wragby Road. Specifically, it is the openness of this stretch of roadside and the views it affords out towards the village’s wider landscape setting (Fig 149 and 150) that are important to the overall character and feel of Wragby Road. This visual connection to the landscape south of Sudbrooke is complemented by a public right of way that grants pedestrian access into this countryside setting (Fig 151).”*

*“5.67 Two further residential clusters exist along southern edge of Wragby. The first is comprised of a row of inter-war properties with hipped tiles roofs, tall red brick chimney stacks, two-storey bay windows with front facing gables (Fig 155), and is set just slightly back from the road behind open, unenclosed front gardens. The other is located at the junction of North Lane and Wragby Road, and consists of three large detached dwellings, set back from the road within long, narrow plots, and partially screened by roadside planting to the front of the plots (Fig 156).”*

The proposal responds well to site context as it does not harmfully affect the openness on the southern side of Wragby Road or visibility to the countryside beyond, nor does it impact on the public right of way itself. The proposal has a part hipped roof. It does have a section of flat roof although this would not be obvious in the surrounding area and it does not feature a tall red brick chimney stack. The proposal does feature two storey bay windows with front facing gables and it is set slightly back from the road. The front garden would mostly become a driveway/parking area. It is noted the front of 24 Wragby Road is partly enclosed by a large fence. The proposal respond positively to the Wragby Road character area 5 of the Sudbrooke Character Assessment.

The proposal is not within any key views identified in the SNP. Despite this, the site is in a conspicuous location as it visible in both directions along Wragby Road and from the public right of way to the east and south. There is little landscaping on the site to soften these views. Whilst the proposal is larger than the existing dwelling its overall scale is not considered to be so large and incongruous as to be in conflict with relevant policies Policy 9, LP17 and LP26. The streetscene elevation and other drawings show the proposal is in keeping with the scale of development in this cluster of four dwellings with the resulting landscape and townscape impacts being acceptable. The site design, layout and access proposed entails a building on broadly the same part of the site, albeit with a larger footprint. The front elevation remains in line with 28 Wragby Road and would continue to face the road. Residential amenity impacts are discussed below. Outdoor areas provide some remaining garden to the rear with retained hedgerow and tree but is mostly car driveway/parking. The proposal is larger than the existing dwelling but the

overall scale, height, form, massing, style, detailing and use of materials (subject to condition) are considered appropriate to the area. The streetscene elevation shows the proposed building height and bulk reflects adjacent properties and the use of render is a feature of 24, 26 and 28 Wragby Road. Some landscaping in the form of hedging would be retained as part of the proposal.

Policy 7 requires “All new proposals should protect and, where possible, enhance the existing Public Rights of Way network as identified on Figure 13.” The proposal would not impact the public right of way. The proposal is considered to comply with the Sudbrooke Character Assessment, Policy 7, Policy 9, LP17 and LP26. This view is reinforced by the Inspector’s aforementioned findings that the impact on the character and appearance of the area is acceptable for a proposal with the same design.

### **Impact on residential amenity**

Policy LP26 requires proposal do not unduly harm residential amenity with consideration to compatibility with neighbouring land uses; overlooking; overshadowing; loss of light; increase in artificial light or glare; adverse noise and vibration; adverse impact upon air quality from odour, fumes, smoke, dust and other sources; adequate storage, sorting and collection of household and commercial waste, including provision for increasing recyclable waste; and creation of safe environments. Policy 9 requires proposals “b) protects the amenity of neighbouring occupiers”. This is consistent with the requirements of NPPF Paragraph 127 that policies and decision should ensure that developments “f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users” and NPPF paragraph 170 in seeking to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. These policies are given full weight.

Any arising impact of the proposal would be mainly on the single immediate neighbouring dwelling at 28 Wragby Road. The proposal would not project to the front of this neighbouring property. It has three windows on the ground floor side elevation facing the proposal, two of which serve a dining room. These are two small, high level windows. The outlook and light to this room is already compromised by the existing building. The applicant could erect a 2m high fence on this boundary or a 2.5m high outbuilding without requiring planning permission which would further compromise outlook and light. Indeed, the application proposes a 2m high acoustic masonry wall on this boundary to mitigate noise impacts. The proposal would leave a 0.75m gap to the boundary and there is an approximate 1.8m gap between the side of number 28 and the boundary. There is not considered to be a harmful loss of light or sense of overbearing. The other side facing window serves a room with another rear facing window resulting in an acceptable impact. The Inspectors findings at paragraph 14 of their decision reinforces this.



In the rear first floor elevation of No 28, the closest window to the proposal is a bay type window serving a bedroom. It is noted the objector has previously submitted plans confirming the correct position of this window and that the proposed building would breach the '45 degree' guideline. The "45 degree guideline" is not contained within any development plan policy, or national planning practice guidance – it is an indicator used by the Building Research establishment to indicate where an impact upon daylight / sunlight may arise.

This was noted by the Inspector at paragraph 15 of their decision. Whilst there would be some loss of daylight and additional shadowing particularly during the morning period, due to the generous size of the window and its orientation facing south, the room would be likely to continue to receive adequate levels of daylight and sunlight. This view mirrors that of the Inspector.

### *Noise and disturbance*

As well as the LP26, Policy 9 and NPPF policies mentioned above, the PPG states;

*“How can noise impacts be determined?*

*Plan-making and decision making need to take account of the acoustic environment and in doing so consider:*

*whether or not a significant adverse effect is occurring or likely to occur;*

*whether or not an adverse effect is occurring or likely to occur; and*  
*whether or not a good standard of amenity can be achieved.*

*In line with the Explanatory note of the noise policy statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.*

*Paragraph: 003 Reference ID: 30-003-20190722*

*What are the observed effect levels?*

*Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.*

*Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.*

*No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.*

*Although the word 'level' is used here, this does not mean that the effects can only be defined in terms of a single value of noise*

exposure. In some circumstances adverse effects are defined in terms of a combination of more than one factor such as noise exposure, the number of occurrences of the noise in a given time period, the duration of the noise and the time of day the noise occurs.

See the noise policy statement for England for further information.  
Paragraph: 004 Reference ID: 30-004-20190722”

Response	Examples of outcomes	Increasing effect level	Action
<b>No Observed Effect Level</b>			
Not present	No Effect	No Observed Effect	No specific measures required
<b>No Observed Adverse Effect Level</b>			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life.	No Observed Adverse Effect	No specific measures required
<b>Lowest Observed Adverse Effect Level</b>			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
<b>Significant Observed Adverse Effect Level</b>			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable Adverse Effect	Prevent

The Noise Policy Statement for England (NPSE) (March 2010) states;

*“2.9..... Unlike air quality, there are currently no European or national noise limits which have to be met”*

*“2.22 It is not possible to have a single objective noise-based measure that defines SOAEL (Significant Observed Adverse Effect Level) that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.”*

*“2.24 The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL (Lowest Observed Adverse Effect Level) and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur.”*

The Inspectors findings regarding harm to the residential amenities of the occupiers of 28 Wragby Road by virtue of noise and disturbance are critical to the consideration of this application. The Inspector considered:

*“18. At my site visit, traffic noise from the A158 was audible from the rear garden of the appeal property. Notwithstanding this, the rear garden to No 28 is private and established and enjoyed in conjunction with the dwelling. The noise and disturbance from vehicles moving through the passageway and manoeuvring in the rear parking area would be in close proximity to the side windows and rear garden of No 28 and would be noticeable above the existing background noise levels. The proposed 2 metre high wall would not mitigate this impact, particularly when ambient noise levels are lower such as during the evening and night time. The patio and rear garden area would also be likely to be used more intensively compared with use by a single household.*

*19. Overall, whilst there would be no material harm to the living conditions of No 28's occupiers arising from the loss of daylight and sunlight, the noise and disturbance arising from the daily activities of eight people living in close proximity would be significantly different when compared to occupation of the appeal property by a single household and would cause material harm to the living conditions currently enjoyed by the occupiers of No 28. I have considered whether this could be mitigated by means of a planning condition, but since it would be likely to be necessary to restrict hours of use and occupancy levels such a condition would not be reasonable and would not meet*

*the tests for conditions set out in the Framework and the Planning Practice Guidance.*

*20. The appeal proposal would conflict with LP Policy 26 which states that the amenities of existing and future occupants of neighbouring buildings may reasonably expect to enjoy must not be unduly harmed by development, including through adverse noise. There would also be conflict with NP Policy 9 which seeks to protect the amenity of neighbouring occupiers. Whilst I acknowledge that the appeal scheme has been amended to take account of the impact on the living conditions of the adjoining occupier and that I have reached a different conclusion from the Council on this issue, I have come to my conclusion based on the circumstances of the site, the proposed development and the evidence before me.”*

The appeal proposal before the Inspector did not include a noise assessment. The Inspector made their decision without the benefit of a formal noise assessment. The current proposal now includes such a document. This is a new material consideration in the assessment of this application.

The noise assessment provides existing daytime and night-time noise levels to the front and rear of the existing dwelling. It considers noise from car movements (car movement and closing of doors) and residents voices outside the building in comparison with the current ambient (background) noise levels. The calculated impact of noise from the use of the car parking spaces has been based on one movement (either an arrival or a departure) for each space within a 1-hour period at any time of the day or night. The assessment has been based on a comparison with the current ambient noise levels in the quietest hour. Therefore, this is a more onerous scenario than would occur in practice. The table below summarises daytime and night-time noise increases:

**Table 11. Daytime calculation of the increase in ambient noise level**

Receptor	R1 Front	R2 Rear
Car movement and door noise at receptor, dB(A)	37.3	27.6
Customer voice noise level at receptor, dB(A)	30.2	26.7
Combined car movement and voice noise level, dB(A)	38.1	30.2
Current ambient noise levels, dB(A)	62.3	50.7
<b>Difference between current ambient and generated noise levels, dB(A)</b>	<b>-25</b>	<b>-23.1</b>
Sum of current ambient, vehicle movement and customer voice, dB(A)	62.3	50.7
<b>Increase in ambient noise level at receptor, dB(A)</b>	<b>0.0</b>	<b>0.0</b>

**Table 12. Night-time calculation of the increase in ambient noise level**

Receptor	R1 Front	R2 Rear
Car movement and door noise at receptor, dB(A)	44.5	29.1
Customer voice noise level at receptor, dB(A)	30.2	26.7
Combined car movement and voice noise level, dB(A)	44.7	31.1
Current ambient noise levels, dB(A)	53.1	42.0
<b>Difference between current ambient and generated noise levels, dB(A)</b>	<b>-8.6</b>	<b>-12.9</b>
Sum of current ambient, vehicle movement and customer voice, dB(A)	53.7	42.3
<b>Increase in ambient noise level at receptor, dB(A)</b>	<b>0.6</b>	<b>0.3</b>

The noise assessment states:

*“The above results demonstrate that the car movements and voices would not have a significant impact on the ambient noise level outside the neighbouring property. Therefore, there would be no significant impact on the current ambient noise levels in the neighbour’s garden or on the levels of noise intrusion into the rooms within the neighbour’s house. The noise generated will be 9-25 dB below the lowest current external ambient noise levels. The calculated noise level increases are between 0.0 dB(A) and 0.6 dB(A). Increases in noise level of less than 3dB(A) are normally considered insignificant. The calculations have been based on a car movement and voice for every car parking space in the quietest hour and therefore they are very conservative. The calculations also make no allowance for the fact that car movement and voice noise can legitimately occur on the site if it is used by a single household. This is discussed further in the following chapter. The above calculations are not the increase in usage but consider all car movements and voices as new noise sources which is clearly conservative. In fact, the installation of the acoustic barrier will result in a reduction of noise from the permitted use as well as the proposed use thereby improving the situation.”*

The noise assessment goes on to compare proposed noise levels in comparison to use of the application site for its lawful purpose as a single dwelling, stating:

*“Car movements and residents’ voices in car parking areas*

4.1 As detailed in the previous chapter, the predicted noise from car movements and voices in the car parking areas is insignificant when compared with the existing noise climate. This conclusion applies even if these noise sources are assessed against the scenario with no current use. However, it should also be noted that car movements and voices in car parking areas would occur if the site were used by a single household. Many single households have multiple vehicles (e.g. one car each for parents, 2 or 3 cars for children still living at home and/or cars for members of the extended family living in the same house). It is common in this area for larger plots to have parking for 4 or more cars. It would be quite feasible for this plot to be used by a single household with a requirement for parking of 6 or more cars either without any planning requirements or under permitted development rights. The difference between the noise produced by 8 car movements and 6 car movements is only around 1 dB(A) which is not significant. 8 car movements which are screened by acoustic barrier would have a lower noise impact than 6 car movements without screening. These differences are in any case academic because the noise produced is much lower than existing road traffic noise and would be masked by it.

4.2 It could be argued that the inclusion of 4 car parking spaces to the rear of the house is a potential additional noise source in an area which is more screened from road traffic. However, it can be seen from the assessment in the previous chapter that existing noise levels to the rear are also high and that the use of car parking spaces to the rear would not have a significant impact on the existing noise climate. It should also be noted that parking could occur to the rear if the plot were used by a single household. The house on the other end of the row of houses has a garage right at the rear boundary of the plot which involves driving further than would be necessary in this proposal. A single household could decide to build a car port or garages to the rear of the house large enough for 4 cars or have external parking for 4 cars to the rear. If that did occur, the number of movements to the rear could be identical to the number of movements generated by the HMO proposal. Each space could be individually used by different family members with different agendas just as they could be by different residents in an HMO. Therefore, the noise levels from car movements and voices associated with the car parking areas could be the same for a single household use as for an HMO. In fact, this proposal includes the mitigation of an acoustic barrier and the cars would also be screened when passing through the covered access because it will have a solid side towards the neighbouring property. Therefore, a single household could generate more noise by parking to the rear with no boundary protection.

4.3 The assessment in the previous chapter is based on full use of the car parking spaces in the quietest hour which for night-time is 02:00-03:00 hours. That is a very unlikely scenario but there is no reason to suggest that it would be more likely to occur at an HMO than at a single

*household property. If people return late at night, they often return in a taxi which would park briefly outside on the street and that would be the same for either type of use. A family returning together late at night could make more noise than a single person because there would be more car doors closing and more conversations. The HMO rooms are to be individually let to residents who are unlikely to know each other and are more likely to come and go individually than members of the same family. The occupancy rates for this type of HMO accommodation are often 60-70% and therefore, although the above assessment is based on full occupancy, it is more likely that the number of residents would be similar to or less than the number of residents in a large single household.”*

The noise assessment specifically addresses noise from the use of the patio and garden area, stating:

*“4.4 There is no evidence to suggest that there would be an increased level of noise from patio and garden areas at an HMO compared with a single household use. The rooms of the HMO would be individually let and therefore it is less likely that residents will know each other sufficiently to want to socialise externally than would be the case for a family. Typically, external communal areas at this type of accommodation have less use than they do at family houses because the residents do not have a private external space for their sole use. The use of the garden by children playing is much more likely for a single household than an HMO and would be likely to create significantly more noise over significantly longer periods than the occasional use by HMO residents.*

*4.5 The proposed layout moves the external amenity areas away from the boundary with the neighbouring property in areas near the house and significantly reduces their size. The proposed patio is away from the boundary and will be partly screened from rear elevation windows of the neighbouring property by the proposed building. The garden area will be distant from the rear elevation of the neighbouring property. Both will also be screened by the proposed 2m acoustic barrier which will provide additional attenuation of externally generated noise when compared with a single household use without such a barrier. The areas near the boundary with the neighbouring property and nearest its rear elevation are proposed for access to the parking area and would not therefore be used for sitting out or children playing as they may be by a single household.”*

The noise assessment specifically addresses internally generated noise, stating:

*“4.6 It is not normal for noise breakout from internal activities in detached residential properties to create significant noise disturbance at neighbouring properties. This is because there is much more acoustic separation between detached properties than there is*

*between semi-detached or town houses. Therefore, internal activity would need to be extremely loud to create a disturbance for the neighbour. If there were extremely loud activity (e.g. the playing of very loud music) at a high enough level to cause sufficient noise breakout to generate complaints, then it could be dealt with by Environmental Health under their enforcement powers. However, there is no evidence that such extreme noise events are more likely to occur in an HMO than in a single household dwelling. It would also be less likely in a newly constructed property which would have a higher level of sound insulation. Complaints would be more likely to occur in an area with lower road traffic noise levels as there would be less masking noise than at this site where road traffic noise levels are very high. The difference in the number of people in the building (8 separate residents as opposed to one household) is very unlikely to result in a significant difference in noise breakout which would be audible at the adjacent property.*

*4.7 It could be argued that the proposal brings the occupied areas closer to the boundary with the neighbouring property. However, any difference in noise breakout caused by the proximity to the boundary would be small and not likely to be significant. It is also possible that a new property for a single household could be constructed with rooms closer to the neighbouring property and that similar noise levels could be generated within them to those in the proposed HMO.”*

Mitigation measures detailed in the noise assessment include a 2m high masonry wall to the rear reducing to 1m to the front along the common boundary with 28 Wragby Road. Whereas drawing L-ADD-026 – 13 shows a 1.8m high masonry wall projecting to the front and rear of the property but the drawing is incomplete in terms of the extent of this wall. There is a contradiction here therefore it is necessary to condition it be 1m to the front and 2m along the remainder of the boundary and made of masonry.

The Council’s Environmental Protection Officer conducted their own sample assessment of the background noise at the location using similar location points to those in the noise assessment. The EPO states *“The results of my sample assessment are in line with those within the assessment supplied by the applicant and as such I have no reason to dispute or disregard its findings. The acoustic barrier as recommended within the conclusion of the report will have a positive benefit and should be conditioned. Once built, should individual residents of the HMO cause excessive noise disturbance this can be dealt with under suitable existing legislation.”*

And:

*“I would say that without the acoustic barrier the noise created by vehicles on the site (particularly at the rear) would be in the lowest observable adverse effect level, as vehicle movement and door closing etc. would likely be heard during quiet periods, with windows open, and with the perceived effect being*



*more likely due to the controversial nature of the build. As such mitigation to reduce this to a minimum is required and the acoustic barrier is a suitable solution in my opinion, not only will this reduce the actual level but it is also likely to have a reduction in the perceived effect as a physical barrier.”*

The noise assessment addresses each of the Inspectors concerns in dismissing the appeal.

The aforementioned policies and guidance combined with the applicants noise assessment and the comments of the Council’s EPO make clear the noise and disturbance impacts would be in the lowest observed adverse effect level where the action required is to “mitigate and reduce to a minimum” the impacts of the proposal. The proposed masonry boundary wall represents beneficial mitigation. The Council’s EPO raises no objections to the proposal. Car fumes and headlight disturbance are not considered harmful.

The EPO recommends a demolition management plan, asbestos assessment and construction management plan. However, these are considered disproportionate for a development of this scale (a single building within a residential area) or are covered by other legislation.

This means the noise and disturbance generated by the proposal and the impact this would have on nearby sensitive noise receptors is considered to be acceptable and to have overcome the Inspectors previous concerns, in light of the requirements of the NPSE, PPG regarding noise, LP26, Policy 9 and the NPPF.

### **Impact on highway safety**

Policy LP13 requires well designed, safe and convenient access for all and that appropriate vehicle parking provision is made for development users. This is consistent with NPPF paragraph 108 requiring proposals ensure safe and suitable access to the site can be achieved for all users and paragraph 109 requiring development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. The policy is therefore attributed full weight.

The vehicular access to the site would be widened to 5.629m to allow two vehicles to pass on another. A total of eight car parking spaces are proposed with four to the front and four to the rear with the rear spaces being accessed through the building. Car parking is provided on the basis of one car parking space per bedroom. LCC Highways raises no objection to the proposal. Despite objections received, the proposal is considered to provide suitable access, parking and turning arrangements in a location that would not result in harm to highway safety and convenience. The impact on highway safety is acceptable in accordance with Policy LP13.

### **Flooding and drainage**

Policy LP14 requires proposals demonstrate that they have incorporated Sustainable Drainage Systems (SuDS) in to the proposals unless they can be shown to be impractical whereas NPPF Paragraph 165 requires this for only major developments. However, there is general consistency in requiring developments do not lead to increased risk of flooding therefore LP14 is given full weight.

The site is in flood zone 1 therefore the main consideration is the means of foul and surface water drainage. It is proposed to drain surface and foul water to main sewer. This is acceptable for foul but not for surface water because this has not been justified by exploration of soakaway use or local watercourse. This issue is not a fundamental concern and final details can be secured via condition in accordance with Policy LP14.

#### Other Matters

The drawings do not show bin storage areas which is potentially quite significant given the nature of the proposal. Condition 5 requires such details.

Large HMO's do not have permitted development rights for extensions which means planning control will remain for such additions.

#### **Conclusion and recommendation**

Replacing the existing dwelling with a large HMO accords with Policy LP2 and LP4 and is acceptable in principle. Whilst the design is larger than the existing dwelling it is considered to comply with the Sudbrooke Neighbourhood Plan Policy 9 and character assessment, as well as Central Lincolnshire Local Plan Policies LP17 and LP26 regarding design and landscape and townscape impacts. The proposal will result in an acceptable impact on the residential amenities of the occupiers of adjoining residents in accordance with Policy LP26 and Policy 9. The type and level of traffic generated and the access, turning and parking arrangements on site are considered not to harm highway safety and convenience and comply with Policy LP13. Final details of foul and surface water drainage, waste storage and collection and other technical matters can be secured via condition. The proposal is considered to comply with the development plan, NPPF and PPG. It is recommended that planning permission is granted.

#### Recommended conditions:

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

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

2. No development above foundation level shall take place until details of the means of foul and surface water drainage (including percolation tests) have been submitted to and approved in writing by the Local Planning Authority.

The approved details shall be implemented in full before occupation of the proposal.

Reason: To secure appropriate foul and surface water drainage in accordance with Policy LP14 of the Central Lincolnshire Local Plan.

3. Development shall proceed in accordance with the following approved drawings:

L-ADD-026-10  
L-ADD-026-11  
L-ADD-026-12  
L-ADD-026-13  
L-ADD-026-14

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

4. The vehicular access amendments, vehicular access through the building, parking and turning space shown on drawing L-ADD-026-10 shall be provided before occupation of the proposal and shall be retained for such use in perpetuity.

Reason: In the interests of highway safety and convenience and to ensure sufficient vehicle parking and turning in accordance with Policy LP13 of the Central Lincolnshire Local Plan.

5. Notwithstanding the submitted details, prior to the occupation of the proposal details of waste storage and collection arrangements shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be adhered to.

Reason: To ensure appropriate waste storage and collection arrangements in accordance with Policy LP14 of the Central Lincolnshire Local Plan.

6. Prior to their use in the development, details of the external finishing materials shall be submitted to and approved in writing by the Local Planning Authority. Development shall proceed in accordance with the approved details.

Reason: To ensure an appropriate design to the proposal in accordance with Policy LP26 of the Central Lincolnshire Local Plan and Policy 9 of the Sudbrooke Neighbourhood Plan.

7. Notwithstanding the submitted details, the masonry wall to the south western boundary, the location of which is shown on drawing number L-ADD-026-10, shall be 1m in height to the front of the front elevation of the building and shall be 2m in height for the remainder of the common boundary with the adjacent dwelling. It shall be constructed prior to the first occupation of the development hereby permitted and shall be retained whilst the development is in use.

Reason: To mitigate the impact of the parking arrangements and development on residential amenity of adjacent occupiers in accordance with Policy LP26 of the Central Lincolnshire Local Plan and Policy 9 of the Sudbrooke Neighbourhood Plan.

### **Informatives**

LCC Highways wishes to make the applicant aware of the following:

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](mailto: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.

### **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



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## Appeal Decision

Site visit made on 24 June 2020

**by Sarah Housden BA (Hons) BPI MRTPI**

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

**Decision date: 15 July 2020**

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**Appeal Ref: APP/N2535/W/20/3245962**

**Rosemary Villa, 30 Wragby Road, Sudbrooke, Lincoln LN2 2QU**

- 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 Sath Vaddaram against the decision of West Lindsey District Council.
  - The application Ref 140180, dated 19 October 2019, was refused by notice dated 9 January 2020.
  - The development proposed is 'Demolition of the existing dwelling and erection of a large house of multiple occupation (sui generis use class) with associated access alterations, vehicle parking and landscaping at 30 Wragby Road, Sudbrooke Lincoln LN2 2QU'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Sudbrooke Neighbourhood Plan (NP) was formally 'made' on 13 February 2020. The version considered as part of the officer report incorporated all of the modifications required by the Examiner's report dated 18 October 2019 and therefore I have not sought any further comments from the parties on this matter. The NP forms part of the development plan for Sudbrooke and I have given full weight to its policies in the determination of this appeal.

### Background and Main Issues

3. The reasons for refusal refer to the sustainability of the appeal site's location and the effect on the character of the area. However, the comments from third parties refer to the impact on the living conditions of adjoining occupiers and the appellant has had an opportunity to comment on these representations. Accordingly, the main issues in this case are:
  - Whether this would be a suitable location for the proposed development having regard to the accessibility of local services and facilities including by sustainable modes of travel;
  - The effect of the proposed development on the character and appearance of the area; and
  - The effect on the living conditions of the occupiers of No 28 Wragby Road (No 28), having particular regard to light levels and noise and disturbance.

## Reasons

### *Location*

4. The appeal site is at the end of a short row of detached dwellings to the south of the A158 Wragby Road and comprises a detached inter-war house set back from the road with a front and rear garden. The appeal proposal is for the replacement of the existing dwelling with a large House of Multiple Occupation (HMO) with eight ensuite bedrooms, a communal kitchen/diner and living area, parking to the front and rear of the property and a patio and outdoor area to the rear.
5. The Central Lincolnshire Local Plan (2017) (LP) Policy LP2 identifies Sudbrooke as a 'medium village' that will accommodate a limited amount of development in order to support its function and sustainability. Typical development proposals will be on sites of up to nine dwellings and the scale of the proposal accords with LP Policy LP2.
6. LP Policy LP4 sets out the growth allocations for the villages. Whilst I note that the allocation for Sudbrooke has been met, the appeal proposal would not result in a net addition to the housing stock. Consequently, LP Policy LP4 and NP Policy 1 which deals with additional residential development in Sudbrooke, including growth limits, are not directly relevant to the appeal proposal.
7. Although the proposed development would be on the southern-most edge of the village, there is a pedestrian footway on the north side of the A158 and this would enable residents to walk to the services and facilities in Sudbrooke which include a food store, post office, garage and a village hall. I appreciate that this is a busy stretch of road in a 50mph zone, but that situation would equally apply to any existing residents at the appeal property and adjoining properties.
8. Local roads would also be suitable for cycling and facilities for bike storage within the development could be secured by means of a planning condition. There is a bus stop approximately 400 metres to the west of the site with services to Lincoln and other towns including Horncastle and Skegness. Accessing facilities such as larger shopping trips, employment and medical services would be likely to generate travel by private car. However, there would at least be a choice to use sustainable modes of transport to access local facilities in Sudbrooke.
9. The scale of development proposed would not undermine the aim of LP Policies LP13 and LP18 to minimise the need to travel and maximise the use of sustainable transport. The proposal would not conflict with LP Policy LP1 which seeks sustainable patterns of growth in the District nor with LP Policy LP2 which allows for a limited amount of development to support the function and sustainability of Sudbrooke. Overall, I conclude that this would be a suitable location for the proposed development having regard to the accessibility of local services and facilities by sustainable modes of travel.

### *Character and appearance*

10. The site falls within the Wragby Road Character Area in the NP and Sudbrooke Character Assessment. Development to the north of Wragby Road includes large detached properties set in spacious plots with dense tree and hedge planting which contribute to the verdant and green appearance of the southern edge of the village. The open countryside to the south of Wragby Road affords

long distance views of the wider rural landscape. The existing dwelling on the appeal site is vacant, in a poor state of repair and is enclosed by unsightly metal security fencing. However, any adverse visual impact arising from this is localised and does not encroach into nor cause any wider harm to the rural landscape to the south.

11. The proposed building would be sited over the footprint of the existing dwelling but would extend across the width of the plot and approximately 3 metres beyond the rear extension of the adjoining dwelling at No 28. The front elevation would be in line with the adjoining dwellings and would maintain the strong building line of the row. The ridge height would also be the same as the adjoining dwellings. The flank wall of the new building would be prominent in views when approaching along Wragby Road from the east, but the flank wall of the existing dwelling is already conspicuous when viewed from this direction and the retention of the existing hedge on the common boundary with the Public Right of Way (PROW) to the east could be secured by means of a planning condition. The additional length of the flank wall would not be unduly conspicuous or intrusive when viewed from the east on Wragby Road or from the PROW.
12. Proposed design features such as the hipped roof, the vertical proportions of the projecting gables and use of brick and render would reflect features of the adjoining properties. Overall, whilst of a larger footprint, I find that the proposed building would be acceptable in terms of its scale, massing and appearance and it would be viewed in conjunction with the adjoining dwellings to the west. The important characteristics of the Wragby Road Character Area identified in the NP, and the visual connection with the wider rural landscape to the south of the site would not be adversely affected. The proposal would also not interrupt or harm key views of the village and the important view (No. 10) to the west of No 24 Wragby Road identified in the NP.
13. The scale and appearance of the proposed development would be acceptable and it would not adversely affect the character and appearance of the surrounding area. The proposal would accord with LP Policy LP26 in so far as it requires new development to respect landscape character and relate well to the site and surroundings. It would also comply with NP Policy 9 in so far as it requires new development to respond to the distinctive character areas in Sudbrooke and make a positive contribution in terms of design quality including scale, height, form, massing, style, detailing, landscaping and use of materials.

#### *Living Conditions*

14. The proposed new building would be approximately 0.75 metres from the common boundary with No 28. The proposed 2 metre boundary wall and flank wall of the new building would be positioned alongside the two high level windows in the side elevation of No 28 which serve a dining room. The high level position and limited size of these existing windows will already compromise levels of daylight and sunlight reaching that room to some degree and any further reduction in light levels would be likely to be marginal and would not cause material harm to the occupier's living conditions. Another high level window in the side elevation of the ground floor extension to the rear of No 28 would also be affected, but as that room is also served by a large south facing patio window it would continue to receive adequate levels of daylight and sunlight.

15. In the rear first floor elevation of No 28, the closest window to the appeal property is a bay type window serving a bedroom. I note that the occupier has submitted plans confirming the correct position of this window and that the proposed building would breach the '45 degree' guideline. Whilst there would be some loss of daylight and additional shadowing particularly during the morning period, due to the generous size of the window and its orientation facing south, the room would be likely to continue to receive adequate levels of daylight and sunlight.
16. The appeal proposal includes four parking spaces to the front of the building and four to the rear which would be accessed by a passageway through the building and alongside the common boundary with No 28. An outdoor patio to the rear of the property and rear garden area would also be provided.
17. Although the location of the property means that walking, cycling and use of public transport would be possible, it is reasonable to expect that some of the occupiers would use cars. The differing patterns of activity throughout the day associated with the individual lifestyles of eight occupiers would be likely to result in more frequent trips to and from the property including by car compared with occupation by a single household.
18. At my site visit, traffic noise from the A158 was audible from the rear garden of the appeal property. Notwithstanding this, the rear garden to No 28 is private and established and enjoyed in conjunction with the dwelling. The noise and disturbance from vehicles moving through the passageway and manoeuvring in the rear parking area would be in close proximity to the side windows and rear garden of No 28 and would be noticeable above the existing background noise levels. The proposed 2 metre high wall would not mitigate this impact, particularly when ambient noise levels are lower such as during the evening and night time. The patio and rear garden area would also be likely to be used more intensively compared with use by a single household.
19. Overall, whilst there would be no material harm to the living conditions of No 28's occupiers arising from the loss of daylight and sunlight, the noise and disturbance arising from the daily activities of eight people living in close proximity would be significantly different when compared to occupation of the appeal property by a single household and would cause material harm to the living conditions currently enjoyed by the occupiers of No 28. I have considered whether this could be mitigated by means of a planning condition, but since it would be likely to be necessary to restrict hours of use and occupancy levels such a condition would not be reasonable and would not meet the tests for conditions set out in the Framework and the Planning Practice Guidance.
20. The appeal proposal would conflict with LP Policy 26 which states that the amenities of existing and future occupants of neighbouring buildings may reasonably expect to enjoy must not be unduly harmed by development, including through adverse noise. There would also be conflict with NP Policy 9 which seeks to protect the amenity of neighbouring occupiers. Whilst I acknowledge that the appeal scheme has been amended to take account of the impact on the living conditions of the adjoining occupier and that I have reached a different conclusion from the Council on this issue, I have come to my conclusion based on the circumstances of the site, the proposed development and the evidence before me.



### **Other Matters**

21. The need for the type of accommodation proposed and queries about who would occupy the property are not matters before me as part of this appeal. The impact on highway safety has been raised in representations but as I am dismissing the appeal for other reasons and because it will not affect the outcome, I make no further comment on this matter.
22. The burning of materials on the site is a matter for the Council to deal with under other legislation.

### *Planning Balance and Conclusion*

23. I have found that the proposed development would be in a suitable location having regard to the accessibility of local services and facilities and would not harm the character and appearance of the area. I have also had regard to the various points in support of the scheme, including that it would provide good quality visitor and business accommodation in close proximity to Lincoln, diversify the type and choice of accommodation in the area and that it would improve the appearance of the site. However, none of these considerations, nor any of the other matters raised would outweigh the material harm that would be caused to the living conditions of the occupiers of No 28 and the conflict with the development plan.
24. For the reasons outlined above, and having had regard to all other matters raised, the appeal should be dismissed.

*Sarah Housden*

INSPECTOR

# Agenda Item 7



Planning Committee

Wednesday, 3 February  
2021

**Subject: Determination of Planning Appeals**

Report by:

Assistant Director Planning and  
Regeneration

Contact Officer:

James Welbourn  
Democratic and Civic Officer  
[james.welbourn@west-lindsey.gov.uk](mailto:james.welbourn@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 Robert Sykes against the decision of West Lindsey District Council to refuse planning permission for the demolition of outbuilding, construction of one dwelling and associated garage/tack room/stable, construction of a new access to highway for approved replacement dwelling and formation of a footway at 33 West Bank, Saxilby, Lincoln LN1 2LU.

There was a further appeal against the decision of West Lindsey District Council to refuse planning permission for the erection of two dwellings and associated garage/tack room/stables, new accesses to highway and formation of a footway at land between 27 and 33 West Bank Saxilby, Lincoln LN1 2LU.

**Appeals Dismissed** – See copy letter attached as Appendix Bi.

**Officer Decision** – Refuse permission

**Costs Decision** – Refused – see copy letter attached as Appendix Bia.

- ii) Appeal by Mrs Elaine Hughes against the decision of West Lindsey District Council to refuse an outline application with all matters reserved for one dwelling at land on the North East side of Catskin Lane, Walesby, Lincolnshire.

**Appeal Dismissed** – See copy letter attached as Appendix Bii.

**Officer Decision** – Refuse permission

- iii) Appeal by Mr and Mrs Haller against the decision of West Lindsey District Council to refuse planning permission for a new dwelling at land North of 33 High Street, Willingham by Stow.

**Appeal Dismissed** – See copy letter attached as Appendix Biii.

**Officer Decision** – Refuse permission

- iv) Appeal by Mr G Roe against the decision of West Lindsey District Council to refuse an outline planning application to erect 1no dwelling with all matters reserved on land at plot 10, Orford Close, Brookenby, Market Rasen LN8 6FA.

**Appeal Dismissed** – See copy letter attached as Appendix Biv

**Officer Decision** – Refuse permission



## Appeal Decisions

Hearing held on 15 December 2020

Site visit made on 16 December 2020

**by William Cooper BA (Hons) MA CMLI**

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

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### **Appeal A: APP/N2535/W/20/3244904 33 West Bank, Saxilby, Lincoln LN1 2LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Sykes against the decision of West Lindsey District Council.
  - The application Ref: 139500, dated 24 May 2019, was refused by notice dated 16 July 2019.
  - The development proposed is demolition of outbuilding, construction of one dwelling and associated garage/tack room/stable, construction of a new access to highway for approved replacement dwelling and formation of a footway.
- 

### **Appeal B: APP/N2535/W/20/3252319 Land between 27 and 33 West Bank, Saxilby, Lincoln LN1 2LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by Mr Robert Sykes against the decision of West Lindsey District Council.
  - The application Ref: 140179, dated 16 October 2019, was refused by notice dated 7 January 2020.
  - The development proposed is erection of two dwellings and associated garage/tack room/stables, new accesses to highway and formation of a footway.
- 

### **Decisions**

1. The appeals are dismissed.

### **Application for costs**

2. An application for costs was made by Mr Robert Sykes against West Lindsey District Council. This application is the subject of a separate decision.

### **Main Issues**

3. The main issues are:
  - a) whether the proposed development would be in an appropriate location with respect to matters of flood risk;
  - b) whether the proposed development would be acceptable with reference to the spatial strategy for housing in the development plan; and

- c) the effect of the proposed development on the character and appearance of the area.

## Reasons

### *Flood risk*

4. Sites A and B adjoin each other. They are located close to the north bank of the Fossdyke Navigation Canal, which connects to the River Trent. The sites are unallocated in the development plan.
5. Policy LP14 of the Central Lincolnshire Local Plan (2017) (LP) requires development proposals to be considered against the National Planning Policy Framework (the Framework), including application of the sequential and, if necessary, the exception test. Policy LP14 of the LP also requires development, among other things, to be safe during its lifetime. The Framework aims to steer new development to areas with the lowest risk of flooding. Planning Practice Guidance (PPG) sets out that the aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3).
6. Correspondence between the Environment Agency (EA) and the appellant indicates that the sites do not have a previous record of flooding, including during the 1947 floods. Nevertheless, the sites are within an area located towards and beyond the south-western edge of the core part of Saxilby, which is categorised by the EA as within Flood Zone 2<sup>1</sup>. Notwithstanding the apparent lack of past flooding, this categorisation and the EA's correspondence together indicate that, informed by assessment of future risk should the river system's flood defences fail, the sites have a medium probability of flooding.
7. As the sites fall within Flood Zone 2, the Framework requires assessment of whether, taking into account wider sustainable development objectives, reasonably available alternative sites appropriate for the proposed development exist in lower risk Flood Zone 1 (the sequential test).
8. The extent of the area across which the sequential test should be applied in the appeal cases is a matter of dispute between the main parties. The Council considers this area should be West Lindsey district. In the appellant's view it should be the appeal sites.
9. The appellant considers that the appeal sites would help meet a need for equestrian stabling towards the edge of Saxilby, such that it would be justifiable to contain the flood risk sequential test catchment area to the sites. However, the reported lack of such facilities does not amount to a substantive contemporary need and supply assessment of equestrian facilities in the district. Even if there were such a need, it is not decisively shown that it could only be satisfied in combination with four bedroom detached houses of the type proposed.
10. Neither LP Policy LP2 or Housing Mix Policy 1 of the Saxilby with Ingleby Neighbourhood Development Plan (2017) (NP) identifies a specific need within Saxilby for large detached houses with stables. By contrast, supporting text paragraphs 24 and 25 of the NP together indicate a need to diversify the housing supply in the parish, which is relatively dominated by a substantially above average proportion of detached houses. Furthermore, Policy 1 and

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<sup>1</sup> As per the UK government's Flood map for planning.

- paragraphs 24 and 25 of the NP together indicate a need for smaller housing for older residents, first time buyers and those requiring adaptable and wheelchair-accessible dwellings in the village, to help residents remain in their communities at different stages of their lives. The above factors together point to a particular need for dwellings of a more compact type than those proposed.
11. Furthermore, a substantial proportion of West Lindsey district is within Flood Zone 1.
  12. Taking the above together, there is not a locationally-specific functional or regeneration requirement, to meet wider sustainable development objectives, to justify limiting the sequential test search area to the appeal sites or Saxilby village. West Lindsey district would be an appropriate and suitably pragmatic definition of the area across which to apply the sequential test for the proposed dwellings.
  13. The sequential test has been too narrowly applied by the appellant and therefore I cannot be sure that there are not alternative sites elsewhere in the district within Flood Zone 1 where the proposed development could be sited. In the circumstances, the exceptions test is not relevant.
  14. Therefore, the proposals do not pass the sequential test and would fail to achieve the Framework's aim of steering new development to areas with the lowest risk of flooding. In the circumstances, the exceptions test is not relevant.
  15. The Flood Risk Assessment (FRA) of the appeal sites by the appellant's flood risk consultant considers that the level of risk and safeguards available are appropriate to the proposed class of development. Also, the EA has not objected to the proposals, subject to the location of bedroom accommodation on the first floor and raising of the ground floor level of the proposed dwellings. These measures would moderate the risk and magnitude of on-site property damage or injury to occupants should the sites flood. However, these measures would not eliminate the risk of the sites flooding and associated harm to property, person and, potentially, livestock. Also, the EA's consultation responses do not express a view on the sequential test for the proposals. The sequential test comes first and must be passed before consideration is given to on site flood mitigation.
  16. My attention is drawn to other sites on West Bank on which planning permission for residential development was granted between 2015 and 2017. In one case in 2016 this was on the premise that there was not a 'high level' of suitable alternative plots for a dwelling within Flood Zone 1. However, substantive detail of the local housing land supply position in 2016 is not before me. Furthermore, several of the previous West Bank decisions predate the NP and the type of local housing need portrayed within it. Also, in some cases a Council sequential test rationale is not presented. Moreover, some schemes differ from the current appeal proposals in that they were for an extension, or a replacement dwelling and change of use to an existing dwelling.
  17. Other cases involving the grant of planning permission or prior approval between 2013 and 2019 on other sites outside Flood Zone 1, in and around Saxilby, as cited by the appellant, also differ from the current appeal cases in various ways. Either site-specific rejuvenation, environmental enhancement or regeneration was more substantial, a Council sequential test rationale is not

presented, the site had outline planning permission or a combination of some of the above. An appeal decision in Cheshire differs from the current appeal sites in that the Inspector found the sequential test to have been satisfactorily met.

18. The above factors and differences limit the extent to which the other cases are analogous to the current appeal cases, in respect of the sequential test requirement. Moreover, the full details of the other cases are not before me and the current cases have their own circumstances. As such, I assess the appeal proposals on their own merits.
19. In conclusion, the appeal site is not an appropriate location for the proposed development because the sequential test has not been passed and the proposals would fail to steer new development to areas with the lowest risk of flooding. As such the proposals would conflict with Policy 14 of the LP and the Framework. Furthermore, the proposals would undermine the rigour of this combination of policies, in respect of the sequential test, with consequent risk to the wider control of development in higher flood risk zones.

### *Spatial strategy*

20. Saxilby is categorised as a Large Village in Spatial Strategy and Settlement Hierarchy Policy LP2 of the LP. In respect of Large Villages, Policy LP2 seeks to focus most growth within the existing developed footprint, including 'appropriate infill'. Policy LP2 also seeks to create balanced, sustainable and inclusive communities through providing a mix of housing types to meet identified needs, and enabling a larger number of people to access jobs, services and facilities locally.
21. A wedge of development extends from the railway line to the south-western corner of No 33 West Bank, north of the A57 Gainsborough Road. West Bank road and the adjacent canal form the 'spine' of the wedge. The appeal sites are located along the northern edge of the wedge, fronting onto West Bank. The appeal sites are partly overgrown. A single-storey outbuilding straddles the boundary of site A and the rest of No 33's grounds.
22. There is noticeable development in the locality of the appeal sites. A 30mph zone terminates at the western boundary of No 33 West Bank. While the pattern of development is more dispersed towards the apex of the development wedge, the latter has an increasingly suburbanised feel given development under construction on both sides of the canal. Furthermore, the appeal sites read 'on the ground' as land bookended by a row of detached dwellings and a dwelling at No 33, from various viewpoints along West Bank.
23. The above combination of factors gives the appeal sites the appearance of a large infill plot located within the suburban wedge of development. Consequently, the proposals would be infill development within the existing developed footprint of Saxilby.
24. Although the proposals would be infill development they would not satisfy Policy LP2's appropriateness criteria and would be contrary to Policy LP2 as a whole given my findings under the first main issue.



25. The proposed three large detached houses with stables would be in an area where, the NP<sup>2</sup> indicates, more compact types of housing would diversify local housing stock. Within this context, the proposal would not demonstrably meet identified local need in terms of housing type. In this respect the proposals would not support the aims of the spatial strategy to create balanced and inclusive communities.
26. The sites are a short walk from facilities in the centre of Saxilby, including the railway station. The station provides public transport accessibility to Lincoln and other settlements, and jobs and facilities in those places. As such, the proposals would contribute to housing supply in a location that is relatively accessible to employment, services and facilities. In these ways the proposals would contribute to sustaining the community, on a modest scale.
27. However, the proposed development would fail to demonstrably meet identified local need for particular types of housing. It would also not be appropriately located with respect to flood risk policy. As such, it would not accord with Policy LP2 of the LP. Furthermore, the proposals would undermine the rigour of Policy LP2 of the LP, with consequent risk to the wider achievement of balanced, sustainable and inclusive communities. Therefore, the proposed development would not be acceptable with reference to the spatial strategy of the area.
28. As the proposals would not be in the countryside, Policy LP55 of the LP is not relevant.

#### *Character and appearance*

29. Proposals A and B would front onto West Bank and reduce the verdancy and spaciousness of the sites. As such the proposals would be ribbon development with a localised urbanising impact. However, as identified above, the sites would read 'on the ground' as an infill plot which is located within a suburban wedge of development and thus within the village's existing developed footprint. The character and primacy of the village's nucleus would not be diminished. Furthermore, the proposed set-back of dwellings from the street, the relatively spacious layout and retention of most of the sites' front hedging and site B's western side hedge would, together, help assimilate the proposed development within the suburban development wedge. Moreover, established hedging on the appeal sites and within the wider landscape to the west and north would visually soften and screen views of the proposed development from surrounding countryside.
30. The above combination of factors would result in the proposals retaining the settlement's core shape and form. Furthermore, the proposals would not harm the character of the settlement, its rural setting or the surrounding countryside.
31. In conclusion, the proposed development would not harm the character and appearance of the area. As such, it would not conflict with Policy LP26 of the LP as a whole, which seeks to ensure that development complements local character.

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<sup>2</sup> Policy 1, together with paragraphs 24 and 25.

## **Planning Balance and Conclusion**

32. The adequacy of supply of deliverable housing sites is a matter of dispute between the main parties, centring on deliverability. Major allocated sites with outline planning permission make up between around a quarter and a third of Central Lincolnshire's five year land supply. Given the outline status of these planning permissions, it is questionable whether timely delivery of this category of sites can be relied upon in its entirety. Nevertheless, for this category of sites, there is some evidence of progress towards reserved matters and in terms of developers' delivery intentions, anticipated start dates and build-out rates. The longer term effect of Covid-19 is yet to be manifested and so does not significantly influence the housing land supply assessment.
33. Even if I were to accept the appellant's proposition that the Council are currently unable to demonstrate a five year housing land supply and the shortage is at the level indicated, the tilted balance in 11d) would not be relevant because policies in the Framework relating to flood risk indicate the proposal should be refused.
34. The absence of harm to the area's character and appearance is a neutral factor which does not weigh in favour of the proposed development.
35. The proposals would together provide three new four bedroom dwellings. Even if I were to accept the appellant's argument on the Council's five year housing land supply position, this would still only be a moderate benefit to the district's housing supply, with associated socio-economic benefit to the community during and after construction, due to the small number of homes proposed.
36. Benefits in the form of self-build dwelling supply and health through horse riding by future occupants would be limited by the absence of mechanisms to guarantee these things. The benefit to pedestrians of a stretch of footway along the sites' frontage would be limited by its length and West Bank's apparently lightly trafficked character.
37. Overall, the public benefits would be limited by the scale of the proposed developments and would not outweigh the identified harm and conflict with the development plan and the Framework.
38. Accordingly, for the reasons given, appeals A and B fail.

*William Cooper*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT:

Peter Emery

Emery Planning

FOR THE LOCAL PLANNING AUTHORITY:

Martin Evans

West Lindsey District Council

INTERESTED PARTIES:

Raymond Scott

Resident



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## Costs Decision

Hearing held on 15 December 2020

Site visit made on 16 December 2020

**by William Cooper BA (Hons) MA CMLI**

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

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**Costs application in relation to Appeal A: APP/N2535/W/20/3244904  
33 West Bank, Saxilby, Lincoln LN1 2LU  
and Appeal B: APP/N2535/W/20/3252319  
Land between 27 and 33 West Bank, Saxilby, Lincoln LN1 2LU**

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Robert Sykes for a partial or full award of costs against West Lindsey District Council.
  - The appeal was against the refusal of planning permission for: (Appeal A) demolition of outbuilding, construction of one dwelling and associated garage/tack room/stable, construction of a new access to highway for approved replacement dwelling and formation of a footway; and (Appeal B) erection of two dwellings and associated garage/tack room/stables, new accesses to highway and formation of a footway.
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application centres on the applicant's claim that the Council: (a) prevented development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (b) did not determine similar cases in a consistent manner; and (c) made vague and generalised assertions about the proposals' impact which are not supported by objective analysis.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they prevent development which should clearly be permitted, do not determine similar cases in a consistent manner and make vague and generalised assertions about a proposal's impact.
5. Regarding matter (a) I see evidence in the Planning Officer's reports of the Council's rationale regarding the spatial strategy of the area. It will be clear from my appeal decisions that I have reached a different view from the Council regarding whether the proposals would be within the existing developed footprint of the village. Nevertheless, the Council was entitled to apply its planning judgement on this issue in the light of its assessment of the appeal

- sites' setting and characteristics. The appeal findings relating to sites elsewhere in the district do not negate this because it is a site specific matter in this instance.
6. Various statutory consultees did not object to the proposal in respect of flood risk. However, this does not automatically mean that the proposal would be acceptable. The Council is not duty bound to follow consultees' advice and was entitled to reach a different view, given the sequential test requirement, which generally falls outside the remit of the Environment Agency.
  7. In respect of flood risk, in relation to matters (a), (b) and (c), I find adequate evidence in the Planning Officer's Reports of the Council's rationale. This includes consideration of the sequential test search, application of local and national planning policy and comparison with some other sites with planning permission. Furthermore, as identified in my appeal decisions, various factors and differences limit the extent to which other cases cited by the applicant are analogous to the current appeal cases, in respect of the sequential test. In the light of the above, it is not decisively shown that the Council's decisions were inconsistent with clearly comparable sequential test rationale in other cases. Furthermore, the Council was entitled to apply its planning judgement on this issue in the light of its analysis.
  8. Regarding housing land supply and matter (c), I see evidence in the Planning Officer's Reports of the Council's rationale. This includes reference to the Central Lincolnshire Five Year Land Supply Report. The Council was entitled to reach its planning judgement on this issue in the light of its assessment of the housing land supply.
  9. To conclude, I find that in relation to matters (a), (b) and (c) unreasonable behaviour has not occurred.

### **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

*William Cooper*

INSPECTOR



## Appeal Decision

Site visit made on 15 December 2020

by **K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> January 2021

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### Appeal Ref: **APP/N2535/W/20/3259873**

#### **Land on the North East side of Catskin Lane, Walesby, Lincolnshire**

- 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 Elaine Hughes against the decision of West Lindsey District Council.
  - The application Ref 140560, dated 3 February 2020, was refused by notice dated 3 April 2020.
  - The development proposed is described as 'Outline application with all matters reserved for one dwelling.'
- 

#### **Decision**

1. The appeal is dismissed.

#### **Preliminary Matter**

2. The application was made in outline with all matters reserved. I have considered the appeal on this basis.

#### **Main Issues**

3. The main issues are:
  - i) Whether the proposal would represent a suitable location for housing;
  - ii) The effect of the proposal on the landscape and scenic beauty of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB);
  - iii) The effect on the setting of the Grade I Listed Church of All Saints;
  - iv) The effect on the significance of non-designated heritage assets;
  - v) The effect of the proposal on protected species.

#### **Reasons**

##### *Location for housing*

4. The development plan for the district is the Central Lincolnshire Local Plan (April 2017) (the CLLP). Policy LP1 sets out the desire to deliver sustainable growth that brings benefits for all sectors of the community. Policy LP2 sets out the spatial strategy and settlement hierarchy for the district. The appeal site forms part of an open, agricultural field adjacent to Catskin Lane.
5. The nearest village, Walesby, is listed as a 'small village' under the sixth tier of Policy LP2, which permits small scale development of up to four dwellings in

- 'appropriate locations'. An 'appropriate location' is defined to mean a location which does not conflict, when taken as a whole, with national policy or policies in the CLLP, and where the development 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.
6. The appellant argues that the proposal lies within the village and that there is no legal definition of 'the core shape of the settlement'. The Council does not refer me to any specific definition relevant to the defined 'small villages', but I note that elsewhere under Policy LP2, the term 'developed footprint' is defined as the continuous built form of the settlement and excludes individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement. To my mind, a 'core shape' tallies with the idea of continuous built form of the main part of the settlement, excluding outlying development but, ultimately, it is matter of planning judgement based on the facts of the case.
  7. I saw that the appeal site is physically separated by an open field from the nearest dwelling to the main built up area of the village, Fieldview House. I saw Cliffe House, argued by the appellant to be within the village, to lie some distance past the appeal site along Catskin Lane as one travels out of Walesby, separated from the appeal site by agricultural fields. More generally, the surroundings of the appeal site when stood in front of it on Catskin Lane are decidedly rural in character, with expansive agricultural fields, trees and hedgerows dominating views in all directions. Therefore, in my judgement, the proposed site would not retain the core shape of the village but would be located in open countryside. I note a plan from the appellant showing other planning permissions in the village, but each of these appears to fall within the existing built-up area in accordance with the requirements of Policy LP2. Therefore, I do not regard them as comparable to the present scheme.
  8. In terms of character, the detached nature of the site means the dwelling would not be read in context with the rest of the village, but would stand physically and visually apart from the nearest development, and could not be described as 'infill' as contended by the appellant. Though firm details of the dwelling's scale or design are not provided at this stage, the development would require the creation of a vehicular entrance within the presently continuous hedgerow that would exacerbate the incongruous, urbanising presence of the dwelling within the undeveloped, rural surroundings.
  9. The appellant refers to the judgement in *Braintree*<sup>1</sup> in arguing the site is not 'isolated' in planning terms. This judgement established that 'isolated' in terms of the National Planning Policy Framework (the Framework) refers to physical proximity to other dwellings and settlements, and is a matter of judgement for the decision maker. In this case, the dwelling would be separated from the nearest dwelling by one field which, in physical terms, would not be significant and would not amount to an 'isolated home' for the purposes of the Framework. Therefore, it is not necessary to consider whether any of the exceptions at Paragraph 79 would be met.
  10. However, the proposed location on a narrow rural lane with no footpaths would not encourage walking or cycling. Walesby also has limited facilities and

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<sup>1</sup> Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)



residents would be required to travel beyond the village for most needs, including work, shopping and education, necessitating use of the private car in most cases. I therefore find that the dwellings would not be located with good access to services and facilities and would conflict with the strategic aims of the settlement strategy of the CLLP to locate developments in accessible locations.

11. For the reasons given, I conclude that the proposal would not meet the requirements of Policy LP2(6) in terms of location or effect on character, nor would it accord with the related requirements of Policy LP4, which specifically addresses developments in smaller villages within the settlement hierarchy. There would also be conflict with Policy LP26 which requires development to achieve high quality sustainable design that contributes positively to local character, landscape and townscape, including retaining a tight village nucleus, and retaining natural features including hedgerows.
12. As the proposal would be located in open countryside, Part 8 of Policy LP2 and Policy LP55 become applicable. However, the proposal for a market dwelling would not meet any of the exceptions set out under these policies and, as such, the proposal would not be a supported form of development under the spatial strategy and would be an inappropriate location for housing.

*Effect on the Lincolnshire Wolds AONB*

13. The site is located within the Lincolnshire Wolds AONB. The Lincolnshire Wolds AONB Management Plan 2018-2023 describes the outstanding qualities of the AONB as including its unique physiography of upland chalk landscape extensively modified by glaciation, giving rise to striking valley features; its high scenic quality and charm deriving from its extensive use for agriculture and seasonally changing field and cropping patterns, rural scenes of farming activity and traditional village and farmsteads in brick and pantile.
14. Paragraph 172 of the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
15. Policy LP17 of the CLLP seeks to protect the intrinsic value of the landscape by responding positively to any natural and man-made features within the landscape which positively contribute to the character of the area, such as historic buildings and monuments, topography, trees and woodland, hedgerows and field patterns. It adds that these considerations are particularly important when determining proposals which have the potential to impact upon the Lincolnshire Wolds AONB. Policy LP26 reiterates these requirements in setting out the Council's expectations for developments achieving high design quality.
16. The appeal site, though not containing exceptional landscape features itself, forms part of the wider agricultural countryside which is identified as a key quality of the AONB. In combination with its immediate surroundings, it contributes positively towards the landscape and scenic beauty of the AONB.
17. The development of a single dwelling would introduce built development where there presently is none, well away from the nearest village in a detached and conspicuous position within an expansive, rural landscape. I acknowledge that the specific design of the dwelling would be addressed at reserved matters stage, and landscaping could reduce its visibility. However, features such as



the driveway entrance would still be highly visible, as would the dwelling when trees are not in leaf or if boundary hedges are cut down. Consequently, the development would interrupt the continuity of the landscape, and cause the loss of an open field and continuous hedgerow which contribute positively to the landscape and scenic beauty of the AONB.

18. The appellant refers to a planning permission granted in the village of Tealby, which also lies within the AONB around 2km away. This permission relates to a site in a village with an evidently different site context and likely several other material considerations taken into account by the Council, full details of which I do not have before me. As such, I do not regard this permission as directly comparable to the present appeal, which I have determined on its own merits.
19. For the above reasons, I conclude that the proposal would cause harm to the landscape and scenic beauty of the AONB and would conflict with the aforementioned aims of Policies LP17 and LP26 of the CLLP. In accordance with the Framework, I am required to attach great weight to this harm.

#### *Setting of All Saints Church*

20. The Grade I All Saints Church dates from as early as 1175 with elements added over time including the 13<sup>th</sup> century west tower, the north aisle from c.1300, 15<sup>th</sup> century battlements and clerestory, and 19<sup>th</sup> century vestry. The church is located on high ground and amid agricultural fields beyond the eastern edge of the village. Given its elevated location, it is visible in a number of longer distance views, giving it an expansive, open setting, which allows it to maintain an appropriate stature within the landscape and for its architectural and historic interest to be fully appreciated.
21. The Council's reason for refusal points to the absence of a heritage statement setting out the significance of the heritage asset and that subsequently, the appellant has failed to demonstrate that harm would not occur to its setting. No evidence pertaining to the significance of the listed building has been provided at appeal stage, save for the listing description submitted by the Council. Nonetheless, I have had regard to the statutory duty at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their settings.
22. The proposed dwelling would be located more than 500m away to the south-west of the listed building, on lower ground separated by fields, tree lines and hedgerows. The Council indicates that the church is visible from certain parts of the wider field in which the application site is located. Access to the wider field was not possible at my site visit, but from my vantage point on Catskin Lane, the church was not visible due to the intervening vegetation and change in topography. A dwelling located toward the front of the field would therefore be unlikely to intrude into views of the listed building from Catskin Lane. These physical features would filter reverse views of the dwelling from the church in much the same way, and the two buildings are unlikely to be experienced simultaneously. Therefore, whilst the setting in which the listed building is experienced may encompass a wide area of the surrounding landscape, the proposed dwelling, owing to its low level position and surrounding physical features, would not form a conspicuous feature that would detract from the setting of the listed building.

23. For these reasons, I conclude that the proposal would not have a harmful effect on the setting of the Grade I listed church, and no conflict would arise with Policy LP25 of the CLLP, which requires development to protect, conserve and seek opportunities to enhance the historic environment of Central Lincolnshire.

*Effect on non-designated heritage assets*

24. The Council alleges that the proposal would result in the destruction of medieval ridge and furrow earthworks present within the field. Ridge and furrow earthworks are historic agricultural practices closely associated with medieval villages and, if present, would be of archaeological interest and constitute a non-designated heritage asset for the purposes of the Framework.
25. Lincolnshire County Council (LCC) Archaeology Section has commented that the site and surrounding fields contain upstanding medieval ridge and furrow earthworks. LCC adds that development would directly impact on the earthworks that would be levelled, but also break up the more extensive area of earthworks. The appellant points to a lack of visual evidence of ridge and furrow in aerial photography, and argues that any earthworks which did exist would have been eradicated by mechanical vehicles.
26. The appellant also refers to the development at Tealby where the development was granted notwithstanding the presence of ridge and furrow earthworks being raised by LCC. As before, I am not provided with full details of evidence before the Council or its subsequent considerations in this case to be confident that the proposals are comparable.
27. This aside, no evidence has been submitted by the appellant which evaluates the presence or otherwise of such features on the appeal site. Given the indications by LCC that ridge and furrow exists, I cannot rule out the presence of archaeological remains on the site. In the absence of further details as to the location, extent and form of any potential remains, I conclude that the effect of the proposal on a non-designated heritage asset would be unacceptable, contrary to Policy LP25 of the CLLP and Paragraph 189 of the Framework which requires developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation where development includes, or has the potential to include, heritage assets with archaeological interest.
28. Paragraph 197 of the Framework states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The evidence before me suggests the proposal may directly affect surviving earthworks and break up a more extensive area of earthworks which are indicated to be under increasing threat from changing agricultural practices and urban development. In light of this, I conclude on this issue that the harm arising from the adverse effect on the significance of this non-designated heritage asset should be afforded significant weight in the overall planning balance.

*Effect on protected species*

29. Policy LP21 of the CLLP requires development to protect, manage and enhance the network of habitats, species and sites of international, national and local importance, and minimise impacts on, and seek to deliver net gains in, biodiversity and geodiversity. This reflects Paragraph 170 of the Framework

which states that planning decisions should minimise impacts on and provide net gains for biodiversity.

30. I have no evidence before me to indicate the appeal site forms part of an area designated for specific biodiversity characteristics. However, the Council points to the presence of ponds and an open drain in the vicinity of the site and the possible presence of species protected by law, including the great crested newt. These and the widespread trees and hedgerows may provide suitable habitats for protected species. In the absence of a habitat survey, I am unable to conclude that the proposal would not have an adverse impact on species protected by the Wildlife and Countryside Act 1981, or other specific legislation.
31. A planning condition is suggested by the appellant. However, Circular 06/2005<sup>2</sup> states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state at Paragraph 99 that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established *before* planning permission is granted. It adds that surveys should only be required by condition in exceptional circumstances, such as where an initial survey has been undertaken and a mitigation strategy prepared, and all that was required were final checks immediately prior to commencement of construction to ensure that no protected species had recently colonised the site. However, given the limited information currently available in relation to the appeal site the use of a pre-commencement condition would not be an appropriate course of action in this case.
32. The absence of sufficient information means that I cannot rule out potentially significant harm to protected species. As such, I conclude that the scheme would be contrary to Policy LP21 of the CLLP which seeks to protect, manage and enhance the network of habitats, species and sites of international, national and local importance. There would also be conflict with the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

### **Other Matters**

33. The Council has not opposed the proposal on the basis of harm to highway safety, though the detailed matter of access would be addressed at reserved matters stage. Nonetheless, my observations on site do not lead me to a different view to the Council. An absence of harm in this respect is a neutral factor weighing neither for nor against the development.
34. The appellant argues that the size of the site does not lend itself to any specific use other than residential building land. The site forms part of a clearly agricultural field and no evidence is adduced that the field could not continue to be put to such use. I afford negligible weight to this argument.
35. I have had regard to other matters raised, including the comments of the Parish Council, references to the appellant's local connections and pre-planning advice given in the 1990s. However, none of these matters are significant enough to alter my conclusions on the main issues or weigh materially for or

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<sup>2</sup> Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

against the proposal in the planning balance and so it is not necessary to address them further.

### **Planning Balance**

36. Paragraph 11(d)(i) states that the presumption in favour of sustainable development does not apply where application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Land designated as AONB is one such area or asset, as made clear by Footnote 6 of the Framework. In view of the harm to the AONB that I have identified, the presumption in favour of development is not engaged in this case, and the proposal falls to be determined against the development plan, taking account of other material considerations.
37. The proposal would provide an additional dwelling which would add to the District's housing stock in line with the government's desire to boost the supply of housing. However, the scale of the development means this would be no more than a limited benefit in the proposal's favour. There would also be economic benefits associated with the construction of the dwelling, use of local services by future occupants and additional Council Tax and New Homes Bonus receipts, though again, such benefits would be limited overall. The proposed use of sustainable materials and renewable technologies would be further benefits, though as a single dwelling these would not be significant and would attract limited weight.
38. Set against these benefits, there would be significant environmental harm arising from the conflict with the District's settlement strategy and reliance by future occupants on the private car, the harm to the Lincolnshire Wolds AONB, harm to a non-designated heritage asset and harm to protected species. This results in conflict with the development plan, taken as a whole, to which I afford significant weight.
39. In my judgement, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the several identified conflicts with the development plan and would not justify a decision being made other than in accordance with the development plan, taken as a whole.

### **Conclusion**

40. Therefore, for the reasons given and having regard to all relevant matters raised, I dismiss the appeal.

*K Savage*

INSPECTOR



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## Appeal Decision

Site visit made on 15 December 2020

**by K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

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**Appeal Ref: APP/N2535/W/20/3259692**

**Land North of 33 High Street, Willingham by Stow E 487698 N 384673**

- 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 & Mrs Haller against the decision of West Lindsey District Council.
  - The application Ref 140731, dated 6 March 2020, was refused by notice dated 4 June 2020.
  - The development proposed is a new dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was made in outline with all matters reserved. An indicative layout and front elevation have been shown on plans, but I have treated these as solely illustrative in nature.

### Main Issue

3. The main issue is whether the proposal represents an appropriate location for housing having regard to relevant development plan policies and the effect on the character and appearance of the surrounding area.

### Reasons

4. The development plan for the district is the Central Lincolnshire Local Plan (April 2017) (the CLLP). Policy LP1 sets out the desire to deliver sustainable growth that brings benefits for all sectors of the community. Policy LP2 sets out the spatial strategy and settlement hierarchy for the district.
5. Willingham by Stow is classed as a 'small village' in the sixth tier of Policy LP2, which permits small scale development of up to four dwellings in 'appropriate locations'. An 'appropriate location' is defined to mean a location which does not conflict, when taken as a whole, with national policy or policies in the CLLP, and where the development 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.
6. There is no dispute that, in principle, Willingham by Stow is capable of receiving more housing development, as the anticipated level of growth set out under Policy LP4 has not yet been exceeded. Indeed, it is indicated that capacity for 12 dwellings remains. Willingham by Stow also has a number of

facilities to which future occupants could travel by means other than the private car. Therefore, whether the proposal amounts to an 'appropriate location' rests primarily on whether it would retain the core shape and form of the settlement and its effect on the character and appearance of the settlement and surrounding countryside.

7. The appeal site is a field to the north of dwellings on High Street, and to the west of dwellings on Hopgardens. Development along the north side of High Street is somewhat varied, with clusters of development such as Reynard Court and dwellings set back from the street, some behind other street adjacent buildings. However, despite this varied alignment, the overall depth of built form to the rear is quite consistent, and it forms an identifiable and defined edge to the village. The rear boundary lines of dwellings on Hopgardens run perpendicular to High Street but provide a similarly defined edge to the developed area of the village.
8. I acknowledge that some gardens and a campsite area to the west of the appeal site extend beyond this building line, but these are largely laid to grass and integrate into the open countryside which expands to the north. Visually, the appeal site forms part of the wider expanse of fields beyond the rear boundaries of properties on Hopgardens and High Street, with only lightweight wire fencing demarking it from the adjacent land to the west.
9. Consequently, the proposed dwelling would be located on open land beyond the edge of the settlement. In this position, it would form a standalone, backland development which would extend the built form into the countryside. Unlike surrounding properties, it would not address a road, but would front onto a narrow, grassed lane leading from Hopgardens which forms part of a public footpath. The dwelling would not relate to the pattern of development on either High Street or Hopgardens, but would encroach harmfully into the countryside creating development where there presently is none, and in doing so would fail to respect the core shape and form of the settlement.
10. My findings in this respect align with those of the Inspector in an appeal decision from 2004<sup>1</sup>, where a dwelling was sought on the site. I am only provided with extracts from the decision in the parties' submissions, but I note the Inspector observed that the proposal "*would extend development beyond the immediate confines of the village in this area and so increase the built up appearance of the locality*", and concluded that "*this would adversely affect the open rural character and appearance of the site and land immediately to the north and west.*" Contrary to the appellants' view that this appeal was only dismissed on the grounds that policy did not support village development, the Inspector's conclusions are clearly related to the character and appearance of the area, and I afford them weight as a material consideration.
11. I note the appellants' reference to a dwelling formerly standing on the site and to the floor slab still being in place. However, the dwelling was demolished in 1958, some 63 years ago. This is a significant length of time without any building on the site, which has re-naturalised and forms part of the wider fields to the north and west. An open, rural character has clearly returned and I place little weight on the presence of a dwelling on the site in the distant past.

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<sup>1</sup> Relating to Council Ref M04/P/0665, Appeal reference not given



12. Moreover, although all matters are reserved, it is reasonable to consider, based on the illustrative details, that the proposed dwelling would differ markedly in scale and form from any dwelling which may have existed, and would result in a domesticated appearance with lawned gardens, outbuildings, parking areas and lighting which would be at odds with the undeveloped character which prevails to the rear of the existing built form and would be visible from neighbouring properties and users of the public footpaths.
13. Access is a reserved matter; however, the appellants' evidence indicates the grassed lane to be the likely access route, which appears to be outside of the appellants' ownership. Nonetheless, it is indicated that this access route would be laid to tarmac or block paving to facilitate vehicular access along a route several interested parties claim is subject to surface water flooding. Ownership and flood risk aside, I saw the grassed lane to form a pleasant transition between the built form on Hopgardens and the countryside behind the dwellings. The loss of this grassed route would detract from the rural character to the rear, replacing it with a jarring urban form.
14. Moreover, I saw this access to be narrow with a particular pinch point where a brick outbuilding juts out. Though no objection is raised by the Council on highway safety grounds, the introduction of a dwelling and regular use by vehicles would conflict with the character of the narrow, pedestrian-oriented track and footpath running behind the dwellings on High Street.
15. The appellants draw my attention to other developments<sup>2</sup> granted by the Council which they suggest are comparable. I am not provided with the full particulars of these decisions, but the plan submitted suggests at least some of these sites may have formed part of the grounds of existing dwellings. In the absence of further details as to the particular circumstances of these proposals, I am unable to make meaningful comparisons with the appeal scheme, which I have considered on its own merits.
16. For the reasons set out, I conclude that the proposal would significantly harm the character and appearance of the settlement and surrounding countryside, in conflict with Policies LP17 and LP26 of the CLLP, which seek high quality sustainable design that contributes positively to local character and landscape, and to protect and enhance the intrinsic value of the landscape. The proposal would similarly conflict with the Framework's recognition of the intrinsic character and beauty of the countryside.
17. Consequently, the proposal would not amount to an 'appropriate location' for new development under Policy LP2. Given this, the proposal would lie within the open countryside, to which Part 8 of Policy LP2 and Policy LP55 are applicable. However, the proposal for a market dwelling would not meet any of the exceptions set out under these policies and the proposal would thus conflict with the overall spatial strategy set out under Policy LP2.

### **Other Matters**

18. I recognise that the proposal has been supported by several parties and opposed by others. I have had regard to the desire of the appellants to restore a dwelling on what was the site of a former family home; however, no detailed evidence of local connections has been adduced by the appellants. Even so,

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<sup>2</sup> Appendices 11 and 12 of the Statement of Case

this would represent a personal benefit which would attract only modest weight in favour of the proposal. Concerns about the unkempt appearance of the site are also noted, but this is limited to natural growth of vegetation which is not out of place in a rural setting, and when I observed it on site was not so harmful in appearance as to justify development of the site for housing.

19. I also note the several concerns regarding the vulnerability of the site to flooding. A flood risk assessment has not been provided, but the Lead Local Flood Authority has not objected. I saw no evidence of flooding on site. The Council did not draw a firm conclusion on the matter and has not pursued this as a reason for refusal. The evidence before me is inconclusive, and the matter could potentially be addressed by the appellants through production of a flood risk assessment. Ultimately, I do not have firm evidence that the proposed dwelling would increase the risk of flooding on the site or elsewhere, and therefore is not a matter which attracts further weight against the proposal.
20. No objection was raised in respect of highway safety, notwithstanding the comments of interested parties. My concerns with the potential visual impact of surfacing of the lane aside, the evidence before me does not indicate the development would generate significant levels of traffic such that a demonstrable risk to highway safety would result.
21. No objection was raised in respect of the living conditions of neighbouring occupants or loss of trees and wildlife. Nothing I saw on site leads me to a different view or any concern that such matters could not be addressed through the detailed proposals at reserved matters stage.

### **Planning Balance**

22. The proposal would provide an additional dwelling which would help to deliver the anticipated growth of the village and would add to the housing stock in line with the government's desire to boost the supply of housing. The location would also enable occupants to access local services by means other than the private car. However, the scale of the development means these would be no more than limited benefits in the proposal's favour. There would also be economic benefits associated with the construction of the dwelling, use of local services by future occupants and additional Council Tax and New Homes Bonus receipts, though again, such benefits would be limited overall.
23. Set against these benefits, the proposal would cause significant harm due to the conflict with the settlement strategy and the adverse effect on the character and appearance of the area, resulting in conflict with the development plan, taken as a whole, to which I afford significant weight. The other material considerations in this case, taken together, would not outweigh this conflict with the development plan.

### **Conclusion**

24. Therefore, for the reasons given and having regard to all relevant matters raised, I dismiss the appeal.

*K. Savage*

INSPECTOR





## Appeal Decision

Site visit made on 5 January 2021

**by Graeme Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 January 2021

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**Appeal Ref: APP/N2535/W/20/3260040**

**land at plot 10, Orford Close, Brookenby, Market Rasen LN8 6FA**

**Easting(x): 520621 Northing(y): 395096**

- 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 G Roe against the decision of West Lindsey District Council.
  - The application Ref 141272, dated 26 June 2020, was refused by notice dated 25 August 2020.
  - The development proposed is outline planning application to erect 1no dwelling with all matters reserved.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The original planning application form referred to the development site address solely in terms of its grid reference. Subsequent documents, including the decision notice and appeal submissions, refer to it as plot 10 within Orford Close. I have used a combination of these in the development site address in the banner heading above.
3. The application was submitted in outline with all matters reserved for future consideration. In addition to the site location plans and existing site plan drawings submitted with the application, a 'proposed site plan' was also submitted. It is clear that the latter is illustrative as befits an outline planning application with all matters reserved and that is the basis upon which I have considered the application.

### Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

### Reasons

5. Orford Close is a small and relatively recent residential cul-de-sac located between Swinhope Road and Dale View Road within the village of Brookenby. The existing housing is a mix of semi-detached houses and detached bungalows, the majority of which are frontage properties on Swinhope Road with three properties, and the appeal site, clustered around a small cul-de-sac turning head.
6. The appeal site is tucked away in the corner of the cul-de-sac, accessed between Nos. 9 and 11. Currently a somewhat unprepossessing prospect, the

- site does offer a bit of breathing space between Nos. 9 and 11 when approaching on Orford Close, and also opens out slightly due to the tapering nature of its north-eastern corner. Nevertheless, it is not a spacious site and it lacks the depth of the adjacent plot at No.9 due to the presence of an electrical sub-station immediately to the rear of the site.
7. The appeal site is, as the appellant states, only glimpsed from Swinhope Road. However, the extent to which it is glimpsed from this aspect highlights the tight confines of the site. Although only indicative, the illustrative site plan shows how a dwelling, should it be laid out within the plot in the manner indicated, would fill the already limited space between Nos. 9 and 11 from this viewpoint.
  8. The dwellings on Orford Close are not of a substantial scale, but the space about and between them is relatively limited. In terms of that which does exist, the appeal site is a significant contributor. When viewed from Swinhope Road, the effect of developing a dwelling within the appeal site would be to close off one of the few spaces between dwellings resulting in a cramped layout which would alter the character and setting of Orford Close.
  9. Despite the substantial brick and timber-panel enclosure that marks the site's northern boundary with Dale View Road, it is nevertheless prominent within that streetscene, particularly so given the rising ground levels to north and northwest. Here, given the layout suggested on the illustrative site layout plans, a building would clearly be seen tight against the site's rear boundary and also that with Dale View Road. Indeed, given the nature of the site and relationship with Orford Close, it is difficult to imagine a dwelling or layout that would not result in a dwelling tight up to one or both of these boundaries whilst still respecting the layout of Orford Close. The proximity of the existing sub-station to the site's boundary further adds to the sense of excessive scale and erosion of openness which would result, and which would sit uncomfortably with the more spacious setting of Dale View Road and surrounding streets. The presence of the existing brick and timber panel fence would underline, rather than mitigate, the site's constraints and the incongruous effect of developing the appeal site.
  10. The building shown on the illustrative proposed site plan shows how the appellant anticipates a dwelling could be accommodated within the site. However, for the reasons set out above, it does not persuade me that a dwelling could be accommodated in this general manner without harm to the character or appearance of Orford Close or the surrounding area as a consequence of its cramped setting and the constraints of the site. A smaller building may go some way to addressing these concerns by allowing greater spacing or an alternative layout and siting, but to pursue this course would be likely in turn to result in a scale and form of development at odds with the prevailing scale and form of Orford Close.
  11. I accept that it is not uncommon for the side or gable elevations of houses to be sited close to plot boundaries allowing sufficient width for a path to provide access from front to rear. However, the illustrative plans suggest that such a layout would be likely within the appeal site on three sides of the proposed building and this proximity to the site boundaries, and also to the sub-station to the rear, would go beyond that which the appellant suggests is commonplace. From within the turning head of Orford Close, the spacing between a building and the existing property at No. 11 would provide a more

meaningful space across the widest part of the site. However, as this area would provide the property's only outdoor space it is likely that it would become congested with vehicles and other domestic paraphernalia which would undermine the openness that this area would otherwise contribute to the character and setting of Orford Close.

12. I accept too that the refusal reason does not specifically refer to the provision of outdoor amenity space. However, the indicative layout demonstrates that it would be difficult to site a dwelling within the site and still provide an appropriate amount of usable outdoor amenity space with any degree of privacy. As such, this underlines the cramped nature of the site and proposal. Together, these factors compound a pervading sense of cramped over-development suggested by the illustrative site plan. As a consequence it is difficult to see how an appropriate balance between the scale of any building relative to those around it, its position within the site and how it relates to those areas beyond the site, particularly the more open setting of Dale View Road, could be effectively or appropriately struck.
13. Thus, for the reasons set out, the proposal would fail to maintain or respond positively to the layout and setting of Orford Close or the area beyond the site on Dale View Road. The appeal scheme is therefore contrary to policies LP17 and LP26 of the Central Lincolnshire Local Plan (CLLP) which together seek to secure high quality forms of development which respond positively to local character and townscape. Although CLLP policy LP2 establishes the broad principle of residential development in medium villages such as Brookenby, and the proposed materials could be secured by condition to match those of other properties on Orford Close, the proposal would nevertheless fail to achieve the high quality form of design that contributes positively to local character and townscape sought by CLLP policies LP17 and LP26. I accept that the appeal site has previously been part of an approved development scheme but note that there are significant differences between the development plot previously and the current appeal scheme, not least of which is the heavily truncated extent of the current appeal site at the rear.

### **Conclusion**

14. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR