

Guildhall Gainsborough
Lincolnshire DN21 2NA

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AGENDA

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

Planning Committee

Wednesday, 12th July, 2023 at 6.30 pm

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

Members:

- Councillor Matthew Boles (Chairman)
- Councillor Jim Snee (Vice-Chairman)
- Councillor Emma Bailey
- Councillor John Barrett
- Councillor David Dobbie
- Councillor Ian Fleetwood
- Councillor Sabastian Hague
- Councillor Peter Morris
- Councillor Tom Smith
- Councillor Baptiste Velan
- Vacancy

1. **Apologies for Absence**
2. **Public Participation Period**
Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. **To Approve the Minutes of the Previous Meeting** (PAGES 3 - 17)
 - i) Meeting of the Planning Committee held on 31 May 2023, 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) 142460 - Land West of North Moor Road, Scotter (PAGES 18 - 47)
- b) 146461 - Land at Hillcrest Park, Caistor (PAGES 48 - 64)
- c) 146424 - Land adjacent 51A Washdyke Lane, Nettleham (PAGES 65 - 91)

7. **Determination of Appeals** (PAGES 92 - 130)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

Tuesday, 4 July 2023

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Planning Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 31 May 2023 commencing at 6.30 pm.

Present:

- Councillor Jim Snee (Vice Chairman, in the Chair)
- Councillor Emma Bailey
- Councillor John Barrett
- Councillor Ian Fleetwood
- Councillor Sabastian Hague
- Councillor Peter Morris
- Councillor Tom Smith
- Councillor Baptiste Velan
- Councillor Liz Clews
- Councillor Trevor Young

In Attendance:

- Sally Grindrod-Smith Director Planning, Regeneration & Communities
- George Backovic Development Management Team Leader
- Rachel Gordon Development Management Team Leader
- Ian Elliott Senior Development Management Officer
- Daniel Galpin Senior Development Management Officer
- Andrew Warnes Democratic and Civic Officer

Also In Attendance:

- 8 Members of the Public
- 1 Member of the Press

Apologies:

- Councillor Matthew Boles (Chairman)
- Councillor David Dobbie

Membership:

- Councillor Liz Clews sat as substitute for Councillor Matt Boles.
- Councillor Trevor Young sat as substitute for Councillor David Dobbie.

1 PUBLIC PARTICIPATION PERIOD

No statements were made during the public participation period.

2 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING

RESOLVED that the minutes of the meeting of the Planning Committee held on Wednesday, 26 April 2023 be confirmed and signed as an accurate record.

3 DECLARATIONS OF INTEREST

In relation to agenda item 6(a), (application number 146226 - Land off Owmbly Wold Lane, Owmbly) Councillor Morris indicated that he was the Local Ward Member for the area but had not been lobbied or asked about the application. He had attended a meeting at which the application had been mentioned but had not taken part in the discussions.

In relation to item 6(c) (application number 146210 – Land at Top House Farm, Grimsby Road, Caistor) Councillor Morris indicated that he lived in Caistor and knew the area extremely well. He had not however discussed the application in any shape or form prior to this meeting.

In connection with item 6(c) application number 146210 (Land at Top House Farm, Grimsby Road, Caistor), Councillor Smith indicated that he worked for Sir Edward Leigh but had not discussed the application in any shape or form prior to this meeting. He also indicated that as County Councillor for the area, he had been present at meetings at which the application had been mentioned but had not taken part in the discussions and had come to this meeting with a completely open mind.

In relation to item 6(a) (Land West of North Moor Road, Scotter) Councillor Fleetwood indicated that he was the Council's representative on the Scunthorpe and Gainsborough Water Management Board but he had not been involved in any discussions about the item.

As an aside, Councillor Fleetwood as the previous Chairman of the Committee, expressed his best wishes to his successor and the Vice-Chairman in relation to their recent appointments.

4 UPDATE ON GOVERNMENT/LOCAL CHANGES IN PLANNING POLICY

The Committee was advised that there had been a second round of consultation into something called “welcoming major recovery strategies”. These had been established under the Environment Bill. There would be 50 strategies covering the whole country and would cross multiple local authority districts.

The Government would appoint something called the “responsible authority” which would have a duty to draw up the strategies which DEFRA maintained would help map the most valuable sites and habitats for wildlife in the area and identify where nature could be restored. DEFRA felt that this action would better support spatial planning for nature this formed part of the Government's biodiversity net gain policies.

In thanking the Planning Officer for the update, the Committee was of the view that it would be helpful if all Members of the Council could be circulated with the updates submitted to this Committee in order to keep them abreast of changing planning policies.

The Planning Officer reminded Members that progress on Local Neighbourhood Plans could be viewed using this link: <https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/>

5 142460 - LAND WEST OF NORTH MOOR ROAD, SCOTTER

The first application before the Committee this evening was application number 142460 seeking approval of reserved matters for 43 dwellings, considering only the outstanding matters of appearance, landscaping, layout and scale, following the granting of outline permission on 19 December, 2017 on land west of North Moor Road, Scotter. The application had been referred to the Committee following the receipt of third party objections, including from the Local Ward Member and Scotter Parish Council.

The Planning Officer presented the report and gave an update. Since the report had been published, a further neighbour representation had been received from the occupant of 9 Messingham Road, Scotter, raising concerns over existing sewers and the sewerage system, stating that improvements needed to be made to that system, and that the hedgerow on the boundary of the site should be retained in the interests of sustaining the local wildlife.

An amended site plan had been submitted identifying the hedging to be retained. For the purposes of clarity the Planning Officer reminded the Committee that this was a reserved matters application where the Committee could only consider matters of scale, appearance, layout, landscaping and any other relevant material considerations. Matters of principle and relating to access had been considered during the determination of the outline permission.

Having received the Planning Officer's presentation, the Vice-Chairman welcomed the agent for the applicant, Mr Chris Dawkins, who addressed the Committee along the following lines:-

"This proposal delivers 43 new-build residential units on an allocated site in Scotter. The development comprises a mix of 2 and 5 bedroom properties, including bungalows and houses. This diverse mix provides housing suitable for first-time buyers, the elderly and also larger properties suitable for family living.

The proposal includes 10 affordable housing units, and 30% of the properties will meet the enhanced accessibility standards of Part M category 2. The site benefits from an existing outline planning consent for 51 residential units and an allocation for residential development within the Local Plan. As such, this development will be important to meet the five year housing supply targets for Scotter.

A large number of comments have been received by from statutory consultees and members of the public. During the determination period we have made a significant number of changes to the plans and submitted additional information, which we believe addresses these concerns.

The proposed layout features two access points onto North Moor Road which have already been agreed at outline stage, and we are not proposing to change them at this stage. The Highways Authority has confirmed it has no objections to the proposed layout or access points and have indicated that in their opinion there are no issues in terms of highway safety.

With regard to the parking provision, we confirm that all properties include space for 2 to 3 cars on the driveway, as illustrated on the plans. In addition, all house sites, except for the 3 bedroom Warwick semi-detached property, include a single garage. The five-bedroomed property includes a double garage, and the Highways Authority has again confirmed that they consider the parking provision to be adequate.

The planning conditions attached to the outline consent require the provision of a 1.8 metre wide footpath along the west side of North Moor Road to connect the development to the playing field to the north of the site, which is shown on the layout.

It is noted that it is not possible for this footpath to connect all the way back to Messingham Road, as it would have to pass over third party land to do so. As requested by the Highways Authority, it is instead proposed to provide a tactile crossing point in a suitable location to allow pedestrians to cross the existing footway on the east side of North Moor Road. The proposed layout has been designed in accordance with good practice design guidance.

Although West Lindsey does not include prescriptive design standards in its Local Plan, we have followed the guidance stated in successful places, which is the design guide used by a number of local authorities in the Midlands. This document suggests a recommended minimum distance of 10.5 metres between a residential property and the rear boundary of its garden to avoid overlooking and/or overshadowing or overbearing impact. In the case of this proposal, the proposed bungalows all have a separation distance of 12 to 13 metres to the rear boundary which is well in excess of that recommendation.

We have reduced the ridge height of the three bed bungalows as much as possible by lowering the pitch of the roof to 30 degrees, which is quite a shallow pitch compared to a typical property of this type, and it would be not possible to lower it further without creating technical and aesthetic issues. We do not believe that the ridge height of the proposed properties is excessive.

The proposed three bedroom bungalows have also been oriented such that the eaves run parallel to the rear boundary fences. This is to mitigate the visual impact of the taller gable ends and eliminate any overshadowing of the neighbouring gardens.

In relation to the concerns about the capacity of the foul sewer network, we have been in contact with Severn Trent Water during the development of our drainage proposals. They are aware of the existing sewer capacity issues in Scotter and have acknowledged that upgrades will be necessary to resolve the existing issues and to upgrade the capacity of the sewer to facilitate the new development. We have agreed to keep them updated regarding the progress of the development so that the necessary infrastructure upgrades can be carried out prior to completion and these upgrades should resolve any issues with foul drainage both on the proposal site and the neighbouring properties.

We confirm that all the existing hedges around the corner of the site will be retained. Finally, we have also confirmed that the existing high voltage line to the south boundary of the site will be retained and will not be affected by the development. We have left sufficient space to the side of Plot 43 to the south of it to allow maintenance access to the line so we believe

this addresses all the concerns raised during the planning process. However, should the Planning Committee have any questions relating to any of these points we would be happy to provide further clarification. Thank you”.

The Chairman thanked Mr. Dawkins for his contribution. The Chairman then welcomed Mr John Murray who addressed the Committee along the following lines:-

“Good evening I am Mr. John Murray and I reside at Rustlings, Messingham Road Scotter. Sorry, if I sound nervous but I have not done this before. My house is at the southern end of the row of semi-detached bungalows. The final dwelling in that road is a 3 bedroomed bungalow behind my house, with a greater floor area and therefore higher ridge height and is slightly closer to my home than all the others. I am asking why I have not been granted the same rights as all the other residents on that road and have been singled out and disadvantaged. I am sure Members of this Committee who live where I do, would probably feel the same.

I am sure that West Lindsey as Planning Authority has a duty to engage with the developer and I am sure a thoughtful and understanding developer would make minor changes, i.e. a two bedroom bungalow instead of a three bedroom with the same roof ridge height and the same footprint as all the other dwellings, which run along that boundary.

I did speak with the Planning Officer and he said it would probably only be probably three quarters of a metre or something like that, but when I am looking from my house, that means a big difference to me.

At the bungalow behind me there is a high velocity power, cable which runs down the side of my house and then runs diagonally to a telegraph pole. I am approaching 80 years of age and suffer health problems, although I appreciate that this is not a material planning consideration. The sewerage system has resulted in outfall in my garden, when it was blocked up.

The properties on North Moor Road have also suffered significantly from outfall from the sewerage system. Obviously the sewerage system for this and any other developments will cause pressure on the system. Thank you all for listening to me”.

The Chairman thanked Mr Murray for his contribution and then invited the Democratic Services Officer to read out a statement from Mr Richard Proctor, who unfortunately was unable to attend this evening’s meeting:-

“The submitted site plan shows plot 1 having its own private driveway entering directly onto North Moor Road Scotter. This is on a bend and a location where numerous accidents have previously occurred. This access point should be refused to protect road users and support casualty reduction.

Although the development will no longer have vehicles exiting by reversing onto North Moor Road as previously proposed, it still does not deal with the problem that the road will become busier and potentially more dangerous with circa another 100 vehicles entering

what is an identified road casualty hotspot regularly patrolled by the Lincolnshire Road Safety Partnership and Community Speed Watch Team.

The sole exit point for vehicles will be close to the rounded corner from Messingham Road which allows vehicles to maintain and easily accelerate their speed along Northmoor Road. This issue needs to be considered in the context of the additional proposed residential development taking place on the east side of Northmoor Road with another estimated 100 vehicles expected to at some point in the future entering onto Northmoor Road and the impact that may have on congestion and road safety”.

The Chairman thanked the Democratic Services Officer and then invited Councillor Lesley Rollings to address the Committee as the Local Ward Member:-

“The developer appears to give the impression that the opportunity to create a public footpath to and from the site exists which we understand is unachievable.

The planning application documents mention a 1.8m wide footway to join existing footways, but a resident who is one of the objectors listed above owns the land to the kerb and is unwilling to sell his land for the footway to be constructed. This is a significant issue.

Therefore, if the intention is to provide a tactile crossing near the exit of the development to the other side of North Moor Road this will be in close proximity to a dangerous junction. This junction often has speeding vehicles at varying times of the day and witnesses report seeing vehicles straying over the white lines and travelling in excess of the 30 miles per hour speed limit.

If the tactile crossing is where we understand to be sited there will need to be another such crossing established so pedestrians can cross back over to the other side of the road, so they can have uninterrupted access to the village. This will be close to the junction situated on the corner of Northmoor Road with its junction onto Messingham Road, Scotter which from our lived experiences is an extremely busy junction where both cars and HGV vehicles travel across on a frequent basis.

Hence there is still no evidence provided in this application to demonstrate how pedestrians some of whom are highly likely to be children can safely walk from the site into the village centre where the school and other amenities are situated. This is a serious matter and needs to be addressed as the Local Authority has a statutory responsibility under section 39 of the 1988 Road Traffic Act to take steps to reduce and prevent Road Traffic accidents.

We recognise that the proposed site for development is identified as such in the current Scotter Neighbourhood Plan following a democratic process informed upon by the local Scotter community.

This Plan locally elected politicians promised us was a document that would protect our rights as citizens in influencing how the development would be designed and constructed including the size and scale of the permitted development.

The Neighbourhood Plan clearly identifies the size, scale and shape of the plot which corresponds with that as originally granted in the outline planning consent. However, despite this being in place the developers as detailed in the site investigation report which is attached to this application are intent on a phase 2 development of the site where they are seeking to extend the site boundary so as to build additional properties beyond that as approved in the outline planning consent and in direct contradiction of the Neighbourhood

Plan. The planning application to do so is currently under the consideration under reference no. 144062.

If this is permitted, then it makes the Neighbourhood Plan “a worthless piece of paper” in direct contradiction to the wishes of the local community and an attack on democracy.

We plead as residents that there is strict adherence to the Neighbourhood Plan where any plans to extend the site is refused. As locally elected councillors who are accountable to the local community you have a responsibility to uphold our rights as impacted residents and ensure that there is no further “mission creep” by extending the size and scale of the site.

The Amended Preliminary Drainage Layout indicates the existing foul sewer is to be diverted as it crosses the proposed development area. It states this sewer currently connects to 75 dwellings upstream. Local residents inclusive of ourselves have experienced sewerage seeping into our gardens and driveways after heavy rain fall.

The proposed application states although it will have a steeper gradient, it is assumed that the flow rate, including output from the new houses, of 5.6 l/s is easily managed by the existing capacity of 10.71. However, existing households within close proximity of this development which currently link into this sewer already have problems with the existing flow rate of only 3.5 l/s with sewage seeping into driveways and gardens after heavy rain.

As identified, this application to develop this proposed site has significant issues of concern and I urge you in the interests of the local community that you refuse this application for the reasons provided. Thank you.”

The Chairman thanked Councillor Rollings for her contribution and invited the Planning Officer to respond to the points made by the speakers.

Referring to what has been called the phase 2, the Planning Officer reported that this application was currently a live application with the Local Planning Authority (LPA) and relates to an extension of the site to the west but is not relevant to the application being considered this evening.

With regard to the vehicle access points, they were all set in stone at the outline permission stage.

In terms of the footpath, conditions were recommended by the Highways Authority. These included a footpath to the playing field and also a footpath and tactile crossing, if required, towards the Cross Road junction. The LPA was aware of the land ownership issue and it was likely that a footpath with a tactile crossing would be required to go on to the side of the road. It was confirmed that North Moor Road was subject to a 30mph limit.

In terms of drainage, the scheme arrangements had been accepted by the Lead Local Flood Authority. The site would connect to the main sewer for foul water, which was the preferred option in accordance with national guidance. This would require consent from the relevant water authority, who would also be responsible for showing that that system was capable of accepting additional waste into it, and would need to make improvements if necessary. With regard to flooding, there is a floor level condition on the outline permission which has to be adhered to. In terms of the bungalow at the end of the development, this was a slightly

bigger bungalow (0.5 metres higher) but it was nearly 13 metres from the shared boundary.

Having heard the comments of the Planning Officer, the Chairman then opened up the application for debate by the Committee.

A number of Members were concerned about the foul drainage disposal arrangements, citing previous problems in the area. Comments were additionally made about whether the LPA were responsible for connectivity to the existing mains sewer and ensuring the existing mains sewer has capacity. Concerns over the access to plot 1 closest to the playing field on a blind bend was a concern as North Moor Road was not a safe road with vehicles speeding. Sympathise with speaker in term of height of proposed dwelling adjacent his boundary. Site is known to flood. Like more information on affordable aspect of site.

The Committee was reminded that the principle of the development had already been accepted when the outline application had been approved and that the issue of the disposal of foul drainage was a matter for the developer and the water authority, which had a statutory obligation to ensure that there was adequate capacity for its disposal.

Whilst Members appreciated this position they nevertheless were of the view that prior to reaching any firm conclusion a site visit would be appropriate in this case in order to gain a fuller understanding of all the issues raised at this meeting. Accordingly, it was proposed and seconded that a site visit should take place and upon being put to the vote this proposition was carried unanimously. It was therefore

RESOLVED that this application be deferred to enable a site visit to take place for the reasons outlined above.

6 146226 - LAND OFF OWMBY WOLD LANE, OWMBY, BARNETBY

The Chairman introduced the next application of the meeting, Item 6(b), application number 146226 seeking permission for the construction of a single storey dwelling on land off Owmbly Wold Lane, Owmbly. The application had been referred to this Committee, it being a departure from the Central Lincolnshire Local Plan and following third party representations.

The Planning Officer presented the report, concerning which there were no updates. However he clarified the position in relation to the proposed dwelling being a departure from the Local Plan.

The Chairman welcomed Kate Kelly, agent for the applicants, who addressed the Committee along the following lines:-

“Good evening Committee Members. As the case officer has explained, this application is for a new house in the countryside, which has been submitted as an exemplar dwelling within the considerations of paragraph 80 of the National Planning Policy Framework (NPPF).

The fundamental driving force behind this application is the intention to create a self-sufficient multi-generational house and gardens which allows for reparation of a small piece

of Lincolnshire farmland. The design of the garden and wider landscape is founded on the scientifically based practice of permaculture. The development aims to cultivate a sustainable and resilient design environment and is as an exemplary model of responsible land stewardship.

The application meets both criteria of paragraph 80 in that the site in planning terms is isolated. The design of the house and its landscape is outstanding, and the scheme has been subject to intense and rigorous review by an independent design review panel, who concluded that the design is an exemplary scheme which will enhance its immediate setting and raise the standards of design in rural areas.

In addition to the proposed permaculture landscape, the house will be completely off-grid. Its operational carbon will be minimised using solar power with battery storage, heat recovery systems and a heating system. which uses biomass. Construction materials will have very low carbon, the house construction is timber hemp and Lime with green roofs.

Part of the proposed hydrology strategies, involve the recreation of a former pond located at the lowest part of the site. The pond would be sited close to a damp area on the site and would be used to store water for irrigation and contribute to the biodiversity of the development.

Lincolnshire County Council Highways and the Ramblers Association have not objected to the development and a construction management plan will be submitted as part of any planning conditions to ensure the construction of the development is carried out in a safe and considerate way.

The proposed development accords with all the technical considerations of both the previous and newly adopted Central Lincolnshire Local Plan, and no grounds for refusal, have been raised by any of the local authority internal consultees. It has been demonstrated through the design review panel process that the proposed dwelling is truly outstanding and would significantly enhance its immediate setting.

The application accords with the overarching ambition of sustainability, which underpins both Central Lincolnshire and national planning policy, and we feel should be supported. Thank you".

The Chairman thanked Kate for her contribution, concerning which the Planning Officer had no observations. The Chairman then opened up the application for debate by the Committee.

Members welcomed the development which they felt was of a high standard in the design and the location of the dwelling, even with the concerns of the approach and refuse collection issues.

Having been proposed and seconded, the Chairman put the application to the vote, and it was agreed unanimously that permission should be **GRANTED** subject to the following conditions:-

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

1. The development hereby permitted must 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 must take place until a construction method statement has been submitted and agreed in writing by the local planning authority. The statement must provide for:
 - (i) the routing and management of 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) wheel cleaning facilities;
 - (vi) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;

The development must be completed in strict accordance with the approved details.

Reason: To restrict disruption to the use of Owmbly Wold Lane for farm activity and recreational use of the public rights of way to accord with the National Planning Policy Framework and local policy S47 of the Central Lincolnshire Local Plan 2023.

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 must be carried out in accordance with the following proposed drawings:
 - 499.10 Rev A dated 17th February 2023 – Site Plan
 - 499.11 Rev A dated 31st January 2023 – Elevation and Floor Plans

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

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and local policy S53 of the Central Lincolnshire Local Plan 2023.

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

details.

Reason: To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework and local policy S21 of the Central Lincolnshire Local Plan 2023.

5. No development above ground level must take place until details (including the colour) of all external and roofing materials to be used have been submitted to and approved by the Local Planning Authority.

Reason: To safeguard the character and appearance of the site and its surroundings and ensure the proposal uses materials and components that have a low environmental impact and to accord with the National Planning Policy Framework and local policy S53 of the Central Lincolnshire Local Plan 2023.

6. No occupation must take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Details to include:

- Type, height and position of all soft and hard boundary treatments.
- Details of all new hard landscaping within the site such as gates, fencing, walls and railings.
- Details of all new turfing.
- Material finish of all hardstanding (access road, driveways, patios and paths).
- Species, planting height, formation, position and aftercare of all new trees and hedging.
- Species, planting height, formation, position and aftercare of all new infill hedging.

Reason: To ensure that appropriate landscaping is introduced and would unacceptably harm the character and appearance of the site or the surrounding area to accord with the National Planning Policy Framework and local policies S53 and S66 of the Central Lincolnshire Local Plan 2023.

7. No occupation of the dwelling must take place until the access, vehicle parking and turning space identified on site plan 499.10 Rev A dated 17th February 2023 has been fully completed and retained for that use thereafter.

Reason: To ensure safe access to the site and the dwelling in the interests of residential amenity, convenience and safety and to allow vehicles to enter and leave the highway in a forward gear in the interests of highway safety to accord with the National Planning Policy Framework and local policy S47 and S49 of the Central Lincolnshire Local Plan 2023.

8. The development hereby approved must only be carried out in accordance with section 4.2 of the Preliminary Ecological Appraisal by KJ Ecology Ltd dated February 2022.

Reason: To respond to the enhancement recommendations of the updated survey by KJ Ecology Ltd to accord with the National Planning Policy Framework and local policy S60 of the Central Lincolnshire Local Plan 2023.

9. If during the course of development, contamination is found to be present on site, then no

further development (unless otherwise agreed in writing by the local planning authority) must be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the local planning authority. The contamination must then be dealt with in accordance with the approved details.

Reason: In order to safeguard human health and the water environment and to accord with the National Planning Policy Framework and local policy S56 of the Central Lincolnshire Local Plan 2023.

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

10. All planting and turfing comprised in the approved details of landscaping (see condition 6 above) must be carried out in the first planting and seeding season following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping should be retained thereafter.

Reason: To ensure that additional trees are provided within the site to mitigate for the trees which are to be removed to accord with the National Planning Policy Framework and local policies S53 and S66 of the Central Lincolnshire Local Plan 2023.

11. Notwithstanding the provisions of Classes A, AA, B, C, D, E, F and G of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the dwelling hereby permitted must not be extended, altered and no buildings or structures shall be erected within the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable any such proposals to be assessed in terms of their impact on the character and appearance of the dwelling, the site and its surrounding in accordance with the National Planning Policy Framework and local policy S53 of the Central Lincolnshire Local Plan 2023.

12. Notwithstanding the provisions of Classes A of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the dwelling hereby permitted gates, fences, walls or other means of enclosure must be erected within or on the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable any such proposals to be assessed in terms of their impact on the character and appearance of the dwelling, the site and its surrounding in accordance with the National Planning Policy Framework and local policy S53 of the Central Lincolnshire Local Plan 2023.

7 146210 - "LAND AT TOP HOUSE FARM", 23 GRIMSBY ROAD, CAISTOR

The Committee then moved on to consider the last application of the meeting – item 6(c) application number 146210 seeking planning permission for the installation of solar PV panels on land at Top House Farm, Grimsby Road, Caistor. The application had been

referred to the Committee following the receipt of third party representations.

The Chairman invited the Planning Officer to present the report, concerning which there were no updates.

The Chairman welcomed Mr Bruno Hickson, the agent representing the developers who addressed the Committee along the following lines:-

“Good evening. This is a statement on behalf of the board of the Rock Foundation. We are a charity that provides for some of the most vulnerable people in our area.

We have learning disabled adults and students and their carers, who are dependent on day service provision. We have residents for whom supported living provides them with the security and stability that is critical to their lives and well-being. As an organisation, we have invested heavily in Top House Farm, a Grade II listed building, to ensure that it is maintained to a high standard.

It has become a valued rural enterprise on which many in the local community have come to rely. The community allotment and the tea rooms are popular and a valuable resource.

However, a Grade II listed status and the design of the building means our options to achieve an affordable and sustainable energy supply and thereby reduce our own carbon footprint, are very limited.

Without provision for solar panels, ongoing energy costs have taken a significant chunk of our finances and this directly affects our future and the essential services that we provide. We have chosen a design that is purposely very low profile.

We believe that the proposal does not have a significant impact on the environment, being relatively small and low in height. The proposal will provide low cost energy to our charity and ensure that the facilities that we provide to disabled students, adults, our residents and the carers and the local community can be maintained in the long term. Thank you”.

The Chairman thanked Mr Hickson for his contribution and invited the Planning Officer to comment. The Planning Officer indicated that he had nothing further to add to his opening remarks. The application was then opened up for discussion by the Committee.

Reference was made to the sowing of wild flower seeds as part of the landscaping scheme and it was felt that a note of the Committee’s expectations in this respect should be added to the grant of permission if approved.

A number of comments were made about the location of the panels and Members were advised that following discussions with the Council’s Conservation Officer it had been felt that the location proposed in the application would be the least intrusive to the setting of the listed building. However, it was proposed and seconded that a site visit should take place to enable members to satisfy themselves that the proposed location of the panels was the right one within the context of the setting of the listed building.

Having been proposed and seconded, upon being put to the vote, the proposition for the Committee to make a site visit was **LOST**.

It was thereupon proposed and seconded that the report recommendations be approved and this was carried by a majority vote.

Accordingly it was agreed that permission should be **GRANTED** subject to the following conditions and a note concerning the Committee's expectations in relation to the landscaping scheme with particular regard to the sowing of wild flower seeds:-

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

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

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

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

None.

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

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: Site Layout/Block Plan, Proposed Site Layout/Block Plan, Proposed Panel Details, Proposed Elevations and Site Location Plan (1:2500), received 7th March 2023 and Rock Foundation – Layout, received 31st March 2023. The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and Policy S53 of the Central Lincolnshire Local Plan.

3. The development must be completed in strict accordance with the solar panel specification shown on the Proposed Panel Details and Proposed Elevations, received 7th March 2023.

Reason: To ensure the use of appropriate materials to accord with the National Planning Policy Framework and Policy S53 of the Central Lincolnshire Local Plan.

4. Any construction activities and deliveries of solar panels, equipment or machinery related to the development shall only be carried out during the following hours:

- i. Monday to Friday: Between 7:00 AM and 6:00 PM.
- ii. Saturdays: Between 8:00 AM and 1:00 PM.
- iii. No construction activities shall be permitted on Sundays and Bank Holidays.

Reason: To ensure that the construction period does not result in any unacceptable impact

on the amenity of the occupiers of nearby dwellings in accordance with Policy S53 of the Central Lincolnshire Local Plan and paragraph 130 f) of the National Planning Policy Framework.

5. Prior to the first use of the development, full and final landscaping details, including the proposed enhancements and type of planting shall be provided to and agreed in writing by the Local Planning Authority.

Once the details have been agreed the planting shall be carried out in the first planting and seeding season following the completion of the development, whichever is sooner; and any planting which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping should be retained thereafter.

Reason: To ensure that appropriate landscaping is introduced to enhance the character and appearance of the site and to accord with Policies S60 and S61 of the Central Lincolnshire Local Plan.

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

6. The solar PV equipment shall be removed as soon as reasonably practicable when no longer needed.

Reason: To minimise the impact of the proposed development on the character and appearance of the area and to minimise the impact of the proposed development on the setting and significance of nearby heritage assets in accordance with the National Planning Policy Framework and Policies S53, S57 and S62 of the Central Lincolnshire Local Plan.

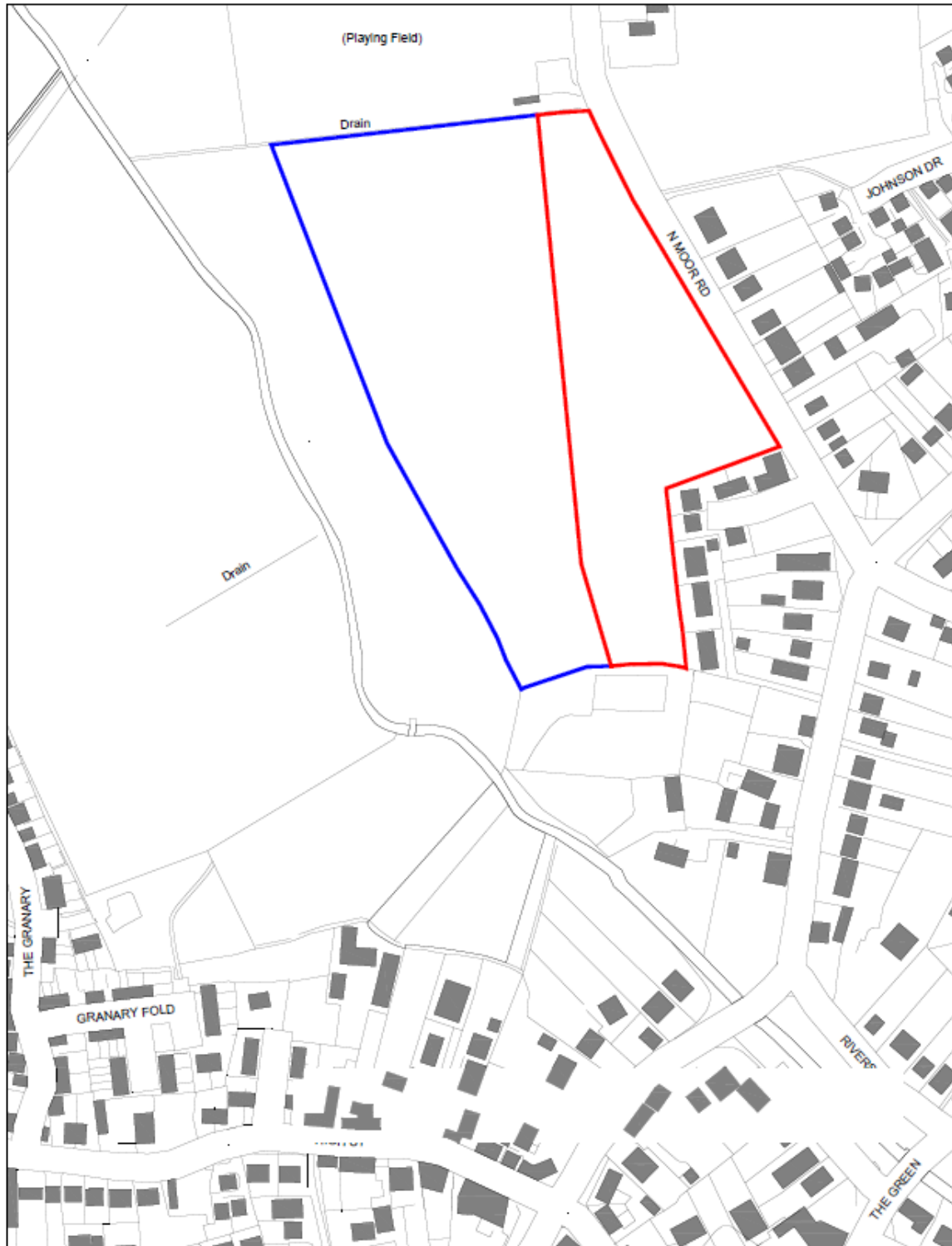
8 DETERMINATION OF APPEALS

The determination of appeals was **NOTED**.

The meeting concluded at 7.47 pm.

Chairman

Agenda Item 6a



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Officers Report

Planning Application No: 142460

PROPOSAL: Application for approval of reserved matters to erect 43no. dwellings considering appearance, landscaping, layout and scale - following outline planning permission 134677 granted 19 December 2017.

LOCATION: Land West of North Moor Road Scotter Gainsborough DN21 3HT

WARD: Scotter and Blyton

WARD MEMBER(S): Cllr Mrs L Clews, Cllr Mrs L A Rollings and Mrs K Carless

APPLICANT NAME: Mr Shaun Hunt

TARGET DECISION DATE: 14/05/2021 (Extension until 14th July 2023)

DEVELOPMENT TYPE: Major - Dwellings

CASE OFFICER: Ian Elliott

RECOMMENDED DECISION: Grant permission subject to conditions

Planning Committee:

This application has been referred to the Planning Committee following third party objections including the Ward Member and Scotter Parish Council.

The planning committee at its meeting on 31st May 2023 resolved to defer this planning application for a member site visit to take place. The planning committee site visit took place on 15th June 2023 commencing at 1pm. The site visit took in views of the site from North Moor Road and from within the site.

Description:

The application seeks approval of reserved matters for 43 dwellings, considering only the outstanding matters of **appearance, landscaping, layout and scale**, following outline permission 134677 granted 19th December 2017 with access considered.

The application site is a plot of agricultural land measuring 2.06 hectares adjacent the northern section of Scotter. The land is set just back from North Moor Road which has a 30mph speed limit. This increases to 60mph adjacent the Scotter Football Club vehicular access. The site has an existing wide access point to the east boundary adjacent 7 Arrandale which is effectively a gap in the hedging. The land slopes gently downwards from east to west.

The north boundary is screened by low hedging and a single tree with low hedging to both east boundaries. The south boundary shared with dwellings on Arrandale is screened by high hedging and fence panels. The southern-

most south boundary is screened by high hedging with some gaps. The west boundary is fairly open with some low hedging.

To the north of the site is Scotter Football Club (Northmoor Park Playing Field). Neighbouring dwellings of mixed scale and design sit opposite or adjacent the east and south boundaries. Additionally to the southern-most south boundary is an equestrian facility. Open fields sit to the west.

The site is located in flood zone 1 with flood zone 2/3 nearby to the west.

This application has been awaiting drainage and layout information from the agent for a number of months. On submission of the missing information the reserved matters application was increased to 43 dwellings and triggered a full re-consultation of 21 days commencing 23rd March 2023.

Relevant history:

134677 - Outline planning application to erect up to 51no. dwellings with access to be considered and not reserved for subsequent applications – 19/12/17 - Granted time limit and other conditions

144062 - Planning application to erect 11no. dwellings – Yet to be determined

Representations

Representations made in relation to the application, the substance of which are summarised below (full representations can be viewed online)

Amended site plans received 23rd July 2021 and 23rd March 2023

Cllr L Rollings: Objections (summarised)

Affordable housing

I believe that the application should be considered in terms of the original application. Scotter's Neighbourhood plan has identified that the village does not need any more large, executive housing and that promises, by the applicant to build affordable housing in an additional application that may not happen, should not be considered.

Flooding and drainage - setbacks

The particular site in question, adjacent to this site regularly suffers significant flooding. As it currently stands, properties in this location would be internally flooded. I find the response from the Environment Agency to be inadequate and would suggest that perhaps the right team has not been asked to respond. I would ask that the District council pursue a more meaningful response from the EA.

I am fearful that this application and its lack of attention and awareness of drainage and flooding issues, will add to what is a very precarious situation and only make matters worse, in Scotter, where downstream problems cause water to back up into the village.

Safety of pedestrians and cyclists - Northmoor Road / Messingham Road.

The speed of traffic entering the village along Northmoor road need to be reduced significantly to allow children to turn right out of the proposed development, safely in order to cycle to school in the village.

A substantial footpath needs to be created on the same side of Northmoor Road up to Messingham Road and a crossing provided on Messingham Road to allow pedestrians to cross these roads safely, to access village amenities, as the current controls on speeding traffic are inadequate.

Impact on neighbouring properties

I support the comments made by others regarding the proposed height of the bungalows. Does this height allow for future conversion of the upstairs space? I do not believe it is necessary to overshadow adjacent properties.

Parking

The properties must have adequate parking for at least two cars. Less creates problems between neighbours.

Can I request that this application is considered at full planning committee.

Scotter Parish Council: Objections

Representation received in relation to previous versions of the site plan can be viewed online. The most up to date comments are summarised below:

Affordable Housing

The Parish Council are pleased to see that the affordable housing has now been included and welcome this amendment.

Drainage

However there are still serious concerns for drainage, both surface water and sewerage. The plans now show the addition of a pumping station, but no information has been provided as to the suitability/effectiveness of the pumping station. The existing system already struggles for capacity as evidenced by existing residents having issues with flash flooding and gardens flooding with sewerage during heavy down pours. The Parish Council have previously requested a capacity survey of the full system, has this been considered or actioned?

There are concerns that the new plan shows plot 34 & 43 as 3 bed bungalows where the rest of the row is 2 bed bungalows. There is a lack of information in respect of roof heights of the 3 bed bungalows. The elevation documents do not specify the heights therefore raising queries about roof height and overlooking for the existing properties. The Parish Council would expect a bungalow to have a roof height of 5.6m as noted in previous comments, if the height of the 3 bed bungalows exceed this the Parish Council would find this unacceptable.

All our other comments that have not been addressed in this comment still stand and still need to be taken into consideration.

Local residents: Representations received from:
(Representation received in relation to previous versions of the site plan can be viewed online) The most up to date comments are summarised below:

12 Messingham Road, Scotter
11 Johnson Drive, Scotter
22 North Moor Road, Scotter
Maracuja, Messingham Road, Scotter
Applegarth, Messingham Road, Scotter
4 Arrandale, Scotter
Cartmel, 10d Messingham Road, Scotter

Scale

- Property heights still too high.
- Height of bungalows needs to be addressed as too high at 5.7 metres.
- Should be a condition preventing properties from being increased in height.
- Height of Grasmere bungalows at 6.2 metres high should be conditioned.
- I am most concerned that 3 bedroom property at the rear of 10d Messingham Road will be wider than the two bedroom properties therefore been of a greater height of the roof.

Landscaping

- Could you please ensure that the existing hedge is retained to allow for the existing wildlife to flourish over 25 years

Residential Amenity

- The height of the bungalows in particular need to be addressed so that they are not able to overlook the residences that are already there. They should not be allowed to convert to enable them to have a second storey.

Highways

- Should be considered with all other developments
- Safe access to and from the site is an issue as North Moor Road is already a fast and dangerous road, with a steady stream of traffic after the early morning and evening peaks.
- Traffic exceeds 30mph which makes crossing the road dangerous and difficult.
- Plot 1 has its own drive off North Moor Road and is not a sensible option on the bend into the village and should not be permitted.

Footpath

- Connection to existing footpath would not be possible due to crossing land in private ownership. Some form of crossing would be required.
- Footpath situation will be dangerous to people.
- no evidence provided in this application to demonstrate how pedestrians some of whom are highly likely to be children can safely walk from the site into the village centre where the school and other amenities are situated.

Drainage

- Complete check of existing drainage system should be undertaken including CCTV.
- There needs to confidence that the design of the drainage considers all of the factors for all three developments.
- Need to reconsider the drainage for the site including a secure outfall, source control and attenuation.
- There is well documented drainage and sewerage problems at properties this side of the road (Johnson Drive) and the development will only compound the issue.
- Needs upgrading before all new dwellings built on two planned developments.
- Amount of dwellings will be a strain on the sewerage system.
- Taking account of the already recorded issues regarding the inadequacy of the current sewerage system, feasibility studies prior to this application being passed should be conducted

Affordable Housing

- There is an underrepresentation of affordable housing in the application.

LCC Highways/Lead Local Flood Authority: No objections

Representation received 4th May 2023:
No objections subject to conditions

Representation received 18th March 2021: Additional Information Required

Drainage

With the evidence of clay identified within the on-site testing and the groundwater levels monitored and recorded at 0.80mbelow ground level, it is unlikely infiltration can be achieved on site in accordance with Lincolnshire Development Road Specification. Groundwater levels should be at least 1.0 metre below the base of the SuDs component. When infiltration forms the proposed strategy, soaked CBR testing is required to determine that the CBR is greater than 3%.

Highways

- Please consider tree lined streets within the adoptable areas, this authority will consider the adoption of tress (subject to type and location)
- A service margin is proposed at 600mm. In accordance with the HAUC Specification a minimum of 2.0 metres is required and this should be a soft service margin.
- A drawing is to be submitted identifying the proposed tactile crossing points.

Environment Agency: Does not wish to comment

The application does not appear to match any of the criteria on our consultation checklist.

WLDC Environmental Protection: No objections subject to a condition.

Representation received 20th October 2021:

I've reviewed the Site Investigation Report (S200901 dated November 2020) by Solmek that has been submitted with this application.

I found the report confusing as it should be read in conjunction with other investigation reports which have not been submitted with this application.

Only 3 soil samples were analysed across the Phase 2 area for this report and although no contamination was found the report refers to cyanide contamination that was found during the testing of the Phase 1 area (in another report not provided) and advises caution and further testing.

In the circumstances I would suggest that you add the full contaminated land condition to ensure that the ground contamination investigation is revisited. Then the applicant can submit all of the relevant reports for the site and the further information that will be required (testing and remediation statement) moving forward.

Representation received 10th March 2021:

I've just had a quick look at this one and can't readily see even the basics of a surface water management strategy outside of permeable surfaces and foul sewers as set out in the Preliminary Drainage Strategy Drawing

Nothing is readily evident in these applicant documents as to how surface water will be managed, stored, attenuated or disposed of outside of reference to permeable surfaces that have no supporting information around capacity and infiltration and as such I can't readily see how 'appearance, landscaping, layout and scale' can reasonably be approved without knowing how the site is going to be drained or protect and be protected against flood impact.

Reference in the Design and Access Statement includes that of a Flood Risk Assessment (not included) and to changed (reduced) flood risk from that historically apparent and in relation to flood zones – however these matters need to be addressed as part of this application in order to provide assurance that 'appearance, landscaping, layout and scale' can be assured as having the best sustainably available drainage strategy.

WLDC Tree and Landscape Officer: Comment

Representation received 10th March 2021:

This plan is insufficient regarding the amount of proposed soft landscaping and the necessary details. Further tree and native hedge planting is required, with details on species, size and form of trees, and density and planting layout of hedges. Some adjustments are required in addition to further soft landscaping required. A landscaping plan should be clear on what is to be planted in which position.

WLDC Senior Neighbourhood Planning Policy Officer: Comment and advice

Appearance - H2/D5/T7
Layout - H2/D5/T7/T8/T9/T10/013
Scale of the buildings - H2/D5/T7
Landscaping - H2/D5/T7/L10/010
Accessible dwellings 30% - H3?/D5
Maximum of 51 dwellings - H2/H3?
Two storey dwellings 20 meters from existing - H2/D5
footway to football ground - H2/D5/T8/T10

I would also advise making reference to the Scotter Character Appraisal which is a supporting document to the NP. Although the application site does not fall within an identified character area it does border three of them. For each the Appraisal provides design guidance which you might like to refer to. The Areas are: B (page 68on), C (see page 74on), and L9 (page 138on).

I note on the amended layout that many dwellings no longer front on to North Moor Road as they did on previous layout. In this connection, I would also like to refer you to the Character Appraisal page 72 figure 117 with supporting text.

Lincolnshire Police: No objections

NHS (North Lincolnshire CCG: Comment

The Kirton Lindsey Practice is already under pressure due to limitations with space at both their practices in Scotter and Kirton in Lindsey, and any increase in new housing is likely to impact on requests for new patient registrations, potentially increasing the list size and demand for clinical services.

We suggest the methodology used to determine a suggested amount of S106 funding is used from the Local Plan Housing and Primary Care Analysis, which uses a rate of £723.16 per dwelling: $£723.16 \times 42 \text{ housing units} = £30,372.72$ The Practice are already developing proposals for an extension and internal reconfiguration works to the surgery building, to provide additional space for delivery of primary care services, and to potentially provide space for the delivery of some wider community services, which will benefit local patients.

Should the request for S106 funding be successful, it would be used towards the proposed works at the Kirton Lindsey Surgery building, retaining services in the local community through maximising space for clinical service delivery within the existing building. Whilst the North Moor Road site is one housing development in the local area, the cumulation of all new housing proposed is adding to the pressures already faced by the Kirton Lindsey Practice. It is felt that the request is reasonable and at scale in relation to the application, and will provide necessary development of the local GP Surgery to continue delivery of primary care service for local patients.

WLDC Developer Contributions and Enabling Officer: Comment

The proposal provides in excess of the requirements of the S106 agreement associated with the outline permission, through the provision of 10 affordable housing units on the site. The proposed affordable tenures are also in line with those stated within the agreement, with 7 of the units being for Affordable Rent and 3 for Shared Ownership. The distribution of the affordable properties across the site is acceptable.

It is noted that all of the affordable housing units are proposed to be 3 bedroom houses, and that the proposed house type for these includes an en-suite bathroom. En-suite bathrooms are not normally required in affordable housing and so it would be advisable to obtain clarification from the Registered Provider seeking to acquire the affordable units, that the house type meets their requirements.

LCC Education: No comment to make.

LCC Archaeology: No representations received to date.

Lincolnshire Fire and Rescue: No representations received to date.

LCC Minerals and Waste: No representations received to date.

ECM checked: 27th June 2023

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 2023); the Scotter Neighbourhood Plan (made 22nd January 2018) and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

S1 The Spatial Strategy and Settlement Hierarchy

S21 Flood Risk and Water Resources

S47 Accessibility and Transport

S49 Parking Provision

S53 Design and Amenity

S57 The Historic Environment

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

- ***Scotter Neighbourhood Plan (SNP)***

Scotter Neighbourhood Plan was formally made by West Lindsey District Council at a Full Council Committee meeting on the 22nd January 2018.

Relevant policies of the NP include:

H2 Housing Allocation on North Moor Road, Scotter
H3 Housing Mix
D5 Design of New Development
T9 Parking Standards
T10 Footpath and Cycle Routes
L12 Landscape and Countryside

Scotter Character Assessment dated January 2017 – Site outside character areas but adjacent character area B and C.

It is considered that the listed policies of the Scotter Neighbourhood Plan are consistent with the relevant guidance of the National Planning Policy Framework

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

- ***Lincolnshire Minerals and Waste Local Plan***

The site is within a Sand and Gravels Minerals Safeguarding Area. The site is an allocated site in the CLLP and SNP. This was considered at outline application stage and is not relevant to Reserved Matters. National policy & guidance (Material Consideration)

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

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

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 July 2021. Paragraph 219 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***

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

- ***National Design Guide (2019)***

<https://www.gov.uk/government/publications/national-design-guide>

- ***National Model Design Code (2021)***

<https://www.gov.uk/government/publications/national-model-design-code>

Main issue:

Planning permission has already been granted. This application considers only whether to approve the reserved matters of scale, appearance, layout and landscaping.

- Scale and Appearance

In planning law¹, these are defined as:

‘Appearance’ – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.

‘Scale’ – the height, width and length of each building proposed within the development in relation to its surroundings.

- Layout

‘Layout’ – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

- Landscaping

‘Landscaping’ – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

Assessment:

Objections have been received from the Scotter Parish Council and residents in relation to scale, appearance, layout and landscaping.

Scale and Appearance

Outline Planning permission 134677 includes condition “11: All dwellings proposed within 20 metres of the shared boundary with dwellings off Arrandale (No.3, 4, 5, 6 and 7) and Messingham Road (namely Applegarth, Maracuja and Rustlings) shall be single storey dwellings only”. The remainder of the site is unrestricted.

¹ Article 2, The Town & Country Planning (Development Procedure) (England) Order 2015 (as amended)

Objections have been received from residents in relation to the height of the bungalows proposed to plot 30 to 43.

Local policy S53 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.”*

Local policy S53 includes 10 criteria most importantly criteria 1 (Context), 2 (Identity) and 3 (Built Form)

Criteria a) of Policy H2 of the Scotter Neighbourhood states that *“the height, scale, mass and layout of the new properties should respect the scale, character and location of adjacent properties in Arrandale to the south”*

The site is not within a character area set out in the Scotter Character Assessment dated January 2017 but it is adjacent area B and C. Area B is formed along the edges of several of the key routes which radiate from the village centre with varied dwelling styles and scales. Area C is a small residential cul-de-sac of bungalows built in the 2000's with repeated designs and front facing,

Page 20 of the design and access statement outlines the external materials to be used. It states the use of different red bricks and a buff variant with some render. Roofs to be covered in red clay and dark grey concrete tiles. Windows to be white UPVC. The application includes specific details on the external materials plan (12062 - WMS - ZZ - 00 - DR - A - 10005 - S8 - P7 dated May 2023 and 12062 - WMS - ZZ - 00 - DR - A - 10007 - S8 - P6 dated March 2023) specifying:

- the brick type
- roof tile
- window and doors
- rainwater goods

The type of materials proposed would be expected to be acceptable and provide some interest through the use of different materials alongside the different house type. The material plans would be conditioned to be accorded with on the reserved matters approval.

The proposed dwellings will predominantly be two storey in scale with 14 bungalows on plots 30-43 sharing a boundary with dwellings off Arrandale. The positioning of the bungalows is important to meet the single storey restriction set out in condition 11 of outline planning permission 134677.

The dwellings are proposed to be (all approximate from submitted plans):

Design	Beds	Height	Eaves Height	Length	Width	Type
Warwick	3	8.2	5.1	10.8	5.8	2 Storey
Mowbray	3	8	5.2	14.5	7.2	2 Storey

Coniston	3	7.8	5	13	8.8	2 Storey
Harrington	4	8.4	5.1	13.2	12.4	2 Storey
Grasmere	3	6.2	2.7	12.3	13.1	Bungalow
Buttermere	2	5.7	2.6	10.5	11.7	Bungalow
Harrington+	5	8.3	5.1	15.4	13.2	2 Storey

The proposed development includes house types of different scale and appearance. None of the two storey dwellings proposed are overly large in terms of height ranging from approximately 7.8 metres to 8.4 metres. The scale of the bungalows has been objected to and have subsequently been reduced from 7.1 metres high to 5.7 and 6.2 metres high.

The variety of designs and the concept of positioning the same two storey dwelling design on different parts of the site is likely to provide a more appropriate development than if the designs were concentrated in one particular area. The bungalows have to be concentrated to plots 30-43 due to the single storey condition 11 of outline planning permission 134677.

It is therefore considered that the scale and appearance of the dwellings is acceptable and would not have an unacceptable harmful impact on the site, the street scene or the settlement edge and accords to local policy S53 of the CLLP, policy H2 of the Scotter Neighbourhood Plan and the provisions of the NPPF.

It is considered that policy H2 is consistent with the design, character and visual amenity guidance of the NPPF and can be attached full weight.

Layout

Local policy S49 (appendix 2) and S53 of the CLLP and policy H2a) of the Scotter Neighbourhood Plan again apply to the layout as well as H2 criteria g). Criteria g) of policy H2 states that *“to provide adequate parking standards relevant to the size of the property”*. Policy T9 of the Scotter Neighbourhood Plan sets out parking standards for each dwelling based on the amount of bedrooms.

The layout submitted with the original application included a number of vehicle access points onto North Moor Road which were not on the approved plans in outline permission 143677. This triggered the submission of an amended layout to replicate the access points approved in the outline permission.

The proposed layout provides a main estate road with branch cul-de-sacs initially to the north and then to the south. A second private driveway is proposed to the north of the north east boundary. The roads unless a private drive are served by pedestrian footpaths on at least one side providing safe access around the site and onto the North Moor Roads pedestrian footpath network. All of the dwellings are highway/private drive facing dwellings.

The different two storey dwelling types are spread throughout the site to add visual interest. The bungalows are concentrated in an area due to condition 11 of the outline permission as described below. The proposed dwellings are

positioned so that they are sufficiently separated from one another and are set back away from the pedestrian footpath. The plot sizes provide an acceptable amount of rear garden space. In accordance with local policy S49 of the CLLP and T9 of the SNP dwelling types Coniston (3 bed), Harrington (4 bed), Buttermere (2 bed) and Harrington Plus (5 bed) would have acceptable off street parking provision. House types Mowbray (3 bed) and Grasmere (3 bed) would have acceptable off street parking provision if you included the attached single garage. House type Warwick (3 bed) would be a parking space short having two and not three spaces therefore would not meet the parking standard set by local policy S49 (appendix 2) and neighbourhood plan policy T9.. Local policy S49 (appendix 2 – car parking standards) is a new addition to the CLLP 2023 and was not part of the revoked Central Lincolnshire Local Plan Review 2012-2036.

The Highways Authority at Lincolnshire County Council have not objected to the proposed level of off street parking provision.

The layout includes two areas of open space with natural surveillance from the proposed dwellings which breaks up the developments built form.

Condition 11 of outline permission 134677 requires any proposed dwellings within 20 metres of the listed properties have to be single storey. The development proposes bungalows to plots 30 to 43 which meets the condition.

The impact of the development on the living conditions of adjoining residents will be discussed later in this report. It is acknowledged that house type Warwick would not accord with the parking standards of local policy S49 (appendix 2) or policy T9 of the SNP. However weighed against this is the lack of objection from the Highways Authority.

it is therefore considered that the parking provision , on balance, is acceptable and the layout would accord with local policy S49 and S53 of the CLLP, policy H2 and T9 of the Scotter Neighbourhood Plan and the provisions of the NPPF.

It is considered that policy H2 and T9 are consistent with the design, character and visual amenity guidance (Chapter 12) of the NPPF and can be attached full weight.

Landscaping

Local policy S53 of the CLLP and policy H2 of the Scotter Neighbourhood Plan again apply to the landscaping of the site. Criteria h) of the Scotter Neighbourhood Plan states that *“boundary treatments and landscaping must be appropriate to its rural setting particularly in relation to the open countryside to the north and west.”*

Details of landscaping originally submitted were not comprehensive. The Authority’s Tree and Landscape Officer (TLO) assessed the landscaping details and stated in summary that:

- Insufficient regarding the amount of proposed soft landscaping and the necessary details.
- Further tree and native hedge planting is required, with comprehensive details.
- Some adjustments are required in addition to further soft landscaping required.

In the most up to date plans details of landscaping are spread over a number of plans namely plan 12062 10001 Rev P18 dated May 2023 (Site and Landscaping Plan), 12062 10005 Rev P7 dated May 2023 (External Materials Plan) and 12062 10007 Rev P7 dated May 2023 (Roof Tiling and Road Surfacing Plan).

Plan 12062 10007 Rev P7 dated May 2023 (Roof Tiling and Road Surfacing Plan) provides clear and acceptable details of all hardstanding including the entrance bell mouth and 2 metre wide pedestrian footpaths which are to be completed in tarmac to the highway authority's specification.

As stated by the TLO on the original plans the soft landscaping detail still lacks detail in terms of planting details.

The landscaping details on site and landscaping plan (12062 - WMS - ZZ - 00 - DR - A - 10001 - S8 - P18 dated May 2023) provides details of all boundary treatments dividing the plots and on the outer boundaries of the site. The plots would be divided by fence panels and walls. The outer boundaries of the site would be screened by the following:

- North boundary by fence panels along the left half screening the rear garden of plot 1 and open along the right half.
- North east boundary adjacent North Moor Road would be open to the front of plot 1 and screened by fence panels to the rear of plots 2-16 and the side rear garden of plot 17. The front side boundary of plot 17 and 30 would be open. Fence panels would screen the rear side garden of plot 30.
- The south east boundary and east boundary shared with plots 30-34 and 36-43 would be screened by retained hedging.
- The south boundary would be screened by a mix of retained hedging and fence panels to the south rear garden boundary to plot 43.
- The west boundary would be screened by timber knee rail.

It is considered that the amended plan provides sufficient information on boundary treatments including the retention of hedging and the position of new trees. However as already advised the plan lacks details of the tree species and aftercare..

The outer north west boundary is within the street scene of North Moor Road but due to the approved access points in outline permission 134677 and the awkward shape of the site most of the dwellings rear elevation/garden space

on this section of the site would face this North Moor Road boundary. Therefore there is a conflict between retaining the street scene and privacy to the rear garden of plots 2 to 17. To retain the privacy of plots 2-17 substantial boundary treatments would be required up to 1.8 to 2 metres high. Whilst it would be preferred if a mix of hard and soft landscaping was introduced to the boundary adjacent North Moor Road it is not considered that fence panels are unacceptably harmful to the area.

Guidance within paragraph 131 of the NPPF states that unless there are clear, justifiable and compelling reasons not to “*planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards)*”. It is considered that local and neighbourhood plan policy does not specifically refer to tree-lined streets but they do encourage appropriate landscaping to be submitted. Some of the proposed trees on the site plan line the streets adjacent the open spaces but tree-lined streets would not be present throughout the development.

Whilst most of the landscaping detail is considered acceptable it lacks clarification of soft landscaping in relation to species, planting height and aftercare .

Therefore subject to further details through an additional condition the landscaping of the site would be expected to accord to local policy S53 of the CLLP, policy H2 of the Scotter Neighbourhood Plan and the provisions of the NPPF.

It is considered that whilst policy H-2 is not wholly consistent with the landscaping guidance of the NPPF and can be attached some limited weight.

Other Considerations:

Housing Mix and Affordable Housing

The Legal S106 Agreement dated 14th December 2017 signed in outline planning permission 134677 requires the delivery of no less than 20% affordable housing on the site to meet the policy requirements of local policy LP11 of the CLLP and policy H2 (j) of the Scotter Neighbourhood Plan. Schedule 5 paragraph 8 (pg23) of the S106 Agreement required:

8. The Reserved Matters Application shall specify the following matters(collectively referred to as “the Details”) namely the physical location, layout and specification (including that of any common parts serving the Dwellings), and whether the Dwelling has a parking space or garage, as well as the type and tenure of individual Dwellings.

23

The application includes plan 12062 - WMS - ZZ - 00 - DR - A - 10001 - S8 - P18 dated May 2023 which identifies the position and layout of the affordable houses on:

Plot 4, 14, 15, 23, 24, 27 and 28 – Affordable Rent Units
Plot 5, 7 and 8 – Shared Ownership Units

The elevation plans additionally identify the specification of the proposed affordable houses.

20% of the 42 dwellings (9 dwellings) would need to be affordable housing otherwise a breach of the Section 106 agreement would occur. This development would provide 10 affordable dwellings on a site of 43 dwellings. This equates to a percentage of 23.25% which meets the 20% policy requirement.

The Contributions Officer has raised concerns over the potential of a registered provider taking on housing with en-suite bathrooms. The Contributions Officer states that *“clarification from the Registered Provider seeking to acquire the affordable units, that the house type meets their requirements”* would be advised.

Schedule 5 paragraph 3 (pg22-23) of the S106 Agreement

3. Prior to the first Occupation of the first Open Market Unit to be constructed on the Site the Owner shall have entered into a contract for sale and purchase in writing with a Registered Provider (subject to the prior approval in writing by the Council or another Affordable Housing provider approved in writing by the Council) in respect of the Affordable Housing Units which the Owner is obliged to construct under paragraph 1 above and the Owner shall supply to the Council a certified copy of such agreement within 5 Working Days of it being completed

Whilst the comment of the Contributions Officer is acknowledged the Local Planning authority can only advise the applicant as it is their responsibility to enter into a contract with a registered provider prior to first occupation of the first open market house on the site.

The proposed housing on the site would provide:

- 19 three bedroom two storey dwellings
- 2 three bedroom single storey bungalows
- 12 two bedroom single storey bungalows
- 9 four bedroom two storey dwellings
- 1 five bedroom two storey dwelling

This is considered an acceptable mix of dwelling types on the site to provide potential accommodation for families of varying sizes plus couples.

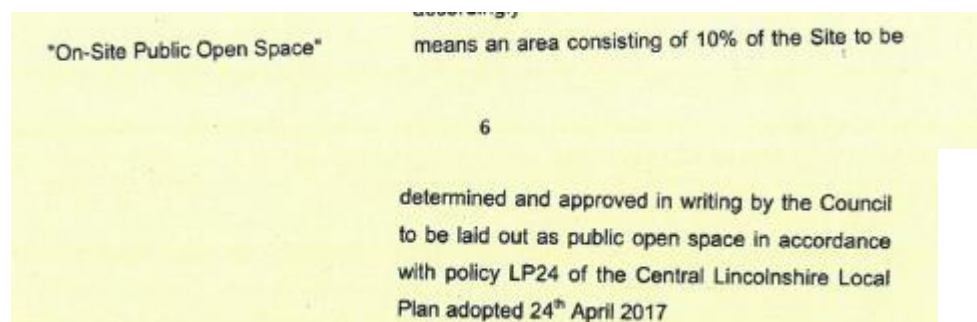
Amended site and landscaping plan 12062 - WMS - ZZ - 00 - DR - A - 10001 - S8 - P18 dated May 2023 identifies the 16 dwellings (37.2%) which will be constructed to meet the 30% requirement of dwellings to meet the Building

Regulation Part M4(2) standards (see condition 6 of outline planning permission 134677).

Therefore it is considered that the mix of housing is acceptable and the development would meet the 30% requirement of dwellings to meet the Building Regulation Part M4(2) standard.

Open Space

In the definitions and interpretation section of the signed Legal Agreement dated 14th December 2017 it defines on-site public open space to be:



The site is 20600m² (2.06 hectares) therefore the site is required by the legal agreement to provide 2060m² of open space on the site. Plan 12062 - WMS - ZZ - 00 - DR - A - 10001 - S8 - P16 dated February 2023 identifies two areas of open space. These are:

1. 2135m² centrally located to the north of plot 19-22 and adjacent the north west boundary.
2. 897m² to the south west corner of the site to the west of plots 35-43.

This equates to a total of 3032m² of open space on the site which is afforded natural surveillance by the dwellings which face them. The larger area would be the main open space and individually it meets the 10% requirement identified in the Section 106 Legal Agreement.

Residential Amenity

Local policy S53 section 8 criteria d) states that *"Not result in harm to people's amenity either within the proposed development or neighbouring it through overlooking, overshadowing, loss of light or increase in artificial light or glare."*

There is no direct reference to residential amenity in the Scotter Neighbourhood Plan but Policy H2 criteria a) states that *"the height, scale, mass and layout of the new properties should respect the scale, character and location of adjacent properties in Arrandale to the south"*.

It is reminded that condition 11 of outline permission 134677 requires any proposed dwellings within 20 metres of the listed properties have to be single storey in scale.

Objections have been received in relation to residential amenity particular in relation to the height of the bungalows which share a boundary with the dwellings off Arrandale.

The bungalows (Grasmere) proposed to plot 30 to 43 were originally submitted to have a height to the roof ridge of 7.1 metres which is relatively high for a single storey bungalow. Following negotiation with the agent new plans were submitted reducing the height to 6.2 metres (Grasmere) and 5.7 metres (Buttermere). The bungalows proposed would be between 12 to 13 metres from the shared boundary with dwellings off Arrandale and the height would be reduced further by the higher position of most of the Arrandale dwellings. It is therefore considered that the proposed bungalows due to their scale and position would not have an unacceptable harmful impact on the living conditions of the Arrandale residents.

Concerns have been raised in relation to the roof accommodation of the bungalows being converted to living accommodation. Condition 11 of outline planning permission 142460 requires all the bungalows to be single storey for reasons of residential amenity and separation distance. If approved and built the roof accommodation of the single storey bungalows could subsequently be converted into living accommodation without the need for planning permission in accordance with Schedule 2 Part 1 Class B (additions etc. to the roof of a dwellinghouse) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Given the separation distance it is not considered that removing this permitted development from plots 30-43 would be reasonable or necessary.

In response to a comment from the resident of the Rustlings the agent has submitted a section plan. This illustrates land levels plus the height of the eaves level, the height of the roof ridge and the separation distance between proposed plot 43 (3 bed, bungalow) and the Rustlings to the rear. This identifies plot 43 to be on slightly lower ground with an acceptable separation distance.

However given condition 11 of outline planning permission 142460 it would be considered reasonable and necessary to remove Schedule 2 Part 1 Class AA (enlargement of a dwellinghouse by construction of additional storeys) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The only other existing neighbouring dwellings are on the other side and to the east of North Moor Road. These dwellings are a considerable distance from the nearest dwellings therefore their living conditions would not be harmed.

It is additionally important to assess the living conditions of the potential residents who would occupy the dwellings. Most of the dwellings apart from areas where bungalows are located will be overlooked to a certain degree from each other or from dwellings off Arrandale but they would have adequate private rear garden space immediately outside their rear elevations.

Therefore overall the development would not have an unacceptable harmful impact on the living conditions of the existing or future residents and would accord with local policy S53 of the CLLP, policy H2 of the Scotter Neighbourhood Plan and the provisions of the NPPF.

It is considered that policy H2 is consistent with the residential amenity guidance of the NPPF and can be attached full weight.

Drainage

Objections have been received in relation to drainage from the site.

Criteria k of the flood risk section of local policy S21 of the CLLP requires that:

“they have followed the surface water hierarchy for all proposals:

- i. surface water runoff is collected for use;*
- ii. discharge into the ground via infiltration;*
- iii. discharge to a watercourse or other surface water body;*
- iv. discharge to a surface water sewer, highway drain or other drainage system, discharging to a watercourse or other surface water body;*
- v. discharge to a combined sewer;*

Criteria e) of policy H2 of the Scotter Neighbourhood Plan requires that *“appropriate flooding and surface water drainage are mitigated and the development must not lead to further issues elsewhere. The applicant will also be required to submit a foul and surface water drainage strategy”*.

The application has included a Preliminary Drainage Layout Plan (PDLP) 12062 - WMS - ZZ - XX - DR - C - 39200 - S3 - P5 dated May 2023 and a Soaked CBR Letter Report dated 17th November 2022.

Surface Water:

Paragraph 169 of the NPPF guides that *“Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits.”*

Paragraph 80 (Reference ID: 7-080-20150323) of the Flood risk and coastal change section of the NPPG states that *“Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:*

- 1. into the ground (infiltration);*
- 2. to a surface water body;*

3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.”

Particular types of sustainable drainage systems may not be practicable in all locations. It could be helpful therefore for local planning authorities to set out those local situations where they anticipate particular sustainable drainage systems not being appropriate.”

The PDLP states in summary that all roof drainage to be discharged to the plots permeable driveway and utilise the sub base of the permeable driveway to infiltrate into the ground. Roof water is to be connected to the driveways via a perforated distributor pipe. The highways would be drained via infiltration basin or infiltration strip with filter strip.

The Soaked CBR testing included excavating 5 machine trial pits and the report provides a summary of the ground conditions. These are:

Topsoil:

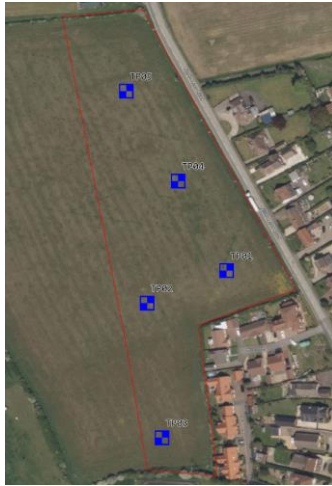
Within the trial pits slightly sandy gravelly clayey topsoil was proven to depths of between 0.25mbgl (TP05) and 0.40mbgl (TP01).

Natural Deposits:

Natural deposits underlying the topsoil generally comprised gravelly clayey sandy to a depth of between 0.50mbgl and 0.70mbgl with TP02 to TP05 underlain by sand to a termination depth of 0.70mbgl.

Table 1 summarises the testing results

Location	Position	Result (CBR%)	Average CBR %
TP01, 0.60m	Top	0.10%	0.15%
	Base	0.20%	
TP02, 0.60m	Top	0.50%	0.45%
	Base	0.40%	
TP03, 0.60m	Top	0.50%	0.50%
	Base	0.50%	
TP04, 0.60m	Top	0.60%	1.10%
	Base	1.60%	
TP05, 0.60m	Top	4.70%	2.90%
	Base	1.10%	



The Lead Local Flood Authority (LLFA) have previously raised concerns that infiltration would be unlikely to work on the site. However following receipt of additional information including percolation tests the Lead Local Flood Authority have not objected to a surface water scheme using infiltration methods.

Foul Water:

Paragraph: 020 (Reference ID: 34-020-20140306) of the water supply, wastewater and water quality section of the NPPG states:

“When drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies). This will need to be done in consultation with the sewerage company of the area.”

The PDLP states that due to the site levels and the existing foul sewer levels it is necessary for a portion of the development to be served by a pumping station. The pumping station will discharge into new S104 foul sewers connecting to the existing sewer to the south of the site.

It is considered following comment from the LLFA that the layout submitted would be able to accommodate a suitable drainage scheme which is the main consideration at Reserved Matters. Outline permission 134677 includes a separate condition for surface water drainage and foul water drainage. These conditions require the submission of detailed information and plans for assessment by the relevant parties prior to commencement of works on the site.

The discharge of foul water to the existing sewer is acceptable but a final plan is required in line with the latest plan.

The application has not provided any details that the required capacity improvements have been delivered.

Therefore more comprehensive foul and surface water drainage details will need to be submitted for assessment through a condition discharge application at a later date.

It is considered that the proposed development would not be expected to have an unacceptable harmful impact on drainage and accord to local policy S21 of the CLLP, policy H2 of the Scotter Neighbourhood Plan and the provisions of the NPPF.

It is considered that policy H2 is consistent with the drainage guidance of the NPPF and can be attached full weight.

Highway Safety

Local policy S47 of the CLLP 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.”*

Criteria d) of policy H2 of the Scotter Neighbourhood Plan states that the site needs to *“provide new well connected and integrated public footpaths and cycle ways that link into the existing settlement”*.

Criteria g) of policy H2 of the Scotter Neighbourhood Plan states that the site needs to *“to provide adequate parking standards relevant to the size of the property”*.

Policy T8 and T9 of the Scotter Neighbourhood Plan sets out criteria for the highways and off street parking spaces required for each dwelling based on its individual number of bedrooms.

Paragraph 111 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”*.

Condition 13 of outline permission 134677 requires a 1.8 metre footpath along the frontage of the site prior to first occupation.

Condition 14 of outline permission 134677 requires the roads and footpaths to be constructed to a specification to enable them to be adopted as Highways Maintainable at the public expense.

Objections have been received in relation to highway safety and safe pedestrian access to the village centre from the main access. The amended site and landscaping plan (P12062 - WMS - ZZ - 00 - DR - A - 10001 - S8 - P18 dated May 2023) demonstrates acceptable roads and footpaths within the site and driveways for off street parking. The provision of off street parking for each dwelling has previously been assessed earlier in the layout section of this report. This concluded that in accordance with local policy S49 of the CLLP and T9 of the SNP house types Coniston, Harrington, Buttermere and Harrington Plus would have acceptable off street parking but house type

Warwick (3 bed) would be a parking space short. However on balance with weight afforded to the lack of objection from the Highways Authority the off street parking provision for the development would be considered acceptable.

The condition requires the roads and footpaths to be constructed to an adopted standard and this would be considered through a Section 38 Agreement application with the Highways Authority at Lincolnshire County Council.

The site plan additionally demonstrates a pedestrian footpath adjacent the north east boundary which allows safe pedestrian access from plot 1 to plot 43 and terminates at 7 Arrandale. The footpath meets the 1.8 metre width. However details of specification are not submitted therefore are considered relevant and necessary to be conditioned. The grassed area between 7 Arrandale and North Moor Road is within the ownership of 7 Arrandale therefore cannot be used to extend the footpath without their consent.

The Highways Authority at Lincolnshire have requested a condition demonstrating a 1.8 metre footpath/tactile crossing connecting the development to the existing footway network. Whilst a footpath is identified on the site and landscaping plan it has no tactile crossing and there are no specification details. This is considered as reasonable and necessary and would be attached to any permission.

It is considered that the proposed development would not cause a severe impact on highway safety and accords to local policy S47 and S49 of the CLLP, policy T8 and T9 of the Scotter Neighbourhood Plan and the provisions of the NPPF.

It is considered that policy T8 and T9 are consistent with the highway safety guidance of the NPPF and can be attached full weight.

Flood Risk

The site is located within flood zone 1 but within close proximity to an area of flood zone 3 to the west. Condition 15 of outline permission 134677 requires the ground floor levels of the dwellings to be 150mm above ground level.

A Preliminary Levels Strategy Plan (39010-S3-P2) dated 1st February 2021 states the proposed level of the ground as 7.100. The plan identifies the ground level of each dwelling as meeting the condition which must be adhered to.

In email dated the 16th July 2021 the agent stated *“regardless of the requirements of the condition, it is standard design practice to set external ground levels at 150mm below the DPC (which is typically laid at floor level) in any case”. We have not developed full technical details at this stage, nor a full and exhaustive levels strategy, but if there are any instances where the ground level would be less than 150mm below FFL, we would look to incorporate a localised gravel strip/channel or similar adjacent to the house, set at 150mm below the floor level, in order to maintain this requirement”.*

Condition 15 of 134677 is a condition to be adhered and does not require any information to be submitted as part of a reserved matters planning application.

Community Infrastructure Levy (CIL)

The development is not liable to a CIL payment as the outline planning permission was granted before CIL came into force.

Conclusion and reasons for decision:

The decision has been considered against local policies S1 The Spatial Strategy and Settlement Hierarchy, S21 Flood Risk and Water Resources, S47 Accessibility and Transport, S49 Parking Provision, S53 Design and Amenity, and S57 The Historic Environment of the Central Lincolnshire Local Plan 2023, Policy H2 Housing Allocation on North Moor Road, Scotter, H3 Housing Mix, D5 Design of New Development, T9 Parking Standards, T10 Footpath and Cycle Routes and L12 Landscape and Countryside H2 Housing Allocation on North Moor Road, Scotter of the made Scotter Neighbourhood Plan. Furthermore consideration has been given to guidance contained within the National Planning Policy Framework, National Planning Practice Guidance, National Design Guide and National Design Model Code. In light of the assessment the scale, appearance, landscaping and layout of the development is acceptable. The development would not have an unacceptable harmful visual impact on the site, the street scene or the surrounding area. The proposal would not have an unacceptable harmful impact on the living conditions of neighbouring dwellings, highway safety or drainage or biodiversity.

Human Rights Implications:

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

Legal Implications:

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

Representors to be notified -

(highlight requirements):

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

Prepared by: Ian Elliott

Date: 27th June 2023

Recommended Conditions

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

See Outline Permission 134677

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

NONE

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

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

- 12062 10001 Rev P18 dated May 2023 – Site and Landscaping Plan
- 12062 10005 Rev P7 dated May 2023 – External Materials Plan
- 12062 10007 Rev P7 dated May 2023 – Roof Tiling and Road Surfacing Plan
- 12062 39200 Rev P5 dated 3rd May 2023 – Drainage Plan

Elevation and Floor Plans (unless stated all dated September 2018)

- 10400 Rev P2 dated July 2021 – Warwick Floor Plans (3B5P)
- 10600 Rev P3 dated July 2021 – Warwick Option A Elevation Plans (3B5P)
- 10601 Rev P4 dated July 2021 – Warwick Option C Elevation Plans (3B5P)
- 10401 Rev P2 dated September 2020 - Mawbray Floor Plans (3B6P)
- 10407 Rev P1 dated April 2021 – Mawbray Floor Plans (Handed) (3B6P)
- 10615 Rev P1 dated April 2021 – Mawbray Option A Elevation Plans (3B6P)
- 10616 Rev P1 dated April 2021 – Mawbray Option B Elevation Plans (3B5P)
- 10402 Rev P3 dated October 2020 – Grasmere Floor Plans (3B6P)
- 10604 Rev P3 dated July 2021 – Grasmere Option A Elevation Plans (3B6P)
- 10612 Rev P3 dated July 2021 – Grasmere Option C Elevation Plans (3B6P)
- 10410 Rev P1 dated April 2021 – Coniston Floor Plans (Handed) (4B7P)
- 10403 Rev P4 dated October 2020 – Coniston Floor Plans (4B7P)
- 10621 Rev P1 dated April 2021 – Coniston Option A Elevation Plans (4B7P)

- 10622 Rev P1 dated April 2021 – Coniston Option B Elevation Plans (4B7P)
- 10404 Rev P2 dated September 2020 – Harrington Floor Plans (4B8P)
- 10606 Rev P2 dated September 2020 – Harrington Option A Elevation Plans (4B8P)
- 10607 Rev P3 dated October 2020 – Harrington Option C Elevation Plans (4B8P)
- 10405 Rev P4 dated October 2020 – Harrington Plus Floor Plans (5B10P)
- 10609 Rev P4 dated October 2020 – Harrington Plus Option C Elevation Plans (5B10P)
- 10415 Rev P1 dated March 2023 – Buttermere Floor Plans (2B4P)
- 10630 Rev P1 dated March 2023 – Buttermere Option A Elevation Plans (2B4P)
- 10631 Rev P1 dated March 2023 – Buttermere Option C Elevation Plans (2B4P)

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

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework, local policy S53 of the Central Lincolnshire Local Plan 2012-2036 and policy H3, D5 and T9 of the Scotter Neighbourhood Plan.

2. No development above ground level must take place until the following additional landscaping details have been submitted to and approved in writing by the Local Planning Authority. Details must include:

- Species, planting height and aftercare of all new trees.

The development must be completed in strict accordance with the approved details.

Reason: To ensure that appropriate landscaping is introduced and would not harm the character and appearance of the site or the surrounding area to accord with the National Planning Policy Framework, local policies S53 of the Central Lincolnshire Local Plan 2023 and D5 of the Scotter Neighbourhood Plan.

3. No development above ground level must take place until a detailed specification and plan for:

- a 1.8 metre wide footway with tactile crossing to connect the development hereby approved to the existing footway network to the north east and/or south east **and**

- a 1.8 metre wide footway to the front of the site to connect development hereby approved to Northmoor Park Playing Field to the north.

has 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. No occupation of the development must take place until the connecting footway and tactile crossing has been fully completed in strict accordance with the approved scheme.

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 to accord with the National Planning Policy Framework, local policies S47 and S53 of the Central Lincolnshire Local Plan 2023 and T10 of the Scotter Neighbourhood Plan.

4. No occupation of a dwelling hereby approved must take place until, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, must be laid out and constructed to finished surface levels in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels to accord with the National Planning Policy Framework, local policies S47 and S53 of the Central Lincolnshire Local Plan 2023 and D5 of the Scotter Neighbourhood Plan.

5. No development above ground level must take place until an Estate Road and Phasing Plan for the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The Plan must set out how the construction of the development will be phased and standards to which the estate roads on each phase will be completed during the construction period of the development. The development must be completed in strict accordance with the approved details.

Reason: To ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development to accord with the National Planning Policy Framework, local policies S47 and S53 of the Central Lincolnshire Local Plan 2023 and D5 of the Scotter Neighbourhood Plan.

6. No occupation of each individual dwellings must take place until its individual driveway or parking space(s) has been completed in accordance with site layout plan 12062 Rev P17 dated May 2023 and retained for that use thereafter.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site to accord with the National Planning Policy Framework, local policies S47 and S53 of the Central Lincolnshire Local Plan 2023 and policy D5 and T9 of the Scotter Neighbourhood Plan.

7. The development must be completed in accordance with the external materials plan 12062 Rev P7 dated May 2023 and Roof Tiling and Road Surfacing Plan 12062 Rev P7 dated May 2023.

Reason: To safeguard the character and appearance of the site, the area and the area of great landscape value and to ensure the proposal uses materials and components that have a low environmental impact to accord with the National Planning Policy Framework, local policies S53 of the Central Lincolnshire Local Plan 2023 and policy D5 and T9 of the Scotter Neighbourhood Plan.

8. As identified on site plan 12062 Rev P17 dated May 2023 plots 23, 24 and 30 to 43 must be completed to accord with standard M4(2) of the Building Regulations (access to and use of buildings) and retained as such thereafter.

Reason: To accord with the policy requirement to comply with the 30% M4(2) standard to accord with the National Planning Policy Framework and local policy S23 of the Central Lincolnshire Local Plan 2023.

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

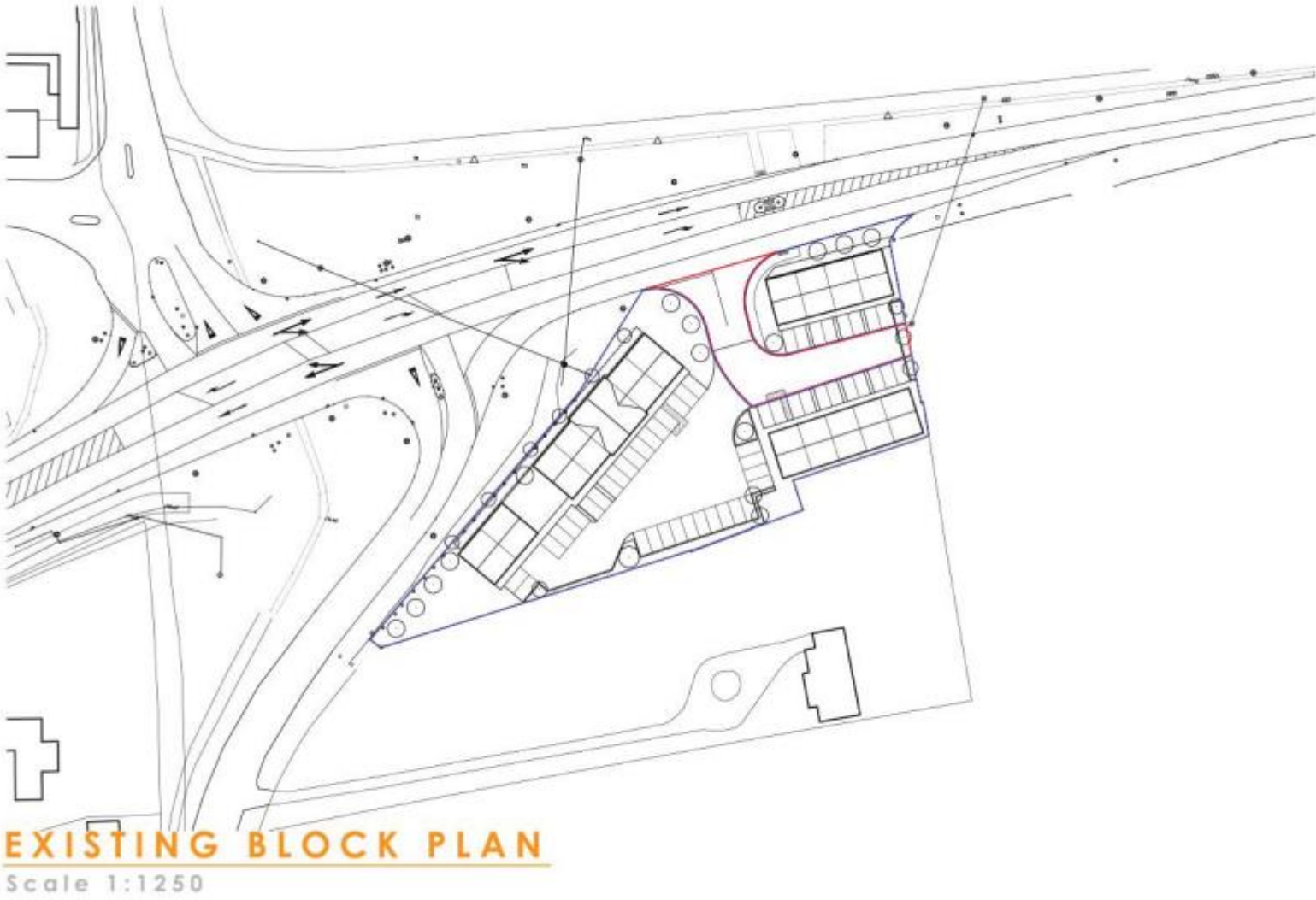
9. All planting or turfing comprised in the approved details of landscaping must be carried out in the first planting and seeding season following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The landscaping should be retained thereafter.

Reason: To ensure that additional trees are provided within the site to mitigate for the trees which are to be removed to accord with the National Planning Policy Framework, local policies S53 of the Central Lincolnshire Local Plan 2023 and policy D5 of the Scotter Neighbourhood Plan.

10. Notwithstanding the provisions of Classes AA of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the bungalows hereby approved on plots 30-43 must not be extended in the form of an additional storey (not including the conversion of the roof accommodation) unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable any such proposals to be assessed in terms of their impact on the resulting amount of space around the dwelling to accord with the National Planning Policy Framework and local policy LP26 of the Central Lincolnshire Local Plan 2012-2036.

Site Location Plan 146461- Caistor



Officers Report

Planning Application No: 146461

PROPOSAL: Planning application to erect 1no. wind turbine.

LOCATION: Land at Hillcrest Park Caistor Market Rasen LN7 6TG

WARD: Caistor and Yarborough

WARD MEMBER(S): Cllr O Bierley and Cllr A T Lawrence

APPLICANT NAME: Mr Oliver Lawrence

TARGET DECISION DATE: 31/05/2023 (Extension of time agreed until 14th July 2023)

DEVELOPMENT TYPE: Minor - all others

CASE OFFICER: Danielle Peck

RECOMMENDED DECISION: Refuse planning permission

The application is referred to the planning committee for determination as the applicant is from the immediate family of an elected member of the Council (Councillor Mrs A T Lawrence).

Site Description: The site is located outside of the developed footprint of Caistor to the south of the A46 and to the east of the B1225 (to the east of the cross roads of the A46 and the A1173/B1225). The site comprises of a number of commercial units occupied by independent and small businesses. The nearest residential dwelling (Hillcrest House) is located approximately 19 metres to the south of the site at its closest point and there is a Grade II Listed Dwelling (Top House, Farm) located approximately 161 metres to the north west of the site. The site is within the Lincolnshire Wolds Area of Outstanding Beauty (AONB).

The Proposal: The application seeks planning permission to erect 1no. wind turbine on the eastern edge of the existing car park at Hillcrest Park. The wind turbine would measure c. 14.7m to the top of hub and c.17.6m to the highest tip of the blade.

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

The development is within a 'sensitive area' as defined in Regulation 2(1) of the Regulations (the Lincolnshire Wolds Area of Outstanding Natural Beauty) and has therefore been assessed in the context of Schedule 2 of the Regulations. After taking account of the criteria in Schedule 3 it has been concluded that the development is not likely to have significant effects on the environment by virtue of its nature, size or location. Therefore the development is not 'EIA development'.

Relevant history:

144830- Planning application seeking removal of condition 21 of planning permission 139273 granted 31 May 2019 re: storage of materials, goods, waste or any other articles (relating to development of 17no. rural enterprise units, consisting mainly of business use along with a retail unit, cafe and office. Demolition of existing buildings). Refused 11/08/2022.

139273 - Planning application to vary condition 24 of planning permission 135031 granted 14 December 2016-allow local business to use the site (D2 Use)-resubmission of 138836. Granted 31/05/2019.

138836 - Planning application to vary condition 24 of planning permission 135031 granted 14 December 2016-allow local business to use the site (D2 Use). Refused 07/03/2019.

136232 - Request for confirmation of compliance with conditions 2,3,4,5,6,7,9 and 10 of planning permission 135031 granted 14 December 2016. Conditions partially discharged 30/10/2018.

135031 - Planning application for proposed 17no. rural enterprise units, consisting mainly of business use along with a retail unit, cafe and office. Demolition of existing buildings. Granted 14/12/2016.

135007 – Planning permission for change of use from A1 Retail to D2 Gymnasium. Refused 16/12/2016.

128839 - Retrospective planning application for the change of use from Workshop to A1 Retail. Granted 10/9/2012.

Representations:

Full representations can be viewed through the Councils website using the following link: <https://www.west-lindsey.gov.uk/planning-building-control/planning/view-search-planning-applications/search-planning-application-database?docid=146461>

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

Caistor Town Council- Objects- Concerns of height, appearance and consideration of AONB.

Third party representations/local residents:

5 Letters of support have been received from the following addresses;

**17 and 52 South Street, Caistor;
5 and 8 Canada Lane, Caistor;
106 Brigg Road, Caistor;
18 Station Road, Grasby, Barnetby;**

Comments summarised as follows;

- I do not see the issue with the erection of such medium scale turbines to supplement the energy use of commercial enterprises throughout the district;
- It would be a big help to local business in that area;
- This small turbine will help the local businesses and will hardly be noticed in this location. At just 15 metres high, it will be nowhere near as visible as the nearby radio masts;
- Any attempt to move away from fossil fuel dependency should be applauded. Incentives like this, also helps businesses renting units to reduce their carbon footprint;
- There may be complaints around the aesthetic impact of the turbine, however, there are already a number of radio towers and electrical pylons a short distance from this proposed location which impact on the skyline. Taking this into consideration, I do not feel that this proposal would be detrimental to the skyline in an excessively negative way;

1 general observation has been received from 8 Canada Lane, Caistor:

I do have concern this may set up a precedent of having turbines in the area of the AONB. It will be EXTREMELY visible to everyone travelling along A46. If it is a lot higher than the buildings, then I will object as would be visible for dozens of miles in all directions. Would be useful to have a photo with the turbine superimposed so that persons can relate to its visual impact.

5 letters of objection have been received from the following addresses;

**4 Riby Road, Caistor;
Red Roofs Horncastle Road, Caistor;
Hillcrest House, Horncastle Road, Caistor;
Hunters Yard, Horncastle Road, Caistor;
28 Hansard Crescent, Caistor.**

Objections summarised as follows;

- The site is on one of the higher sections of Caistor and due to its prominence, the siting of the proposed wind turbine will be the first thing that anyone coming into Caistor from either Riby Road or from the direction of Cabourn will see;
- I'm aware that in some cases, wind turbines can be harmful to birds and bats as they disturb the area for these. For those living closer to the actual site of the

proposed wind turbine, this will be the first thing they see because of the proximity to their homes and businesses;

- The proposed wind turbine would not ensure that noise disturbance will be minimised for future occupiers nor the residential properties next door and nearby as there would be noise from it 24/7;
- Wind turbines may have an adverse affect on air traffic movement and safety. Firstly, they may represent a risk of collision with low flying aircraft, and secondly, they may interfere with the proper operation of radar by limiting the capacity to handle air traffic, and aircraft instrument landing systems;
- The wind turbine will be a substantial, tall, highly intrusive feature which will dominate my private garden. This will significantly impact upon my and my family's enjoyment of this private space and significantly worsen my living conditions;
- I am extremely concerned about noise impact. There is limited information about the noise impact. The commercial brochure submitted with the application indicates a minimum noise level of 70dBa and with the possibility during heavier winds of that noise rising to 85dBa;
- This will be a new, intrusive and unacceptable noise which will have a significant impact upon my enjoyment of my garden and my house. I predict that this noise impact will be so bad at certain times with certain wind speeds and wind direction that it will prevent my family and me using the garden and likely hearing this noise within the house;
- There is no information in the application documents about fall-over distance. However, if the structure were to fall over, then it would extend into my garden;
- There is no assessment of the impact of this proposal upon protected species and particularly bats;
- This is likely to be a particular problem in the morning with the sun shining through the rotating blades casting a moving shadow. This flicker will be an extremely irritating result of the proposals;
- There are no drawings to show the height of the proposed turbine to adjacent buildings.

LCC Highways/Lead Local Flood Authority: No objections. The proposal is to erect 1no. turbine and does not have an impact on the Public Highways or Surface Water Flood Risk.

Health and Safety Executive- Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

National Air Traffic Services (NATS) - Objects. (Technical Report is attached as Appendix 1 to this report)

Predicted Impact on Claxby RADAR

Using the theory as described in Appendix A and development specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal, and therefore this development is likely to cause false primary plots to be

generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated.

Where an assessment reveals a technical impact on a specific NATS' RADAR, the users of that RADAR are consulted to ascertain whether the anticipated impact is acceptable to their operations or not.

Unit or role	Comment
Prestwick ATC	Unacceptable
Military ATC	Acceptable

The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated, this has been deemed to be unacceptable.

Our radar systems employ doppler based processing to distinguish between moving and static objects, this means that we can live with some very large buildings and masts without degrading performance, but wind turbine pose an almost unique problem due to the way they interact with our radar pulses.

Lincolnshire AONB Wolds Officer on behalf of the Lincolnshire Wolds Joint Advisory Committee (AONB Partnership): I write on behalf of the Lincolnshire Wolds Joint Advisory Committee who operate as the advisory body for the nationally protected Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB).

Hillcrest Park is located in the Lincolnshire Wolds AONB and the landscape is of national importance. Development proposals are subject to additional scrutiny as directed by the National Planning Policy Framework (NPPF, July 2021) which reaffirms the importance of AONBs, and as stated in Para.176, and the need to apply great weight to conserving and enhancing landscape and scenic beauty in these areas (alongside the Broads and National Parks), and a requirement to limit development. The importance of protecting the natural beauty and landscape character of the Lincolnshire Wolds AONB is also recognised within the Central Lincolnshire Local Plan which stresses the importance of the designation, in particular within Policy LP17 – Landscape, Townscape and Views and accompanying Sections 5.2.1 and 5.2.4, the need within a spatial planning and development management context to carefully considering character and setting, creating and protecting views, and minimising cumulative impacts.

In terms of energy generation, the current adopted and saved Lincolnshire Wolds AONB Management Plan (2018- 23) recognises the demands for meeting future energy needs through Policy CCP4 seeking “to encourage and promote low carbon energy reduction/generation schemes that are conducive to the requirements of the AONB designation and complement local landscape character”. Policy PP7 within the Plan confirms “a general presumption against wind energy schemes in any location which would cause significant and demonstrably detrimental effects upon the natural beauty

and intrinsic characteristics of the AONB". The Management Plan does not include a specific threshold for the number and height of wind turbines turbine that would result in significant impacts upon the natural beauty of the AONB, but advises that any developments should be reviewed on a case-by case basis.

I note that this application is for a singular turbine and there will be some screening from the current business buildings. It would however be helpful if the applicant could supply a more detailed design and access statement, to include suitable photomontages (and/or wire frame visualisations) for the wind turbine proposed, which will introduce a further prominent vertical, and in this case rotating, structure into the landscape. Of particular interest would be the views from the surrounding vantage points within the AONB, including from the more immediate roadways. If a wind turbine scheme is to be pursued the Local Plan Policy LP19 – Renewable Energy Proposals is relevant and whilst not identifying any suitable areas for wind energy highlights the need for close alignment with Neighbourhood Plans; the backing of the local community; and the need to fully address any planning impacts identified by affected local communities. The turbine location is close to surrounding properties and a multiple road junction so our preference in terms of micro-scale energy generation for this site would be for sensitively designed and located roof mounted photovoltaics.

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 2023); the Caistor Neighbourhood Plan (made 2016); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy

Policy S5: Development within the Countryside

Policy S14: Renewable Energy

Policy S47: Accessibility and Transport

Policy S53: Design and Amenity

Policy S57: The Historic Environment

Policy S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value

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

- **Caistor Neighbourhood Plan (CNP)**

Relevant policies of the NP include:

Policy 1 – Growth and the presumption in favour of sustainable development

Policy 2 – Type, scale and location of development

Policy 3 – Design Quality

Policy 12- Renewable Energy

A review of the existing Caistor Neighbourhood Plan is currently being prepared by Caistor Town Council, however there are currently no published draft policies that may be taken into consideration.

<https://www.west-lindsey.gov.uk/planning-building-control/planning/neighbourhood-planning/all-neighbourhood-plans-west-lindsey/caistor-neighbourhood-plan>

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

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

Other relevant non-development plan policies (material considerations)

Relevant Statutory Duties

Listed Building Legal Duty

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

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

Other- AONB

S85 (1) of the Countryside and Rights of Way Act 2000;

“S85(1) - In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”

<https://www.legislation.gov.uk/ukpga/2000/37/section/85>

- **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.

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

- **National Planning Practice Guidance**

- <https://www.gov.uk/government/collections/planning-practice-guidance>
- **National Design Guide (2019)**
<https://www.gov.uk/government/publications/national-design-guide>
- **National Design Code (2021)**
<https://www.gov.uk/government/publications/national-model-design-code>
- **Lincolnshire Wolds Area of Outstanding Natural Beauty- Management Plan 2018-2023;**

The five key aims of the Management Plan are to sustain and enhance:

1. the Lincolnshire Wolds' natural beauty and its landscape character
2. farming and land management in the Wolds as the primary activities in maintaining its character, landscape and biodiversity
3. recreational, tourism and interpretive activities and opportunities appropriate to the area
4. the economic and social base of the Wolds including the development and diversification of enterprises appropriate to the area
5. partnerships between organisations, the local community, landowners and others with an interest in the Wolds.

The plan refers to Wind Turbines as a 'pressure' within the AONB together with other modern development such as telecom masts which could be a visual intrusion.

PP7 (Policy) of the Plan also states; To ensure a general presumption against wind energy schemes in any location which could cause significant and demonstrably detrimental effects upon the natural beauty and intrinsic characteristics of the AONB.

<https://www.lincswolds.org.uk/our-work/management-plan>

Main issues

- Principle of Development;
- National Air Traffic Services (NATS) Safeguarding Impacts;
- Impact on Visual Amenity and the Area of Outstanding Natural Beauty (AONB);
- Impact on Residential Amenity;
- Other Matters.

Assessment:

Principle of Development

The site, known as Hillcrest Business Park is located to the north east of the nearby town of Caistor. It is clearly detached from the main developed footprint and it is therefore

considered to be within the countryside. Policy S1: The Spatial Strategy and Settlement Hierarchy states that for proposals in the countryside, the following applies:

8. Countryside-
Unless allowed by:

- a) Policy in any of the levels 1-7 above; or*
- b) Any other policy in the Local Plan (such as Policies S4, S5, S34, or S43) or a relevant policy in a neighbourhood plan, development will be regarded as being in the countryside and as such restricted to:*
 - That which is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services;*
 - Delivery of infrastructure;*
 - **Renewable energy generation (emphasis added);** and*
 - Minerals or waste development in accordance with separate Minerals and Waste Local Development Documents.*

In this case the proposal is a form of renewable energy generation and therefore Policy S14: Renewable Energy of the Central Lincolnshire Local Plan is the most relevant here. With regard to proposals for renewable energy schemes, it states the following:

Proposals for renewable energy schemes, including ancillary development, will be supported where the direct, indirect, individual and cumulative impacts on the following considerations are, or will be made, acceptable. To determine whether it is acceptable, the following tests will have to be met:

- i. The impacts are acceptable having considered the scale, siting and design, and the consequent impacts on landscape character; visual amenity; biodiversity; geodiversity; flood risk; townscape; heritage assets, their settings and the historic landscape; and highway safety and rail safety; and*
- ii. The impacts are acceptable on aviation and defence navigation system/communications; and*
- iii. The impacts are acceptable on the amenity of sensitive neighbouring uses (including local residents) by virtue of matters such as noise, dust, odour, shadow flicker, air quality and traffic;*

Policy No. 12 of the Caistor Neighbourhood Plan relates to renewable energy proposals and the policy is supportive in principle of localised energy production to community scale renewable energy development rather than large scale commercial energy projects. The policy does emphasise the need for the community to have a say in such projects.

Policy S14 then goes on to detail how a proposal must test compliance with each criteria. Each of these criteria is assessed in the following relevant sections of this report.

National Air Traffic Safety (NATS) Safeguarding Impacts

As stated above, criteria ii of Policy S14 states that any wind turbine proposals must have an *acceptable impact upon aviation and defence navigation system/communications*.

National Air Traffic Safety- en route plc is responsible for the safe and expeditious movement in the en-route phase of flight for aircraft operating in controlled airspace in the UK. To undertake this responsibility it has a comprehensive infrastructure of RADAR's, communication systems and navigational aids throughout the UK, all of which could be compromised by the establishment of a wind turbine development.

In this respect NATS is responsible for safeguarding this infrastructure to ensure its integrity to provide the required services to Air Traffic Control (ATC).

NATS have been consulted and have responded as detailed earlier within this report. A full technical report¹ has been submitted by them, and the report concludes that the development will have unacceptable impacts detailed as follows;

Predicted Impact on Claxby RADAR- Using the theory as described in Appendix A and development specific propagation profile it has been determined that the terrain screening available will not adequately attenuate the signal, and therefore this development is likely to cause false primary plots to be generated. A reduction in the RADAR's probability of detection, for real aircraft, is also anticipated.

Where an assessment reveals a technical impact on a specific NATS' RADAR, the users of that RADAR are consulted to ascertain whether the anticipated impact is acceptable to their operations or not.

Unit or role	Comment
Prestwick ATC	Unacceptable
Military ATC	Acceptable

*En-route consultation- The proposed development has been examined by technical and operational safeguarding teams. A technical impact is anticipated, this has been deemed to be **unacceptable**.*

The applicant has been in contact/negotiations with NATS regarding their objection. They (NATS) have confirmed that they maintain their objection to the proposal. In other email correspondence with the applicant, questions were raised regarding the large communication towers and how these do not interfere with the radar. NATS states that;

1

<https://wldc.t1cloud.com/T1Default/CiAnywhere/Web/WLDC/Api/CMIS/PLANNINGWEBSITE/content/?id=folder-1113501&streamId=streampdf-1113501>

'The major difference between your proposed turbine and the masts to the south of the site is that the turbine blades are moving. Our radar systems employ Doppler based processing to distinguish between moving and static objects, this means that we can live with some very large buildings and masts without degrading performance, but wind turbine pose an almost unique problem due to the way they interact with our radar pulses'

Policy Map 2 (of S14) details an opportunity map where medium and larger wind farm proposals would most likely be acceptable in principle within the West Lindsey District. It does also state at the top of the Map that small scale wind turbines (defined as up to 40m from ground to blade tip) **'in principle'** are considered acceptable District-wide, **subject to** detailed assessment and compliance with the criteria I, ii and iii of Policy S14.

Through the local plan review process an evidence report² was produced by the Central Lincolnshire policy team in relation to Policy S14. The evidence in this report is clear in that wind turbine proposals are heavily caveated acknowledging the presence of both commercial and MOD airbases in and around the area and that flight safety remains a key consideration.

Para 6.34 on page 30 confirms of the document states that discussions with the CAA, MOAD and NATS has taken place to understand the limitations for wind turbines as a result of flight paths and radar and that there are significant constraints. As such turbines planned that fall both within and outside of the opportunity area mapped will be subject to consultation with the CAA, MOD and NATS and in para 6.35 it makes it clear that *'any unresolved objections from such bodies should preclude specific proposals from being approved.'*

NATS themselves provide self- assessment maps showing line-of sight to their radars in various formats via their public website. No NATS self-assessment or pre application with the LPA was carried out prior to the submission of this planning application.

Overall, it is considered that the principle of a wind turbine in this location cannot be supported due to the identified unacceptable impacts on the Claxby Radar and Air Traffic Control.

Unacceptable impacts have been identified by National Air Traffic Services which the applicant has been unable to show that they can overcome or address.

Policy S14 states that *"In order to test compliance with part (ii) [aviation impacts] above will require, for relevant proposals, the submission by the applicant of robust evidence of the potential impact on any aviation and defence navigation system/communication, and within such evidence must be documented areas of agreement or disagreement reached with appropriate bodies and organisations responsible for such infrastructure. "*

² <https://www.n-kesteven.gov.uk/sites/default/files/2023-03/EVR014%20Policy%20S14%20Renewable%20Energy%20Reg19.pdf>

Any such “robust evidence” has not been forthcoming. The proposal is therefore in direct conflict with, and is deemed contrary to criteria ii of Policy S14.

Impact on Visual Amenity and the AONB

Policy S62 of the CLLP states that; *The Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) is a nationally designated landscape and has the highest level of protection. Great weight should be given to conserving and enhancing the landscape and scenic beauty in this area.* It goes on to set out a criteria that development should demonstrate.

Policy S53 states that development proposals will; *Contribute positively to the sense of place, reflecting and enhancing existing character and distinctiveness; and Reflect or improve on the original architectural style of the local surroundings, or embrace opportunities for innovative design and new technologies which sympathetically complement or contrast with the local architectural style.*

The LPA also has a statutory duty to conserve and enhance AONB's: *In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”*

Criteria i of Policy S14 states that the *impacts on landscape character, historic landscape and visual impact must be acceptable.*

Policy PP7 within the AONB Management Plan confirms “*a general presumption against wind energy schemes in any location which would cause significant and demonstrably detrimental effects upon the natural beauty and intrinsic characteristics of the AONB*”.

The turbine would measure c .17.6m in total height (to the tip) and would sit within the car park area of Hillcrest Business Park, on its eastern edge. Within the business park are a number of commercial units, with an approximate height of 5-6m which would form the back drop of the proposed wind turbine location. The site sits in an elevated position along the A46 Bypass that runs to the south of the main built up town of Caistor leading out towards Grimsby. Other main roads are also located to the north and south west of the site. The tall communication towers located in the landscape to the south of the site are acknowledged. However, it is considered that the proposed turbines siting, close to the A46, could be a prominent feature within the landscape, due to its location closer to public view points together its total proposed height.

It is considered that the proposed development would be in a prominent and visible location directly within the Lincolnshire Wolds AONB. The application however, has not provided a robust assessment of the landscape and visual impacts that may arise from the development.

A meeting regarding the application was held with the agent and case officer and on 16th May 2023. Prior to this meeting a visualisation (long view) of the proposed turbine was provided by the agent. However this did not show differing viewpoints and only showed the wind turbine from one location. Officers advised the agent that in order to fully assess the visual impact we would require a Landscape Visual Impact Assessment (LVIA) (to Landscape Institute level 3 GLVIA standard) to be submitted, it is also noted that this is something that the AONB officer would also expect to be submitted. The assessment would provide visualisations of the wind turbine and views of it that would be seen from varying viewpoints in the surrounding area. It is understood that the assessment was not commissioned due to the objection received from NATS.

Therefore, in the absence of any satisfactory Landscape Visual Impact Assessment (LVIA) the local planning authority are not satisfied that the visual impacts on the surrounding countryside and the Area of Outstanding Natural Beauty could be considered to be acceptable. It would be a prominent and highly visible feature within a sensitive landscape.

Overall, in the absence of any evidence to ascertain that the visual impacts of the development would otherwise be acceptable, the proposal is considered to be contrary to policy S14, specifically criteria i, as well as policies S53 and S62 of the Central Lincolnshire Local Plan. It is also considered to be contrary to Policies 2 and 3 of the CNP.

Having regard to the statutory duty placed upon the Local Authority (S85(1) of the Countryside Act 2000), in considering whether to grant planning permission, having had regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, it is considered that the proposed development would be contrary to this aim.

Impact on Residential Amenity

Part 8, criteria d of Policy S53 of the CLLP states that development proposals will:

d) Not result in harm to people's amenity either within the proposed development or neighbouring it through overlooking, overshadowing, loss of light or increase in artificial light or glare;

Criteria iii of Policy S14 states that renewable energy proposals must have an *acceptable impact on the amenity of sensitive neighbouring uses (including local residents) by virtue of matters such as noise, dust, odour, shadow flicker, air quality and traffic.*

The application site is adjoined, to the south, by the rear garden area of Hillcrest House, Caistor, a residential property. The proposed turbine would be located c. 20m away from this shared boundary and c.50m away from the side (north) elevation of this property. No supporting statement which describes any potential residential amenity impacts, in

particular any noise impacts, has been provided with the application. It is appreciated that there is some technical information on the turbine specification sheet with regard to dba, which are expected to range from 70dba to 85dba, however no further consideration of these potential impacts has been provided. It is understood that no further information has been forthcoming due to the NATS objections.

The National Planning Practice Guidance³ advises that under certain combinations of geographical position and time of day, the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties. When the blades rotate, the shadow flicks on and off; the impact is known as 'shadow flicker'. Only properties within 130 degrees either side of north, relative to the turbines can be affected at these latitudes in the UK – turbines do not cast long shadows on their southern side. Given that the Hillcrest House is located to the south of the site, it is not anticipated that the proposal would cause unacceptable shadow flicker impacts.

Other residential dwellings are located c. 200m to the west (Walton House, Grimsby Road) and c. 170m to the south west (Red Roofs, Horncastle Road), it is not anticipated, given the large separation distances that the wind turbine would have a harmful impact on the amenity of these occupiers.

In the absence of this information the local planning authority have not been satisfied that the noise impacts upon residential amenity, in particular direct the neighbouring occupiers to the south, would be acceptable. The proposal is therefore contrary to criteria iii of Policy S14 and S53 of the Central Lincolnshire Local Plan.

Other matters

Highways- the Highways Authority have been consulted on the proposals and have stated that they have no objections. It is not anticipated that the turbine would impact detrimentally upon highway safety in this case.

Listed Building- The Grade II listed building Top House Farm is located c. 160m to the west of the site. It is not considered that the proposal would impact upon the setting of this listed building due to this large separation distance.

Planning balance and conclusion: The application has been considered against Policy S1: The Spatial Strategy and Settlement Hierarchy, Policy S5: Development within the Countryside, Policy S14: Renewable Energy, Policy S47: Accessibility and Transport, Policy S53: Design and Amenity, Policy S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value of the Central Lincolnshire Local Plan, the policies contained within the Caistor Neighbourhood Plan at the AONB statutory duty in the first instance as well as the provisions of the National Planning Policy Framework and guidance contained with the NPPG.

³ <https://www.gov.uk/guidance/renewable-and-low-carbon-energy#shadow-flicker-and-reflected-light>

In light of this assessment the principle of development is not considered to be acceptable in this case. The proposal is clearly contrary to points i, ii and iii of Policy S14 of the Central Lincolnshire Local Plan in that it would have unacceptable impacts upon air traffic safety. In addition to this insufficient information has been provided to ascertain that the visual impacts on the Area of Outstanding Natural Beauty would be acceptable. Also, no supporting statement/information has been provided to assure the LPA that the impacts upon neighbouring residential would be acceptable. The application is therefore recommended for refusal.

RECOMMENDATION: Refuse planning permission for the following reasons:

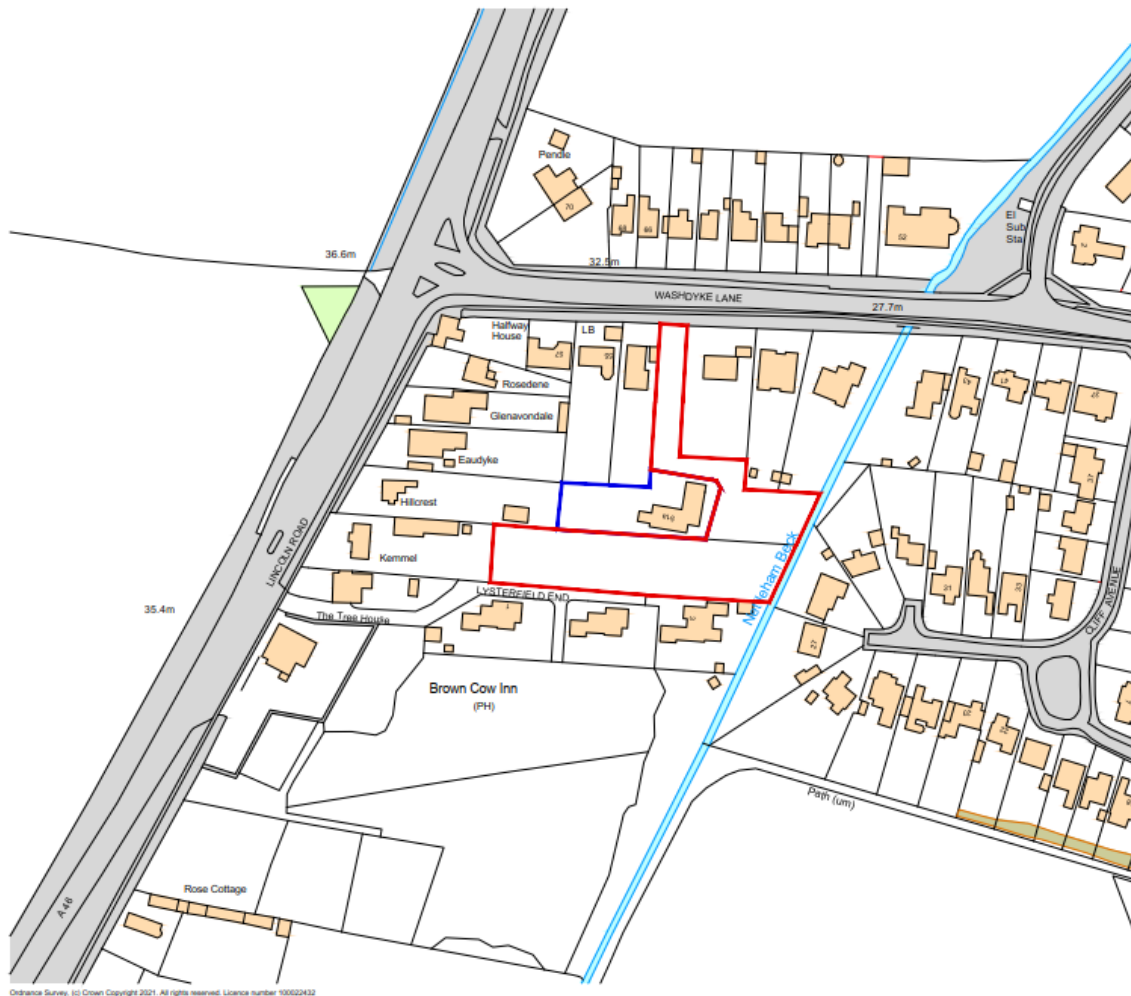
1. The erection of 1no. wind turbine in this location would be expected to have an unacceptable impact on aviation systems, specifically the Claxby Radar and Prestwick Air Traffic control. The proposal is therefore contrary to policy S14: Renewable Energy of the Central Lincolnshire Local Plan, specifically criteria i, which states that renewable energy schemes must have acceptable impacts on aviation and defence navigation systems/communications, the proposal would also be contrary to Policy 12 of the Caistor Neighbourhood Plan.
2. Insufficient information has been provided to satisfy the Local Planning Authority that the visual impacts of the proposal on the surrounding countryside and Area of Outstanding Natural Beauty would be acceptable. The proposal is therefore contrary to criteria i of Policy S14: Renewable Energy, as well as policies S53: Design and Amenity and S62: Area of Outstanding Natural Beauty and Areas of Great Landscape Value of the Central Lincolnshire Local Plan, the Statutory Duty contained within S85 (1) of the Countryside and Rights of Way Act 2000 and Policies 2 and 3 of the Caistor Neighbourhood Plan.
3. Insufficient information has been provided to satisfy the Local Planning Authority that the potential noise impacts from the erection of the wind turbine would be acceptable on the residential amenity of the neighbouring occupiers, directly to the south of the site. The proposal is therefore contrary to policy S14: Renewable Energy, specifically criteria iii as well as S53: Design and Amenity of the Central Lincolnshire Local Plan 2023, these policies seek to protect the residential amenity of neighbouring occupiers.

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.



Officers Report

Planning Application No: 146424

PROPOSAL: Outline planning application for 3no. dwellings - all matters reserved

LOCATION: Land Adjacent 51 A Washdyke Lane Nettleham Lincoln LN2 2PX

WARD: Nettleham

WARD MEMBER(S): Cllr F J Brown, Cllr J S Barrett

APPLICANT NAME: Mr J Jackson

TARGET DECISION DATE: 04/05/2023 (Extension agreed until 14th July 2023)

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Ian Elliott

RECOMMENDED DECISION: Grant permission subject to conditions

Planning Committee:

This application has been referred to the Planning Committee following third party objections including the Nettleham Parish Council referring to Neighbourhood Plan Policy.

Description:

The application site is garden land to the side and rear of 51A Washdyke Lane, Nettleham. The host dwelling is a detached two storey dwelling set down a track to driveway parking. The site is set well back from the highway and slopes upwards from east to west. The main part of the site to the side and rear of 51A Washdyke Lane is primarily screened by a mix of high hedging and high fence panels. There are some gaps to the east boundary adjacent the Nettleham Beck. The west boundary section of the site adjacent the east elevation of the host dwelling is partly open and partly screened by low level hedging. Neighbouring dwellings are adjacent or opposite each boundary with the Nettleham Beck to adjacent the east boundary.

The site is in a Limestone Minerals Safeguarding Area. The majority of the site is within flood zone 1 with a small section of flood zone 2 and 3 adjacent the Nettleham Beck.

The application seeks outline planning permission for 3no. dwellings with all matters reserved.

Relevant history:

Pre-application 144227 - Pre-application enquiry for 4no. dwellings – 11/03/22

Representations

Representations made in relation to the application, the substance of which are summarised below (full representations can be viewed online).

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

Nettleham Parish Council: Objections

- It is not in keeping with policy D6(b) of the Neighbourhood Plan as it will not recognise existing residential density of larger housing with extensive gardens.
- Only two car spaces are shown. To comply with policy D3 of the Neighbourhood Plan the maximum number of bedrooms should be 2.
- There are several sharp bends which will make vehicle passing a hazard.
- No footpath provision presents a hazard to pedestrians, children playing in the area and other vehicles contrary to policy D2(c) of the Neighbourhood Plan.
- Driveway not large enough to serve 4 large dwellings.
- No FRA contrary to policy D4 of the Neighbourhood Plan.
- Increase in non-permeable hard surfacing would increase run-off into the Beck.
- Policy D6(f) of the Neighbourhood Plan relates to the retention of mature or important trees and is contravened by the proposal.
- Unacceptable overdevelopment and strongly oppose.
- Would like to see it called into planning committee.

Local residents: Objections received from:

28 Cliff Avenue, Nettleham
51 Washdyke Lane, Nettleham
53 Washdyke Lane, Nettleham
55 Washdyke Lane, Nettleham
Kemmel, Lincoln Road, Nettleham

Principle

- Not an appropriate location contrary to policy LP2, S1 and S4 of the Central Lincolnshire Local Plan.

Density

- Density does not align with D6b) or paragraph 5.3.1 of the Nettleham Neighbourhood Plan. Paragraph 5.3.1 states New housing should be of a scale, design, and density to fit within the existing character of the village.
- Average home in area covers 0.33 hectares whilst these cover 0.16 hectares.

Flooding

- Building 3 four bedroom house in area classified as having medium/high risk areas will add to flooding problem.
- Increased impermeable area will significantly increase water run-off towards Beck adding to flood risk of adjoining properties.

- Flood risk assessment should be provided given slope of site, urbanising effect and flood risk associated with Nettleham Beck.
- Not clear if safe for life time contrary to S21 of Central Lincolnshire Local Plan and D4 of Neighbourhood Plan.
- Flooding in 2007 showed it is possible with increase in sudden weather events.
- Land important for flood mitigation.
- New roads and driveways on a slope and not allow water to run down towards the Beck.
- 100% trees/grassed to 60% adding significant flood risk.
- The FRA does not consider the impact of increased hardstanding (1540m²) on surface water drainage and Nettleham Beck.

Drainage

- Concerned with sewerage arrangements as 51A Washdyke Lane connects to 51 Washdyke Lane.
- Difficulty with blocked sewer recently and doubling use unsustainable.
- Soakaways unlikely to effectively manage surface water.

Highway Safety

- Construction vehicle access will be difficult.
- No footpath provision along single narrow access road which would be a hazard to drivers and people on foot.
- There are only two spaces per home. Policy D-3 of the Neighbourhood Plan requires 3 spaces for 4 bedroom dwellings.
- Drive is too small for a housing development.
- Access is very narrow with restricted visibility.
- Lead to more traffic on busy road which often has long queues.
- No room for cars to pass.

Biodiversity

- Adjacent the Nettleham Beck which is home to endangered wildlife such as water voles/kingfisher.
- Removal of significant amount of trees.
- Survey required or contrary to S60 of Central Lincolnshire Local Plan and NPPF.
- Seen colony of water voles and would be damaged.
- Significant number of trees have been felled degrading ecosystem and the rich and dense population of bird species.
- Land important for wildlife protection.
- Negative impact on environment.
- Area acts as a green corridor for wildlife through to Beck.

Residential Amenity

- Overlooking 28 Cliff Avenue.
- Overlook and impede natural daylight to surrounding properties.
- Addition of 18 people living in an area which is now a silent orchard will create a noise nuisance.

- Noise and pollution impact.

Green Wedge

- Land backs onto green wedge and further development would squeeze this shrinking piece of green space.
- Acts as a corridor to wildlife contrary

Reserved Matters

- Local Planning Authority should request layout secured under article 5(2) of the Town and Country Planning Development Management Procedure Order.

Other

- There is a need for smaller housing.
- Dwellings in area are larger and proposed are significantly smaller.
- Could lead to more development behind 53 and 55 Washdyke Lane.
- Construction vehicles causing noise and damage to narrow driveway.
- Road not wide enough for waste collection and far to take bins to road.
- Struggle to see how 3 large 4 bedroom houses would help to rebalance the community demographic.
- Neighbourhood Plan 5.2.2 states its essential no homes should be built on land that lies adjacent the Nettleham Beck.
- Policy H-4 expects a mix of dwellings.
- Contrary to S1, S4, S21, S49, S53, S57, S60, S63 and S66 of the Central Lincolnshire Local Plan and E1, E5, D3, D4 and D6 of the Neighbourhood Plan.

LCC Highways: No objections with advice

- This proposal is for 3 dwellings, to be served via an existing private drive which has adequate width and visibility.
- Any subsequent reserved matters application should make arrangements for refuse storage within the site curtilage for the 3 proposed dwellings and the host dwelling.

LCC Lead Local Flood Authority: Comment

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

WLDC Tree and Landscape Officer: Comments

- The trees intended to be removed, as described above, are all category C trees, therefore I have no objections to their removal in terms of their quality.
- Tree loss needs to be assessed against the new CL Local Plan 2023 for its impact on biodiversity and habitat value. Four large, mature trees have already been lost, with a further 9 individual trees and an unknown number

of trees within groups identified for removal. Nine replacements (of trees and shrubs) are proposed, along with some native mixed hedgerow, but if permission is granted then a scheme of landscaping should be required to be submitted in a RM or Full application to provide further details and clarification of species and what will be planted where.

- If permission is granted, there is a high risk new owners would remove more trees to reduce shade to modest sized gardens and gain more usable space.
- Details of tree protection measures should be submitted for prior approval as part of a subsequent RM or Full application. The details need to clarify type/form of the protection measures and their positions, with the aim of protecting the whole area of the trees RPAs or creating a barrier to separate areas of trees from all development activities. Tree protection methods should be in line with BS5837:2012 recommendations. Tree protection should be put in approved positions prior to any commencement of works, and be kept in place until completion.

Environment Agency: No objections

We have no objection to the application, however request that your local authority lists the FRA as an approved document, to which the development must adhere to.

LCC Archaeology: No objections

LCC Minerals and Waste: No objections

Natural England: No objection with advice

Lincolnshire Wildlife Trust: Objection (Holding)

There is no BNG report associated with this application and given the number of distinctive and species-rich habitats onsite (e.g., the orchard and neutral grassland) gains in biodiversity units would be extremely difficult given the current design. The orchard fulfils the criteria of a 'traditional orchard' owing to its species composition and the low intensity management (Paragraph 4.6 of the PEA). The proposed development would thus result in a loss of priority habitat rendering the overall design incompatible with the mitigation hierarchy and BNG metric because of this unavoidable loss.

Bespoke compensation for this loss would need to be agreed for the same habitat type to be created on land offsite. A minimum of 10% BNG now required under the Environment Act 2021 and Policy S61 of the Central Lincolnshire Local Plan (CLLP). The baseline, pre-development habitat units, would need to be assessed using the latest DEFRA Biodiversity Metric and the UK Habitat assessment.

The site contains important elements of the local green and blue infrastructure network (Policy S59) such as orchard, grassland (Paragraph 11.0.2 CLLP) and Nettleham beck - which connects the site to the wider landscape (Section 4.6 of the PEA). Nettleham beck runs adjacent to the eastern boundary of the proposed development (though not shown in the 'Indicative Site Plan').

Settlements usually act as 'pinch points' for watercourses with traditional engineering techniques implemented such as solid banks (as seen in Photograph 13 and 15 of the PEA) leading to increased flood risk during times of high rainfall, or surface water flooding. Surface water flooding was highlighted as the main risk to the site and with the assessment lacking any climate change scenario the future risks to the site are not being fully considered.

ECM checked: 3rd July 2023

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 2023) and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

S1 The Spatial Strategy and Settlement Hierarchy
S4 Housing Development in or Adjacent to Villages
S6 Design Principles for Efficient Buildings
S7 Reducing Energy Consumption –Residential Development
S20 Resilient and Adaptable Design
S21 Flood Risk and Water Resources
S23 Meeting Accommodation Needs
S47 Accessibility and Transport
S49 Parking Provision
S53 Design and Amenity
S57 The Historic Environment
S59 Green and Blue Infrastructure Network
S60 Protecting Biodiversity and Geodiversity
S61 Biodiversity Opportunity and Delivering Measurable Net Gains
S66 Trees, Woodland and Hedgerows
<https://www.n-kesteven.gov.uk/central-lincolnshire>

- ***Nettleham Neighbourhood Plan (NNP) – Made 3rd March 2016***

Relevant Policies are:

- Policy E-5 Nettleham Beck Green Corridor
- Policy D-1 Access
- Policy D-2 Pedestrian and Cycle Access
- Policy D-3 Parking Provision
- Policy D-4 Water Resource and Flood Risk
- Policy D-6 Design of New Development

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

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

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

<https://www.lincolnshire.gov.uk/planning/minerals-waste>

National policy & guidance (Material Consideration)

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

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

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 July 2021.

Paragraph 219 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**

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

- **National Design Guide (2019)**

<https://www.gov.uk/government/publications/national-design-guide>

- **National Design Model Code (2021)**

<https://www.gov.uk/government/publications/national-model-design-code>

Draft Local Plan/Neighbourhood Plan (Material Consideration)

NPPF paragraph 48 states that Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- **Nettleham Neighbourhood Plan Review (NNPR)**

A review of the Nettleham Neighbourhood Plan is in progress. Nettleham Parish Council has completed Regulation 14 consultation on its Draft Plan Review July 2022 and supporting Character Assessment March 2021.

Relevant Draft Policies are:

- D1 Parking Standards for New Residential Development
- D3 Water Resource and Flood Risk
- D4 Design of New Development and Parish Design Code Principles
- D5 Climate Change Mitigation and Adaption
- D6 Housing Development within Nettleham
- D7 Housing Mix and Affordable or Specialist Housing

The Nettleham Neighbourhood Plan Review can be afforded some limited weight in the determination of the application.

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

Other:

Section 38 of the Planning and Compulsory Purchase Act 2004

<https://www.legislation.gov.uk/ukpga/2004/5/section/38>

Main issues:

- Principle of the Development
Central Lincolnshire Local Plan 2023
Nettleham Neighbourhood Plan
Nettleham Neighbourhood Plan Review 2023
Concluding Assessment
- Flood Risk
- Minerals Resource
- Biodiversity
Protected Species
Biodiversity Net Gain
Trees

Assessment:

Principle of the Development

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

Central Lincolnshire Local Plan 2023:

Local policy S1 of the CLLP sets out a spatial strategy and settlement hierarchy from which to focus housing growth. This policy identifies Nettleham as a large village and *'to maintain and enhance their role as large villages which provide housing, employment, retail and key services and facilities for the local area, the following settlements will be a focus for*

accommodating an appropriate level of growth'. Local policy S1 states that most of the housing growth in Nettleham will be 'via sites allocated in this plan. Beyond site allocations made in this plan or any applicable neighbourhood plan, development will be limited to that which accords with Policy S4: Housing Development in or Adjacent to Villages'.

Section 1 of local policy S4 of the CLLP states that large villages “*will experience limited growth to support their role and function through allocated sites of 10 or more dwellings in the Local Plan, sites allocated in neighbourhood plans, or on unallocated sites in appropriate locations within the developed footprint of the village that are typically:*

- *up to 10 dwellings in Large Villages”*

Section 2 of local policy S4 of the CLLP states that “*Residential development proposals for unallocated sites within the size thresholds set out in part 1 of this policy and within the developed footprint of the village will only be supported where it would:*

- a) preserve or enhance the settlement’s character and appearance;*
- b) not significantly harm the character and appearance of the surrounding countryside or the rural setting of the village; and*
- c) be consistent with other policies in the development plan.”*

An appropriate location is defined within the glossary of the CLLP as:

“Appropriate locations means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan. 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.”*

The developed footprint is defined within the glossary of the CLLP as:

“Developed footprint of a settlement 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;*
- *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;*
- *agricultural buildings and associated land on the edge of the settlement; and*
- *outdoor sports and recreation facilities and other formal open spaces on the edge of the settlement.”*

The application site is unallocated garden land to the side and rear of the host dwelling. The development proposes 3 dwellings on land within the developed footprint of the settlement and adjacent land which has been developed for three back land housing (Lysterfield Road).

Nettleham Neighbourhood Plan:

The policies of the NNP only considers development on allocated housing site therefore is silent on smaller residential developments within the developed footprint of the settlement.

Nettleham Neighbourhood Plan Review 2023

The Nettleham Neighbourhood Plan Review includes a new draft policy (D6) for residential development away from allocated sites that are within and outside the developed footprint of the settlement. Criteria 1 of policy D6 includes a maximum number of dwellings, location and character considerations.

Concluding Statement:

The proposed development would be within the dwelling number limit for large settlements and is considered to be within the developed footprint of the settlement. The development would be expected to retain the core shape and form of the settlement, preserve the character of the settlement and would not be expected to significantly harm the character and appearance of the surrounding countryside or the rural setting of the village. Back land development adjacent the application site has been introduced into the character of this section of Nettleham.

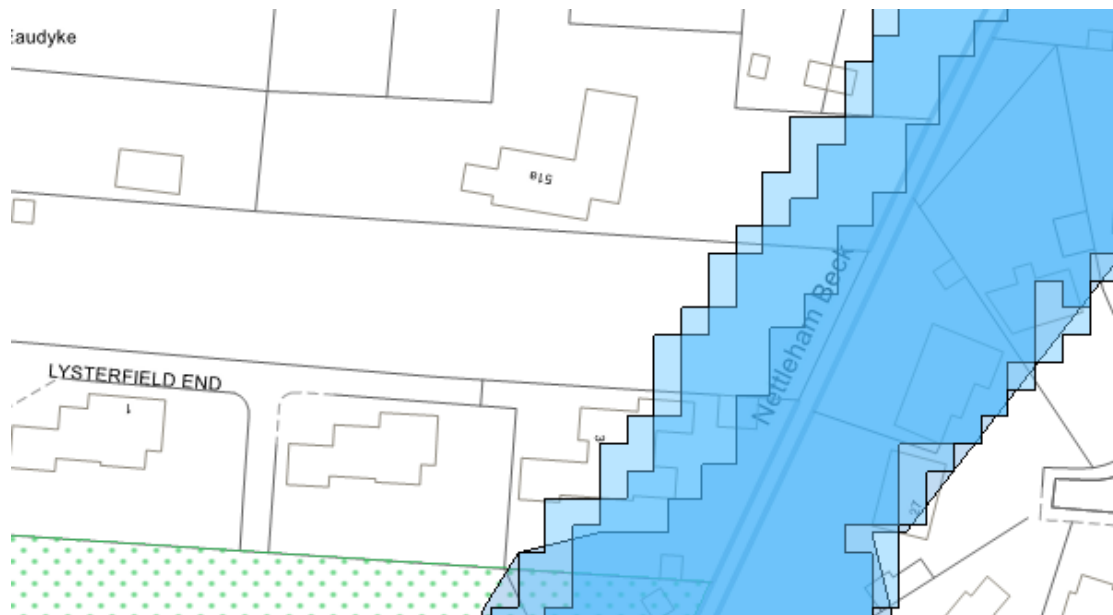
It is therefore considered that the development would accord to local policy S1 and S4 of the CLLP, draft policy D6 of the NNPR and the provisions of the NPPF.

Flood Risk

Objections have been received on the risk of flooding caused by the development through reducing the permeability of the site and increasing run-off to Nettleham Beck. Drainage of the site is considered later in the report.

Local policy S21 of the CLLP states that *“all development proposals will be considered against the NPPF, including application of the sequential and, if necessary, the exception test.”*

Policy D-4 of the NNP states that *“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.”*



As previously described and as identified on the plan above the site lies primarily in flood zone 1 with the eastern edge adjacent Nettleham Beck in flood 2 and 3. Local policy S21 and the National Planning Policy Framework (NPPF) requires a sequential approach towards locating development to areas at lower risk of flooding and the submission of a Flood Risk Assessment (FRA). An FRA Rev A01 dated 25th May 2023 by Origin Designs has been submitted. The FRA confirms that all three dwellings are positioned in flood zone 1 therefore passes the sequential test. The Floor level and Mitigation section (pg10) states that:

“Standing advice requires finished floor levels (FFL) should be a minimum of whichever is higher of 300mm above the:

- *Average ground level of the site*
- *Adjacent road level to the building*
- *Estimated river or sea flood level*

Final floor levels for the dwellings would be a matter to be determined through reserved matters.”

The Environment Agency have no objections subject to the FRA being listed as an approved document.

The proposed use of the site for dwellings is classed under Annex 3 (Flood Risk Vulnerability Classification) of the NPPF as being more vulnerable. Given consideration to table 3 (Flood risk vulnerability and flood zone ‘compatibility’) of the NPPG and the position of the dwellings within flood zone 1 it is considered by the Local Planning Authority that the proposed three dwellings would not be required to pass the sequential or exceptions test.

In section 5.2.2 of the NNP (justification for policy D-4 Water Resource and Flood Risk) it states that *“in order to minimise the risk of the effects of*

flooding, especially flash flooding, on the centre of the village it is considered essential that no new homes should be built on land that lies adjacent to the Nettleham Beck". Paragraph 6.10 of policy D3 of the NNPR replicates the extract in section 5.2.2 of the NNP noted above. It is important to consider that the justification in section 5.2.2 and paragraph 6.10 uses the word should which is not as definitive as the word shall or must.

Paragraph 3.7.3 of local policy S21 of the CLLP states that *"a sequential risk based approach to the location of development, known as a 'sequential test,' will be applied to steer new development to areas with the lowest probability of flooding"*.

Paragraph 162 of the NPPF states that *"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source"*.

The proposed development would therefore fail to comply with the justification in policy D-4 of the NNP but would accord with local policy S21 of the CLLP and the flood risk guidance of the NPPF.

Section 38 (5) of the Planning and Compulsory Purchase Act 2004 states that *'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 in favour of the policy which is contained in the last document'*.

The Nettleham Neighbourhood Plan was made on 3rd March 2016, whereas the Central Lincolnshire Local Plan was adopted on 13th April 2023. As the Central Lincolnshire Local Plan is the most recent plan the conflict must be resolved in favour of local policy S21.

It is therefore considered that the proposed dwellings would be located in flood zone 1, which sequentially is the preferred location as having the lowest risk of flooding and accords to local policy S21 of the CLLP and the provisions of the NPPF.

Minerals Resource

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

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

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

The site is within a Limestone Minerals Safeguarding Area and a Minerals Assessment has been submitted within the supporting statement. The Minerals and Waste team at Lincolnshire County Council have no objections to the development.

The development would not have an unacceptable harmful impact on a Minerals Resource and would accord with policy M11 of Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) and the provisions of the NPPF.

Biodiversity

Protected Species:

Policy S60 of the CLLP states “all development should:

- a) protect, manage, enhance and extend the ecological 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;*
- b) minimise impacts on biodiversity and features of geodiversity value;*

Policy E-5 Nettleham Beck Green Corridor of the NNP states:

“Development proposals which enhance the setting of the Beck and its associated amenity value will be supported. Where appropriate development proposals adjacent to the Beck should:

- a) Seek to retain public access and extend access through the formation of waterside walkways; and*
 - b) Preserve and enhance its amenity, biodiversity and recreational value.*
- Development proposals which encroach upon or materially harm the function, character or appearance of the Beck will not be supported.”*

This application on the request of the case officer has included a Preliminary Ecological Appraisal (PEA) by CGC Ecology dated June 2023. In summary section 5 of the PEA sets out the following recommendations:

Badgers

- Precautionary measures for badgers.

Bats

- No further work is required in respect of bats if any trees on site are to be managed or felled.
- No requirement for bat activity surveys providing precautionary measures are implemented as listed.

Water Voles

- If there are any anticipated impacts to Nettleham Beck then further survey work will be required. One water vole survey must be undertaken between mid-April and the end of June, and another between July and September, unless there is sufficient information from the first survey to determine either the absence of water vole or the relative size and extent of the water vole population to be affected.

Wild Birds

- Any removal or management of any of the trees, shrubs or hedgerows on site should commence outside the active nesting season which typically runs from early March through to early September. If work commences during the bird breeding season, a search for nests should be carried out beforehand by a suitably experienced ecologist, and active nests protected until the young fledge.

Recommendations

- The orchard on site should be retained in full, with continued appropriate management to maximise biodiversity. Any removal must be compensated for by re-planting at least the amount removed either somewhere else on the site, or on nearby land.
- Although the neutral grassland on site does not qualify as a Local Wildlife Site, it does have value for biodiversity, and replacement areas of species-rich grassland must be incorporated into the proposals.
- Any works taking place adjacent to Nettleham Beck must ensure that there is no risk of sediment, dust or pollutants entering the waterway, or damage to the banks. It is recommended that a buffer zone of 3m is installed along the edge of the beck, to ensure there are no incursions by heavy machinery.
- A Construction Environmental Management Plan or similar may be required to ensure the works do not adversely affect the beck.

Ecological Enhancements

- Any new hedgerows to be planted must comprise native species that provide pollen, nectar and fruit in order to provide a food source for birds and invertebrates.
- Any new trees to be planted must include field maple *Acer campestre*, bird cherry *Prunus padus*, pedunculate oak *Quercus robur*, lime species *Tilia* sp., goat willow *Salix caprea*, holly *Ilex aquifolium*, rowan *Sorbus aucuparia*, hawthorn *Crataegus monogyna*, crab apple *Malus sylvestris*

and wild cherry *Prunus avium*, which provide foraging opportunities for various invertebrate and bird species.

- Some areas of longer grass must be created within any areas of public open space or road verges, and seeded with a general-purpose wildflower meadow seed mix. Any new wildflower must be cut as specified.
- To maintain commuting routes for hedgehogs, any solid fences that are installed must have a small hole at the base measuring 13x13cm, or be raised off the ground. Ideally, hedges should be used instead of, or as well as, fencing.
- Integral swift boxes (Manthorpe Swift Brick, Woodstone, Vivara Pro or Schwegler type) must be installed on the northern or eastern elevation of the new dwellings.
- Integral Habitat, Ibstock or Woodstone bat boxes must be installed on the southern or eastern elevations of the new dwellings for use by pipistrelle bats.

The proposed development subject to conditions would therefore not be expected to have an unacceptable harmful impact on protected species or trees and would be expected to preserve and enhance the Nettleham Beck and accords to local policy S60 of the CLLP, policy E-5 Nettleham Beck Green Corridor and guidance contained within the NPPF.

Biodiversity Net Gain:

Local policy S61 of the CLLP requires “*all development proposals should ensure opportunities are taken to retain, protect and enhance biodiversity and geodiversity features proportionate to their scale, through site layout, design of new buildings and proposals for existing buildings with consideration to the construction phase and ongoing site management*”. Local policy S61 goes on to state that “*All qualifying development proposals must deliver at least a 10% measurable biodiversity net gain attributable to the development. The net gain for biodiversity should be calculated using Natural England’s Biodiversity Metric*”.

The Lincolnshire Wildlife Trust has commented on the Environment Act 2021 and the requirement of the Bill to provide a 10% net biodiversity gain. The Environment Act 2021 received royal assent on 9th November 2021. It is noted that policy S61 of the Local Plan Review proposes 10% as part of the statutory development plan.

However, this application was valid on 9th March 2023 when the adopted Local Plan was the Central Lincolnshire Local Plan 2012-2036. Whilst revoked policy LP21 of the Central Lincolnshire Local Plan 2012-2036 required some net biodiversity gain it did not require at least 10%. This application has included an ecology report which has made recommendations to mitigate and enhance the ecological value of the site. In this case with consideration given to the date of validation it is considered that it would be unreasonable to expect the applicant to satisfy the requirements of local policy S60(c) or S61 of the CLLP. It is also noted that the Government’s 2023 response to the 2022 BNG consultation set out that the transition period for small sites will be extended to April 2024

Small sites are defined as:

(i) For residential: where the number of dwellings to be provided is between one and nine inclusive on a site having an area of less than one hectare

Trees:

Local Policy S66 of the CLLP states:

“Planning permission will only be granted if the proposal provides evidence that it has been subject to adequate consideration of the impact of the development on any existing trees and woodland found on-site (and off-site, if there are any trees near the site, with ‘near’ defined as the distance comprising 12 times the stem diameter of the off-site tree). If any trees exist on or near the development site, ‘adequate consideration’ is likely to mean the completion of a British Standard 5837 Tree Survey and, if applicable, an Arboricultural Method Statement.

Where the proposal will result in the loss or deterioration of:

- a) ancient woodland; and/or*
- b) the loss of aged or veteran trees found outside ancient woodland,*

permission will be refused, unless and on an exceptional basis the need for, and benefits of, the development in that location clearly outweigh the loss.

The application has includes an Arboricultural Implications Assessment (AIA) by Andrew Belson dated 17th January 2023. The AIA summarises that *“it is my opinion that the proposed development scheme could provide dwellings in the approximate locations without any significant conflict.”*

The Authority’s Tree and Landscape Officer has not objected to the removal of category C trees, acknowledges the introduction of new trees and recommends conditions for more detailed landscaping information and tree protection measures.

The removal of category C trees should not be a constraint to restrict development. It is agreed that the application lacks landscaping details but landscaping is a reserved matter and full details of landscaping (including replacement trees) would be expected to be submitted with a future reserved matters application if this outline application is permitted.

The AIA includes a tree plan on the last page which identifies the position of the trees, the trees to be removed and the root protection areas. It does not include any tree protection measures. It is therefore agreed that it would be relevant and necessary to include a condition on any outline permission requiring tree protection measures.

It would therefore be expected that the development would not have an unacceptable harmful impact on protected species or trees and would accord to local policy S60 and S61 of the CLLP and the provisions of the NPPF.

Other Considerations:

Details of access, scale, appearance, layout and landscaping cannot be assessed at this stage as they are reserved for subsequent approval. An indicative site plan (ISP) J1852-PL-03 Rev P02 dated 5th May 2023 has been submitted but not any indicative elevation and floor plans.

Access

In planning law access is defined as:

“in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made”

The ISP identifies that the proposed 3 dwellings would be accessed using the existing vehicular access off Washdyke Lane (30mph) which serves the host dwelling. The vehicle access is set back from Washdyke Lane with pedestrian footpath and grass verge providing good visibility in both directions as confirmed by the Highways Authority at Lincolnshire County Council.



The Highways Authority at Lincolnshire County Council have not objected to the development but have recommended that *“any subsequent reserved matters application should make arrangements for refuse storage within the site curtilage for the 3 proposed dwellings and the host dwelling”*.

It is considered that the proposed access would not be expected have an unacceptable harmful impact on highway safety and would be expected to accord with local policy S47 of the CLLP, policy D-6 of the NNP, policy D4 of the NNPR and the provisions of the NPPF.

It is considered that policy D-6 and D4 are consistent with the highway safety guidance of the NPPF and can be attached full weight.

Layout

In planning law layout is defined as:

“the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development”.

The ISP identifies three detached dwellings in a row to the rear of the host dwelling matching the character of Lysterfield End. The dwellings would be in acceptable plots with more than adequate private garden sizes and off street parking provision for 5 bedroom dwellings in accordance policy S49 of the CLLP and 4 bedroom dwellings in accordance with policy D-3 of the NNP and policy D1 of the NNPR. The dwellings would be appropriately separated from each other.

The ISP includes an access road off the initial track which at 4.1 metres would be wide enough for two cars to pass. The existing track down to the host dwelling is 3.4 metres wide and would not be wide enough for two vehicles to pass. It would be advised to widen at least the first 10 metres of the track from the highway to 4.1 metres wide.

The ISP would not be considered to be an overdevelopment of the site and would relate well to the character of the area.

It is therefore considered that the proposed layout would not be expected to have an unacceptable harmful impact and would accord to local policy S49 and S53 of the CLLP, policy D-6 of the NNP, policy D4 of the NNPR and the provisions of the NPPF.

In planning law Scale and Appearance is defined as:

“the height, width and length of each building proposed within the development in relation to its surroundings.”

“the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.”

No elevation and floor plans have been submitted with the application. The ISP suggests that dormer bungalows are to be proposed on the site. It is not considered relevant or necessary to restrict the scale of the dwellings through a condition on the outline permission. However any future reserved matters application must be mindful of the proximity of neighbouring existing dwellings.

The site has residential uses adjacent or opposite each boundary. These residential uses includes a mix of dwelling types, designs and sizes including bungalows, dormer bungalows and two storey dwellings. It would be advised that the scale and appearance through a reserved matters application would need to be appropriate and informed by its locality including the use of any locally distinctive materials.

Landscaping:

‘Landscaping’ – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;

The ISP provides an indicative concept of landscaping for the site. Mitigation or compensation for the trees to be removed is an important matter for any future landscaping plans including consideration of the Nettleham Beck.

Archaeology

The Historic Environment Officer at Lincolnshire County Council has no objection to the development. Therefore the development would not be expected to have a harmful archaeological impact and would be expected to accord to local policy S57 of the CLLP and the provisions of the NPPF.

Residential Amenity

Objections have been received from neighbouring residents in relation to loss of privacy, loss of daylight, noise disturbance and air pollution.

Criteria d of section 8 of local policy S53 of the CLLP states that all development proposals will *“Not result in harm to people’s amenity either within the proposed development or neighbouring it through overlooking, overshadowing, loss of light or increase in artificial light or glare”*

Indicative elevation and floor plans have not been submitted with the application. The site shares a boundary with a number of existing neighbouring dwellings. The ISP demonstrates that three dwellings carefully positioned on the site would not be expected to have an unacceptable harmful impact on the living conditions of existing or potential neighbouring dwellings through loss of light or loss of privacy. The position of the dwellings on the ISP provides adequate separation distances and sufficient private garden spaces.

Noise/Air Pollution:

Comments have been received from neighbours in relation to noise and air pollution from the traffic entering and exiting the site.

The access road to the site would sit between the boundary of 51 Washdyke Lane and 53 Washdyke Lane as well as running past the east elevation of the host dwelling (51A Washdyke Lane). Vehicles (residents, visitors, deliveries etc.) expected to use the access road would generate some noise but at low speed and not to an amount which would be expected to unacceptably harm the living conditions of neighbouring dwellings.

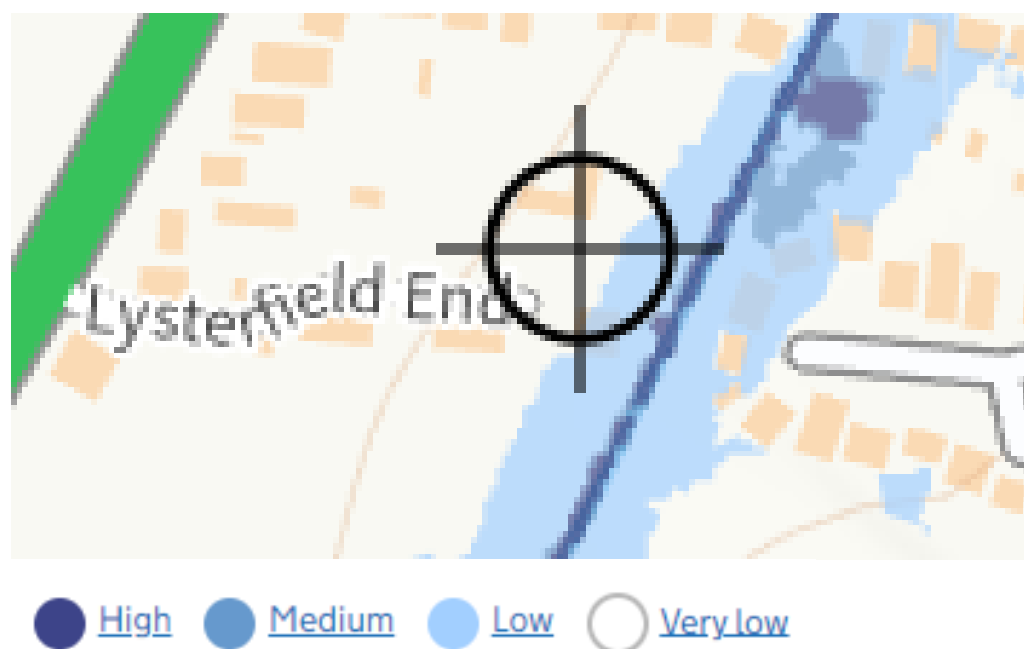
The use of the access road by vehicles would pollute the air through exhaust fumes but not to an amount which would be expected to unacceptably harm the living conditions of neighbouring dwellings.

It would be considered reasonable and necessary to attach a condition requiring a demolition and construction method statement to ensure the works do not unacceptably harm the neighbouring residents.

It is therefore considered that the proposed development would not be expected to have an unacceptable harmful impact on the living conditions of neighbouring and future residents and would accord to local policy S53 of the CLLP and the provisions of the NPPF.

Foul and Surface Water Drainage

Objections have been received in relation to drainage and surface water flooding. The government's flood map ¹ for planning website confirms that the site has some low to high risk of flooding from surface water near and on the Nettleham Beck as identified below:



The application form does not state how foul water would be disposed of. Given the location of the development it would be preferred and expected that the development would connect to the existing mains sewer. The application form states that surface water would be disposed of to soakaways which as a sustainable urban drainage system is preferred. Further details would be required either through a condition or a reserved matters application to appropriately drainage the propose site.

Comments have been received in relation to surface water run-off and the reduction of the permeable qualities of the site. It is agreed that the permeable qualities of the site would be reduced by the introduction of built form and associated infrastructure. However any future surface water

¹ <https://flood-map-for-planning.service.gov.uk/>

drainage scheme would have to take into consideration the impact of the development and Nettleham Beck.

Therefore foul and surface water drainage would be expected to be capable of being addressed by the use of a condition and subject to further details would be expected to accord to local policy S21 of the CLLP, Policy D-4 Water Resource and Flood Risk of the NNP, policy D3 of the NNPR and the provisions of the National Planning Policy Framework.

Climate Change

Local policy S6 and S7 of the CLLP sets out design principles for efficient buildings and reducing energy consumption. Local policy LP7 states that:

“Unless covered by an exceptional basis clause below, all new residential development proposals must include an Energy Statement which confirms in addition to the requirements of Policy S6”.

Local policy S7 provides guidance and criteria on the generation of renewable electricity and the limit on the total energy demand for each single dwelling (*“not in excess of 60 kWh/m²/yr”*).

As previously stated this application was valid on 9th March 2023 when the adopted Local Plan was the Central Lincolnshire Local Plan 2012-2036. Revoked policy LP19 of the Central Lincolnshire Local Plan 2012-2036 required consideration of renewable energy developments but it did not require all development to reduce energy consumption.

In this case with consideration given to the date of validation it is considered that it would be unreasonable to expect the applicant to satisfy the requirements of local policy S6 and S7 of the CLLP.

Policy S59 of the CLLP

The Lincolnshire Wildlife Trust Officer has stated that *“The site contains important elements of the local green and blue infrastructure network (Policy S59) such as orchard, grassland (Paragraph 11.0.2 CLLP) and Nettleham beck - which connects the site to the wider landscape (Section 4.6 of the PEA). Nettleham beck runs adjacent to the eastern boundary of the proposed development (though not shown in the ‘Indicative Site Plan’)”.*

Consideration of trees and the Nettleham Beck have been assessed earlier in the report including comments from the Authority’s Tree and Landscape Officer. Conditions have been recommended for:

- Tree Mitigation/Compensation
- Tree Protection Measures
- Nettleham Beck Enhancements

It is therefore considered that the development subject to further information and conditions would not have a harmful impact on a local green and blue infrastructure network and would be expected to accord with local policy S59

of the CLLP, the policy of the Nettleham Neighbourhood Plan and provisions of the NPPF.

Community Infrastructure Levy

The development would be liable to CIL payment prior to works commencing.

Conclusion and reasons for decision:

The decision has been considered against policies S1 The Spatial Strategy and Settlement Hierarchy, S4 Housing Development in or Adjacent to Villages, S6 Design Principles for Efficient Buildings, S7 Reducing Energy Consumption –Residential Development, S20 Resilient and Adaptable Design, S21 Flood Risk and Water Resources, S23 Meeting Accommodation Needs, S47 Accessibility and Transport, S49 Parking Provision, S53 Design and Amenity, S57 The Historic Environment, S59 Green and Blue Infrastructure Network, S60 Protecting Biodiversity and Geodiversity, S61 Biodiversity Opportunity and Delivering Measurable Net Gains and S66 Trees, Woodland and Hedgerows of the Central Lincolnshire Local Plan 2023 and policy E-5 Nettleham Beck Green Corridor, D-1 Access, D-2 Pedestrian and Cycle Access, D-3 Parking Provision, D-4 Water Resource and Flood Risk and D-6 Design of New Development in the first instance. Furthermore consideration is given to D1 Parking Standards for New Residential Development, D3 Water Resource and Flood Risk, D4 Design of New Development and Parish Design Code Principles, D5 Climate Change Mitigation and Adaption, D6 Housing Development within Nettleham and D7 Housing Mix and Affordable or Specialist Housing and guidance contained within the National Planning Policy Framework, National Planning Practice Guidance, National Design Guide and the National Design Code. In light of this assessment the principle of the proposed development is considered acceptable and would introduce three dwellings in an appropriate location within the developed footprint of the settlement. The development would not have an unacceptable harmful flood risk impact or have a harmful impact on protected species and trees. This is subject to conditions and the submission of the reserved matters of access, scale, appearance and landscaping.

Human Rights Implications:

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

Legal Implications:

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

Representors to be notified -

(highlight requirements):

Standard Letter ☐

Special Letter ☐

Draft enclosed ☐

Prepared by: Ian Elliott

Date: 3rd July 2023

Decision Level (tick as appropriate)

Recommended Conditions:

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

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

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

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

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

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

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

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

4. No development must take place until full details to protect all the retained on site and boundary trees and their root protection areas have been submitted to and approved in writing by the Local Planning Authority. The approved protection measures must be installed prior to the commencement of development and retained in place until the development has been fully completed.

Reason: To safeguard the existing trees on or adjacent the site during construction works, in the interest of visual amenity to accord with the National Planning Policy Framework and local policy S60 and S66 of the Central Lincolnshire Local Plan 2023.

5. No development must take place until a demolition and construction method statement has been submitted and agreed in writing by the local planning authority. The approved statement(s) must be adhered to throughout the construction period. The statement must provide for:

- i. the routing and management of 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. wheel cleaning facilities;
- vi. measures to control the emission of dust and dirt;
- vii. protection of the Nettleham Beck including buffer zone (see page 21 Preliminary Ecological Appraisal by CGC Ecology dated June 2023);
- viii. details of noise reduction measures;
- ix. a scheme for recycling/disposing of waste;
- x. the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;

Reason: To restrict disruption to the living conditions of the neighbouring dwelling and surrounding area from noise, dust and vibration and to accord with the National Planning Policy Framework and local policy S53 of the Central Lincolnshire Local Plan 2023.

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

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

- J1852-PL-01 Rev P01 dated 8th March 2023 – Location Plan

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

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework, local policy S1, S4 and S53 of the Central Lincolnshire Local Plan 2023.

7. No development above ground level must take place until full details of a scheme for the disposal of foul and surface water (including any necessary soakaway/percolation tests) from the site and a plan identifying connectivity and their position has been submitted to and approved in writing by the local planning authority. The Drainage Strategy will need to identify how run-off from the completed development will be prevented from causing an impact elsewhere. No occupation of each individual

dwelling must take place until its individual foul and surface water drainage connection has been fully installed in strict accordance with the approved details. The approved drainage scheme must be retained as such thereafter.

Reason: To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework and local policy S21 of the Central Lincolnshire Local Plan 2023.

8. Any reserved matters planning application submitted to the Local Planning Authority must include the details listed below as recommended in the Preliminary Ecological Appraisal by CGC Ecology dated June 2023:

- Hedgehog appropriate fencing including elevation plan.
- Integral swift box (Manthorpe Swift Brick, Woodstone, Vivara Pro or Schwegler type) identified on the northern or eastern elevation of each dwelling.
- Integral Habitat, Ibstock or Woodstone bat box identified on the southern or eastern elevation of each dwelling for use by pipistrelle bats.
- Retention of the orchard or justification for its removal with appropriate compensation by re-planting
- Nettleham Beck enhancements

The details submitted must be in accordance with the positions, types and specifications identified in the Preliminary Ecological Appraisal by CGC Ecology dated June 2023. The approved details must be installed prior to occupation of each individual dwelling and must be retained as such thereafter.

Reason: In the interest of nature conservation and to respond to the enhancement recommendations of the Preliminary Ecological Appraisal by CGC Ecology dated June 2023 and to accord with the National Planning Policy Framework, local policy S59 and S60 of the Central Lincolnshire Local Plan 2023 and policy E-5 of the Nettleham Neighbourhood Plan.

9. Apart from the details described in condition 8 of this permission the development hereby approved must only be carried out in accordance with the recommendations set out in section 5 of the Preliminary Ecological Appraisal by CGC Ecology dated June 2023.

Reason: To respond to the enhancement recommendations of the Preliminary Ecological Appraisal by CGC Ecology dated June 2023 to accord with the National Planning Policy Framework, local policy S60 of the Central Lincolnshire Local Plan 2023 and policy E-5 of the Nettleham Neighbourhood Plan.

10. The proposed development hereby approved must be completed in strict accordance with the approved Flood Risk Assessment by Origin Design

Studio Ltd dated 25th May 2023 and the following mitigation measure detailed on page 10:

- Standing advice requires finished floor levels (FFL) should be a minimum of whichever is higher of 300mm above the average ground level of the site, adjacent road level to the building and estimated river or sea flood level.

Reason: To prevent flooding and protect the future residents to accord with the National Planning Policy Framework, local policy S21 of the Central Lincolnshire Local Plan 2012-2036 and policy D-4 of the Nettleham Neighbourhood Plan.

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

NONE

Agenda Item 7



Planning Committee

**Wednesday, 12 July
2023**

Subject: Determination of Planning Appeals

Report by:

Director – Planning, Regeneration & Communities

Contact Officer:

Andrew Warnes
Democratic and Civic Officer
andrew.warnes@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

x

Key Decision:

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

Yes

☐

No

x

Appendix A - Summary

- i) Appeal by Mr George Coopland against the decision of West Lindsey District Council to refuse planning permission for change of use of an agricultural building to a workshop (Class B2) at Land adjacent to Mount Pleasant House, South Lane, Middle Rasen, Market Rasen, Lincolnshire LN8 3LG.

Appeal Allowed – See copy letter attached as Appendix Bi.

Officer Decision – Refuse

- ii) Appeal by Gina Mettam against the decision of West Lindsey District Council to refuse planning permission for erection of 5 no. dwellings and 1 no. substitute dwelling in lieu of existing approval, including new shared access drive and parking and an upgrade of existing access onto A1133 at High Street, Newton on Trent, Gainsborough, Lincolnshire, LN1 2JP.

Appeal Dismissed – See copy letter attached as Appendix Bii.

Officer Decision – Refuse

- iii) Appeal by Mr Nik Ferrier-Hanslip against the decision of West Lindsey District Council to refuse planning permission for 1 dwelling at Land adjacent to 5 Beck Hill, Tealby, Market Rasen, Lincolnshire LN8 3XS.

Appeal Allowed – See copy letter attached as Appendix Biii.

Committee Decision – Refuse

Costs Allowed – see costs letter attached as Appendix Biiia

- iv) Appeal by Mr D Churchill against the decision of West Lindsey District Council to refuse planning permission for application to erect 5 detached dwellings with attached garages at Land to the east of Church Road, Upton, Gainsborough DN21 5NS.

Appeal Allowed – See copy letter attached as Appendix Biv.

Committee Decision – Refuse

Costs Dismissed – see costs letter attached as Appendix Biva.

- v) Appeal by Mrs Leanne World against the decision of West Lindsey District Council to refuse planning permission for planning application to convert and extend workshop building (Unit 1) to 1no. dwelling and remove 2no. workshop buildings (Units 2 & 3) at 51 Church Lane, Saxilby, Lincoln, Lincolnshire LN1 2PE.

Appeal Allowed – See copy letter attached as Appendix Bv.

Officer Decision – Refuse



Appeal Decision

Site visit made on 14 April 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/N2535/W/22/3309912

Land adjacent to Mount Pleasant House, South Lane, Middle Rasen, Market Rasen, Lincolnshire LN8 3LG

- 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 George Coopland (Fieldview Trailers) against the decision of West Lindsey District Council.
 - The application Ref 144733, dated 5 April 2022, was refused by notice dated 14 June 2022.
 - The development proposed is change of use of an agricultural building to a workshop (Class B2).
-

Decision

1. The appeal is allowed and planning permission is granted for part change of use of an agricultural building to a workshop (Class B2), at Land adjacent to Mount Pleasant House, South Lane, Middle Rasen, Market Rasen, Lincolnshire LN8 3LG in accordance with the terms of the application, Ref 144733, dated 5 April 2022 and subject to the conditions set out in the attached schedule.

Background and Main Issues

2. The description of development on the application form implied a change of use of a whole building. However, what is in fact sought is the partial change of use of some 250sqm of the building at its eastern end from agricultural to a trailer repair business. The planning history indicates two prior notifications under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) have resulted in the change of use of 148sqm to the western end of the building from agricultural to the sale and display of goods (Class A1) and the change of use of 200sqm within the central section to storage and distribution (Class B8).
3. The application was made on a retrospective basis, and I saw on site that the part of the agricultural building which is the subject of the proposal was in use as a workshop/repair area for agricultural and other trailers. The other parts of the building were largely in use in accordance with the aforementioned changes of use, though none of the spaces are fully physically separate and they appeared to form constituent parts of a single business operating within the building. I have approached the appeal on the basis that it seeks to retain the use as implemented on site.
4. Having regard to this background, the main issues are i) whether the change of use represents a suitable form of development within the countryside, and ii) the effect of the change of use on the living conditions of neighbouring occupants, with respect to noise and disturbance.

Reasons

Development in the countryside

5. The development plan for the area is the Central Lincolnshire Local Plan (April 2017) (the CLLP). The Council is currently preparing the Draft Central Lincolnshire Local Plan, but I note it is still at a stage where any objections have not been fully resolved and may yet be subject to change. Therefore, I afford limited weight to the policies of the draft local plan and have determined the appeal principally against the adopted policies of the CLLP.
6. Policy LP5 of the CLLP concerns the delivery of economic prosperity and job growth. The site is not located within an allocated employment site. The Council has consequently assessed the proposal under the 'Other Employment Proposals' (OEP) section of the policy, which requires it to be demonstrated that there are no other suitable sites or buildings within allocated sites or the built-up area of the settlement, among other criteria relating to the character of the area, compatibility with neighbouring uses, the viability of allocated employment sites and maximising modal shifts away from the private car.
7. However, the appellant argues that the proposal should instead be considered under the 'Expansion of Existing Businesses' (EEB) section of Policy LP5. This section does not require an assessment of whether other suitable sites are available but focuses on the impacts of the proposal on the character and appearance of the area, neighbouring land uses and the highway network.
8. The existing business on the site comprises trailer sales and storage, with the workshop/repair aspect of the operation specifically sought under this appeal. From the evidence before me, and supported by my observations on site, the repair service is an integral part of the overall business, being as much a part of it as the sales and storage elements. Those elements have also been established through the previous prior approval schemes. Therefore, notwithstanding the Council's view that the business does not need to locate in the countryside, it already is located there. On this basis, I am satisfied that the appeal scheme relates to the expansion of an existing business, and thus the EEB section of Policy LP5 is relevant to the proposal.
9. Moreover, the supporting text states at Paragraph 3.5.7 that "*In Central Lincolnshire's sparsely populated rural hinterlands [...] some types of businesses [...] are quite naturally located in the countryside [...]. This kind of development is not exceptional and needs to be accommodated in the Local Plan. The latter part of the policy does this.*" Given this, I am not persuaded that the OEP section of Policy LP5 should also be applied in this case, as this would effectively require an established business to undertake a sequential test to demonstrate there are no better sites available. This would logically be applicable to new proposals not already tied to a particular location, but if applied to existing businesses would undermine the approach set out in the supporting text and the EEB section, particularly where it seeks the re-use of existing buildings where possible.
10. Turning to the specific criteria of the EEB section, the appeal scheme meets the first criterion as it is contained within the existing building on the site. The Council is also satisfied that there would be no adverse effect on the character and appearance of the area, as no external works are proposed. I see no reason to disagree on this point and thus the fourth criterion is met.

11. In terms of highway impacts, the evidence suggests the proposal would generate around 6.7 light commercial/private car trips per day. Although the site is accessed via a single track lane, which serves a number of other properties, there is clear visibility along the full length of the lane to the main A631 road, and very limited traffic in general. The condition of the lane has been raised in correspondence, but I did not observe it to be in such a poor condition as to be unable to accommodate the modest level of additional traffic expected. There is also parking space available to the forecourt of the appeal building and directly opposite to accommodate vehicles arriving at the site. Overall, I have no reasons to find differently to the Council in this matter, whose conclusions also reflected those of Lincolnshire County Council as the local highway authority. I address other matters relating to parking below.
12. The remaining requirement under the EEB section of Policy LP5 is that the proposal does not conflict with neighbouring land uses. I address this below as a separate main issue in respect of neighbours' living conditions, but otherwise the proposal would accord with the aims of Policy LP5 to support proposals which assist in the delivery of economic prosperity and job growth to the area.
13. The Council also cited conflict with Policy LP55, specifically Part E which relates to non-residential development in the countryside. The appeal scheme would accord with criterion (a) of the policy as the rural location of the enterprise is justified by means of proximity to an existing established business. For reasons already set out, there would be no harm arising in respect of accessibility, and therefore no conflict with criterion (b). The scale of the use is small, confined to one part of an agricultural building with work indicated to be limited to two trailers at any one time. The business is also related to the wider rural economy in that it serves customers involved in agricultural and equestrian activities. As such, there is no conflict with criterion (d) of the policy. The final criterion, (c), relates to conflict with neighbouring uses and is addressed below.

Neighbours' Living Conditions

14. The nearest dwelling is Croft House, adjacent to the appeal building at a distance of some 11.7 metres. The Council's concern relates to noise generated by activities associated with the repairing of trailers, such as the use of power tools and compressors, and impact noise associated with bodywork repairs, including hammering and sanding. The Council also refers to fumes and smells from these activities. I have also had regard to the comments of the occupants of this property raising concern over the ongoing use of the premises causing noise and light pollution, alongside inconvenience from parked cars, trailers and trucks along the lane.
15. The appeal building has solid exterior walls to all sides, with the only major opening being the door to the front elevation. I saw that apart from a number of small rooflights, there are no windows to the building. It is also implausible that the main door would be left open and the lights on at night given the value of stock and machinery housed within. Therefore, I am not persuaded that the building is, or would be, a source of disruptive light pollution for neighbours.
16. The appellant has provided a noise impact assessment (NIA) which assessed background noise conditions and the impact noise of specific power tools being operated on the premises, including with the doors open. The NIA concludes that noise from the business, including corrections for impulsivity and intermittency of noise, does not exceed the lowest background noise level

measured at a receptor adjacent to the neighbouring dwelling. This equates to a 'no observed effect level' having regard to the noise exposure hierarchy of the Noise Policy Statement for England (NPSE) as referred to in the National Planning Policy Framework (the Framework) and Planning Practice Guidance. It is also stated that the activities on site do not generate fumes or odours.

17. The comments of the neighbouring residents indicate persistent evening operation of the business and machinery being left on creating constant noise. I note comments from the neighbouring resident in respect of effects on the health of family members as a result. The appellant disputes that noise and disturbance is occurring, pointing to the need to ensure machinery is switched off for fire safety and energy efficiency. Ultimately, I have no clear evidence of the extent or frequency of disturbances alleged by the neighbouring residents, but there is logic to the appellant's point in that leaving machinery on overnight would represent unnecessary energy use and pose a potential hazard should it malfunction with no-one present to switch it off.
18. I also note that the Council's environmental protection officer recommended conditions to mitigate outstanding potential sources of noise and disturbance, including hours of operation. To my mind, such conditions would help to address the concerns of the neighbouring residents by precluding operations into the evening and reducing the risk of occurrences such as those described.
19. I have limited evidence before me to substantiate the claims regarding disruption caused by indiscriminate parking of vehicles along the lane. At my visit, I saw the area opposite the building demarked as a parking area for the wider business, which had capacity for around four vehicles or trailers. Beyond that, there is an area of hardstanding to the front of the building where vehicles could be parked off the carriageway. I saw no evidence of excessive numbers of vehicles or other dwellings being blocked, although I accept my visit was but a brief snapshot in time. I did however see vehicles which appeared to be associated with an adjacent equestrian use, which is likely to add to the overall number of vehicles in the vicinity at certain times.
20. However, looking at the appeal scheme itself, the scale of the operation is small. The limits of the building's floorspace also reduce the likelihood of the business expanding its operations to a level that would create significantly more noise or traffic. The Council has also suggested conditions which would help to manage the level of activity taking place outside of the building on the lane and reduce the risk of disturbance to neighbouring occupants.
21. Taking an overall view, therefore, having regard to the evidence before me and having viewed the site and the extent of the workshop area, I have no reasons to doubt the conclusions of the appellant's NIA. Nor is there substantive evidence that the operation gives rise to harmful fumes or odours, or that the level of traffic and parking on site are or would be at such a level as to cause noticeable disruption to neighbouring occupants. Subject to the conditions mentioned relating to the hours of operation and the use of external areas around the building, the use is capable of operating without causing significant harm to the living conditions of neighbouring occupants.
22. For these reasons, I find no conflict with Policy LP26 of the CLLP, which requires 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. Given my conclusions on this

issue, the proposal would also accord with the outstanding criteria of Policies LP5 and LP55 in relation to compatibility with neighbouring uses. The appeal scheme would also comply with the related aims of the Framework.

Other Matter

23. The planning history and intentions of the appellant have been raised by an interested party. Where the trailer repair use was refused under a prior approval application, this appears to have been due to the Council's interpretation that the proposed activity fell outside the scope of the relevant permitted development class. However, this does not set a precedent for a later application for planning permission, which the appellant was entitled to make and have considered on its own planning merits.

Conditions

24. I have considered the Council's suggested conditions against the relevant tests of the Framework. As the application was made retrospectively, there is no need for a time limit condition. However, to provide certainty, in particular in defining the area of the building to which the permission relates, a condition setting out the approved plans is necessary.
25. The Council seeks a condition requiring further investigation of soundproofing improvements to the workshop, on foot of a recommendation by the Council's environmental protection officer. However, the parameters of this condition are vague, with no detail as to a threshold of soundproofing that would be required. Moreover, given the results of the appellant's NIA indicated noise would not be audible above background noise from the nearest receptor, it is not clear on what basis further soundproofing is being sought. In my view, this condition is not sufficiently precise or necessary to make the proposal acceptable in planning terms, and I will not impose it.
26. However, other suggested conditions relating to hours of operation, keeping doors closed except for access, not undertaking repairs externally and maintaining noise attenuated reversing alarms on forklift vehicles are all necessary to safeguard the living conditions of neighbouring occupants.
27. Finally, it is necessary to require that the approved use only be undertaken in accordance with the existing business occupying the remainder of the building, to prevent use of the internal floorspace for a different or separate B2 use that may give rise to unforeseen impacts in respect of living conditions, highway safety and the viability of the existing business. The appellant had suggested such a condition in his statement of case.

Conclusion

28. For these reasons, I conclude that the appeal scheme accords with the development plan, taken as a whole, and material considerations do not indicate that permission should nevertheless be withheld. Therefore, the appeal should be allowed subject to the conditions set out in the attached schedule.

K. Savage

INSPECTOR

SCHEDULE OF CONDITONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: RDS 11510/10(A); RDS 11510/11(A).
- 2) The floorspace of the building to which this permission relates shall not at any time be separated, physically or otherwise, from the existing trailer sales and storage uses within the building, and at all times shall be used as a trailer repair workshop in connection with the existing trailer sales and storage uses within the building and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) The use hereby permitted under this permission shall only operate between the following times: 08:30am to 5:00pm on Mondays to Fridays, 08:30am to 1:00pm on Saturdays and at no time on Sundays, bank or public holidays.
- 4) The use hereby permitted shall operate in accordance with the following requirements at all times:
 - There shall be no HGV or forklift movements outside of the operating times stated in Condition No 3.
 - Doors of the workshop must be closed at all times during operation except for access.
 - No trailer alterations or repairs shall be undertaken outside of the permitted area of the workshop.
 - Forklift vehicles must be fitted with noise attenuated reversing alarms and all such alarms are to be kept in working condition and operable wherever a forklift truck is used on the site.



Appeal Decision

Site visit made on 1 June 2023

by Louise Crosby MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2023

Appeal Ref: APP/N2535/W/23/3315863

High Street, Newton on Trent, Gainsborough, Lincolnshire, LN1 2JP

- 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 Gina Mettam against the decision of West Lindsey District Council.
 - The application Ref 145781, dated 25 October 2022, was refused by notice dated 20 December 2022.
 - The development proposed is erection of 5 no. dwellings and 1 no. substitute dwelling in lieu of existing approval, including new shared access drive and parking and an upgrade of existing access onto A1133.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision notice refers to policies LP2, LP4 and LP14 within Central Lincolnshire Local Plan – Adopted April 2017, however I note that a new local plan was adopted in April 2023. I shall deal below with the appeal on the basis of the latest adopted policies considering whether there have been any material changes to the aims of these policies where necessary.

Main Issues

3. The main issues are whether the proposal would:
 - i) result in unacceptable flood risk; and
 - ii) provide an appropriate location for the proposal having regard to the Council's spatial strategy and the character and appearance of the surrounding area.

Reasons

Flood risk

4. National planning policy aims to direct housing to areas at least risk of flooding. The appeal site is located in a medium flood risk area (Flood Zone 2) and therefore housing development such as this must pass a sequential test.
5. Planning Practice Guidance (PPG) at paragraph 23, explicitly states firstly, that the sequential test "means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding", and secondly, that "Even where a flood risk assessment shows the development can be made safe

throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.” This advice is reflected in policy S21 of the 2023 Plan.

6. From the information before me it appears that the appellant has carried out a Flood Risk Assessment which identifies the level of risk of flood from various sources and recommends various flood protection measures, but no sequential test has been carried out. I appreciate that the area is protected by flood defences, but that does not change the fact that site is in Flood Zone 2 and as such a sequential test must be carried out.
7. On this basis alone the appeal must fail as it is in direct conflict with the advice in PPG and the Framework. It also fails to accord with LP policy S21 in so far as it seeks to restrict development where flood risk would be unacceptable and requires development proposals to have regard to the requirements of the flood risk sequential test as set out in national planning policy guidance.

Spatial strategy and character and appearance

8. Newton on Trent is classified as a ‘small village’ within the settlement hierarchy in Central Lincolnshire Local Plan Policy LP2. It is still classified as a ‘small village’ in policy S1 of the 2023 Plan. Policy S4 of the 2023 Plan advises that in small villages, up to 5 dwellings will be permitted on sites within the footprint of the village (subject to a number of other criteria). Policy LP2 of the superseded Plan sought to restrict development to around 4 dwellings, therefore there is a material change.
9. The appeal site already contains 1 dwelling which would be replaced and so the net increase in dwellings would be five. Policy S4 allows up to 5 dwellings on unallocated sites in appropriate locations within the development footprint of the village, unless there are clear material considerations that indicate otherwise. Having read the Plan’s glossary I am satisfied that this site is within the continuous built form of the settlement given it is surrounded on 3 sides by existing built development and on the fourth by a main road. In addition, it contains a dilapidated commercial building.
10. In terms of appropriate location, the glossary defines this as retaining the core shape and form of the village which this proposal would do. It also requires new development to not significantly harm the settlement’s character and appearance or the character and appearance of the surrounding countryside or the rural setting of the settlement. I note that the Council do not allege that the proposal would cause harm to the character and appearance of the area or the countryside. Moreover, I note that there is local support for the proposal which would they say improve the appearance of the appeal site. I have no reason to come to an alternative conclusion.
11. Turning now to the clear material considerations test in policy S4, my findings in relation to flood risk are a clear material consideration which carries significant weight against the proposal. As such the proposal would conflict with policy S4 of the 2023 Plan.

Other Matter

12. The appellant raises the issue of an extant planning permission for the conversion of the redundant joiner’s workshop on the site to form a one bedroomed dwelling which she considers to be a valid fallback position. Whilst

this planning permission is still extant and therefore could be built, the proposal before me would increase the number of homes on the site and therefore the risk to life in the event of a serious flood event as there would be more people living on the site. As such this does not outweigh the harm I have identified above.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

Louise Crosby

INSPECTOR



Appeal Decision

Site visit made on 25 April 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/N2535/W/22/3304070

Land adjacent to 5 Beck Hill, Tealby, Market Rasen, Lincolnshire LN8 3XS

- 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 Nik Ferrier-Hanslip against the decision of West Lindsey District Council.
 - The application Ref 143877, dated 19 October 2021, was refused by notice dated 31 March 2022.
 - The development proposed is 1 no. dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for 1 no. dwelling at 5 Beck Hill, Tealby, Market Rasen, Lincolnshire, LN8 3XS in accordance with the terms of the application, Ref 143877, dated 19 October 2021, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Nik Ferrier-Hanslip against West Lindsey District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal site is located within the Tealby Conservation Area (CA) and the Council's appeal questionnaire indicates that the proposed development would affect the setting of a listed building. In this regard, I have been provided with a copy of the listing for 'Brick House and Burleys, Front Street'. Given my statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the setting of Listed Buildings I have taken these matters into account in defining the main issue.
4. Since the Council issued its decision and following the submission of this appeal, a new Central Lincolnshire Local Plan (April 2023) (LP 2023) has been adopted. This supersedes the Central Lincolnshire Local Plan adopted in 2017, the policies of which are referred to in the Council's decision notice. Therefore, I have considered the proposal against the up-to-date development plan including the policies of the LP 2023. I have also consulted the main parties on this change in circumstances and have taken the comments received into account.
5. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been

concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.

Main Issue

6. The main issue is whether the proposal would preserve or enhance the character or appearance of the Tealby CA, including but not limited to the setting of the Grade II Listed Brick House and Burleys.

Reasons

7. The appeal site substantively relates to garden land currently serving No 5 Beck Hill. While there is an overriding traditional vernacular within the CA, there is variation to the design, scale and layout of dwellings including on Beck Hill. For example, the existing dwelling at No 5 is a detached cottage with stonework facades, a pantile roof, and chimneys, window surrounds and quoins all in brickwork. To the immediate south, there is a detached bungalow at No 5A Beck Hill with stonework to its principal elevation, brown roof tiles and brickwork side elevations. These dwellings sit at right angles to each other and are differently positioned in terms of their proximity to the highway.
8. The dwellings on Beck Hill generally sit within spacious plots with mature gardens. Even so, there is some variation to the size, shape and layout of plots in the CA and the extent to which garden areas are appreciable to passers-by. Notably, Nos 5 and 5A have modest rear gardens. The garden land forming the proposed plot is set back behind the substantial shared access drive and to the side of these dwellings. There is also an intervening garage serving No 5. Consequently, these factors reduce the perception of the appeal site in terms of it forming an exclusive part of the plot serving No 5. Nevertheless, some of the soft planting and the trees in the vicinity of this area are appreciable from the street and this positively contributes to the CA's verdant character.
9. The above factors generally reflect the observations in the West Lindsey District Council Tealby Conservation Area Appraisal (CAA) which identifies that the village owes much of its charm to its natural setting, informal nature of its street pattern, the overall looseness of its development and the unspoilt character of the older part of the settlement.
10. The listing for Brick House and Burleys confirms that it was a shop with attached house, now two houses, dating to c1820. The distinctive appearance of this building positively contributes to the character and appearance of the CA and adds to its significance. The attractive architecture of its front elevation is most readily appreciated at the junction with Front Street which sits at a higher level in relation to the appeal site. The informal street pattern, surrounding traditional vernacular and prevalence of soft planting combine to form its setting.
11. From the evidence before me, a previous proposal for a dwelling at the site¹ was also refused by the Council and in that case subsequently dismissed at appeal. Precise details of that particular proposal and the appeal decision are not before me. However, from the evidence presented, the design of the current proposal has evolved through discussions with the Council's Conservation Officer.

¹ LPA Ref 139079

12. The cross sections provided demonstrate that the dwelling would be slightly set down from the ground level of the existing cottage at No 5. Consequently, the proposed two-storey element, with its narrow, gabled form and its position set back from the front elevation of No 5, would have a subservient appearance in relation to the existing dwelling at No 5. The two-storey element of the proposal would also partially screen the single storey side projection in views from Beck Hill. As a result, the dwellings mass would be broken up and the development would appear modest in scale in views from Beck Hill. Facing materials are also envisaged to reflect those on the existing dwelling at No 5.
13. The proposal would reduce the size of the garden areas currently serving No 5. However, as the existing dwelling at No 5 is also served by amenity space to its rear and would retain its generous soft landscaped front garden, it would not appear unduly cramped to passers-by on Beck Hill. Together with the sympathetic design of the proposed dwelling and its discreet position set well back from the road frontage, in this particular instance I find that the proposal would sit comfortably as part of an informal arrangement of buildings, set within similarly sized plots and arced around a shared access.
14. Three 'Category C' trees on the appeal site are identified for removal in the appellant's Arboricultural Report and Impact Assessment (17 January 2022) (ARIA). The most notable of these in terms of size, 'T3', is an Ash and is reported to have significant dieback. The development also has the potential to screen or partially screen the sycamores identified as 'T5 to T7'. These trees sit outside the site but are currently visible in views through the site from Beck Hill.
15. However, the Council's tree officer has acknowledged that the trees on the site that are proposed for removal are of low quality and are not of good enough quality to be a constraint to development. They have also suggested that the sycamores adjacent to the site are also of low quality and that they would be unlikely to resist their removal in the future. Whether or not that be the case, the upper parts of these trees would likely remain visible given the sunken position of the proposal.
16. The evidence presented suggests that any encroachment of the development into the Root Protection Area of the retained trees on the site and of those neighbouring the site would be minor. Furthermore, the category B tree on the site, identified as 'T4', would be retained and together with the laurel hedge to the site boundary with No 5A, there would be an appreciation of greenery in the vicinity of the development when viewed from the street. This would be sufficient to reflect the CA's verdant setting. A condition similar to that suggested by the Council's tree officer could be attached in order to ensure adequate tree protection and tree-friendly construction measures are employed.
17. Given the proposed dwelling's modest scale and the position of the site set further down Beck Hill than Brick House and Burley, the proposal would not be prominent in the most important views of the listed building, particularly in terms of how its distinctive front elevation would be experienced. Consequently, I find that the proposal would not have a material effect on the setting of the listed building. I also note that the Council's Conservation Officer raised no concerns in this respect.

18. In addition, the Council's Conservation Officer raised no objections to the proposal subject to the inclusion of conditions requiring precise details of materials, window, rooflight and door detailing to be agreed. I agree that such conditions would further ensure that the dwelling would assimilate into its immediate surroundings and that it would appropriately respond to the local vernacular.
19. I conclude that the proposal would preserve the character and appearance of the CA including but not limited to the setting of the listed building at Brick House and Burley. In that regard it would respond to and reflect the context, design, character and conservation requirements of Policies S53 (Design and Amenity) and S57 (The Historic Environment) of the LP 2023. For the same reasons, the proposal would also meet the conservation objectives in Section 16 of the National Planning Policy Framework.

Other Matters

20. With regards to the location of the site within the Lincolnshire Wolds Area of Outstanding Beauty (AONB), the Council has not identified any specific harm to the AONB. In this regard, and given that I have found that there would be no harm to the more intimate surroundings of the site within the CA, I find no reason to conclude differently to the Council on this particular matter.
21. In terms of the concerns raised by third-parties which have not been covered under the main issue; there is no objective evidence before me to suggest the proposal would have an unacceptable effect on the highway. I also note the Highway Authority has not raised any such concerns and from my own observations on site I find no reason to conclude otherwise. A single dwelling would also be unlikely to result in levels of disturbance to neighbouring residential properties above what would usually be expected in a residential area. With regards to the potential for a precedent to be set, any future proposals to develop other garden land in the area would need to be considered on their own merits.
22. There is no detailed evidence to demonstrate that the proposal would result in issues with subsidence or springs. Even if there was, these are matters that would usually be addressed by the building regulations and the local water authority respectively. The structural integrity of neighbouring land and property and any rights of way over the existing driveway are civil matters. Any noise and disturbance experienced by neighbouring occupiers during the construction period would be relatively short-lived. Should any disruption happen beyond what could reasonably be expected within usual working hours would be a matter for the Council to investigate.
23. On my site visit, I saw that the first-floor windows would not provide direct views towards the main habitable windows or more private garden areas serving neighbouring residential properties. As was also identified in the Council's officer report the existing boundary treatments would be sufficient to prevent any material overlooking impacts from the ground floor windows and garden areas serving the proposed dwelling. Therefore, I am satisfied that there would be no material impacts on the privacy of neighbouring residential occupiers.
24. I have been provided with copies of the Lincolnshire Minerals and Waste Local Plan (2016) and Policy M11 (Safeguarding of Mineral Resources). However, the

Council's Officer report confirms that the site is not within a Minerals Safeguarding Area and there is no evidence before me to suggest that the proposal would have a material effect on mineral resources.

Conditions

25. In the absence of any suggested conditions being provided by the main parties, I have given regard to the conditions set out in the Council's officer report. I attach the standard timescale for implementation as well as a condition listing the approved drawings in the interests of certainty.
26. I have attached the pre-commencement conditions in respect of a written scheme of archaeological investigation, precise details of existing and proposed ground levels and tree protection measures. Having regard to the other archaeological conditions in the officer report, I have included a condensed condition which incorporates the requirements relating to archaeological site work and subsequent reporting. The condition is necessary in the interests of heritage conservation in line with the specialist advice of the Council's Historic Environment Officer.
27. A condition requiring precise details of existing and proposed ground levels is required in order to ensure that the finished scheme reflects the cross sections provided. The attached tree protection condition is necessary as the tree protection plan does not annotate or identify the precise position of tree protection measures. This condition is also required to ensure the development is carried out in accordance with the other recommendations of the ARIA.
28. The conditions requiring material samples, a sample panel, for traditional rainwater goods, full details of windows and door joinery, rooflights, eaves and verge treatments, and surface treatment to the driveways are included to ensure the external finishes are sympathetic to the CA.
29. A drainage condition is attached to ensure that adequate drainage facilities are provided to serve the development.
30. Finally, I have attached a condition removing permitted development rights given the Council's Conservation Officer has confirmed that the new dwelling would not be covered by the Article 4 Direction in place in the CA. This is necessary to ensure any future development on the site beyond that approved through this appeal is sympathetic to the character and appearance of the CA.

Conclusion

31. For the reasons given, the appeal is allowed.

M Russell

INSPECTOR

Schedule of Conditions

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

- 2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans: LDC2848-PL-01A (1:1250 Site Location Plan) and LDC2848-PL-02A (Proposed Dwelling).
- 3) No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority (see notes to applicants below). The local planning authority shall be notified in writing of the intention to commence the archaeological investigations in accordance with the approved written scheme, at least 14 days before the said commencement. This scheme shall include the following:
 - i. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
 - ii. A methodology and timetable of site investigation and recording.
 - iii. Provision for site analysis.
 - iv. Provision for publication and dissemination of analysis and records.
 - v. Provision for archive deposition.
 - vi. Nomination of a competent person/organisation to undertake the work.

The archaeological site work shall be undertaken only in full accordance with the approved written scheme of archaeological investigation and a written report of the findings of the work shall be submitted to and approved in writing by the local planning authority within 3 months of the said site work being completed. The report and any artefactual evidence recovered from the site shall be deposited within 6 months of the archaeological site work being completed in accordance with a methodology and in a location to be agreed in writing by the local planning authority.

- 4) No development shall take place until precise details of existing and proposed ground levels on the site have been submitted to and approved in writing by the local planning authority. Once approved the development shall be carried out in full accordance with the approved proposed levels.
- 5) No development, other than to foundations level, shall take place until full details (and samples) of all external materials have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented and retained thereafter.
- 6) No development, other than to foundations level, shall take place before a sample panel of the stone and brick work, of no less than 1 metre square, has been constructed on site and approved in writing by the local planning authority. The samples shall utilise local stone, which shall match the existing dwelling at No 5 Beck Hill in terms of colour, texture, size of masonry components, coursing, and also the colour and texture of the mortar, which shall match the original pointing on the existing dwelling in all respects. New brickwork shall consist of a new handmade red brown brick and not reclaimed bricks. The sample shall be located on site and maintained for reference for the duration of the construction of all the walls. Once approved the development shall be constructed in strict accordance with the approved panels.

- 7) Rainwater goods shall be traditional in design, half round, coloured black, spike fixed rise and fall gutters and shall thereafter be maintained and retained.
- 8) No development, other than to foundations level, shall take place until full details of all window and door joinery have been submitted to and approved in writing by the local planning authority. Details shall include elevations of proposed windows with sections through horizontally and vertically, showing cill and header details at scale of no less than 1:20, method of opening, glazing bars, colour and finish. The approved details shall be installed in accordance with the approved details and thereafter maintained and retained.
- 9) Prior to the installation of any roof covering, full details of the rooflights shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed in accordance with the approved details and thereafter maintained and retained.
- 10) No development, other than to foundations level, shall take place before full details of all eaves and verge treatments are supplied for approval in writing by the local planning authority. The development shall be completed in accordance with the approved details.
- 11) No development, other than to foundations level, shall take place before details of the finish and colour of surface material for the driveways have been submitted to and approved in writing by the local planning authority. The development shall be constructed and maintained in accordance with the approved details.
- 12) No development, other than to foundations level, shall take place until details of foul and surface water disposal (the drainage system to be used should include the results of soakaway/percolation tests) have been submitted to and approved in writing by the local planning authority. These details should include a plan showing the position of the drainage and location of the connections to the proposal.
- 13) No development shall commence until the precise position of tree protection fencing has first been submitted to and approved in writing by the local planning authority. Once approved the development shall only commence once the tree protection fencing is in place and shall only proceed in accordance with the recommendations contained within the Watson Lindsey Arboricultural Report & Impact Assessment prepared by Watson Lindsey dated 17th January 2022 (ARIA), more specifically the 'Arboricultural Impact Assessment & Method Statement' set out under section 5 of the ARIA together with the appendices of the ARIA.
- 14) Notwithstanding the provisions of Classes A, B, C, D and E of Schedule 2 Part 1, Class A of Schedule 2 Part 2 and Class A Schedule 2 Part 14 of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015, or any order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended, no buildings or structures shall be erected within the curtilage of the dwelling, no fences, gates or other means of enclosure shall be erected or constructed of any

gate, fence, wall or other means of enclosure within the curtilage and no solar panels affixed to the dwelling unless planning permission has first been granted by the Local Planning Authority.



Costs Decision

Site visit made on 25 April 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Costs application in relation to Appeal Ref: APP/N2535/W/22/3304070 Land adjacent to 5 Beck Hill, Tealby, Market Rasen, Lincolnshire LN8 3XS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Nik Ferrier-Hanslip for a full award of costs against West Lindsey District Council.
 - The appeal was against a refusal to grant planning permission 'to erect 1no. dwelling'.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include where a local planning authority fails to produce evidence to substantiate each reason for refusal on appeal or where vague, generalised or inaccurate assertions are made about a proposal's impact, which are unsupported by any objective analysis.
4. I acknowledge matters of design and layout can be subjective matters and that the Council's Planning Committee were not duty bound to accept the recommendation of its officers. I also accept that the Planning Committee members may have been familiar with the site history, the character and appearance of the area and the relevant development plan policies.
5. However, in refusing planning permission, this should have been substantiated through detailed reasoning with reference to the specific aspects of the scheme that the Council considered would be harmful. The reason for refusal on the Council's decision notice is very generalised and it is not clear from this what is meant by 'over-development of the site' or why the development would 'as a result of its scale, mass and positioning, be overbearing and would result in harm to the prevailing character and amenity of the surrounding area'.
6. The committee minutes suggest that there was a debate as to the merits of the proposal. However, that was just a discussion and the minutes do not on their own provide sufficient precision or clarity as to the precise harm. More particularly, there is variation to the design, scale and layout of dwellings in the

CA. The minutes do not provide a detailed analysis of the design or layout of the proposal or why it would be harmful in this context. Furthermore, the Council has not sought to elaborate or provide any detailed justification for its decision through the submission of an appeal statement. Therefore, the Council's decision has not been reasonably substantiated through the provision of any objective analysis.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Lindsey District Council shall pay to Mr Nik Ferrier-Hanslip, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to West Lindsey District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Russell

INSPECTOR



Appeal Decision

Site visit made on 28 March 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/N2535/W/22/3312024

Land to the east of Church Road, Upton, Gainsborough DN21 5NS

- 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 D Churchill against the decision of West Lindsey District Council.
- The application Ref 144574, dated 14 March 2022, was refused by notice dated 8 September 2022.
- The development proposed is application to erect 5 detached dwellings with attached garages.

Decision

1. The appeal is allowed and planning permission is granted for application to erect 5 detached dwellings with attached garages at Land to the east of Church Road, Upton, Gainsborough DN21 5NS in accordance with the terms of the application, Ref 144574, dated 14 March 2022, subject to the conditions set out in the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Mr D Churchill against West Lindsey District Council. This is the subject of a separate Decision.

Preliminary Matters

3. The appellant submitted a plan of the proposed plot 4 dwelling and refers to that plan as being issue "P" whilst the Council cite "O". Both issue references are included on the plan. The Council has confirmed that the plan was before them when they made their decision. For the avoidance of doubt, within my conditions, I describe the plan with the reference "272021-05 Issue P".
4. In April 2023 since the Council made their decision, the Central Lincolnshire Local Plan has been adopted (the LP) replacing the Central Lincolnshire Local Plan, adopted 2017. The main parties have provided comments on the implications of the adoption of the LP which I have had regard to. In the interests of certainty, I confirm that as Policies LP13 and LP55 of the 2017 Local Plan have been replaced and are no longer part of the development plan I give no weight to them. The Council have confirmed that they identify conflict with only Policies S47 and S67 of the adopted LP and I determine the appeal on that basis.
5. Also following the Council's decision, a unilateral undertaking (UU) has been submitted. The purpose of the UU would be to secure a financial contribution towards affordable housing. I comment on this UU later in my reasoning.

Main Issues

6. The main issues are:

- The effects of the proposed development upon the safety of highway users; and
- The effects of the proposed development upon the availability of best and most versatile agricultural land.

Reasons

Highway safety

7. The appeal site is located off Church Road on the periphery of the village of Upton and within a rural area. The village is predominantly residential in character but is also served by a small array of services. Adjacent to the appeal site, Church Road runs on a north-south axis. Close-by to the site there is also a section of the road which runs on an east-west axis and meets High Street. To the south of this and opposite the appeal site, Main Street also connects with High Street. Farther south still Avenue B meets Church Road, but in the opposite direction this road comes to a dead end. Therefore, Church Road and Main Street provide the main highways in the immediate environs of the site which would be travelled along by any occupants or visitors of the proposed development.
8. Presently, Church Road has only limited stretches of dedicated footpath. Main Street has dedicated footpaths on both sides of the road for the entirety of its route between Church Road and High Street. During my visit I noted that the width of Church Road in particular varies and, that the section with the east-west alignment is consistently narrow.
9. The development would be served by 2 access points on Church Road. In the proposal, sections of existing site boundary hedgerow adjacent to Church Road would be removed or trimmed. In the vicinity of the proposed access points, Church Road has a gentle curvature with no sharp bends. Given this road alignment and the hedgerow works proposed, I have no reason to conclude that visibility at the access points would be deficient. Whilst each dwelling proposed would contain 4 bedrooms and each would be served by a driveway and a double garage, only 5 dwellings in total are proposed. With 2 access points proposed, vehicular movements in and out of the proposed development would be split. Consequently, I am satisfied that neither access would be the subject of significant traffic movements. Furthermore, given the size of Upton, the rural nature of the area, the number of properties which gain access via Church Road and, given that at its far southern end Church Road provides for no through route, it is reasonable to conclude that it is quite lightly trafficked by all highway users. Taking all these factors into account, the proposed vehicular access arrangements would be safe.
10. The narrower sections of Church Road will mean that along these stretches of the road only a single lane for vehicular passage will presently be possible. There will be reliance upon drivers giving way to one another as necessary and reversing manoeuvres, so that one vehicle can negotiate past another, will likely be required at times. Furthermore, given the sporadic footpath provision, should pedestrians be walking along the narrower sections of Church Road in particular or, cyclists be travelling on the carriageway, some interactions

between these various highway users may take place. Even accounting for the footpath proposed along the site frontage, the limited footpath provision that serves Church Road would subsist and no change to the carriageway would occur. Some additional movements by all highway users would result from the development and, therefore, could add to any existing interactions. However, given the scale of the development proposed the increase in vehicular, pedestrian and cycle movements would be low and I find that as such there would not be an unacceptable risk of accidents or impact on highway safety, and the residual cumulative impacts on the road network would not be severe.

11. In reaching the above findings, I have taken into account that the dedicated footpath proposed alongside Church Road would, at one end, terminate opposite Main Street. At this point, a pedestrian would be able to cross the Church Road carriageway to the footpaths that would be opposite at the junction with Main Street. The footpaths on either side of Main Street provide continuous walking routes through to High Street. Given that High Street provides access to much of the rest of the village, including some services, it is reasonable to conclude that it would provide a common destination for pedestrian movements arising from the proposed development. Such movements would be well provided for by the Main Street link. Therefore, whilst movements along sections of Church Road without footpaths may remain necessary or more convenient for some pedestrians, the Main Street route provides an alternative option to connect to High Street and one which also remains convenient. This route would also be available for motorists and cyclists.
12. I accept that the Main Street carriageway does contain a quite sharp bend within it and some parking will doubtless take place within the carriageway which may necessitate drivers to give way to one another. However, given the footpath provision, interactions with pedestrians should seldom take place. The footpaths would not remove the potential for interactions with cyclists, however, the width of the road is consistent, is not very narrow and, overall, I find that Main Street provides a safe environment for all highway users.
13. The construction phase of the development would necessitate the comings and goings of large vehicles. As there are some compromised aspects of the highways around the site some disruption on the roads could well occur and potential conflict between these larger vehicles and other highway users cannot be ruled out. However, the comings and goings of such vehicles would be intermittent and would only be necessary for the temporary duration of the build. Furthermore, through the imposition of a condition, a construction method statement can be devised, the measures within which would assist in moderating the effects of the construction phase vehicle movements to avoid any unacceptable impacts on highway safety.
14. Amongst other matters, public representations submit that the proposed rear field access is excessive in comparison to the current access and could encourage large farm vehicle movements. No hard surfaced route currently provides access to the farmland to the rear of the site and therefore, the proposed route would represent a significant upgrade of any existing access arrangements to this end. Even so, I have no substantive evidence before me that any intensification of farm activities on adjacent land is proposed. It is submitted that Church Road contains potholes and during my visit I did see areas of the carriageway with some defects but nevertheless given the

evidence before me, coupled with my own observations on site, the surface condition of Church Road would suitably and safely accommodate the development. Concerns are also put to me in relation to the visibility at junctions on High Street. However, I have no substantive evidence that the visibility is presently unacceptable and, moreover, the number of additional movements that the development would generate at any junction on the local highway network would be low. As such the development would not unacceptably increase the risk of accidents or compromise highway safety.

15. Having regard to all of the above, I conclude that the effects of the development upon the safety of highway users would be acceptable. I acknowledge that the Highway Authority, who raised no objections to the development, are a consultee and, as a local planning authority, the Council can come to a different conclusion on the scheme. Despite this, for the above reasons, I have nevertheless found that the development would be acceptable and, in that regard, agree with the Highway Authority. The development would therefore accord with Policy S47 of the LP. In summary, and amongst other matters, this policy requires that development proposals contribute towards an efficient and safe transport network and states that development that would result in severe transport implications will not be granted planning permission unless there is adequate mitigation.

Agricultural land

16. The LP defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification. The appeal site is identified as grade 3 but the evidence of neither the appellant nor of the Council identifies whether the land is grade 3a, 3b or a combination of the two. Grade 3b is not best and most versatile agricultural land. Therefore, what proportion of the appeal site constitutes best and most versatile agricultural land, if any at all, is unknown. At the time of my visit the land appeared to be largely unused, with no evident crop production or grazing of animals, and I observed that gaps in boundary hedging would likely preclude its productive use for agriculture in current circumstances. As such although the development would lead to the loss of agricultural land, in the absence of any contrary evidence, I reasonably find that the land does not appear to be of the highest quality and its loss would not be significant nor compromise food security.
17. In reaching the above findings, I have taken into account that the Council made its decision on the basis of Policy LP55 Part G of the previous LP insofar as it related to best and most versatile agricultural land and that it has now been replaced by Policy S67 of the LP. The newly adopted Policy S67 of the LP introduces a different approach in supporting significant development resulting in loss of best and most versatile agricultural land only where in accordance with four listed criteria, and as such seeks alignment with paragraph 174 of the National Planning Policy Framework (the Framework) and its associated footnote 58. In that regard, Policy S67 only requires the submission of an agricultural land classification report necessary to demonstrate compliance with the criteria applicable to 'significant development' where proposals are for sites of 1ha or larger. To my mind, it reasonably follows that as this proposal would involve the loss of less than 1ha of agricultural land, where there is no clear evidence that it is best and most versatile land, it would not be 'significant development resulting in loss of best and most versatile land' for the purposes of Policy S67 of the LP and, therefore, would not conflict with it.

18. Having regard to all of the above, I conclude that the proposed development would not have an unacceptable impact upon the availability of best and most versatile agricultural land. The proposal does not conflict with Policy S67 of the LP or the Framework in that respect.

Other Matters

19. I have no reason to conclude that through the implementation of a detailed drainage design, which can be controlled via condition, that the development could not be adequately drained and thereby ensure that the risk of flooding to either highway land or neighbouring property is not increased as a result of the development. Whilst at times road flooding may occur within the area, together with, and as a consequence, mud being left on the highway, I have very limited detail of the precise nature or scale of such issues. I am satisfied that those issues would be infrequent and of a limited duration and therefore, would not have an unacceptable impact on local highway conditions or the safety of highway users.
20. Representations have expressed concern that the Preliminary Ecological Appraisal (PEA) inaccurately describes the age of a nearby pond and the extent to which it provides habitat for some species. It is also raised that the development will, or may, affect hedgehogs, newts, and various birds. However, I firstly have no compelling evidence before me of the extent to which the pond may be utilised as habitat by the cited species nor that the proposed development would be likely to result in any harm to them. Furthermore, the submitted PEA acknowledges that the Great Crested Newt, a European Protected Species, may utilise the field margins and areas beneath the site hedgerows but it also finds that the grassland on site offers generally poor terrestrial habitat for the species. In relation to hedgehogs and birds, the PEA identifies that the site and area contain habitats suitable to support the West European hedgehog and, foraging and nesting opportunities for some bird species albeit, and contrary to a public representation made, the barn owl is considered unlikely to hunt on the site. Furthermore, the PEA was compiled in the knowledge that the development would result in the loss of hedgerow. I have no reason to conclude that the PEA or the Ecological Update Assessment undertaken since, has not had proper regard to the potential effects of the development upon habitats and species nor to the scope of suitable mitigation and enhancement measures. These include measures for nesting birds, bats, badgers, hedgehog and brown hares, that can be secured by condition and would ensure no unacceptable harm in those respects.
21. Via the imposition of a condition, the scope of works to trees and hedgerows, would be limited to that identified on the submitted Landscape Masterplan and Tree Protection Plan. Amongst other matters, these drawings depict some hedgerow removal, its cutting back and trimming, ground protection and barrier protection requirements for trees and, proposed planting. I have no reason to conclude that the protection measures therein would be defective or that damage to any trees would ensue that would be likely to result in consequential damage to property. Furthermore, in combination, the retained and proposed planting would provide for a suitably landscaped development.
22. I have no compelling evidence that the rear field access is proposed to serve a further development. If such a development were proposed and, should it require planning permission, the Council would be able to consider the merits

of the scheme at that time. Therefore, this matter is not a determinative factor in my decision.

23. I have no substantive evidence to conclude that the scale of the development proposed would result in any undue pressures upon local services. The size of the houses may exceed those which were previously approved under an earlier outline planning permission. However, as a separate proposal, the housing proposed under this scheme should be considered on its own merits. Furthermore, although there are bungalows nearby to the site, there are also large 2 storey properties and in this context, the dwellings proposed would not harm the character or appearance of the village.
24. The signed UU would provide a financial contribution to be utilised for the purposes of the delivery of affordable housing. Policy S22 of the LP sets out that affordable housing will be sought on sites of 0.5ha or more and the site exceeds this threshold. I note the comments of the Council's Homes, Health and Wellbeing Team Manager that an off-site payment in lieu of on-site delivery is appropriate in this case, and I have no substantive evidence before me to disagree. Therefore, and whilst the affordable housing contribution may not be utilised within the village or Parish, I nevertheless, find that this contribution is necessary to make the proposed development acceptable and is directly related to the appeal scheme. The Council have confirmed to me that the financial contribution has been calculated in accordance with a methodology set out within a supplementary planning document. The contribution would, therefore, be fairly and reasonably related to the proposal in scale and kind. Whilst it is put to me that more affordable housing would be welcomed, only a single affordable dwelling or the equivalent financial contribution would be necessary to comply with Policy S22 and, therefore, additional provision would not be necessary to make the development acceptable in planning terms. The planning obligation would meet the requirements of the Framework and the CIL Regulations. I therefore give it significant weight in the determination of this appeal.
25. It is also put to me that, as an alternative, the financial contribution could be utilised towards improvements to Church Road. However, in the main issues, I have identified that the effects of the proposed development upon the safety of highway users would be acceptable. It follows that a contribution towards road improvements would not be necessary to make the development acceptable in planning terms.

Conditions

26. I have imposed the standard condition in respect of time limitation and a plans condition in the interests of clarity. I have imposed a condition requiring the devising of a construction method statement so as to ensure that the effects of construction on the living conditions of neighbouring occupiers would be acceptable. Within this condition, I have omitted the requirement to submit details of vehicular routing that was within the Council's suggested wording. This is because it would not be appropriate for the condition to seek to exercise control of the right of passage over public highways. However, the condition does include a requirement to detail a construction access and any associated directional signage which would, similarly, serve to mitigate the effects of construction vehicle movements. This condition is a pre-commencement condition. This is necessary as development cannot commence without the

measures to control construction works being agreed in advance. I note that concerns have been raised of instances where builders have not adhered to conditions placed upon them. Should instances of non-compliance take place or alleged non-compliance, this would be a matter for planning enforcement investigation.

27. The site has been identified as being within an area of archaeological potential, including due to its location within the boundary of a medieval village. Given the potential for archaeological remains to be present within the site, so as to allow this to be investigated, monitored and, as necessary, any remains analysed, recorded and archive deposits made, condition 4 is necessary. So as to enable this detail to be agreed before the ground is affected, it is a pre-commencement condition. Condition 4 requires provision to be made for the analysis of the site investigation and recording and, any ensuing publication, dissemination and archive deposition requirements. Therefore, whilst the Council suggested further conditions relating to the development being carried out in accordance with the Written Scheme of Investigation, archaeological analysis and deposition, I am satisfied that the wording of the condition I have imposed sufficiently addresses these matters.
28. I have imposed condition 5 so as to ensure that suitable ecological mitigation and enhancement measures are implemented. This is also a pre-commencement condition as ecological interests could otherwise be harmed as soon as development commences. A drainage condition is needed to ensure that the development is adequately drained in regard to both surface and foul water. The Council suggested a further condition requiring all hardstandings to be permeable in the interests of reducing the risks of flooding. However, the condition I have imposed requires a comprehensive scheme for the management of surface water in the interests of flood risk and this may include the use of permeable surfaces. Therefore, no further condition is necessary.
29. In the interests of pedestrian safety and surface water management, I have imposed a condition so that the precise detail of the footpath proposed alongside Church Road is agreed. Section 197 of the Town and Country Planning Act 1990 (as amended) places upon me a duty to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation of trees. Having regard to this, and in the interests of the character and appearance of the area, I have imposed condition 8.
30. Finally, it is submitted to me that all conditions imposed on an earlier grant of planning permission should be imposed on this development. However, each development must be assessed on its own merits and conditions should only be used where they satisfy the tests for their imposition including that they are necessary and relevant to the development to be permitted.

Conclusion

31. For the above reasons, I conclude that the appeal is allowed subject to the conditions in the following schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Map data Site Location Plan, 272021-02 Issue A, 272021-03 Issue O, 272021-04 Issue O, 272021-05 Issue P, LMP-221221-02 Revision B and TPP-211221-01 Revision A.
- 3) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - a) details of any temporary construction accesses to the site including measures for their removal following completion of construction works and any associated directional signage;
 - b) the parking of vehicles of site operatives and visitors;
 - c) loading and unloading of plant and materials;
 - d) storage of plant and materials used in constructing the development;
 - e) the erection and maintenance of security hoarding;
 - f) wheel washing facilities;
 - g) measures to control the emission of dust and dirt during construction;
 - h) measures to control the emission of noise during construction;
 - i) a scheme for recycling/disposing of waste resulting from construction works;
 - j) the hours during which deliveries and construction may take place including the operation of any plant and machinery.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) an assessment of significance and research questions;
 - b) the programme and methodology of site investigation and recording;
 - c) the programme for post investigation assessment;
 - d) the provision to be made for analysis of the site investigation and recording;
 - e) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) the provision to be made for archive deposition of the analysis and records of the site investigation; and
 - g) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

The developer shall give the local planning authority, in writing, 14 days advance notice of the start of the archaeological investigations.

Development shall be carried out in accordance with the approved Written Scheme of Investigation.

- 5) No development nor any vegetation clearance or removal shall commence until a scheme of ecological mitigation and enhancement measures, inclusive of a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall, amongst its content, include:
- a) external lighting details;
 - b) conformation that all vegetation clearance and removal shall take place so as to avoid the bird nesting season;
 - c) measures to prevent mammals being trapped within open excavations;
 - d) site fencing details which shall permit for access and egress of hedgehogs; and
 - e) details of the provision of two open fronted bird nest boxes, two small holed bird nest boxes, a starling nest box and two bat boxes inclusive of their design and location.

Development shall be carried out in accordance with the approved details.

- 6) No construction works above ground level shall take place until a scheme of surface and foul water drainage works has been submitted to and approved in writing by the local planning authority. No building hereby permitted shall be occupied until the scheme of drainage works has been implemented in accordance with the approved details. The submitted scheme of drainage works shall incorporate Sustainable Drainage Systems (SuDS) unless it is clearly demonstrated as a part of the scheme submission that SuDS are not technically, operationally or financially deliverable or viable or, that the SuDS would adversely affect the environment or safety.

Where SuDS are to be provided, the submitted scheme shall, amongst its content, include:

- a) the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and
 - b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) No building hereby permitted shall be occupied until the 2m wide footpath proposed alongside Church Road as identified on plan 272021-02 Issue A has been implemented in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The details of the footpath submitted for approval shall include:
- a) the layout and alignment of the footpath;
 - b) the detail of its construction and material finish; and
 - c) arrangements for the management of surface water run-off.

The footpath shall be retained thereafter.

- 8) All works to trees and hedgerows shall accord with the details on plans TPP-211221-01 Revision A and LMP-221221-02 Revision B. No site clearance, preparatory work or other development shall take place until all trees and hedgerows identified for retention on plan TPP-211221-01 Revision A have

been protected in accordance with the details shown on the same plan. The protection measures shall be retained until the completion of the development works.

End of Schedule



Costs Decision

Site visit made on 28 March 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Costs application in relation to Appeal Ref: APP/N2535/W/22/3312024 Land to the east of Church Road, Upton, Gainsborough DN21 5NS

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Churchill for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for application to erect 5 detached dwellings with attached garages.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Council Officers recommended approval of the planning application and, this was informed by the consultation response of the Highway Authority who raised no objections to the proposal. However, the Council Members were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view with evidence produced to substantiate the reasons for refusal.
4. Amongst other matters, the Council's evidence in relation to the first reason for refusal references that Church Road is narrow and has limited footpath provision, that Main Street contains bends and on-street parking, whilst the proposed development would generate highway movements. It can be seen from my appeal decision that these are all matters which, to some extent, I agree with. Unlike the Council, however, I have concluded that the effects of the development upon the safety of highway users would be acceptable. Nevertheless, that assessment is one which is a matter of judgement. It was not unreasonable for Council Members to come to a different conclusion. The opposing view that, given the subsisting conditions in the area, the development would result in unacceptable harm is not an unreasonable view and given all evidence before me, this view has been adequately substantiated by the Council.
5. The evidence indicates that, at the time the applicant submitted the planning application the subject of the appeal, the previous planning permission referenced 138896 was no longer extant. There was no prospect of that development coming forward. In such circumstances, that the Council gave

little or no weight to it and reassessed the access arrangements, local highway conditions and loss of agricultural land, whilst taking account of representations to the application, was not unreasonable. In reaching that view on the second reason for refusal, I have taken into account that there have been updates to national policy and the emerging LP relating to agricultural land which necessitated determination of the application on its merits. In that regard, it will be seen from my appeal decision that whilst I find no harmful loss of best and most versatile agricultural land or conflict with the recently adopted LP in that regard, such a conclusion is based on policy interpretation relative to the specific circumstances of the proposal. As such matters relate to matters of judgement, I cannot find that Council Members behaved unreasonably in reaching a different view. It follows that I consider that the Council substantiated the second reason for refusal, irrespective of my contrary findings.

6. In their decision, the Council did make some erroneous policy references to what, at that time, was the emerging LP. Those policies related to trees, woodlands and hedgerows and to safeguarded land for infrastructure and were unrelated to the substance of the refusal reasons. The emerging plan referenced has since been adopted. I accept that given the Council's decision contained these erroneous references and, regardless of the reasons as to why little or no communication on the matter ensued prior to the appeal being submitted, the appellant was compelled to address these policies in their appeal submissions. However, the Council's decision also identified other policies within the development plan in force at that time which were correctly referenced and, it was also clear that the refusal reasons related to highway safety and agricultural land. Furthermore, I am satisfied that the applicant rebutted the erroneous policies identified by the Council quickly and easily without any significant wasted expenditure.
7. It follows that, although the Council's errors did result in the appellant unnecessarily having to address the erroneous policies, if this had not occurred, the substance of the planning matters in dispute remained the same, the appeal could not have been avoided, nor would the pertinent issues have been narrowed.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. I therefore determine that the costs application should fail and no award is made.

H Jones

INSPECTOR



Appeal Decision

Site visit made on 21 March 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/N2535/W/22/3310241

51 Church Lane, Saxilby, Lincoln, Lincolnshire LN1 2PE

- 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 Mrs Leanne World against the decision of West Lindsey District Council.
 - The application Ref 144612, dated 18 March 2022, was refused by notice dated 21 June 2022.
 - The development proposed is described as 'planning application to convert and extend workshop building (Unit 1) to 1no. dwelling and remove 2no. workshop buildings (Units 2 & 3).'
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Decision

1. The appeal is allowed, and planning permission is granted for 'planning application to convert and extend workshop building (Unit 1) to 1no. dwelling and remove 2no. workshop buildings (Units 2 & 3)' at 51 Church Lane, Saxilby, Lincoln, Lincolnshire LN1 2PE in accordance with the terms of the application, Ref 144612, dated 18 March 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. It has been brought to my attention that the Central Lincolnshire Local Plan (April 2023) (CLLP) was adopted by the Central Lincolnshire Joint Strategic Planning Committee on 13 April 2023 and replaces the previous Central Lincolnshire Local Plan (April 2017). It is incumbent upon me to consider the most relevant and up to date information in reaching a decision. Both main parties have had the opportunity to comment on the implications of this for the appeal and I have dealt with the appeal on this basis. I am satisfied that no interested party has been prejudiced by this approach.
3. During the determination of the application the proposal was amended. The Council has confirmed that the proposal was determined based on the amended drawings. As a consequence, the description of the development was amended and agreed by both parties. I have determined the appeal on the basis of the amended description as in the banner heading above and the amended drawings: 8155C-106 Rev B, 8155C-106 Rev A, 8155C-108 Rev B and 8155C-109 Rev A.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook.

Reasons

5. The appeal site consists of a large dormer bungalow with a substantial garden. There are three large outbuildings with a concrete yard set to the rear of the site. There are several dwellings in proximity to the north and west boundary with modest sized outdoor space facing the appeal site. The row of properties on St Botolphs Gate to the west are positioned at an angle in relation to the boundary with the separation distance to the appeal site increasing along the row. Conservatories project back from the properties towards the appeal site. Nos 4 and 6 St Botolphs Gate have an enclosed rear outlook, predominantly comprising the gable end of the existing large outbuilding with intervening planting, while No 8 St Botolphs Gate has a greater sense of openness, overlooking the concrete yard. No 10 St Botolphs Gate is physically and visually separated from the appeal site by a tall double garage.
6. The properties to the northwest are set some distance away and although the property to the north is closer, due to its orientation only the side gable, with a single door, directly addresses the appeal site. The property to the east is positioned alongside the host property with a sizable rear garden.
7. The existing garden would be subdivided, with the largest outbuilding redeveloped and the two smaller outbuildings demolished. The gable end of the large outbuilding would be removed and set further back from the western boundary with increased ridge height of approximately 2 meters and eaves height of approximately 1 meter. A linked two storey extension would be constructed to the north positioned further from the western boundary than the main structure and with a ridge height approximately 1 meter lower.
8. Although the proposal would be visible from the properties to the west and would have higher eaves and ridge heights compared to the existing outbuilding, the main mass would be set further back from the western boundary and would not affect the perceived mass of the main structure. While the proposed total length of the western elevation would be substantial and would extend across the full width of several adjacent boundaries, the height of the extension would be less than the main structure and would be viewed at an oblique angle, minimising the observed width.
9. In addition, the footprint would be staggered and due to the variation in height, it would be seen as three individual components rather than one solid mass. Further, the occupiers of No 4 St Botolphs Gate, with the shortest garden, would benefit from an improved outlook as a result of the demolition of the smaller outbuilding to the south, increasing the sense of openness towards the south. The view from Nos 6 and 8 St Botolphs Gate directly adjacent the extension would be altered. The extension would minimally reduce openness to the rear. However, as these elements are set back further from the boundary with a lower height and these properties benefit from longer gardens, the proposal would not be overbearing, nor would the minimal reduction in openness, harmfully affect the occupier's outlook.
10. Therefore, I conclude that the proposed development would not harm the living conditions of the occupiers of neighbouring properties with particular regard to outlook and would conform with Policy S53 of the Central Lincolnshire Local Plan (April 2023) where it requires that development does not result in harm to people's amenity. Similarly, there is no conflict with the National Planning

Policy Framework (the Framework), paragraph 130 which seeks to ensure a high standard of amenity for existing and future users.

Other Matters

11. Interested parties have raised further concerns regarding living conditions, including shadowing, privacy, and noise. While the proposal would introduce new built form, it would be set back from the boundaries. Although the properties to the west have modest sized gardens, due to the position and distance of the proposal from the boundary, the proposal would only result in a minimal increase in overshadowing during the morning hours when compared to the existing overshadowing caused by the outbuildings. Consequently, the proposal would not result in a harmful loss of light or overshadowing. The garden to the north would have some loss of light as a result of the building and the proposed planting, however, this would be limited to a small portion of the large garden and would not be harmful to the living conditions of the occupiers.
12. All ground floor windows in the proposed development face either high level fencing or the garden space of the proposed dwelling. The first floor windows have been predominantly positioned on the east and south elevations where sufficient separation distances between properties can be achieved and any views would be indirect. One first floor window and a rooflight would face north, however the window would overlook the side elevation of the proposed extension and the rooflight would be positioned facing upwards. Consequently, the proposal would not result in harmful overlooking, nor the loss of privacy of the occupiers of surrounding properties.
13. The noise generated during the construction period would be short-term and the ongoing noise from the future occupier's vehicle movements and the use of a small workshop would be modest and similar to the existing condition on site.
14. Concerns have been raised regarding the proposals effect on the character and appearance of the area. While the proposal would have a different footprint to the existing outbuildings, the scale and density of the site would be similar to existing. The proposed garden space would be limited; however, it would be comparable to other gardens in the area and would be adequate for everyday living. Although different than the surrounding properties, the proposed materials would be in keeping with the agricultural history of the site.
15. Given the proximity of the existing outbuildings and hard surfacing to the surrounding mature boundary planting, I am satisfied that the proposal would be set back sufficiently to prevent harm to the planting.
16. While the suitability of the proposed access has been questioned, including the width of the driveway and size of the turning space, the highway authority does not share these concerns. Having visited site, I am satisfied that there is ample space for vehicle access and turning within the site and that the proposal would not harm highway safety.
17. The effect of the proposal on property values and views have also been raised. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property nor the right to a view.

Conditions

18. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. I have considered the conditions put forward by the Council and comments from the appellant, against the Framework and PPG. For clarity, precision and to ensure compliance with the PPG, I have amended the wording.
19. Aside from the statutory condition required to set the necessary time limit for development [1], a condition is required to indicate the approved plans in order to provide certainty and to safeguard the appearance of the development [2]. To ensure the development is adequately drained, a scheme detailing external surfacing as well as foul and surface water drainage is required [3].
20. Planning Practice Guidance states that conditions removing freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. However, due to the proximity of neighbouring properties and the potential negative effects of extensions or alterations on the living conditions of the surrounding occupiers, such as overlooking caused by roof extensions or harm to outlook caused by side extensions to the south, in this instance it is necessary to remove some permitted development rights so that any future proposals can be comprehensively assessed against the development plan [4].
21. The Council has suggested a condition in relation to the materials used, however as the materials have been thoroughly detailed on the approved drawings an additional condition is not required. A condition was also requested in relation to a landscaping scheme; however, the hard surfacing and fencing has been detailed on the approved drawings and given the proposals position within a garden and the existing planting on site, it is not necessary to impose further landscaping conditions. The delegated report also mentions a tree survey and tree protection measures however such a condition has not been put forward. I am satisfied that given the position of the existing buildings in relation to the adjacent trees it is not necessary to impose such measures.

Conclusion

22. For the reasons given above, I conclude that the proposal would accord with the development plan, as a whole, and the Framework, and therefore the appeal is allowed.

K Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 8155C-100 Location Plan
 - 8155C-101 Block Plan Existing
 - 8155C-102 Floor Plans Existing
 - 8155C-103 Elevations Existing Unit 1 (To be Converted)
 - 8155C-104 Elevations Existing Unit 2 (To be Demolished)
 - 8155C-105 Elevations Existing Unit 3 (To be Demolished)
 - 8155C-106 Rev B Proposed Site Layout
 - 8155C-106 Rev A Proposed Ground and First Floor Plans
 - 8155C-108 Rev B Proposed Elevations & Section
 - 8155C-109 Rev A Proposed Roof Plan
- 3) Prior to any above ground works, a scheme detailing the external surfacing as well as foul and surface drainage, including the results of soakaway/percolation tests, shall be submitted to, and approved in writing by the local planning authority. Prior to occupation, development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of Classes A, AA, B and C of Schedule 2 Part 1 and Class A of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the building hereby permitted shall not be altered or extended and no new windows shall be inserted unless planning permission has first been granted by the Local Planning Authority.

*****End of Conditions*****