

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

AGENDA

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

Planning Committee

Wednesday, 1st November, 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** (TO FOLLOW)
 - i) Meeting of the Planning Committee held on 4 October 2023
- 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) 146461 - Land at Hillcrest Park, Caistor (PAGES 3 - 34)
- b) 146685 - Land To The South Of Legsby Road, Market Rasen (PAGES 35 - 57)
- c) 144560 - "Squirrels Leap", Main Street, Burton (PAGES 58 - 87)
- d) 147125 - "The Granary", Green Lane, Pilham (PAGES 88 - 97)

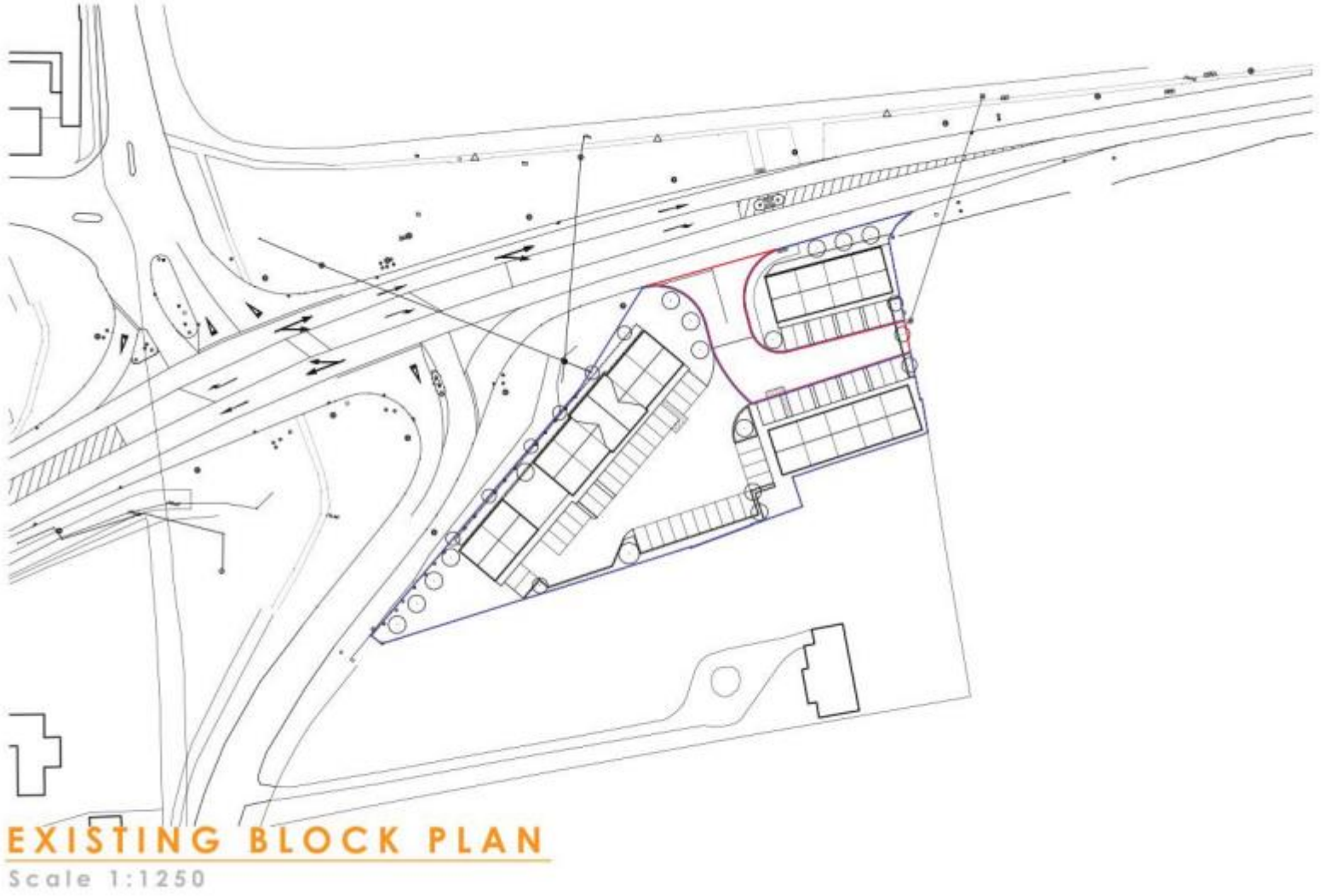
7. **Determination of Appeals** (PAGES 98 - 108)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

Tuesday, 24 October 2023

Site Location Plan 146461- Caistor

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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 3rd November 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).

The application was deferred at the planning committee meeting of July 12th 2023 for further information to be provided from the applicant to address the second and third recommended reasons for and for further clarification from NATS as to why the development would have a significant effect on air traffic control systems. The predicted energy output of the turbine was also requested by members of the committee.

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.

Following the 12th July's planning committee meeting, additional information, listed below has been received from the applicant, dated 19th September 2023.

- Energy Output- Turbine. The information provided by the applicant states the following: *The turbine will provide an annual yield of up to 12,895kwh. To put this into context an average home will use around 2,800kwh annually.*
- Visualisations of the turbine from view points around the site have been provided;
- Noise (Residential Amenity)- A wind survey has been submitted this shows a wind speed of 5.81m/s at the site. In addition to this a noise report for a similar turbine within a site near Glasgow, Scotland, has been submitted.
- A manufacturer specification detailing noise (decibel) output has also been submitted.

The additional information received (19/09/2023) can be viewed on 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>

A 14 day re- consultation was carried out with all consultees on 20th September 2023. The reply's received are detailed in the representations section of this report.

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 (in summary):

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:

Following the re- consultation on the additional information a further two objections from Hillcrest House, Caistor and Redroofs have been received and are summarised as follows;

- The photographs have no measurements of the turbine nor the telegraph pole, buildings or lampposts to enable an accurate comparison of size to the buildings, telegraph pole and lampposts.
- I believe the photographs are misleading and meaningless.
- There is also no photograph showing the visual impact of the wind turbine on his nearest neighbour.
- The wind turbine addition, to the photographs is clearly not this height. By careful scaling and measuring the wind turbine added to Viewpoint 02 can only be 10m tall. This totally discredits the suggested views from each of the other photographs.
- A series of site photos is provided but there is no indication as to whether these images are accurate, to scale and in any way verified. These do not form an accurate basis for the assessment of the visual impact of the wind turbine when viewed from public vantage points and notably do not include an accurate

computer generated image of the wind turbine from my property which is immediately adjacent to the site.

- The document dated February 2019 was in relation to a wind turbine at Myres Hill, Eaglesham, south of Glasgow. Paragraph 3 of that report states: “It should be noted that the test results are only applicable to the wind turbine configuration tested.” The location and context of this specific assessment are clearly not directly applicable to the current application site
- The applicants submit a document entitled “Planning Support Pack”. But this is no more than some technical information on the wind turbine, together with drawings of the proposed structure;
- The additional information provided by the applicant fails to address the fundamental issues raised by the proposals and the objections to it.
- The proposals would have very limited benefits in providing additional wind driven electricity. However, these limited benefits are eclipsed and heavily outweighed by the significant harm and danger raised by NATS and by the substantial harm to the AONB landscape. In addition, there would be a serious diminution in my living conditions. This objection from NATS is sufficient on its own to justify a refusal of planning permission.

5 Letters of support have been received prior to the receipt of the new information 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 objections have been received prior to the receipt of the new information 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:

20/09/2023- The HLLFA have no further comment to make on this application.

27/04/2023- 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 Gas Transmission- No Objection- The wind turbine location is approximately 200m away from NGT’s pipeline. As a result, the wind turbine is well outside the safety buffer zone.

20/09/2023- National Air Traffic Services (NATS) – Objects. 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.

En-route operational assessment of RADAR impact 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.

Email correspondence from NATS dated 30/08/2023-

Formal publications to help interpret the safe operation of radar systems:
The UK Government Aviation Regulator's Policy - [CAP 764: Policy and Guidelines on Wind Turbines \(caa.co.uk\)](#) and

European Guidance - [EUROCONTROL Guidelines on assessing the potential impact of wind turbines on surveillance sensors | EUROCONTROL](#)

In accordance with our understanding of standard planning policy, we would expect that the developer funds any changes we have to make in order accommodate the impact of their turbine on our operation.

In the past, in cases like this where mitigation appears likely to be acceptable we have approved consent subject to planning conditions of the form:

1. *No construction shall commence on site until a Radar Mitigation Scheme (RMS), (including a timetable for its implementation during construction), has been agreed with the Operator and approved in writing by the Local Planning Authority.*
2. *No construction work shall be carried out above ground level unless and until the approved Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.*

REASON: In the interests of aircraft safety and the operations of NATS En-route PLC

24/04/2023- National Air Traffic Services (NATS) - Objects.

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;**

Planning Practice Guidance¹ states: *“Management plans for National Parks, the Broads and Areas of Outstanding Natural Beauty do not form part of the statutory development plan, but they help to set out the strategic context for development. They provide evidence of the value and special qualities of these areas, provide a basis for cross-organisational work to support the purposes of their designation and show how management activities contribute to their protection, enhancement and enjoyment. They may contain information*

¹ Paragraph: 040 Reference ID: 8-040-20190721, Planning Practice Guidance – Natural Environment
(<https://www.gov.uk/guidance/natural-environment#landscape>)

which is relevant when preparing plan policies, or which is a material consideration when assessing planning applications.”

Consequently the Lincolnshire Wolds AONB Management Plan may be a material consideration in the assessment of this planning application.

The five key aims of the Lincolnshire Wolds AONB 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;
- Energy Output- Turbine
- 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

Policy No. 12 of the Caistor Neighbourhood Plan relates to renewable energy proposals and states *“to maximise the proportion of electricity sourced locally, residential and commercial developments are encouraged to incorporate appropriate energy generation*

technologies either onsite or offsite. Community scale renewable energy projects will be viewed favourably.”

It goes on to explain *“this policy reflects the importance of delivering a low carbon future to address climate change concerns whilst reducing energy costs locally. The emphasis though is on local energy needs and projects that are appropriate to the character of the area rather than large scale renewable development proposals.”*

Generally therefore the Neighbourhood Plan is supportive of such development, where it is “appropriate” to the character of the area.

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 outside of the “developed footprint” as defined within the Central Lincolnshire Local Plan (CLLP), and is within the countryside. Policy S1: The Spatial Strategy and Settlement Hierarchy of the CLLP 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 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*”.

This is consistent with National Planning Practice Guidance² which states:

“ Air traffic and safety

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. There is a 15 kilometre (km) consultation zone and 30km or 32km advisory zone around every civilian air traffic radar, although objections can be raised to developments that lie beyond the 32km advisory zone. There is a c.15km statutory safeguarding consultation zone around Ministry of Defence aerodromes within which wind turbine proposals would be assessed for physical obstruction. See the Town and Country Planning (safeguarded aerodromes, technical sites and military explosives storage areas) direction 2002. Further advice on wind energy and aviation can be found on the Civil Aviation Authority and National Air Control Transport Services websites.”

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).

² Paragraph: 016 Reference ID: 5-016-20140306 Planning Practice Guidance – Renewable and Low Carbon energy (<https://www.gov.uk/guidance/renewable-and-low-carbon-energy#wind-turbine-applications>)

NATS have been consulted and have responded as detailed earlier within this report. A full technical report³ 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 is understood to have 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;

'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.

3

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

Through the local plan review process an evidence report⁴ 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.

In email correspondence with NATS it has been stated that;

"One topic that has been covered in this correspondence (with the applicant) is the possibility of mitigation where we have stated "We are aware of the Northwold Farm turbines and we currently manage their impact on our operation. It is likely that we'd be able to do the same to yours however this would require a modification to our radar ...", in accordance with our understanding of standard planning policy, we would expect that the developer funds any changes we have to make in order accommodate the impact of their turbine on our operation.

In the past, in cases like this where mitigation appears likely to be acceptable we have approved consent subject to planning conditions of the form:

1.No construction shall commence on site until a Radar Mitigation Scheme (RMS), (including a timetable for its implementation during construction), has been agreed with the Operator and approved in writing by the Local Planning Authority.

2.No construction work shall be carried out above ground level unless and until the approved Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

⁴ <https://www.n-kesteven.gov.uk/sites/default/files/2023-03/EVR014%20Policy%20S14%20Renewable%20Energy%20Reg19.pdf>

REASON: In the interests of aircraft safety and the operations of NATS En-route PLC.

“Grampian” pre-commencement planning conditions can be attached to a decision notice to prevent the start of a development until off- site works have been completed on land not controlled by the applicant. The use of planning conditions also needs to meet the 6 tests as set out in the NPPF, paragraph 56 states the following⁵;

Planning 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. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making.

These conditions have been put forward to the applicant, whom has stated the following:

“With regard to the main point raised, I absolutely, categorically do not agree to this. It is tantamount to corporate racketeering on the part of NATS in an effort to wield complete financial power over a very, very small planning application for a single turbine.”

Given the response received, it is not considered that the inclusion of the conditions would meet the six tests to be added to any planning permission. This is due to the fact that the applicant is not agreeable to any such condition, and it would not therefore be “reasonable” to grant permission with such a condition attached. Ultimately, adding these conditions would create a planning permission that could not reasonably be implemented.

It is therefore 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. “*

Any such “robust evidence” has not been forthcoming.

In the absence of any evidence to indicate otherwise, it is expected that the development would have an unacceptable impact upon aviation navigation systems.

⁵ <https://www.gov.uk/guidance/national-planning-policy-framework/4-decision-making#para55>

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

West Lindsey District Council, as local planning authority, has a statutory duty to conserve and enhance the natural beauty of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). S85 of the Countryside and Rights of Way Act 2000 requires that:

“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.”

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 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.*

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 (a material consideration) 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 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 the AONB officer has also requested further landscape / visual information. The assessment would provide visualisations of the wind turbine and views of it that would be seen from varying viewpoints in the surrounding area.

Additional visualisations were received from the applicant on 19th September 2023. The visualisations show the turbine from 5 different viewpoints. Whilst the visualisations do provide some context on how the turbine would appear within the area, all of these views are located within close proximity to the site. Views from further to the west and north are not included nor has a zone of theoretical visibility been provided. A zone of theoretical visibility is a tool used to identify the likely (or theoretical) extent of visibility of a development. This was raised in an email to the applicant dated 10th October, a response has been received which states the following: *“Having researched other single turbine applications across the country I cannot find anywhere an LVIA has been requested.”*

Residents have cited concerns as to whether the visualisations are an accurate reflection of the development. The applicant has responded maintaining that they are.

As detailed above the site is within the AONB, it is not clear if the applicants search of other single turbines included those within AONB designated areas, it is also at the LPA's discretion to ask for this information. It is acknowledged that the turbine would be located against a backdrop of street lighting and the existing buildings in the business park, however it is maintained that insufficient information, in the form of a LVIA has been provided to satisfy the case officer that the visual impacts would be acceptable within a sensitive landscape. It is maintained that it would be a prominent and highly visible feature within a sensitive landscape.

Overall, in the absence of substantial evidence to ascertain that the visual impacts of the development would otherwise be acceptable, it is considered likely that the development would be likely to have an adverse visual impact, in a prominent position and in the context of its AONB setting.

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 Policy 3 of the CNP, which requires new developments to conserve and enhance rural nature.

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 granting permission would be detrimental to this purpose.

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.

The National Planning Practice Guidance⁶ 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.

⁶ <https://www.gov.uk/guidance/renewable-and-low-carbon-energy#shadow-flicker-and-reflected-light>

The application has been accompanied with some additional information regarding the potential noise impacts. The applicant has submitted the following information to try and address the third reason for refusal.

- A wind survey has been submitted this shows a wind speed of 5.81m/s.
- In addition to this a noise report for an identical turbine has been submitted, this is not site specific, it relates to a turbine near Glasgow.
- A manufacturer specification (planning pack) detailing noise (decibel) output has also been submitted.

The report relates to a turbine, of the same specification, located to the south of Glasgow. This report details on page 4 (3 Test Wind Turbine Configuration that 'it should be noted that the test results are only applicable to the wind turbine configuration tested'. It is not clear what the existing conditions around the turbine are, it appears to be within open countryside. Accordingly, this can be given very little weight in consideration of this application.

The normal criteria for indoor sound levels in residential developments (BS8233) is 35dB during the day and 30dB at night, with short duration levels not exceeding 45dB at night in bedrooms.

The specification for the turbine (planning pack) shows that the noise level is less than 40db for between 100m-70m and 40-45db from 70m-35m. The north elevation of Hillcrest house is located c. 50m away from the turbine location. It would appear that predicted noise levels may therefore be broadly at an acceptable level for the occupiers of this dwelling. It is also appreciated that some existing noise will occur from the A46 and the db numbers do indicate that such levels would appear to meet with the British Standards, however no site-specific baseline noise assessment has been carried out which gives a clear picture of the existing situation.

Policy S14 sets out that:

In order to test compliance with part (iii) [residential amenity] will require, for relevant proposals, the submission by the applicant of a robust assessment of the potential impact on such users, and the mitigation measures proposed to minimise any identified harm.

A robust assessment has not been provided with the application, despite the applicant being afforded the opportunity to do so. It is considered that the development is likely to produce noise that would be received by a sensitive receptor (a residential property) and it has not been demonstrated that this would be at acceptable levels – this would be particularly pertinent at night time when background noise from the A46 may be low.

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 within acceptable levels. The proposal is therefore deemed to be contrary to criteria iii of Policy S14 and S53 of the Central Lincolnshire Local Plan.

Other matters

Energy Output- Turbine -At the planning committee meeting of 12th July it was also requested that additional information was sought with regard to the energy output of the proposed turbine.

The information provided by the applicant states the following: *The turbine will provide an annual yield of up to 12,895kwh. To put this into context an average home will use around 2,800kwh annually.*

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.

The applicant has stated that *“it is important to note that the occupant of Red Roofs is a Caistor Town Councillor”*. The property of Red Roofs is within 200 metres of the proposed development and it is open to all to make comment and representations on a planning application. This is not a material planning consideration and should not be given any weight.

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.

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, the information provided with regard to the noise impacts upon the neighbouring occupier does not satisfy the LPA that the impacts 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 ii,

which states that renewable energy schemes must have acceptable impacts on aviation and defence navigation systems/communications.

2. Insufficient information has been provided to satisfy the Local Planning Authority that the landscape and 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, and Policy 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, located 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.

Technical and Operational Assessment (TOPA)

For Land at Hillcrest Park
Wind Turbine

NATS ref: SG35153

LPA ref: 146461

Issue 2

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Publication History

Issue	Month/Year	Change Requests and summary
1	April 2023	Full Planning Application
2	September 2023	Resubmission Planning Application

Document Use

External use: Yes

Referenced Documents

1. Background

1.1. En-route Consultation

NATS 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 farm.

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

In order to discharge this responsibility NATS is a statutory consultee for all wind farm applications, and as such assesses the potential impact of every proposed development in the UK.

The technical assessment sections of this document define the assessments carried out against the development proposed in section 3.

2. Scope

This report provides NATS En-Route plc's view on the proposed application in respect of the impact upon its own operations and in respect of the application details contained within this report.

Where an impact is also anticipated on users of a shared asset (e.g. a NATS RADAR used by airports or other customers), additional relevant information may be included for information only. While an endeavour is made to give an insight in respect of any impact on other aviation stakeholders, it should be noted that this is outside of NATS' statutory obligations and that any engagement in respect of planning objections or mitigation should be had with the relevant stakeholder, although NATS as the asset owner may assist where possible.

3. Application Details

West Lindsey District Council submitted a request for a NATS technical and operational assessment (TOPA) for the development at Land at Hillcrest Park Wind Turbine. It will comprise turbines as detailed in Table 1 and contained within an area as shown in the diagrams contained in Appendix B.

Turbine	Lat	Long	East	North	Hub (m)	Tip (m)
1	53.4976	-0.3035	512635	401434	0	22.8

Table 1 – Turbine Details

4. Assessments Required

The proposed development falls within the assessment area of the following systems:

En-route Surv	Lat	Long	nm	km	Az (deg)	Type
Claxby Radar	53.4501	-0.3083	2.9	5.3	3.5	CMB
Clee Hill Radar	52.3983	-2.5975	106.3	196.8	50.7	CMB
Cromer Radar	52.9104	1.3496	69.3	128.3	301.3	CMB
Debden Radar	51.9902	0.2638	92.9	172.0	347.4	CMB
Great Dun Fell Radar	54.6841	-2.4509	104.1	192.8	132.4	CMB
Pease Pottage Radar	51.0834	-0.2143	145.1	268.7	358.7	CMB
En-route Nav	Lat	Long	nm	km	Az (deg)	Type
None						
En-route AGA	Lat	Long	nm	km	Az (deg)	Type
Rothwell Rx	53.4241	-0.2734	4.5	8.4	346.3	Rx
Rothwell Tx	53.4524	-0.2929	2.7	5.1	352.0	Tx

Table 2 – Impacted Infrastructure

4.1. En-route RADAR Technical Assessment

4.1.1. 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.

4.1.2. En-route operational assessment of RADAR impact

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

Note: The technical impact, as detailed above, has also been passed to non-NATS users of the affected RADAR, this may have included other planning consultees such as the MOD or other airports. Should these users consider the impact to be unacceptable it is expected that they will contact the planning authority directly to raise their concerns.

4.2. En-route Navigational Aid Assessment

4.2.1. Predicted Impact on Navigation Aids

No impact is anticipated on NATS' navigation aids.

4.3. En-route Radio Communication Assessment

4.3.1. Predicted Impact on the Radio Communications Infrastructure

No impact is anticipated on NATS' radio communications infrastructure.

5. Conclusions

5.1. 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.

Appendix A – Background RADAR Theory

Primary RADAR False Plots

When RADAR transmits a pulse of energy with a power of P_t the power density, P , at a range of r is given by the equation:

$$P = \frac{G_t P_t}{4\pi r^2}$$

Where G_t is the gain of the RADAR's antenna in the direction in question.

If an object at this point in space has a RADAR cross section of σ , this can be treated as if the object re-radiates the pulse with a gain of σ and therefore the power density of the reflected signal at the RADAR is given by the equation:

$$P_a = \frac{\sigma P}{4\pi r^2} = \frac{\sigma G_t P_t}{(4\pi)^2 r^4}$$

The RADAR's ability to collect this power and feed it to its receiver is a function of its antenna's effective area, A_e , and is given by the equation:

$$P_r = P_a A_e = \frac{P_a G_r \lambda^2}{4\pi} = \frac{\sigma G_t G_r \lambda^2 P_t}{(4\pi)^3 r^4}$$

Where G_r is the RADAR antenna's receive gain in the direction of the object and λ is the RADAR's wavelength.

In a real world environment this equation must be augmented to include losses due to a variety of factors both internal to the RADAR system as well as external losses due to terrain and atmospheric absorption.

For simplicity these losses are generally combined in a single variable L

$$P_r = \frac{\sigma G_t G_r \lambda^2 P_t}{(4\pi)^3 r^4 L}$$

Secondary RADAR Reflections

When modelling the impact on SSR the probability that an indirect signal reflected from a wind turbine has the signal strength to be confused for a real interrogation or reply can be determined from a similar equation:

$$P_r = \frac{\sigma G_t G_r \lambda^2 P_t}{(4\pi)^3 r_t^2 r_r^2 L}$$

Where r_t and r_r are the range from RADAR-to-turbine and turbine-to-aircraft respectively. This equation can be rearranged to give the radius from the turbine within which an aircraft must be for reflections to become a problem.

$$r_r = \sqrt{\frac{\lambda^2}{(4\pi)^3}} \sqrt{\frac{\sigma G_t G_r P_t}{r_t^2 P L}}$$

Shadowing

When turbines lie directly between a RADAR and an aircraft not only do they have the potential to absorb or deflect, enough power such that the signal is of insufficient level to be detected on arrival.

It is also possible that azimuth determination, whether this done via sliding window or monopulse, can be distorted giving rise to inaccurate position reporting.

Terrain and Propagation Modelling

All terrain and propagation modelling is carried out by a software tool called ICS Telecom (version 11.1.7). All calculations of propagation losses are carried out with ICS Telecom configured to use the ITU-R 526 propagation model.

Appendix B – Diagrams



Figure 1: Proposed development location shown on an airways chart

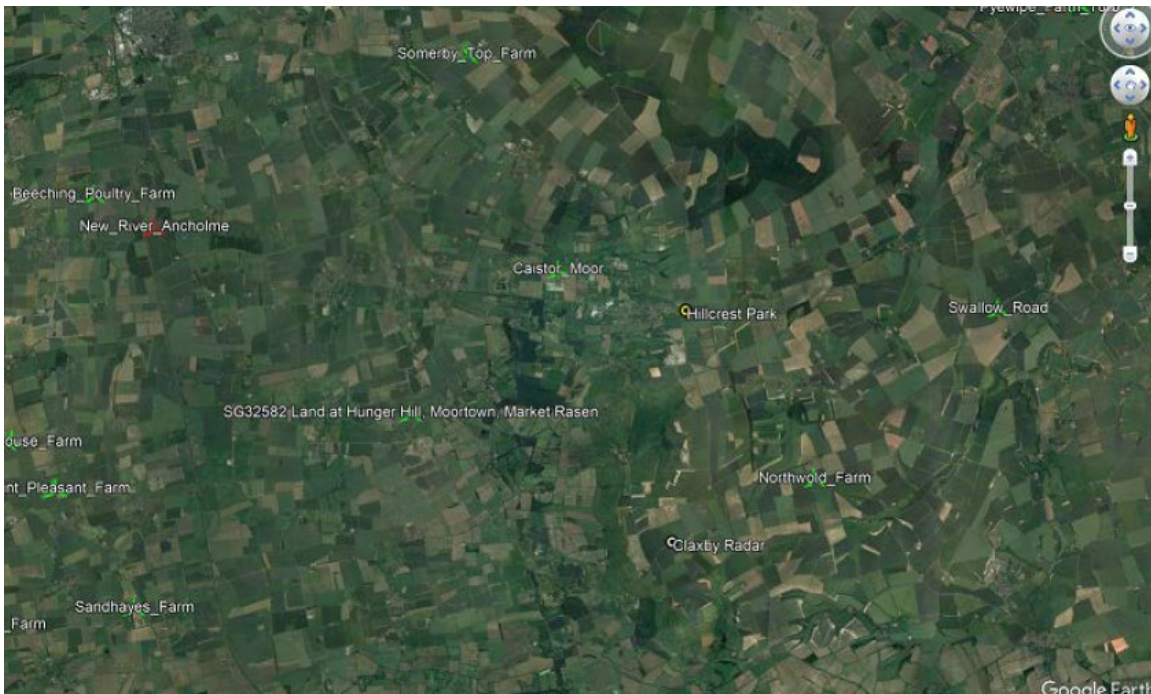
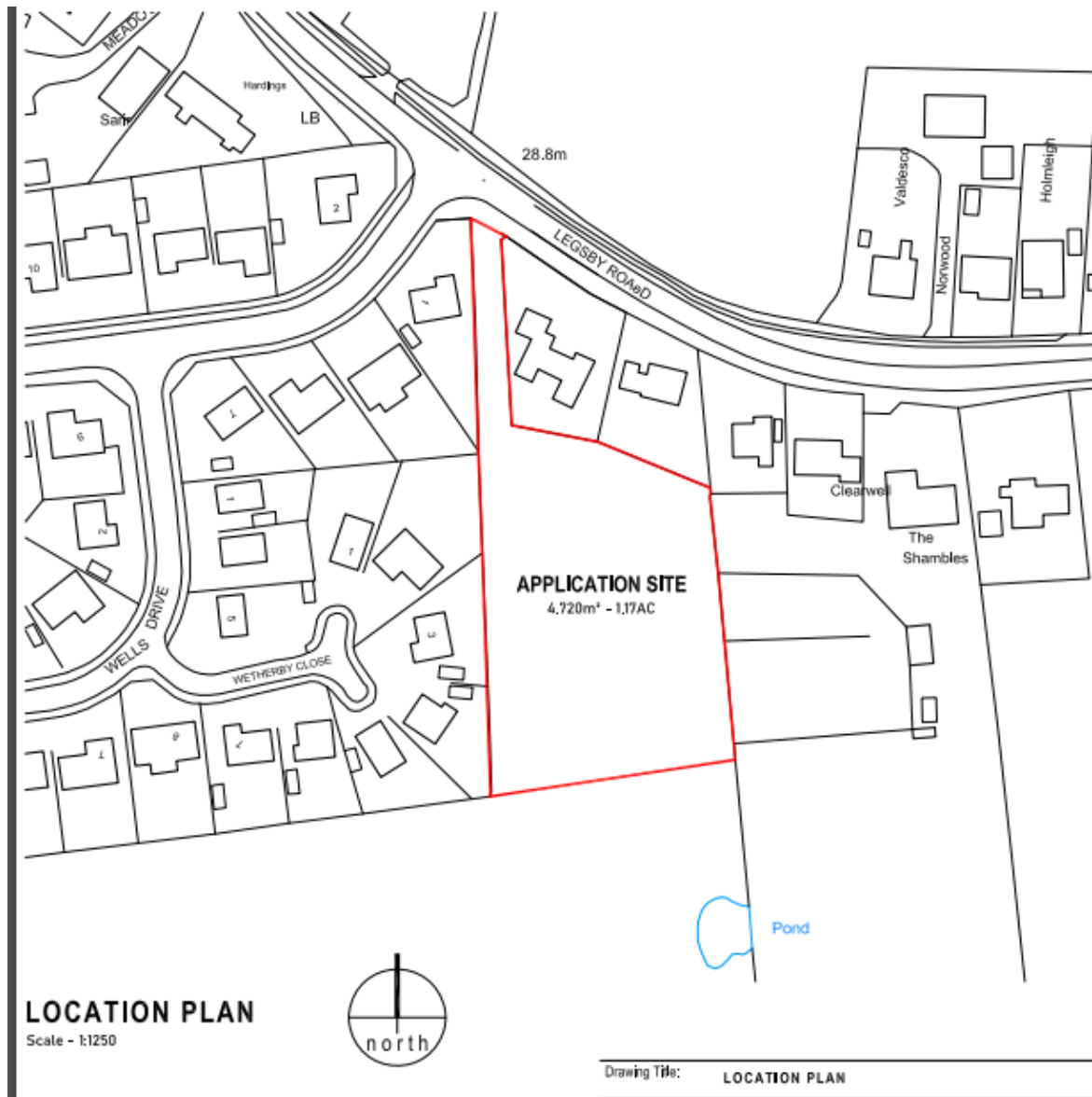


Figure 2: Proposed development shown alongside other recently assessed applications

- consented/built
- impact –accepted
- impact –objection
- mitigated
- mitigation –proposed
- no impact
- refused/withdrawn



Officers Report

Planning Application No: 146685

PROPOSAL: Planning for the erection of 6no. detached bungalow dwellings & associated garages.

LOCATION: Land To The South Of Legsby Road Market Rasen LN8 3DZ

WARD: Market Rasen

WARD MEMBER(S): Cllr S Bunney, Cllr M K Westley and Cllr E L Bennett

APPLICANT NAME: Mr Joseph Robinson

TARGET DECISION DATE: 18/07/2023 (EOT agreed until 6th October 2023)

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Dan Galpin

RECOMMENDED DECISION: Grant planning permission, subject to conditions

This application has been referred to the Planning Committee following objections and concerns raised by the Town Council, Ward Members and members of the public, in relation to planning matters.

Description: The site is located to the rear of dwellings on the south of Legsby Road, on the eastern side of Market Rasen with residential dwellings situated to the north at Legsby Road and to the west at The Ridings and Wetherby Close. A Public Right of Way (footpath MaRa/162/6) runs from north to south through the site on the western edge connecting Legsby Road to the open countryside south of the site. The site comprises of an arable field that is in semi-active use.

Planning permission is being sought for the erection of six residential bungalows with access connecting to Legsby Road to the north. All of the bungalows would have a similar design utilising red facing brick, grey interlocking concrete or pantiles and cream uPVC windows. It is proposed to utilise 1.8 metre boarded timber fencing (Lincolnshire post and rail). Each bungalow would be of a similar form and scale but there are modest variations in the form of each bungalow to result in each design having a degree of distinctiveness. Parking would be provided via a mix of private driveways, integral and, semi-detached and detached garages.

Relevant history:

140904 – Outline planning application for 4no. dwellings with access and layout to be considered and not reserved for subsequent applications. Granted 14th August 2020.

Representations:

Chairman/Ward Member(s)

Comments – Representations were received from Cllr Stephen Bunney and Cllr Moira Westley. The following material considerations were raised:

- General comments regarding the previous application (140904) for four dwellings. There was concern that this could constitute overdevelopment and could cause an issue for sewage/surface water drainage. Further development has since taken place on Legsby Road;
- Concerns were raised regarding foul and surface water drainage. It was stated that a full Flood Risk Assessment should be carried out to assess the full effect on sewers in terms of flooding;
- Noted that a Right of Way runs up the drive entrance. At a minimum, the same conditions should be applied;
- Highways – concern was raised regarding further development in the area such as Market Rasen Racecourse, Gold Club and Wild Pines;

Market Rasen Town Council

Comments received in relation to the potential loss of a Public Right of Way, important hedgerow and increased flooding risk. There are also questions relating to housing. There were also concerns in relation to the following:

- Concern regarding overcrowding;
- Comments regarding design, layout, form and scale as outlined in Policies S6, S20 and S53 of the CLLP;
- All conditions placed on the previous outline planning permission should remain in place;

Local Residents

Letters of objection have been received from ten local residents at 2, 3 and 4 Wetherby Close, 1, 3 and 5 The Ridings, 5 Stable Way, 33 Foxglove Road and 33 Lady Frances Drive. The following material considerations were raised:

- The proposal represents a 50% increase from the previous application which was for four dwellings;
- Concern raised regarding flooding, sewage and surface water drainage;
- The development would impact the Public Right of Way;
- Increase in traffic, highway safety, bin collection;
- Concern regarding the potential impact on wildlife;
- Wider infrastructure requirements;

LCC Highways/Lead Local Flood Authority

No objection – ‘Access to the site, whilst unusual, is considered safe for the development proposed. It is there considered the development does not have a detrimental effect on highway safety.’

LCC Countryside

Comments – ‘We have been made aware of this planning application for a plot of some 4,720 sq. metres, which although outside of the Lincolnshire Wolds Area of Outstanding Natural Beauty has the potential to impact upon one of our Partnership’s popular Market Rasen Lincolnshire Gateway Walks - “To Legsby & Linwood and Back Again” –

(<https://www.lincswolds.org.uk/exploring/walking/to-legsby-linwood>)

I understand that the applicant is proposing to potentially fence/gate across the Definitive Public Footpath No. 162. which provides an important link to one of a series of three circular walks actively promoted and used by local residents and visitors to the area. It is unclear from the application how the definitive Rights of Way will be safely maintained and the plan drawing 1323-003 is unclear but suggests that the line of the footpath will be moved as indicated in the main planning application form, but this would require and be subject to approval via an official Diversion Order. The current definitive route does not appear to be plotted on the 1323-003 drawing so it is difficult to assess how public and private access will be managed, along with the additional boundary treatments including hedge, verge and ditch proposals. We recommend that the applicant undertakes discussions and seeks advice with LCC’s Countryside Section to ensure that the development is fully compliant with the current Rights of Way legislation; it is our understanding for example, that any gating of public rights of way is for the purposes of livestock grazier management of pastureland.’

WLDC Archaeology

Comments – LCC Archaeology commented that there was insufficient site-specific archaeological information. It was recommended that a Heritage Impact Assessment is provided that includes a geophysical survey and trial trench evaluations.

Environment Agency

Does not wish to offer any comments.

Lincolnshire Wildlife Trust

No objection – The Lincolnshire Wildlife Trust raised a holding objection to the proposed developed due to the absence of Preliminary Ecological Appraisal that deliver a 10% net gain.

A Preliminary Ecological Appraisal has since been submitted by the applicant and the Lincolnshire Wildlife Trust commented as follows:

For what it's worth the BNG tables don't look too bad (slightly ambitious urban tree condition but downgrading those to 'moderate' still yields around 9% gain. Always suspicious of creation tables that lack a ukhab map for the proposed site plan. This seems to be a trend though I do remember having to do this myself during my time in consultancy.

The Lincolnshire Wildlife Trust have also explicitly confirmed that they have no objection to the proposed development and have no further comments to make.

The Ramblers Association

Comments were received stating that the consultation request had been received and the following was stated on September 27th 2023:

Looking at the proposed plans further, it appears the developer proposes to uproot the existing hedge on the eastern side of Public Right of Way 162 enlarging the site to be built on. I am querying his ownership of that P.R.O.W. as I believe it was donated to the Ramblers in 1986 by the then Landowner Mr. Hugh Bourne. Regardless of ownership I strongly object as this route would totally be changed as walkers would have to share with traffic and it would destroy the rural nature of the Footpath.

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 (CLLP) (adopted in April 2023); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- **Central Lincolnshire Local Plan (Adopted April 2023)**

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy

Policy S2: Growth Levels and Distribution

Policy S3: Housing in the Lincoln Urban Area, Main Towns and Market Towns

Policy S6: Design Principles for Efficient Buildings

Policy S7: Reducing Energy Consumption – Residential Development

Policy S14: Renewable Energy

Policy NS18: Electric Vehicle Charging

Policy S20: Resilient and Adaptable Design

Policy S21: Flood Risk and Water Resources

Policy S47: Accessibility and Transport

Policy S49: Parking Provision
Policy S53: Design and Amenity
Policy S57: The Historic Environment
Policy S60: Protecting Biodiversity and Geodiversity
Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains
Policy S67: Best and Most Versatile Agricultural Land

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

The site is not in a Minerals Safeguarding Area and Policy M11 of the Core Strategy does not apply.

National Policy & Guidance (Material Consideration)

- **National Planning Policy Framework (NPPF)**
- **National Planning Practice Guidance**
- **National Design Guide (2019)**
- **National Model Design Code (2021)**

Main issues

- Principle of Development
- Visual Amenity
- Residential Amenity
- Heritage Conservation
- Highways
- Archaeology
- Ecology & Biodiversity
- Flood Risk
- Other Matters

Assessment:

Principle of Development

The site is located within the settlement of Market Rasen which sits within Tier 3 of the settlement hierarchy which is established by Policy S1 of the CLLP. The previous planning permission (140904) determined that the site was not located within the developed footprint of Market Rasen due to it being on an arable field that relates more to the open countryside than the continuous built-up area of Market Rasen. However, due to Market Rasen being designated as a 'Market Town' that sits within Tier 3 of the settlement hierarchy, residential development that is directly adjacent to the developed footprint is acceptable in principle providing that a proposal accords with the following provisions within Policy S3:

To further bolster supply at the top three tiers of the settlement hierarchy, proposals on sites outside of but immediately adjacent to the developed footprint will be considered on their individual merits and will:

- *Be fully policy compliant, including meeting in full the affordable housing provisions set out in Policy S22;*
- *Result in no significant harm (such as to landscape, townscape, heritage assets and other protected characteristics of the area);*
- *Be suitably serviced with infrastructure;*
- *Be subordinate in size and scale to the community they adjoin and will not harm the settlement form, character or appearance of the area;*
- *Integrate successfully with the community they adjoin having regard to the mix of uses proposed and the design, layout and accessibility of the scheme; and*
- *Promote active travel patterns including access by walking, cycling and public transport.*

Any such proposal must not compromise the delivery of any other site allocations in the settlement.

The proposed development is for the erection of six residential dwellings and the total site area is under 0.5 hectares and as such there are no affordable housing requirements associated with this application (it falls under the qualifying criteria in policy S22). All relevant technical material planning considerations will be assessed throughout this report. However, it is considered that the proposed development is of a proportionate nature and scale that would not compromise any residential development on the closest allocated housing sites. It would be situated between established residential development to the west at Wetherby Close and the north and east at Legsby Road. There would be both a road and footpath access to Legsby Road allowing for the development to be integrated successfully into its surroundings.

Furthermore, it is considered that the development would be served by sufficient infrastructure. No objection been raised by the relevant technical statutory or non-statutory consultees in this regard (foul sewage and surface water drainage will be addressed later in this report). The site is within a 15-minute walk of Market Rasen Town Centre and the topography is sufficiently flat to allow for cycling to a viable mode of transport.

It is noted that the previous scheme was reduced from five to four dwellings but the superseded layout of 140904 differed in the sense that the it was for five dwellings that were arranged in a curvy-linear fashion and the dwelling furthest south protruded further into open countryside. Therefore, the application was amended to prevent the developed footprint Market Rasen extending further to the south beyond Wetherby Close.

Although this proposal would see a 50% increase in the total number of approved dwellings, this is from a low baseline of four dwellings. The overall density of housing on the site is still low at around 11 dwellings per hectare

(dph). Despite the overall increase of two dwellings, this is not considered to be a disproportionate level of housing growth given the constraints of the site. Development on unallocated sites in Large and Medium Villages is up to 10 dwellings, albeit on sites that fall within the development footprint and are in an appropriate location. Whilst this is not a perfect comparison as this site is directly adjacent to the developed footprint of a Market Town, Market Rasen is a Tier 3 settlement within the settlement hierarchy and therefore is naturally expected to accommodate a higher level of development overall.

The size of a settlement is not a justification in itself but it will be demonstrated through that this report that it is the professional view of the Officer that the proposed development is acceptable on its merits, subject to the imposition of the relevant conditions and on the balance of material considerations outlined in this report.

Loss of Best and Most Versatile (BMV) Land:

The site is located on an arable field that is in semi-active use. However, notwithstanding this, the site is only 0.4 hectares in scale and Policy S67 only requires the submission of an Agricultural Land Classification (ALC) Report where a site is larger than one hectare in scale.

The site is allocated as Grade 3 on the Natural England Agricultural Land Classification Map for East Midlands (ALC005), as is all agricultural land surrounding Market Rasen.

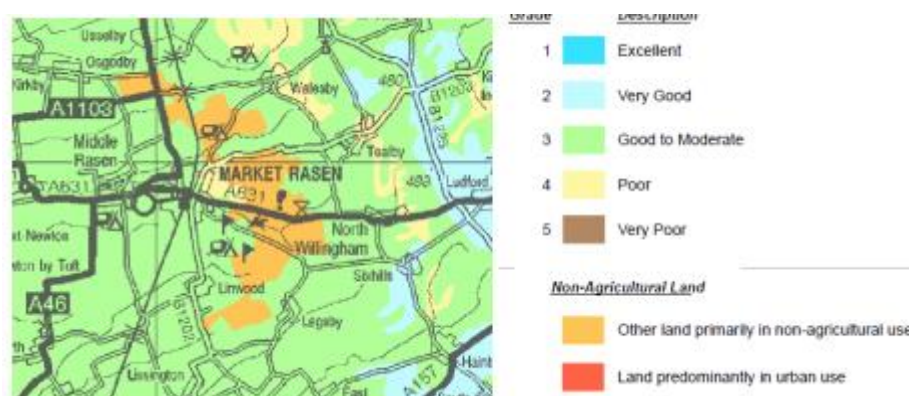


Figure 1: – <https://www.gov.uk/government/publications/agricultural-land-assess-proposals-fordevelopment/guide-to-assessing-development-proposals-on-agricultural-land>

The map (shown above) does not distinguish between Grade 3a (good) which qualifies as BMV Land and Grade 3b (moderate) which does not qualify as BMV Land. Natural England is only a statutory consultee when the loss of agricultural land over 20 hectares. Standing advice from Natural England states the following:

You should take account of smaller losses (under 20 hectares) if they're significant when making your decision. Your decision should avoid unnecessary loss of BMV land.

Reflecting on the above and in context of Policy S67 of the CLLP, it is not considered that the loss of this land would either be significant or unjustified. The site area at 0.4 ha is well below the one-hectare threshold and given that the principle of residential development on this site was previously established, it is considered that the proposal is broadly consistent with the requirements of Policy S67 of the CLLP. Although the proposal would see an overall increase in the number of dwellings, it is considered that this proposal makes a more efficient use of land and does not extend the *developed footprint* of Market Rasen further to the south. In this context, the loss of agricultural land is not unjustified.

In respect of the above, it is therefore considered that the proposed development is acceptable in principle. The relevant material considerations will be assessed in the remainder of this report.

Visual Amenity

Policy S53 of the CLLP requires that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place which demonstrates a sound understanding on their context. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they are well designed in relation to siting, height, scale, massing, and form. Important views into, out of and through a site should also be safeguarded.

The proposed development would see the introduction of six detached bungalows that would comprise a mixture of materials, built forms, integral garages, driveways and semi/detached garages. The dwellings would be arranged in two rows with the principal elevations facing towards the access road and the shared private drive. This is considered to be an acceptable layout as it would achieve both an active frontage with the main architectural detailing facing towards the more prominent public vantage points, creating a sympathetic street scene. With the exception of Plot 1 which has an integral garage, each individual plot would have a semi-detached/detached garage with drive access in front. The garages would be set the side of the dwellings prevent a visually cramped form of development. Plot 3 would be the exception to this with the detached garage set forward of the building but this is in the middle of the site and would also provide additional privacy to Plot 1 to the north. This layout overall resembles a rural-suburban cul-de-sac that creates a new visual context but in way that is not harmful to the character and appearance of the area.

In terms of scale, each bungalow would have a ridge height of just over six metres and an eaves height of just over four with projecting gables having a lower ridge height but a similar eaves height. This is also acceptable given the relatively low density of housing that would occupy the site. Given that the bungalows are detached, this would also match the nature of the dwellings that are being proposed. The scale would be sufficiently in keeping with the type of detached bungalows that exist on The Ridings and Wetherby Close

and would not visually dominate any adjacent dwellings. The bungalows would not be visually prominent from public vantage points on Legsby Road and would appear as a sympathetic infill development to the south. The proposed development utilises a combination of boundary treatments that balances both the privacy of the occupiers with the need to respect the landscape character. The southern boundary treatment of Plot 5 and Plot 6 prevents a visually monolithic appearance which could occur if close boarded fencing was utilised on the rear elevations as well as the side elevations of Plot 5 and Plot 6. Close boarded fencing and hedgerows is acceptable on the northern and eastern boundaries as these do not face towards the main public vantage points to south and west of the site. The garages would be a similar height to that of the eaves of their host dwellings which would achieve both visual subservience and visual integration into the street scene. This prevents the garages looking disjointed from the bungalows.

The design approach attempts to create a semblance of visual heterogeneity which is achieved by utilising a mixture of materials in the roof and also in the overall form of the dwellings. There is a combination of hipped and gable roofing proposed on both the bungalows and garages. It is proposed to finish the dwellings and garages in red facing brick, cream uPVC and either grey interlocking concrete tiles or clay pantiles. This material specification is considered to be acceptable in a rural location. The clay pantiles are especially appropriate on the southernmost plots as these face towards open countryside where clay pantiles are the most appropriate. This variation in terms materials and form is both sympathetic to the established character of the area but also prevents a uniform appearance that would fail to enhance local distinctiveness. The form of Plots 1 and 5 whilst not standard gives the impression that a pedestrian is entering and leaving the site as the roofline rises or falls depending on the direction that a pedestrian would be walking. This aids in the visual transition from urban to suburban/rural and suburban/rural to open countryside respectively. The application form notes that the finish of the doors on the dwellings and garages is to be confirmed. A condition will be attached to the decision notice requiring these details of their materials, finish and external appearance to be provided prior to their installation.

It is considered that the overall proposal would respect the character and appearance of the area whilst creating a degree of visual distinctiveness that is based on a sound understanding of its context. The impact on the wider landscape character is considered acceptable. From the south, these dwellings would be seen within the context of existing built development and would be well concealed beyond the immediate proximity of the site to the north and would well concealed from Legsby Road.

For the reasons explained above, it is considered that the proposed development is in accordance with Policy S53 of the CLLP and Section 12 of the NPPF.

Residential Amenity

Policy S53 of the CLLP requires that development proposals do not have an unacceptable impact on residential amenity. This includes considerations such as compatibility with neighbouring land uses, noise, vibration, odour, and the creation of safe environments amongst other things. Furthermore, paragraph 130 f) of the NPPF requires that development proposals provide a high standard of residential amenity for both existing and future users.

The total site area is 0.4 hectares and it is therefore considered that the proposal would result in a relatively low-density form of housing (15 dph gross). This is reflected in the scale of the dwellings which are slightly over six metres in height. It is noted that the proposed development would result in a 50% increase in the number of dwellings from that previously granted permission. However, whilst representations concerned with over-development are noted 15dph is considered to be a low density. By way of an example, the calculation used to identify site capacity in the Central Lincolnshire Local Plan would assume 35dph on a site that is 85% developable¹ - around 11 dwellings. The proposal would achieve a lower density of housing than the bungalows on The Ridings or Wetherby Close.

The dwellings would provide both a high standard of residential amenity to both the future users and the adjacent dwellings. The closest separation distance to a dwelling not on the site is at least nine metres which is considered to be acceptable given the single storey nature of the proposal. The separation distances on site are in excess of 10 metres with the exception of Plot 3 and Plot 4 but given that these are located in a linear fashion, this is considered acceptable as the principal and rear elevations are parallel to one another. The separation distance combined with the boundary treatments and overall scale of the plots with respect to the host dwellings is considered acceptable. The smallest amount of amenity space appears to be on Plot 4 which has at least 80 square metres of rear garden space.

All of the principal and rear elevations have been designed to face away from each other which also helps to improve privacy and largely removes the risk of overlooking, overshadowing and overbearing forms of development. The windows are all relatively low to the ground which also improves privacy. The dwellings to the north may partially overlook the site, but the separation distance which is in excess of 10 metres and perpendicular spatial relationship is acceptable and this is only applicable to Plot 1. The rest of the dwellings have a much greater separation distance to off-site dwellings. The separation distances were not found to be unacceptable in the previous application (layout was not a reserved matter) and there is no reason to come to a contrary conclusion in this circumstance.

Finally, the low density of the plots and relatively large scale of the bungalows would comply with the national technical space standards alongside providing a good amount of exterior amenity space.

¹ HOU002a – Central Lincolnshire Policies S76-S82 Evidence Report (March 2022) <https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library>

One condition will be attached requiring the submission of a Construction Method Statement. This was placed on the previous outline planning consent and is considered appropriate to ensure that there are not any unacceptable impacts on the amenity of the occupiers of neighbouring dwellings during the construction period. Subject to this condition, it is considered that the proposed development would accord with Policy S53 of the CLLP and paragraph 130 f) of the NPPF.

Highways

Policies S47, S48 and S49 collectively require that development proposals do not have an unacceptable impact on highway safety or a severe cumulative impact on the wider highway network. Policy S48 requires that development proposals should facilitate active travel. It also requires that first priority should be given to pedestrians, cyclists, and people with impaired mobility. Policy S49 of the CLLP sets out minimum parking standards that are required for residential and non-residential development within Central Lincolnshire.

Paragraph 92 of the NPPF supports development proposals that allow for the creation of healthy and safe places. This is reinforced by paragraph 110 of the NPPF which requires that development proposals provide safe and suitable access to all users. Paragraph 111 of the NPPF in turn states that development proposals can only be refused on highways grounds where there is an unacceptable impact on highway safety, or the wider cumulative impact would be severe.

The proposal would see the introduction of an additional six dwellings with access being obtained to the north from Legsby Road. The Local Highway Authority at Lincolnshire County Council has stated that whilst the access to the site is unusual, it is not considered that the proposed development would result in either an unacceptable impact on highway safety or a severe cumulative impact on the wider highway network.

Concerns raised by local residents are noted. However, the emphasis on new housing development within Market Towns is that growth on unallocated sites should be proportionate. Whilst the proposal would represent an increase of two dwellings from the four permitted via 140904, this is not considered to be unacceptable and the overall cumulative impact resulting from six new dwellings (a net increase of two from 140904) would not be unacceptable. Given the overall size of the site, it is considered that the development of six residential dwellings on 0.4 ha of land is an appropriate scale and density of development with respect to highway safety.

All of the new dwellings would have sufficient off-street parking that meets the requirements of Policy S49 of the CLLP. In addition, the access is sufficiently wide enough to allow for two vehicles to safely pass each other. Visibility from the access to the site is also sufficient and would not conflict with the guidance in the Manual for Streets. Comments in relation to aspects such as bin collection and carrying distances are noted but the CLLP does not set

formal standards on carrying distance and bin collection would be a matter that is required to be resolved prior to the occupation of the new dwellings.

It is therefore considered that the proposed development would accord with Policies S47 and S49 of the CLLP and paragraphs 92, 110 and 111 of the NPPF.

Archaeology

Policy S57 of the CLLP requires that development proposals should take opportunities to protect and where possible, enhance the significance of heritage assets. Appropriate assessment proportional to the significance of a potential heritage asset should be submitted and where this is still sufficient, appropriate intrusive and non-intrusive mitigation should be undertaken. Similar guidance is also contained within paragraph 205 of the NPPF.

The comments received by LCC Archaeology are noted. However, the previous application 140904 stated that no archaeological input was required. Whilst it is conceivable that new evidence may have been provided since, no further justification for requiring a full Heritage Impact Assessment to include trial trenching and a geophysical survey has been provided in the response. The previous outline planning consent only lapsed in August 2023 and given that archaeology is a principle consideration, it is not considered reasonable to impose a requirement for further archaeological information given that the applicant would have had the option to discharge conditions and make a material start when this application was submitted in May 2023.

Notwithstanding the above, the site is a semi-active arable field which still would still retain an access for agricultural machinery from Legsby Road, should it be minded that to grant planning permission. Taking paragraph 205 of the Framework into account, it is considered that it would not be proportionate to request any further information with regard to this planning application.

The basis for requesting this information is not clear given the previous outline planning consent and any archaeological remains that may have previously been present, are very likely to have been disturbed. LCC Archaeology were also subsequently notified of this previous response and have stated that given the above considerations that these recommendations do not need to be actioned as they were unaware of the previous recommendations. No new information has come to light since 2020.

As such, it is considered that the proposed development is in accordance with Policy S57 of the CLLP and paragraph 205 of the NPPF.

Climate Change

Policy S6 sets out the overarching principles that relate to design of energy efficient buildings. In turn, Policy S7 outlines a specific requirement for all new residential development to be accompanied by an Energy Statement. This

sets out two criteria which require that new residential development provides generates at least the same amount of on-site renewable energy as the dwelling consumes. The second criteria sets out that no single dwelling should exceed a total energy demand of 60 kWh/m²/yr with a site average of 35 kWh/m²/yr.

This application has been accompanied by an Energy Statement which concludes that the average total energy demand of the new dwellings would be 35.1 kWh/m²/yr. The space heating demand for the dwelling would be 14.52 kWh/m²/yr which is an improvement on the 15-20 kWh/m²/yr required by Policy S7. The average total energy demand would very marginally exceed the requirement of Policy S7 but there would be a marginal improvement on the average space heating demand.

Some caution should be exercised as the submitted u-values that are outlined in the Energy Statement are at the upper end of the recommended range for compliance with Policy S7 as set out in the Energy Efficiency Design Guide which has been produced to assist both applicants and LPAs alike. Nevertheless, it is conceded that the submitted Energy Statement mostly complies with the overarching criteria of Policy S7 and are a significant improvement on current Building Regulations standards. The Energy Efficiency Design Guide does not form part of the development plan so can only be taken as guidance.

In addition, substantial weight is attached to the benefits of the provision of renewable energy as stated within Policy S14 of the CLLP. Paragraph 158 of the NPPF in turn recognises that even small-scale renewable energy production is invaluable in achieving reductions in carbon emissions. Another important consideration is that the principle of development has already been established on this site via 140904 which only lapsed in August 2023. This proposal if granted, would achieve a material improvement on development that has been previously approved by allowing for all dwellings to be largely energy independent from low carbon sources. This is in accordance with the ambition of paragraph 152 of the NPPF which seeks to achieve radical cuts in greenhouse gas emissions. This proposal would see the introduction of between 10 and 15 photovoltaic solar panels on each individual dwelling. The amended Energy Statement has outlined that the proposed development would be able to generate up to 57 kWh/m²/yr which would significantly exceed the total energy demand of the dwellings and is therefore considered to be acceptable subject to the additional details which would be secured by condition (outlined in the final paragraph of this section).

It is therefore considered that whilst the Energy Statement is very slightly above the 35 kWh/m²/yr and does not contain a specification of solar panels, the proposal is broadly consistent with the requirements of Policies S6 and S7 of the CLLP. Any departure from these policies is minimal and is greatly outweighed by the other economic and environmental benefits associated with the proposed development.

This is subject to the imposition of the standard conditions that ensure compliance with the relevant policies outlined in this section. An additional condition will also be attached requiring further details on the specification of solar panels to be provided with the discharge on the pre-commencement condition (Condition 3).

Ecology & Biodiversity

Policies S60 and S61 of the CLLP requires that development proposals do not have an unacceptable impact on ecology or biodiversity and should take opportunities to provide a net gain in biodiversity wherever possible. These requirements are also contained within paragraph 174 of the NPPF. Paragraph 180 states further that some harm to biodiversity is permitted but where there is significant harm, planning permission should be refused.

This application has been accompanied by a Preliminary Ecological Appraisal (PEA) which includes a Biodiversity Net Gain calculation that outlines the proposed development would achieve a 30% net gain in habitat units and a 34% net gain in hedgerow units. This is sufficiently in excess of the minimum 10% net gain that is required by Policy S61. The site is an active agricultural field and therefore very little vegetation was present at the time of my site visit which would have yielded a low ecological baseline allowing for a significant net gain to be achieved. This is also aided by the relatively low density of the proposed dwellings allowing for more planting to be proposed.

The net gain figures are afforded modest weight in favour of the proposed development. There are no concerns regarding the Biodiversity Metric 4.0 calculations but no specification of the planting proposals has been submitted alongside the application. The submitted Site Plan shows the locations and broad type of planting that would be undertaken but no details on the species have been provided. It is therefore appropriate to attach a pre-commencement condition requiring the submission of a landscaping scheme in order to fully demonstrate the figures that have been outlined within the PEA.

The other relevant consideration is that the site has been determined to have potential for nesting birds. However, an additional survey would only be required if the development was to commence in the bird nesting season (March to August). The recommendations of the PEA will therefore be conditioned as part of a grant of planning permission. It is not considered necessary to require a separate pre-commencement condition for nesting bird surveys. Nesting birds are a protected species under the Wildlife and Countryside Act 1981. Therefore, it is an offence to cause undue harm to protected species independent of the planning process.

The Lincolnshire Wildlife Trust did not raise any objection/holding objection in their follow-up response to proposal. There was some doubt expressed about the quality of urban trees. However, even assuming that all of the trees would only be of a moderate quality, this would still yield a 9% net gain in biodiversity, and this in itself is only an assumption. BNG calculation are by

their very nature proposals are based on assumptions. The final details will also be secured via a pre-commencement condition that is detailed at the end of this report. Given that a 9% can be assumed as a worst case scenario and the calculations were undertaken by a suitably qualified professional, it is considered that the proposed development is in accordance with S60 and S61 of the CLLP and paragraph 174 of the NPPF in light of the material considerations outlined in this report.

Flood Risk

Policy S21 of the CLLP requires that development proposals do not have an unacceptable impact on flood risk and implement appropriate mitigation (such as the use of SuDS) wherever possible. Paragraphs 159 and 167 of the NPPF respectively require that development should be diverted away from areas at the highest risk of flooding and that all development proposals should not increase the risk of flooding elsewhere.

The site is located within Flood Zone 1 which is considered to be at the lowest risk of flooding. This is sequentially preferable and the proposed development does not need to pass either the sequential or exceptions test. Footnote 55 of the NPPF requires the submission of a site-specific Flood Risk Assessment (FRA) for all development within Flood Zones 2 and 3. There is also a requirement for all development over 1 hectare in area in Flood Zone 1 or where there are critical drainage problems that have been identified by the EA. Following concerns raised by Cllr Stephen Bunney and a number of local residents, the applicant submitted a site-specific FRA. This concluded that the risk of flooding from all sources was **low** with the exception of pluvial flooding which was identified as having a **medium risk**. Page 8 (Figure 4.1) contains a map of the site and shows that the risk of surface water flooding was medium in a small area towards the north-eastern edge of the site near Plots 1 and 3. The FRA also contains an indicative drainage strategy. For a development to comply with Policy S21 and Section 14 of the NPPF, both the drainage of surface water and foul water/sewage must be acceptable.

Surface Water Drainage

In terms of surface water drainage, the type(s) of management systems required will inevitably depend upon the site-specific planning constraints. In some circumstances, a multi-functional drainage strategy may be required. The PPG establishes a hierarchy of drainage options which is as follows (the higher on the list, the more sequentially preferable):

- 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.*

Data from the British Geological Survey indicates that the site is located on superficial deposits of blown sand. The results from the percolation tests are outlined in Appendix 1 of the FRA. The indicative drainage strategy includes the provision of a new swale near the western boundary of the site alongside the provision of two new soakaways. The size of the soakaways has been calculated for a 1:100-year return period with a 40% climate change allowances in peak rainfall intensity. This would put indicative drainage strategy towards the top of the surface water drainage hierarchy. No objection has been raised from any statutory or non-statutory technical consultees in relation to this drainage strategy which will also be subject to a pre-commencement condition so the proposed drainage strategy can be formalised.

The floor levels of Plots 1 and 3 will also be raised to 28.6 metres AOD to account for water 'ponding' on site (see Sections 5.2 to 5.4 of the FRA).

Foul Sewage

It is proposed to send foul water/sewage to the closest Anglian Water facility for proper disposal. The indicative drainage strategy includes a hydro-brake to limit discharge to the mains sewer to 2lt per second. Anglian Water and Shire Group Internal Drainage Board (Ancholme) were both consulted as part of the statutory consultation process but no replies with received from either consultee. This does not necessarily indicate support for the proposal but in the absence of any specific concerns, the indicative drainage strategy is considered acceptable. Discharge of foul water/sewage to a mains sewer is sequentially preferable and all relevant consultees will be consulted when a discharge of condition application comes forward.

In addition, it should be noted that the management of foul sewage with respect to new development also requires regulatory approval that is independent from the requirements of the Town and Country Planning Act (e.g. Section 104 of the Water Industry Act 1991).

Summary

It is noted that there are concerns regarding the capacity of the existing infrastructure to handle new development. However, subject to a pre-commencement condition requiring the submission of a formal foul sewage and surface water drainage strategy and the lack of any objections from the relevant consultees, it is considered that the proposed development would accord with Policy S21 of the CLLP and paragraphs 159 and 167 of the NPPF. A second condition will also be imposed requiring that the development is undertaken in accordance with the recommendations in the submitted FRA.

Other Matters:

Public Rights of Way

The comments relating to the existing Right of Way (MaRa/162/6) are noted. However, when considering the requirements of paragraph 100 of the NPPF, it is not considered that the proposed development would have an unacceptable harm on the integrity of MaRa/162/6. The current Right of Way is partially overgrown and not particularly well defined. The amended Site Plan would have a footpath running along the western edge of the site, separating footpath users from vehicular traffic, which would have a timber gate access to the south.

This is considered to be a potential enhancement to the existing Right of Way. The amended Site Plan also retains the existing agricultural access. The following sections from the Planning Practice Guidance are also relevant:²

7.8 In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.

7.11 The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement to keep a public right of way open for public use will preclude the developer from using the existing footpath, bridleway or restricted byway as a vehicular access to the site unless there are existing additional private rights. Planning authorities must ensure that applicants whose proposals may affect public rights of way are made aware of the limitations to their entitlement to start work at the time planning permission is granted. Authorities have on occasion granted planning permission on the condition that an order to stop-up or divert a right of way is obtained before the development commences. The view is taken that such a condition is unnecessary in that it duplicates the separate statutory procedure that exists for diverting or stopping-up the right of way, and would require the developer to do something outside his or her control.

For these reasons, it is not considered that the proposed development would conflict with paragraph 100 of the NPPF. An informative to the decision relating the potential requirement for a Footpath Diversion Order.

Other considerations

The comments regarding boundary disputes are noted. However, boundary disputes are a civil matter between relevant parties and therefore is not a

² <https://www.gov.uk/guidance/open-space-sports-and-recreation-facilities-public-rights-of-way-and-local-green-space#public-rights-of-way>

material planning consideration and no weight can be afforded any comments in this regard.

Conclusion:

The proposal has been considered in light of relevant development plan policies namely S1: The Spatial Strategy and Settlement Hierarchy, S3: Housing in the Lincoln Urban Area, Main Towns and Market Towns, S6: Design Principles for Efficient Buildings, S7: Reducing Energy Consumption – Residential Development, S14: Renewable Energy, Policy NS18: Electric Vehicle Charging, S20: Resilient and Adaptable Design, S21: Flood Risk and Water Resources, S47: Accessibility and Transport, S49: Parking Provision, S53: Design and Amenity, S57: The Historic Environment, S60: Protecting Biodiversity and Geodiversity, S61: Biodiversity Opportunity and Delivering Measurable Net Gains and S67: Best and Most Versatile Agricultural Land of the Central Lincolnshire Local Plan.

In light of the assessment outlined in this report, it is considered that subject to conditions, the proposed development is acceptable on its merits. It is therefore recommended that planning permission is granted subject to conditions.

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

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

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

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

2. No development shall take place until a scheme of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in accordance the approved details.

Reason: To ensure appropriate foul sewage and surface water drainage in accordance with the National Planning Policy Framework and Policy S21 of the Central Lincolnshire Local Plan.

3. Prior to the commencement of construction works on any dwelling, including footings being commenced, a scheme shall be agreed in writing with the Local Planning Authority relating to the verification of the post-construction energy performance of the dwelling(s) to be constructed under this permission, including a mechanism for the provision of the verification to individual home owners. The approved scheme shall be implemented in full, including

mechanisms by which any shortfall in performance against the updated Energy Statement received 13th September 2023 will be mitigated.

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of Policies S6 and S7 of the Central Lincolnshire Local Plan (2023).

4. Prior to the commencement of the development, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following details:
 - Details of the size, species, planting arrangement and position of all trees, hedgerows and other vegetation to be planted in accordance with the details in the submitted Preliminary Ecology Appraisal and Biodiversity Net Gain Assessment and Biodiversity Metric 4.0 Calculation dated August 2023.

The development shall be carried out in accordance with the approved scheme.

Reason: To ensure that a landscaping scheme to enhance the development is provided in accordance with Policies S53, S60 and S61 of the Central Lincolnshire Local Plan and Sections 12 and 15 of the National Planning Policy Framework.

5. No development hereby permitted shall take place unless a Construction Method Statement has been submitted to, and approved by, the Local Planning Authority. The statement shall include the following:
 - Construction working hours;
 - Measures for the routing and parking of construction related traffic;
 - Indicate areas for the loading and unloading of materials;
 - Measures to prevent the obstruction of the Public Right of Way during construction;

The development shall thereafter be undertaken in accordance with the approved Method Statement.

Reason: In order to minimise the disruption that may arise through the construction period to residential amenities, and to ensure that the Public Right of Way is not unduly obstructed, in accordance with Policies S47 and S49 of the Central Lincolnshire Local Plan.

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

6. The scheme referred to in Condition 3 shall also include a specification of solar panels to demonstrate the total energy output outlined in the submitted Energy Statement and on the submitted Site Plan 1323/003 REV B, received 15th August 2023.

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of Policies S6 and S7 of the Central Lincolnshire Local Plan (2023).

7. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: 1323-005, 1323-006, 1323-007, 1323-008, 1323-009, 1323-010 and 1323-0011 received, 23rd May 2023 and 1323/003 REV B received 15th August 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.

8. The development must be completed in strict accordance with the external materials listed on the application form received, 29th August 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.

9. The development hereby permitted shall be undertaken in accordance with the recommendations in Section 5 and 6 of the submitted Flood Risk Assessment received, 30th June 2023.

10. The development hereby permitted shall be carried out in accordance with the details set out in the updated Energy Statement received 13th April 2023 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of Policies S6 and S7 of the Central Lincolnshire Local Plan (2023).

11. No services shall be laid within the development for the provision of piped natural gas.

Reason: In the interests of energy efficiency to accord with Policies S6 and S7 of the Central Lincolnshire Local Plan (Adopted 2023).

12. The development hereby permitted shall be undertaken in accordance with the mitigation and enhancements in the following ecological documents:

- Preliminary Ecology Appraisal and Biodiversity Net Gain Assessment and dated August 2023

Reason: To ensure that a landscaping scheme to enhance the development is provided in accordance with Policy S60 of the Central Lincolnshire Local Plan and Sections 12 and 15 of the National Planning Policy Framework.

13. Any site clearance or works to vegetation should be undertaken outside of the bird nesting season (March to August) unless otherwise given the all clear by a suitably qualified professional and subsequently agreed in writing with the Local Planning Authority.

Reason: In the interests of protecting biodiversity and protected species in accordance with Policy S60 of the Central Lincolnshire Local Plan and Section 15 of the National Planning Policy Framework.

14. Prior to their installation details of the external appearance of all doors and garage doors including materials and finish shall be submitted to and agreed in writing with the Local Planning Authority. The development thereafter shall be undertaken in strict accordance with the approved details.

Reason: To ensure that the development does not have an unacceptable impact on the character and appearance of the area in accordance with the National Planning Policy Framework and Policy S53 of the Central Lincolnshire Local Plan.

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

15. Notwithstanding the provisions 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) no domestic oil tanks or domestic gas tanks shall be placed within the curtilage of the dwelling(s) hereby approved.

Reason: In the interests of energy efficiency to accord with Policies S6 and S7 of the Central Lincolnshire Local Plan (Adopted 2023).

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 their private and family life, their home, and their correspondence.

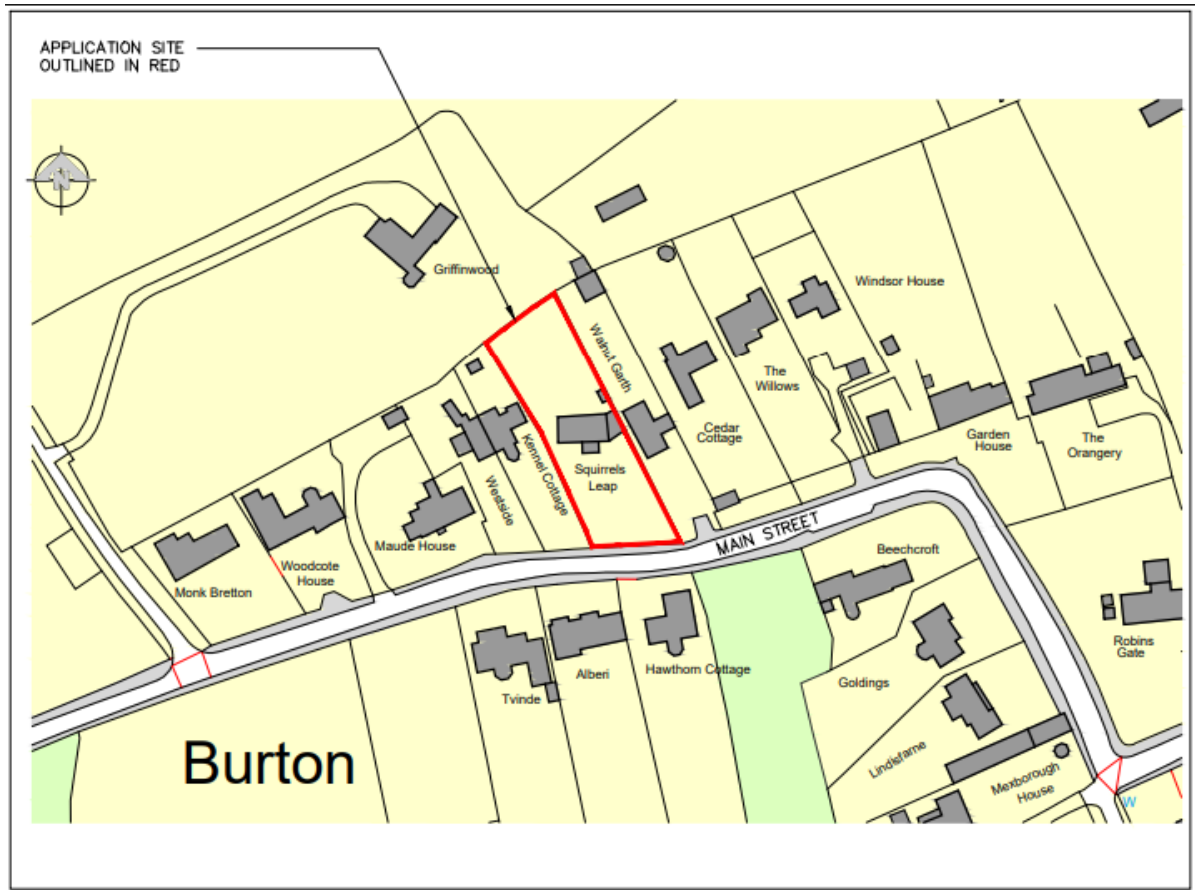
Legal Implications:

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

Decision Level

Committee X

Agenda Item 6c



Officers Report

Planning Application No: 144560

PROPOSAL: Planning application for demolition of the existing bungalow and replace with 2 storey dwelling, attached garage and all associated works.

LOCATION: Squirrels Leap Main Street Burton Lincoln LN1 2RD

WARD: Saxilby

WARD MEMBER(S): Cllr Mrs J Brockway and Cllr P M Lee

APPLICANT NAME: G S Hughes (Holdings) Ltd

TARGET DECISION DATE: 16/05/2022 – Extension of time agreed until 02nd November 2023

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Joanne Sizer

RECOMMENDED DECISION: Grant permission subject to conditions.

This application is referred to the Planning Committee, as it is recommended to grant planning permission, despite outstanding objections from the Parish Council and neighbours on balanced planning matters (particularly in regard to scale and impact upon character and appearance).

Description: The application site is located within Burton village, within Burton Conservation Area and within an area allocated as “Green Wedge” in the development plan. It is also within a Limestone Mineral Safeguarding Area.

The site currently hosts a detached residential bungalow with garden area, access and provision for off street parking. The site slopes down from east to west and north to south. Boundary treatments mainly consist of hedges, planting and walls (some with trellis). There are also a large number of trees within the site.

Other residential dwellings and their garden areas adjoin the site to the east, north and west. Those sitting to the west are identified as locally important buildings within the Conservation area appraisal and are considered to be non-designated heritage assets.

This application seeks to demolish the existing bungalow on the site and erect a replacement dwelling with attached garage. The proposals being considered relate to the amended details submitted on 05th September 2023.

The existing bungalow measures approximately 17.6 metres in width (including garage), 7.5 metres in length (excluding conservatory), 2.95 to the eaves (from lowest ground level) and 5.81 metres to the ridge (from lowest ground level)

The proposed dwelling would measure approximately 17.3 metres in width, 19.22 metres in length (including all elements), 4.5 metres to the eaves (from lowest ground level) and 8.1 metres to the ridge (from lowest ground level).

The proposed materials are noted as:

- Natural Slate (Welsh) Roof tiles.
- Dressed Ashlar Stone with lime mortar
- Subtly tumbled Buff Brick
- Off white render
- Dressed stone Lintels, Cills, window surrounds, cornices and Portico Canopy
- Anthracite or Black slimline/aluminium windows and doors
- Agate grey fascia and black cast iron flue

Relevant history:

31/67 – Erect Bungalow and form vehicular access – Granted 1967

460/66 – Erect a bungalow and form vehicular access – Granted 1966.

Representations:

Burton Parish Council:

Post 05/09/23: Burton Parish Council have concerns over this application as the house has been brought forward on the plot and will therefore further dominate the street scene. The roofline of the proposed building is level with the property known as Walnut Garth but the adjacent neighbours do not understand why the plans appear to indicate “stepping down” from the building to the patio via steps at the rear of the proposed building.

Whilst the ground level is higher than that at Kennel Cottage which neighbours the proposed property it currently does not have a step down and is fairly level. It appears as if the proposed dwelling has been built on a platform to allow for the step down.

The proposed dwelling is much larger and higher than any of the neighbouring properties, therefore, it will be a dominant building. It is far too large for this site, particularly, as it is in a Conservation Area. It is very proximate now to Walnut Garth and thereby will encroach on the amenity of that property. It will block the light from their conservatory and other parts of the house.

The proposal puts the heat source pump now is to be situated at the front of the property near Kennel Cottage. Heat pumps are noisy and it will encroach on the amenity of the neighbouring property. Placing it to the rear of the property would reduce the encroachment on the quiet living of the neighbours. It is far too large and domineering for the site. A property more in keeping with the size Maude House or a style chalet property would be more in keeping. The views of the Conservation Officer are required.

Prior to 05/09/23: Concerns raised in relation to (summarised):

- Site of the dwelling and overdevelopment of the plot.
- The spacing around the dwelling is compromised and should be traditionally in-keeping with those around.

- The height of the dwelling is higher than the properties around
- The dwelling would block light, overlook and be overpowering to existing dwellings and to the detriment of their amenity.
- No hedges should be removed.
- The Conservation officers comments are supported and not in keeping with the Conservation Area.

Local residents:

Post 05/09/23: Walnut Garth, Kennel Cottage and Griffinwood raise the following concerns/objections (summarised):

Walnut Garth (located to the east):

- The dwelling is closer to our boundary and larger in dimensions than previous proposals.
- Loss of daylight and sunshine
- Damage to boundary wall
- Safe access during construction works
- Hedging to be retained at its existing height of 3 m on Squirrel's Leap side and 2m on Walnut Garth's side.
- Height of the dwelling in comparison to Walnut Garth
- Height of windows should be lower than the existing fence to maintain privacy.
- The dwelling would have an overbearing presence due to its height, massing, scale and form.
- The height and proximity of the dwelling would lead to unreasonable shadowing and reduced daylight into the principal windows to 2/3 of our downstairs space (looking/leading through the glazed boot room/utility).
- Any demolition/construction works close to the boundary wall could have a structural impact upon the wall and on the boot room, which is built directly on the boundary wall.
- There are drains located along the side pathway between the boot room and site and construction works may impact upon these.
- Construction traffic should be parked on the driveway of Squirrels Leap to allow for safe access in and out of the neighbouring properties.
- The leylandii hedging (G13) to be retained should be done so at a height of 3 metres from Squirrels Leap land levels and 2 metres height on Walnut Garth side.
- The proposed dwelling should be reduced in size and height.
- The proposed dwelling is out of scale with the smaller properties on either side of it and will stand out within the street scene as a dominating property.
- Construction hours should be managed if permission is granted.
- Relevance of representations made by the agent

Kennel Cottage (located to the west):

- The size of the proposed dwelling is disproportionate and will result in it to dominate the street scene.

- The siting and size of the dwelling will result in loss of light to Kennel Cottage.
- The dwelling will also dominate Kennel Cottage due to the roof line being level with Walnut Garth, yet on a lower ground level.
- The proposed dwelling does not respect the surrounding topography or relate well to the site and surrounding in relation to its siting, height scale, massing, form and the width of the plot.
- The proposed dwelling will lead to overlooking and overshadowing/loss of light to the detriment of Kennel Cottage.
- The siting of the air source heat pump close to the boundary will also have a detrimental noise impact.
- Parking of vehicles during construction should be on site and managed for highway safety purposes.

Griffinwood (located to the north)

- The size of the proposed dwelling is excessively large and an overdevelopment of the plot.
- The dwelling is larger than previously proposed and significantly bigger than the existing bungalow.
- The dwelling would be out of character with its immediate surroundings and would have a adverse effect on the surrounding properties.

Prior to 05/09/23: Walnut Garth, Kennel Cottage and Griffinwood raise the following concerns/objections (summarised):

- Dominance and overbearing Design of proposed dwelling
- Scale and massing is harmful to the Conservation area
- Has a harmful impact upon the amenity of neighbouring properties through dominance, overlooking and loss of light/overshadowing. As well as noise from the air source heat pump.
- Highway Safety concerns
- Accuracy of plans
- The size of the dwelling and the scale of the roof when compared to others in the street is out of character.
- Location of chimneys to neighbouring windows and detrimental impacts.
- Close proximity to boundary wall/neighbouring property and its stability and nearby drains.
- Removal of hedges providing privacy.
- Kennel Cottage and that attached have significance in the history of the village and noted as an important building in the Conservation Area Appraisal. The proposed dwelling completely dominates these locally important buildings.
- Historic views associated with the site and buildings will be lost.
- All hedges should be retained for privacy.

In support of the application (Prior to 05/09/23):

Thorpe Lane Lincoln.

22 Heron Drive, Gainsborough

1 Metheringham Lodge Cottage, Metheringham Health, Lincoln

Summarised comments:

Due to it looking nice in the street scene and being a positive improvement to the area.

LCC Highways:

No Objections.

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

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

Archaeology:

It is unlikely for there to be a need for archaeological impact.

Tree officer:

Post 05/0923: There are no objections to the proposals in terms of its impact on trees or hedges. The Arboricultural Report provides all the necessary information regarding RPA's, tree protection measures, construction methods in close proximity to any trees intended to be retained, utilities, precautions against spillages and ground contamination of substances harmful to trees, etc... and the information within this document should be adhered to. It is however necessary for the protective fencing to be installed in the approved positions prior to any work commencing on site, including prior to demolition and clearance of the existing dwelling, and not just prior to construction of the new dwelling.

Prior to 05/0923: I have no objections to the proposals in terms of its impact on trees or hedges. The two Arboricultural Report and AMS documents provide all the necessary information regarding RPA's, tree protection measures, construction methods in close proximity to any trees intended to be retained, utilities, precautions against Version: 1, Version Date: 16/09/2022 Document Set ID: 286094 spillages and ground contamination of substances harmful to trees, etc... and the information within these two documents should be adhered to. NOTE: The necessary protective fencing should be installed in the approved positions prior to any work commencing on site, including prior to demolition and clearance of the existing dwelling, and not just prior to construction of the new dwelling.

Conservation officer:

Post 05/0923 - Squirrels leap is a late 20th century bungalow built towards the northern boundary of Burton Conservation Area.

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Local Planning Authority shall have special regard to the desirability of preserving or enhancing the character or appearance of the conservation area.

Two plots to the west of Squirrels Leap is the historic kitchen garden wall of the Monson family estate.

To the west of Squirrels leap are two NDHA's known as Kennel Cottage and Maude House, both built in the 19th century.

Kennel Cottage is a pair of two storey estate cottages built of coursed limestone with a slate roof and Maude House is a large house built in red brick and with a pantile roof.

The CAA notes the location of Squirrels Leap to be located within a mostly modern built area. The development of this plot to incorporate a larger modern property would not alter the setting of the CA or NDHA's. A new development would conserve the setting.

The development will change the setting of the CA and the NDHA's but not harm them. The CA is situated on an escarpment that tiers the buildings higher to the east of the CA. Views of the development site and the NDHA's from the east are limited due to the sloped landscape and modern development, such as Walnut Garth.

To the west, there are strong views of Maude House and Kennel Cottage, the views to these would not be altered here but the new development would be more visible within the view. The additional views of a modern development would not alter the character of the existing setting.

The development would not alter the character of the area from the east due to the modern developments and the views to and from the NDHAs are strongest to the west which are retained.

The proposed two storey dwelling is much larger in height and scale than the existing single storey bungalow. The proposal appears appropriate in size and scale when compared within the setting of the newer developments in the area. It is also similar to the scale of the principle elevation of Maude House. Under Policy S57 of the CLLP (2023), part N, there is an aim to retain the existing street patterns. The siting of the new house improves the form of the CA as the principal elevation conforms with the existing properties to the north of Main Street. This alteration would enhance the setting of the NDHAs as desired under part F of the same Policy.

One minor issue would be the height of the building. It is proven to be tiered in the elevation plans with neighbouring properties down the escarpment, but this is currently very minimal and would be better reduced for the setting. However, this does still conform with the setting and would be considered to sustain the NDHA setting and retain the setting of the CA.

The proposed fenestrations and materials retain the local distinctiveness of the CA and is a betterment in design from the existing. The modern details to the rear are discrete and conform with the wider setting of modern

development. The development design would meet the context, identity and built form of Policy S53.

The proposal protects the character of the historic environment under Policy S57 and meets the design details of Policy S53.

I have no objections to this application subject to the conditions:

- 1) All external materials will be submitted to the LPA for approval.
- 2) A 1 metre squared sample panel of the stonework and brickwork will be produced on site for inspection and retained on site until the development is completed.
- 3) Details of the landscape shall be submitted to the LPA for approval.

Prior to 05/09/23 –

- As discussed today in the workshop. I have concerns with the amended proposals. I still feel it does not “retain and reinforce local distinctiveness with reference to height, massing, scale, form, materials and lot widths of the existing built environment” as stated in LP25 of the Local Plan
- Burton is a designated conservation area. The Local Planning Authority must pay special attention to the preservation or enhancement of the character and appearance of the conservation area as per the statutory duty under 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The existing bungalow is of no significance. There are no objections to its loss. Development in a conservation area generally should be expected to blend in well with its surroundings, not compete for attention. This principle is reflected in Local Plan policy LP25: The Historic Environment that requires development within conservation areas to retain and reinforce local distinctiveness with reference to height, massing, scale, form, materials and lot widths of the existing built environment. When considering the proposal, I am not of the opinion that it would comply with the above requirements. The proposed dwelling appears large, both in terms of height and footprint. It is likely that its appearance would be out-of-scale with the smaller grained properties on either side. The design approach of using two steeply pitched gables to the front elevation and long vertical windows would result in a dwelling with a modern aesthetic that although striking, would be incongruous in this particular location that features a more polite approach through traditional and traditional-style architecture. Generally speaking, the redevelopment of the site could be supported. However, the proposal could respond more positively to its context in terms of scale and design. As proposed, I feel the dwelling would uncomfortably stand out within an established traditional street scene. This is further exacerbated when considering the impact upon views to and appreciation of the settings of the adjacent properties Maude Cottage, westside and Kennel Cottage, which have been identified as buildings of importance within the conservation area. In considering the National Planning Policy

Framework 2021 (the NPPF), the harm to the designated heritage asset of Burton conservation area would be less than substantial. Any level of harm, however, requires clear and convincing justification (paragraph 200). In this case, the identified harm should be weighed against the public benefits of the proposal. There is no evidence that public benefits would arise from the scheme. I would advise that the proposal is reconsidered.

ECM checked 23/10/23

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 2023-2043 (CLLP)***

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy.

Policy S6: Design Principles for Efficient Buildings.

Policy S7: Reducing Energy Consumption – Residential Development

Policy S11: Embodied Carbon

Policy S21: Flood Risk and Water Resources.

Policy S47: Accessibility and Transport

Policy S49: Parking Provision

Policy S53: Design and Amenity

Policy S57: The Historic Environment

Policy S60: Protecting Biodiversity and Geodiversity

Policy S63: Green Wedges

Policy S66: Trees, Woodland and Hedgerows.

- ***Neighbourhood Plan (NP)***

The Parish is not currently preparing a Neighbourhood Plan.

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

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

The application is however in an established residential area and host an existing residential property. The proposed development in replacing the existing dwelling will not therefore replacement will not therefore sterilise

mineral resources within the Mineral Safeguarding Area or prevent future minerals extraction on neighbouring land.

National policy & guidance (Material Consideration)

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

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in September 2023. 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**
- **National Design Guide (2019)**

Other guidance/Legislation:

- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- Burton Conservation Area Appraisal

Main issues

- Principle of development
- Green Wedge
- Design and impact upon the character of the area and Historic Environment, including Landscaping
- Neighbouring amenity
- Drainage
- Energy efficiency

Assessment:

Principle of Development:

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 application site hosts and existing dwelling and adjoined by other residential properties to the north, east and west, with the highway sitting to the south. It is located within the developed footprint of Burton, which is

designated as a small village in Policy S1 of the 2023 CLLP. The proposed development seeks planning permission for a replacement dwelling.

Policy S4: Housing Development in or adjacent to villages of the 2023 CLLP is therefore most relevant and sets out that:

Policy S4: Housing Development in or Adjacent to Villages

1. Large, Medium and Small Villages, as defined in the Settlement Hierarchy in Policy S1, 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 and Medium Villages; and*
- up to 5 dwellings in Small Villages.*

Proposals on unallocated sites not meeting these criteria will not generally be supported unless there are clear material planning considerations that indicate otherwise.

2. 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.*

The application site is not allocated but is considered to be an appropriate location within the developed footprint. The development is also within the 5 dwelling limit set out in the policy.

The principle acceptability of development therefore relates to the policy requirements set out in part 2. of Policy S4 and matters relating to design and visual amenity, as well as all other policy requirements set out in the development plan. These matters are discussed topically in this report and subject to being found in accordance with the CLLP requirements, the principle of development is supported.

Design and impact upon the character of the area and historic environment.

The site hosts a detached residential bungalow with garden area, access and provision for off street parking. The site slopes down from east to west and north to south. Boundary treatments mainly consist of hedges, planting and walls (some with trellis).

The application site is located within the Burton Conservation Area (CA). The Burton Conservation area appraisal sets out important features of the Conservation Area and includes the sloping topography of the village, historic boundary walls and mature trees, as well as the traditional form of the buildings, spacing around them and materials used.

However, more specifically the Conservation area appraisal identifies the application site to sit within an area of the modern-day village, with mostly modern houses. In this regard it is noted that the existing bungalow is of no architectural or historic significance and has little presence within the Conservation area. The surrounding area also includes a majority of modern dwelling houses which do not reflect the valued characteristics and features noted in the Conservation area appraisal and seen in the more historic parts of the village.

That said, the Conservation Area appraisal does identify the buildings located immediately to the west of the site (Kennel Cottage, west Side and Maude House) to be estate dwellings and have a historic association with the village and valued architectural features. These properties are therefore considered to be non-designated heritage assets (NDHA's) and the application site and proposed development sits within their setting.

The three neighbouring properties adjoining the site and the Parish Council have raised concerns in relation to the size and scale of the dwelling and it not being in keeping with those within the area and harmful to the character of the Conservation area.

Policy context/requirements:

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Local Planning Authority are required to have special regard to the desirability of preserving or enhancing the character or appearance of the conservation area (Designated Heritage asset).

Local Plan Policy S57: The Historic Environment requires:

Development within, affecting the setting of, or affecting views into or out of, a Conservation Area should conserve, or where appropriate enhance, features that contribute positively to the area's special character, appearance and setting, including as identified in any adopted Conservation Area appraisal.

Proposals should:

- n) retain buildings/groups of buildings, existing street patterns, historic building lines and ground surfaces and architectural details that contribute to the character and appearance of the area;*
- o) where relevant and practical, remove features which have a negative impact on the character and appearance of the Conservation Area;*
- p) retain and reinforce local distinctiveness with reference to height, massing, scale, form, materials and plot widths of the existing built environment;*
- q) assess, and mitigate against, any negative impact the proposal might have on the townscape, roofscape, skyline and landscape; and*

r) aim to protect trees, or where losses are proposed, demonstrate how such losses are appropriately mitigated against.

Paragraph 199 of the NPPF states that great weight should be given to the conservation of a designated heritage asset, regardless of the level of harm to its significance. Paragraph 200 sets out that any harm to, or loss of the significance of a designated heritage asset should require a clear and convincing justification. Paragraph 202 further guides that for development that leads to a less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of a proposal.

With regards to the setting of the non-designated heritage assets Local Plan Policy S57 relevantly states that:

Development proposals should protect, conserve and seek opportunities to enhance the historic environment of Central Lincolnshire.

Development proposals will be supported where they:

f) take into account the desirability of sustaining and enhancing non-designated heritage assets and their setting.

Additionally, Paragraph 203 of the NPPF guides that: *The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

In addition to this CLLP Policy S53 relates to the Design of development and requires that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place which demonstrates a sound understanding on their context. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they are well designed in relation to siting, height, scale, massing, and form. Important views into, out of and through a site should also be safeguarded.

Assessment:

Squirrels Leap is a mid 1960s bungalow built towards the northern boundary of Burton Conservation Area. It sits within a mostly modern area, with surrounding development incorporating larger modern residential properties. The exception to this is the non-designated heritage assets which are located to the west of the site. Both of these properties are built in the 19th century but are different in size and design. Kennel Cottage is a pair of two storey estate cottages built of coursed limestone with a slate roof, while Maude House is a large house built in red brick with a pantile roof.

The Conservation Area is situated on an escarpment that tiers the buildings higher to the east. Views of the development site and the NDHA's from the east are limited due to the sloped landscape and modern development. To the west, there are strong views of Maude House and Kennel Cottage, the views to these would not be altered here but the new development would be more visible within the view. The additional views of a modern development would not however harmfully alter the character of the existing setting, with the strongest views of the NDHAs from the west being retained.

The proposed dwelling is much larger in height and scale than the existing single storey bungalow. However, the proposal appears appropriate in size and scale when compared within the setting of the newer developments in and around the area. It is also similar to the scale of the principle elevation of the NDHA Maude House.

The proposed street elevation also shows that the properties would still be tiered down the escarpment, but it is a minimal difference between the eaves and ridge heights of it and the neighbouring properties. It does however, still largely conform with the character of the area and would be considered to sustain the NDHA setting and retain the characteristics of the CA. The proposed drawings also indicate that the proposed dwelling will be cut into the site on the east side and the land levels then fall to the west. There are however no exact levels shown for the site as a whole and to ensure the land levels remain in character with the area they will be secured through a condition.

The fenestration design and materials proposed for the replacement dwelling are considered to retain the local distinctiveness of the CA and is a betterment in design from the existing. The modern features are discrete and conform with the wider setting of modern development. The development design would meet the mixed historic and modern context, identity and built form of the area as required by Policy S53 and protects the character of the historic environment under Policy S57.

The Conservation officer does not uphold objections to the proposals and also considers that although the proposed development will result in a change to the Conservation area and the setting of the NDHA's; it is not harmful to them.

The proposed development is considered to be of a size, scale and design which protect the character and setting of the historic environment and that of the area. It is therefore considered to meet the requirements of Policies S4, S53 and S57 of the CLLP and guidance within the NPPF.

This is however subject to conditions ensuring appropriate design detail and materials (including hard surfaces) for the development are secured.

Landscaping:

The application site contains a number of existing trees and hedgerows within it and running along its boundary.

Policy S66: Trees, woodland and Hedgerows is therefore applicable and relevantly 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 tree protected by a Tree Preservation Order or a tree within a Conservation Area, then permission will be refused unless:

- c) there is no net loss of amenity value which arises as a result of the development; or*
- d) the need for, and benefits of, the development in that location clearly outweigh the loss.*

The proposed development has been submitted with Arboricultural reports and Arboricultural Method Statement documents which clearly shows the location of the trees and hedges on site. It also categorises their quality and amenity value and sets out which trees are to be removed, those to be retained and those to be protected. It concludes out of 35 trees/hedges identified 6 trees and 2 groups will require removal as a result of the development. All of these trees are considered to have a low amenity value. 3 of the trees and 1 group are located to the front of the site where there is a large collection of other trees and some with higher amenity value than those to be removed. The other 3 trees and group are located close to the footprint of the existing dwelling and within the rear garden area. The report also confirms that the trees and hedges with most amenity value are to be retained and root protection measures put in place during construction.

The Tree Officer has not raised any objections to the proposals in terms of the loss of trees and impact upon the character of the Conservation area. They have also advised that the details contained within the report are acceptable.

It is therefore considered that subject to the development being carried out in accordance with the details of these reports and protective fencing being installed in the approved positions prior to any clearance/demolition/works commencing on site, then the development will not result in a net loss of amenity value through the loss of trees. The proposal is therefore considered to be in accordance with Policy S66 and conditions are proposed to secure this.

Green wedge

The application site is within the Burton to Nettleton Green Wedge, as allocated within the Central Lincolnshire Local Plan.

In this regard Policy S63: Green Wedges states that:

'Green Wedges, as identified on the Policies Map, have been identified to fulfil one or more of the following functions and policy aims:

- Prevention of the physical merging of settlements, preserving their separate identity, local character and historic character;*
- Creation of a multi-functional 'green lung' to offer communities a direct and continuous link to the open countryside beyond the urban area;*
- Provision of an accessible recreational resource, with both formal and informal opportunities, close to where people live, where public access is maximised without compromising the integrity of the Green Wedge;*
- Conservation and enhancement of local wildlife and protection of links between wildlife sites to support wildlife corridors.*

Within the Green Wedges planning permission will not be granted for any form of development, including change of use, unless:

- a) it can be demonstrated that the development is not contrary or detrimental to the above functions and aims; or*
- b) it is essential for the proposed development to be located within the Green Wedge, and the benefits of which override the potential impact on the Green Wedge.*

Development proposals within a Green Wedge will be expected to have regard to:

- c) the need to retain the open and undeveloped character of the Green Wedge, physical separation between settlements, historic environment character and green infrastructure value;*
- d) the maintenance and enhancement of the network of footpaths, cycleways and bridleways, and their links to the countryside, to retain and enhance public access, where appropriate to the role and function of the Green Wedge; and*
- e) opportunities to improve the quality and function of green and blue infrastructure within the Green Wedge with regard to the Central Lincolnshire Green Infrastructure network and Biodiversity Opportunity Mapping'.*

'Central Lincolnshire Green Wedge and Settlement Breaks Review April 2016' accessed via <https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library> identifies that: 'The primary role of the Burton to Nettleham GW is to prevent the merging of the settlements of Nettleham and Riseholme to Lincoln, and to protect the character and setting of Lincoln and Riseholme Historic Park and Garden'.

The application site is located within an established residential area of Burton village and hosts an existing residential property and associated garden area. The proposed development to erect a replacement dwelling is not therefore considered to result in development that would undermine or unacceptably harm the aims and valued characteristics of the green wedge. The proposed development would therefore be considered to be in accordance with the provisions of policy S63 and acceptable in this regard.

Neighbouring Amenity:

The amenity considerations as set out in Policy S53: Design and Amenity relevantly states that:

“All development proposals will be assessed against, and will be expected to meet the following relevant design and amenity criteria. All development proposals will:

7. Uses

b) Be compatible with neighbouring land uses and not result in likely conflict with existing uses, unless it can be satisfactorily demonstrated that both the ongoing use of the neighbouring site will not be compromised, and that the amenity of occupiers of the new development will be satisfactory with the ongoing normal use of the neighbouring site;

c) Not result in adverse noise and vibration taking into account surrounding uses nor result in adverse impacts upon air quality from odour, fumes, smoke, dust and other sources;

8. Homes and Buildings

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;

The application site adjoins other residential properties to the north, east and west. To the north sits Griffinwood, to the east Walnut Garth and to the west Kennel Cottage. Concerns have been raised by the occupiers of these properties in relation to the replacement dwelling and harmful impacts through dominance, loss of light/overshadowing and overlooking/loss of privacy. Concerns have also been raised in relation to noise impacts from the use and siting of the proposed air source heat pump, as well as through construction phase. The parking of construction vehicles has also been noted as a concern and the stability of a boundary wall/glazed structure adjoining Walnut Garth. The latter matter is not however controlled through the planning process. It is a civil matter between the two parties and may be subject to the provisions of The Party Wall etc. Act 1996.

The impacts the proposed development will have on the residential amenity of each neighbouring property is considered individually below.

The residential property known as Griffinwood is located to the north/north west of the application site. Its garden area/tennis court shares a boundary with the rear of the application site and has trees and planting running along it. The existing bungalow is located approximately 31 metres from this shared boundary and more than 50 metres from the neighbouring dwelling. The proposed dwelling is also located at a similar distance away and although it is of a larger size and scale, the substantial amount of separating distance ensures that it does not have any harmful impacts upon the amenity of the occupiers of it.

Walnut Garth is a detached dwelling and located to the east of the application site. It is set just under 1 metre above the ground level of the application site due to the sloping nature of the area. The site and surrounding garden land also slope down from north (rear) to south (front). Consequently, the front of the existing dwelling is approximately 1 metre higher than the street and the rear north boundary of the site approximately 1 metre higher than the site level around the existing dwelling. The existing dwelling has an eaves height of approximately 2.95 metres and ridge height of 5.81 metres. The flat roof garage is 2.75 metres in height.

Walnut Garth is set approximately 2 metre off the shared boundary. Other than the glazed boot room which is built on top of the boundary wall. This glazed room leads into the main open plan kitchen, dining and living area of Walnut Garth. The existing bungalow (attached garage) sits directly alongside the shared boundary and the glazed room. Walnut Garth also has 3 ground floor windows located on the west side elevation as well as a dormer window and sky lights on the roof slope.

The existing dwelling is sited towards the rear end of Walnut Garth and close to the 3 ground floor windows on the side elevation, the glazed room and rear elevation where there are patio doors. This results in the existing dwelling having a clear visual presence from the glazed boot/utility room and does result in shadowing to this area at certain times of the day.

The three ground floor windows also look out onto an existing conifer hedge which screens views out of them and results in shadowing along the west side elevation of the house. The dormer window and skylights in the roof slope are however located in front of the existing dwelling and over the driveway of Squirals Leap.

The proposed dwelling sits 2.57 metres from the shared boundary/glazed room and therefore provides more separating distance between the properties. The double storey, front gable end of the proposed dwelling will be located alongside the rear half of the west side elevation of Walnut Garth and where the 2 windows and glazed room are located. The roof windows in Walnut Garth will still therefore sit in front of the new dwelling and over the driveway of Squirrels Leap. This front gable element of the proposed dwelling measures 8.8 metres in length, 4.5 metres to the eaves and 8.1 metres to the ridge. These heights are however reduced when measuring from the land level running adjacent to the boundary of Walnut Garth and are noted to be 3.9 metres to the eaves and 7.6 metres to the ridge. Views of the proposed dwelling from the two ground floor windows and glazed boot room will therefore be clear and its presence will be more visible than that of the existing dwelling. However, due to the separating distance, and change in land levels, the size and scale of the dwelling as viewed from Walnut Garth is not considered to result in an overbearing and oppressive structure which would have a harmful impact upon the use and enjoyment of the overall ground floor accommodation. Consideration is also given to the fact that the three side windows are already substantially screened by the existing conifer hedge, which is to be retained as part of the development; and the fact the glazed

room sits directly alongside the existing garage and does not provide primary accommodation.

In terms of overlooking from the east side elevation of the proposed dwelling, the only window proposed is in the upper floor and as it serves a bathroom will be obscurely glazed. No harm through overlooking will therefore result from this element of the proposed dwelling and permitted development rights controls any alteration or additional windows in a side elevation of a dwelling house.

The rear aspect of the proposed dwelling, protruding beyond the rear elevation of Walnut Garth is a mixture of single storey and double storey elements. The single storey element is located closest to the boundary and at a distance of 2.57 metres. This element has a flat roof and sits at a height of 3.1 metres when measured from the sunken patio area but 2.59 metres from the land level running adjacent to the boundary of Walnut Garth. The double storey rear element of the proposed dwelling is set back off the shared boundary by 7 metres. The eaves height measure 4.5 metres, and the ridge height 8.1 metres from the sunken patio level. These heights are however reduced when measuring from the land level running adjacent to the boundary of Walnut Garth and are noted to be 3.9 metres to the eaves and 7.6 metres to the ridge, with its roof also sloping away from Walnut Garth. These elements of the proposed dwelling do not therefore result in an overdemanding structure that would harmfully impact the amenity of the occupiers of Walnut Garth.

There are also no upper floor windows on the rear side elevation facing Walnut Garth and the roof lights proposed would be at a height and angle not to result in direct overlooking. The ground floor patio doors are at a height to gain level access into the sunken patio and views would be screened by boundary treatments. The rear dormers would however allow views of the rear garden of Walnut Garth. This is nevertheless a typical shared relationship, with the upper floor windows of Walnut Garth looking onto the garden of Squirrels Leap. It is therefore concluded that the proposed dwelling would not result in a harmful presence or harmful impact through overlooking to the rear aspect and garden area of Walnut Garth.

The proposed rear garden levels also result in a sunken patio area to be formed directly outside the rear of the proposed dwelling. The creation of the sunken patio will result in a step up to the land forming the garden area as noted on the block plan and street elevation. The land level of the rear garden appears to be increased by approximately 0.5 metres where it joins the sunken patio but then meets the natural ground level closer to the north boundary. It also appears that the sunken patio will also step up to the natural land level of the site located between the new dwelling and boundary of Walnut Garth. However, no detailed land levels are given for the site as a whole. The specific land levels of the site can however be secured via condition to ensure that the relationship between them and the neighbouring properties remains acceptable.

In relation to loss of light and shadowing it is recognised that the glazed room and two windows on the ground floor of the west side elevation of Walnut Garth are likely to be impacted by the development when the sun is in the west. It is however also noted that these existing windows and glazed room are already subject to some shadowing during this time of the day/evening due to the existing conifer trees and presence of the existing dwelling and garage. The siting and size of the proposed dwelling would no doubt affect the levels of light and shadowing to the west elevation of Walnut Garth, when the sun is in the west. However, they would still have access to sunlight at times when the sun is in the south and south west. Two of the windows/glazed room on the west elevation of Walnut Garth also serve an open plan kitchen, dining and living space which also has access to light through large patio doors located on the rear elevation. The other one is a secondary window serving a lounge. Consequently, although it is recognised that the development will restrict light levels and shadow aspects of the west side elevation of Walnut Garth when the sun is in the west. The impacts of this are not considered to have an unduly harmful impact upon the amenity of the occupiers of Walnut Garth which warrants refusal of the application on these grounds. The rear aspect of the proposed dwelling is also set at a distance away from the boundary that it would not result in a harmful impact through loss of light to the rear aspect of the dwelling or rear garden area.

The overall impacts of the proposed dwelling are not therefore considered to be harmful to the amenity of the occupiers of Walnut Garth and are in accordance with Policy S53 of the CLLP.

Kennel Cottage is a semi detached dwelling and located to the west of the application site. It is set approximately 1 metre below the ground level of the site due to the sloping nature of the area. The site and surrounding garden land also slope down from north (rear) to south (front).

Kennel Cottage has its driveway and single storey flat roof garage running directly alongside the eastern boundary shared with the application site, which is formed of established hedgerow and planting. The living accommodation of Kennel Cottage, including a glazed sun room located on the principle elevation is however set approximately 6.8 metres off the shared eastern boundary. Kennel Cottage also has two upper floor windows and one ground floor window on its east elevation, facing on to the application site.

The existing dwelling is sited in front of the flat roof garage of Kennel Cottage and towards its principle elevation. It has its gable end angled towards the side elevation of Kennel Cottage and is sited 3.29 metres off the western boundary (closest point) and 6.9 metres away at its furthest point. The existing dwelling measures approximately 7.5 metres in length (excluding conservatory), 2.95 to the eaves (from lowest ground level) and 5.81 metres to the ridge (from lowest ground level). This relationship results in the existing dwelling having most visual presence from the driveway of Kennel Cottage.

The double storey, front gable end of the proposed dwelling is set 2.4 metres from the west boundary and there is 12.7 metres between it and the double

storey element of Kennel Cottage (living accommodation). This element of the proposed dwelling will therefore be located in front of the principle elevation of Kennel Cottage and will be visually present from the upper floor windows and glazed room sitting in front of its principle elevation.

This front gable element of the proposed dwelling measures 8.8 metres in length, 4.5 metres to the eaves and 8.1 metres to the ridge. These heights will however be increased by approximately 1 metre when measured from the ground level of the glazed room in front of Kennel Cottages principle elevation. Views of the double storey gable end of the proposed dwelling will therefore be significant from the front aspect of Kennel Cottage and clearly more visible than that of the existing bungalow. However, when looking at the street elevation and details provided on the block plan the eaves height of the proposed dwelling are shown to be similar to that of Kennel Cottage. This helps to reduce the scale of this double storey gable end when viewed from Kennel Cottage and its garden area. Because of this, the 12.7 metres of separating distance between the properties and the driveway running immediately adjacent to the application site. This element of the replacement dwelling is not considered to result in an overbearing and oppressive structure which would have a harmful impact upon the overall residential amenity of Kennel Cottage.

The rear aspect of the proposed dwelling, running along the side elevation of Kennel Cottage is a mixture of single and double storey elements. The single storey element is located closest to the boundary, at a distance of 2.7 metres. There is however 11.4 metres between it and the double storey side elevation of Kennel Cottage, where there are windows. This element has a flat roof and sits at a height of 3.1 metres (excluding lantern). There is also established hedges and planting forming the boundary treatment which provides screening between the two site. The double storey rear element of the proposed dwelling is set back off the shared boundary by 8 metres and 16.7 metres away from the double storey side elevation of Kennel Cottage. The eaves height measure 4.5 metres, and the ridge height 8.1 metres. These elements of the proposed dwelling are not therefore considered to result in an overdemanding structure that would harmfully impact the amenity of the occupiers of Walnut Garth.

The only upper floor window on the west side elevation of the proposed dwelling is located in the front upper gable section and located in front of the principle elevation of Kennel Cottage. It however serves an en-suite and will be obscurely glazed. The roof lights proposed on the double storey rear off shoot would also be at a height and angle not to result in direct overlooking. One ground floor door is also to be located in the double storey gable end in front of the principle elevation and a window and door in the single storey rear element in line with the side and principle elevation of Kennel Cottage. These windows and doors will look primarily onto the driveway area of Kennel Cottage, are at a distance of at least 11 metres from habitable accommodation. Screening is also provided by the boundary treatments and consequently this relationship is not considered to result in harmful impacts through overlooking and loss of privacy. The same conclusion is reached in

relation to the proposed upper floor windows on the rear elevation. With this being a typical relationship between neighbouring properties and in this instance, generous separating distances and screening also being provided.

The proposed rear garden levels also result in a sunken patio area to be formed directly outside the rear of the proposed dwelling. The creation of the sunken patio will result in a retaining wall to be built and continues along the west side elevation of the dwelling and reduce in height with the changes of land levels as they slope down from north to south. The land level of the rear garden also appears to be increased by approximately 0.5 metres but, no detailed land levels are given for the site as a whole. The specific land levels of the site can however be secured via condition to ensure that the relationship between them, the height of the retaining wall and the neighbouring properties remains acceptable.

An air source heat pump is to be located inside of the retaining wall (by the west side elevation of the dwelling). It sits at a distance of 2.5 metres from the boundary, which is formed by established trees and planting and 10 metres from the glazed room on the front elevation of Kennel Cottage. The specification of the air source heat pump has been given on the Block plan and in the energy statement. This confirms it is 0.5 cubic metres and should be set at least 1 metre away from neighbouring boundaries. This would otherwise meet the requirements for permitted development under Government Order (Part 14, Class G), without requiring planning permission. The proposed air source heat pump is therefore considered to be located and of size not to give rise to harm through noise and disturbance.

Noise and disturbance during the demolition and construction phase are also to be expected and given the minor scale of the development no conditions to control this are considered necessary. It is also noted that Environmental Protection legislation is in place for such circumstances, should a statutory nuisance arise.

In relation to loss of light and shadowing it is recognised that the replacement dwelling will impact the neighbouring property and its front garden area when the sun is in the east/south east. However, these elements of Kennel Cottage are south facing and consequently the principle elevation, including sun room and the front garden area will have access to direct sun light when the sun is in the south and west. The Windows in the east side elevation of Kennel Cottage will also have daylight from the sun when in the south and the upper floor windows should remain unaffected by the development.

The rear aspect of the proposed dwelling is also set at a distance away from the boundary that it would not result in a harmful impact through loss of light to the rear garden of the dwelling, which would have access to the sun when in the east. The proposed development is not therefore considered to have an unduly harmful impact on the amenity of the occupiers of Kennel Cottage through loss of light and shadowing.

Conclusion:

The above neighbouring amenity assessment therefore concludes overall that although the proposed dwelling will change the relationship the site and the neighbouring properties have and will impact upon their amenity. Those impacts are not however considered to be harmful to the overall amenity of the occupiers of any of the neighbouring properties and the proposed development is therefore considered to be in accordance with Policy S53 of the CLLP and guidance within the NPPF.

Highway Safety and parking:

Policy S47 sets out that 'Development proposals which contribute towards an efficient and safe transport network that offers a range of transport choices for the movement of people and goods will be supported'. Policy S49 relates to adequate parking provision and car parking standards are set out in Appendix 2 of the CLLP. These standards require 3 parking spaces to be provided for the proposed dwelling in its village location.

Paragraph 110 of the NPPF requires that development proposals provide safe and suitable access to all users. While Paragraph 111 states that development proposals can only be refused on highways grounds where there is an unacceptable impact on highway safety, or the wider cumulative impact would be severe.

The proposed development will utilise the existing access serving the existing dwelling and the proposed garage and front driveway area is large enough to provide the required off street parking spaces. No concerns have been raised by the Local Highway Authority in relation to the proposed development, the construction phase of it or highway safety. Consequently, the development is not considered to have an unacceptable impact on highway safety and is in accordance with the requirements of Policies S47 and S49 of the CLLP and guidance within the NPPF.

Flood Risk and Drainage:

Policy S21: Flood Risk and Water Resources relates to development proposals being in areas at the lowest risk of flooding and being adequately drained. In terms of drainage Policy S21 relevantly states that proposals should demonstrate:

h) that adequate mains foul water treatment and disposal already exists or can be provided in time to serve the development. Non mains foul sewage disposal solutions should only be considered where it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible;

and in relation to surface water that:

k) 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;*

l) that no surface water connections are made to the foul system

m) that surface water connections to the combined or surface water system are only made in exceptional circumstances where it can be demonstrated that there are no feasible alternatives (this applies to new developments and redevelopments) and where there is no detriment to existing users;

The application site is within flood zone 1 with a low risk of flooding. It is also recognised to have a very low risk of surface water flooding. Very limited information has been submitted in relation to a specific drainage scheme for the development, but it is recognised that the existing dwelling is positively drained. On this basis the use of conditions to secure further details, an adequate drainage system and its implementation is considered reasonable. With the use of such conditions the development would be expected to be in accordance with the provisions of Policy S21 of the CLLP and guidance within the NPPF.

Climate Change/Energy Efficiency:

Policy S11 Embodied Carbon states that:

To avoid the wastage of embodied carbon in existing buildings and avoid the creation of new embodied carbon in replacement buildings, there is a presumption in favour of repairing, refurbishing, re-using and re-purposing existing buildings over their demolition. Proposals that result in the demolition of a building (in whole or a significant part) should be accompanied by a full justification for the demolition.

For non-listed buildings demolition will only be acceptable where it is demonstrated to the satisfaction of the local planning authority that:

- 1. the building proposed for demolition is in a state of such disrepair that it is not practical or viable to be repaired, refurbished, re-used, or re-purposed; or*
- 2. repairing, refurbishing, re-using, or re-purposing the building would likely result in similar or higher newly generated embodied carbon than if the building is demolished and a new building is constructed; or*
- 3. repairing, refurbishing, re-using, or re-purposing the building would create a building with such poor thermal efficiency that on a whole life cycle basis (i.e. embodied carbon and in-use carbon emissions) would mean a lower net carbon solution would arise from demolition and re-build; or*
- 4. demolition of the building and construction of a new building would, on an exceptional basis, deliver other significant public benefits that outweigh the carbon savings which would arise from the building being repaired, refurbished, re-used, or re-purposed.*

A statement has been provided in relation to Policy S11 and explains that a level access home is needed to meet the requirements of the applicant. Consequently, the adaption, retention and extension of the existing building,

with poor levels of thermal efficiency would result in a future property that on a whole life cycle basis would be more damaging to the environment than the opportunity a replacement dwelling provides. The replacement dwelling being designed in accordance with the requirements of Policies S6 and S7, therefore offers an opportunity for a lower net carbon solution than that of the retained and adapted property.

It is therefore concluded that the provision of the new dwelling, being designed to be energy efficient and generate on site solar energy to meet its needs presents a more environmentally viable solution in line with the intentions of Policy S11. The demolition of the existing dwelling is therefore justified and the requirements of Policy S11 met.

Additionally, Policy S6 sets out the overarching principles that relate to design of energy efficient buildings. Policy S7 also outlines a specific requirement for all new residential development to be accompanied by an Energy Statement which confirms that all such residential development proposals:

- 1. Can generate at least the same amount of renewable electricity on-site (and preferably on-plot) as the electricity they demand over the course of a year, such demand including all energy use (regulated and unregulated), calculated using a methodology proven to accurately predict a building's actual energy performance; and*
- 2. To help achieve point 1 above, target achieving a site average space heating demand of around 15-20kWh/m²/yr and a site average total energy demand of 35 kWh/m²/yr, achieved through a 'fabric first' approach to construction. No single dwelling unit to have a total energy demand in excess of 60 kWh/m²/yr, irrespective of amount of on-site renewable energy production. (For the avoidance of doubt, 'total energy demand' means the amount of energy used as measured by the metering of that home, with no deduction for renewable energy generated on site).*

This application has been accompanied by an Energy Statement which concludes that the proposed dwelling will have a space heating demand of 26.83 kWh/m²/year, together with a total energy demand of 32.09 kWh/m²/year and collectively less than 60 kWh/m²/yr. The space heating demand is therefore above what Policy S7 requires. However, the total energy demand of the dwelling is within the limits of the Policy requirements. The Energy statement sets out that the fabric, heating and lighting systems have been considered to help reduce the energy demand of the dwelling. There are however limitations to what can be achieved through the design and fabric of the building. This is due to the sensitivity of the site being in a conservation area and the design of the dwelling and materials used being acceptable in preserving its character and appearance.

The energy statement also confirms that an air source heat pump will be used for heating and hot water demand and that 11 x 415 W photovoltaic panels will be installed on the south west facing pitch roof space of the dwelling. These will have a minimum output capacity of 4.57 kWp and the proposed dwelling will generate / save 3,670.63 kWh of renewable electricity onsite over

the course of the year. Although the report recognises that this amount is not the same yearly amount of electricity as the overall energy demand for the dwelling. It is said to be the maximum amount that is technically feasible giving the limitations of the site and development. In this regard it is recognised that the orientation of the dwelling, its location on the plot, retention of trees and resultant shading are all very fixed, as these are important factors contributing to the character of the Conservation area. The visual presence of the solar panels on the dwelling is also a consideration.

The verification methods have also been noted in the energy statement and confirm that: The post construction energy performance of the proposed development will be verified by the local planning authority through the submission of an As Built SAP calculation, Energy Performance, Air Permeability Test and appropriate Mechanical Ventilation commissioning certificates. These documents will be commissioned from suitably qualified people as will be the case for the Building Control completion process.

Consequently, whilst it is considered that there would be some departure from the requirements of Policy S7, the proposal consider and seek to meet the requirements of the Policies. Paragraph 158 of the NPPF in turn also recognises that even small-scale renewable energy production is invaluable in achieving reductions in carbon emissions. This proposal if granted, would achieve a material improvement on the existing dwelling and a move towards using low carbon sources.

This is subject to the imposition of standard conditions relating to the requirement that the proposed development is undertaken in accordance with the submitted Energy Statement and performance measurements.

Other matters

None.

Conclusion and Reason for approval:

The application has been considered against Local Plan Policies Policy S1, S6, S21, S47, S49, S53, S57, S60, S61, S63 and S66 of the 2023 Central Lincolnshire Local Plan and M11 of the Lincolnshire Minerals and Waste Local Plan. The proposals have also been considered against Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Burton Conservation Area Appraisal as well as all other material considerations including guidance with the National Planning Policy Framework.

In light of the assessment outlined in this report, it is considered that subject to conditions, the proposed development is acceptable on its merits. It is therefore recommended that planning permission is granted subject to the following conditions.

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

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

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

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

None.

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

2. No development shall take place, other than laying of the foundations until a scheme of foul sewage and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved details shall thereafter be implemented in accordance the approved details and prior to the first occupation of the dwelling.

Reason: To ensure appropriate foul sewage and surface water drainage in accordance with the National Planning Policy Framework and Policy S21 of the Central Lincolnshire Local Plan.

Reason

3. The development hereby permitted shall be carried out in full accordance with the details set out in the submitted Energy Statement undertaken by EPS Group and updated on 13/10/2023, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of policies S6 and S7 of the Central Lincolnshire Local Plan (2023).

4. Prior to the first occupation of the proposed dwelling taking place a written verification statement shall be submitted to demonstrate that the approved scheme has been implemented in full, in accordance with the submitted Energy Statement undertaken by EPS Group updated on 13/10/2023 and approved in writing by the planning authority

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of policies S6 and S7 of the Central Lincolnshire Local Plan (2023).

5. 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:

1803H-21-10A – Site location plan submitted on 05/09/23

1803H-21-14e – Proposed Block Plan submitted on 05/09/23

1803H-21-15j – Proposed Site Plan submitted on 05/09/23

1803H-21-24c – Cross Section Street elevation submitted on 05/09/23

1803H-21-25e – Proposed Elevations and Plans submitted on 05/09/23

6. 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.

7. No development other than laying of the foundations shall take place until a full schedule and samples of external materials (including site surfaces) have been submitted to, inspected on site and agreed in writing with the Local Planning Authority. The samples shall include a 1 metre square panel of stonework and brickwork, bonding and mortar for the elevations, which shall be kept on site until the completion of development.

The development thereafter shall be undertaken in strict accordance with the approved details.

Reason: To preserve the character of the Conservation area and setting of the adjacent heritage assets in accordance with Section 66(1) of the Planning Listed Buildings and Conservation Areas Act and Policy S57 of the Central Lincolnshire Local Plan.

8. No development other than the demolition of the existing dwelling shall take place until finished site levels and retaining structures have been submitted to and approved in writing by the Local Planning Authority. The development must then be completed in accordance with the approved levels and retained thereafter.

Reason: To safeguard the character of the area, Conservation Area and residential amenity in accordance with Policies S53 and S57 of the Central Lincolnshire Local Plan.

9. The proposed development must be carried out in accordance with the arboriculturally method statement undertaken by AWA Tree Consultants dated July 2023. The placing of the protective fencing identified in this report shall also be placed prior to the commencement of development, including demolition works and shall remain in place until the completion of the construction works.

Reason: In the interests of amenity and biodiversity in accordance with Policies S60 and S66 of the Central Lincolnshire Local Plan.

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

10. Notwithstanding the provisions 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) no domestic oil tanks or domestic gas tanks shall be placed within the curtilage of the dwelling(s) hereby approved.

Reason: In the interests of energy efficiency to accord with policies S6 and S7 of the Central Lincolnshire Local Plan (Adopted 2023).

11. Notwithstanding the provisions of Classes A, AA, B, C, F, G and H of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended, 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 living conditions of adjoining dwellings and to safeguard the character and appearance of the surrounding area and landscape in accordance with Policies S53 and S57 of the Central Lincolnshire Local Plan and guidance within the NPPF.

12. The upper floor windows on the East and West elevations shall be obscurely glazed prior to the first occupation of the dwelling and retained in perpetuity thereafter.

Reason: In the interest of residential amenity in accordance with Policy S53 of the Central Lincolnshire Local Plan.

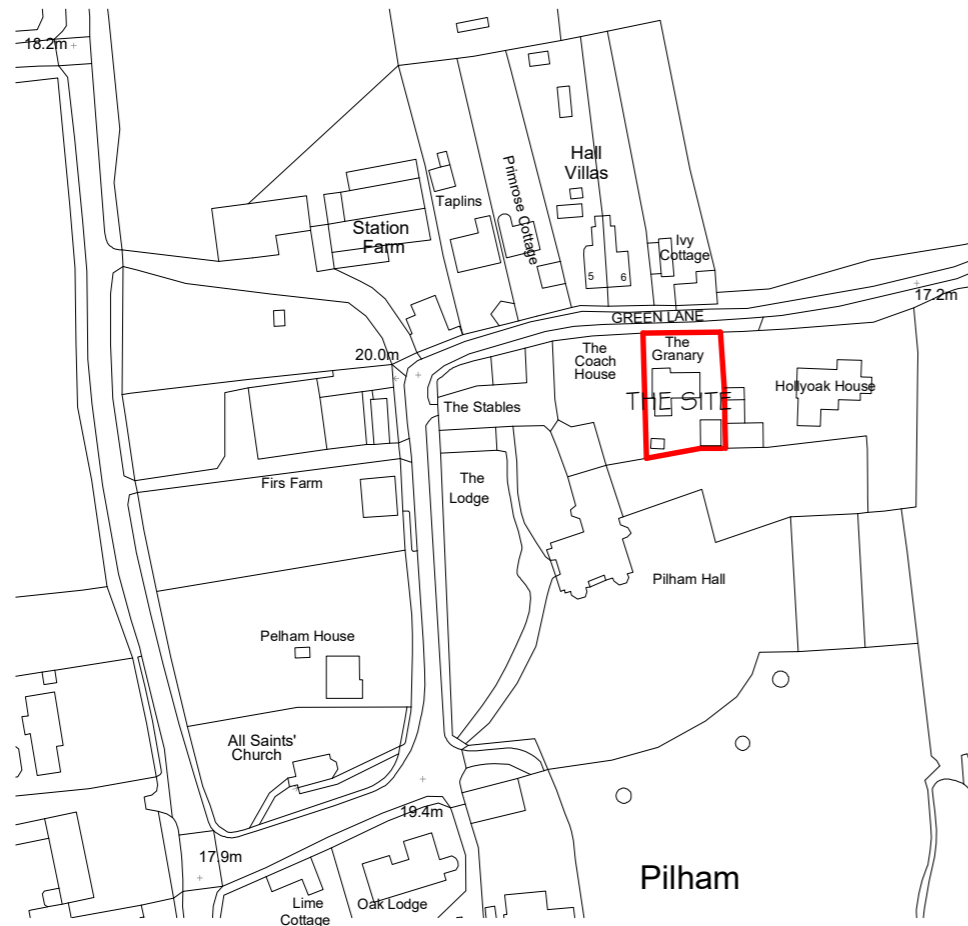
Human Rights Implications:

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.

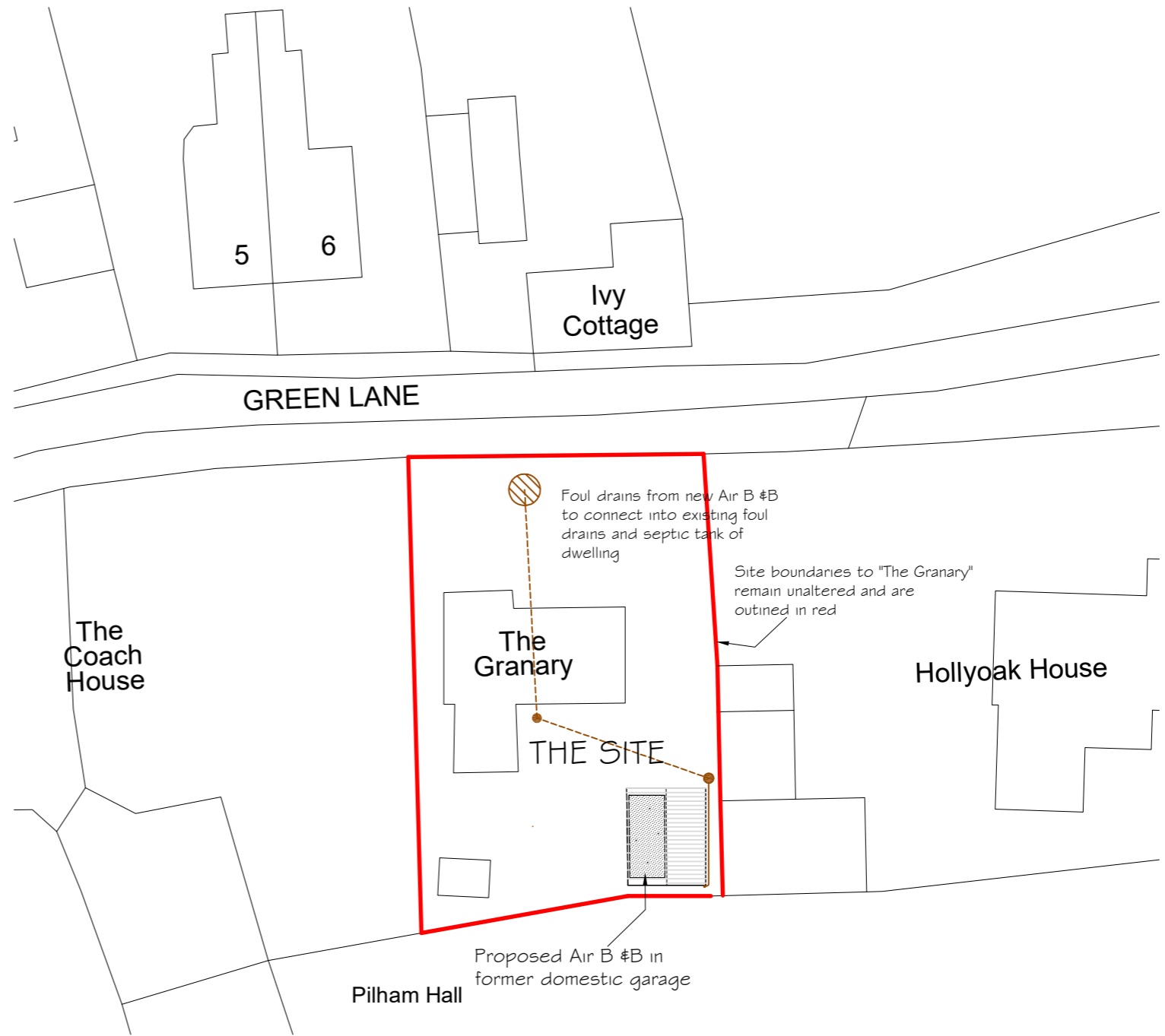
Legal Implications:

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

DO NOT SCALE FROM THESE DRAWINGS CHECK ALL MEASUREMENTS ON SITE PRIOR TO ANY MANUFACTURE OR FABRICATION FOR FIT AND PURPOSE AND PRIOR TO ORDERING OF ALL MATERIALS

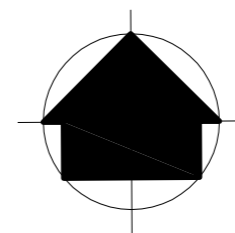


LOCATION PLAN
(scale 1:2500)



SITE PLAN
(scale 1:500)

NORTH



Proposed conversion of existing Garage to Air B # B accommodation at "The Granary", Green Lane, Pilham Gainsborough, Lincolnshire for Mr. Mrs. J. Rollings

DRAWN J.ROLLINGS	DATE 27TH JULY 2023
SCALE 1:2500 & 1:500 (AT A3)	REVISION

DRAWING NUMBER TGGLP/23/01	"LOCATION & SITE PLAN"
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Officers Report

Planning Application No: 147125

PROPOSAL: Planning application for addition of a dormer to detached garage and to use the building as an 'Air bn'b'.

LOCATION: The Granary Green Lane Pilham Gainsborough DN21 3NU

WARD: Scotter and Blyton

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

APPLICANT NAME: Cllr Lesley Rollings

TARGET DECISION DATE: 27/10/2023 (Extension of time until 3rd November 2023)

DEVELOPMENT TYPE: Change of Use

CASE OFFICER: Holly Horton

RECOMMENDED DECISION: Grant permission, subject to conditions.

Description:

This application has been referred to the Planning Committee as the applicant is an Elected Member for West Lindsey District Council.

The application site is located in the village of Pilham, on the southern side of Green Lane. The site consists of a detached two-storey dwelling with detached outbuilding to the rear, private garden area to the rear and off-road parking provision to the front. The outbuilding has two floors and consists of a kitchen and small living area downstairs, and a bedroom with bathroom upstairs. The site is adjoined by residential dwellings and their garden areas to the east, south and west, with the highway to the north with residential properties beyond. A Grade II Listed Building, namely Firs Farm, lies approx. 82 metres to the west of the site.

Please note, this application is seeking planning permission retrospectively, with works having been completed on 1st May 2020.

Planning permission is sought for the use of the existing detached garage as an 'Airbnb' type short-term tenancy let, as well as the installation of a dormer window at first floor level on the western facing roofscape.

Relevant history:

98/P/0894 – Erect 4 bed dwelling with detached garage – Granted with conditions (16/12/1998)

97/P/0409 – Outline application to erect one dwelling in accordance with amended plan received 21 July 1997 – Granted with conditions (11/08/1997)

Representations:

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

Pilham Parish Council: Have no comments.

Local residents:

Station Farm, Green Lane, Pilham – Supports the proposal as follows:

- Fully in support of a sympathetic unobtrusive proposal which will support and aid tourism in West Lindsey and the locality benefitting nearby shops, cafes and public houses.

Pilham Hall Residential Care Home, Green Lane, Pilham – Objects to the proposal as follows:

- This now looks directly onto our house, especially into the windows of the kitchen and bathroom. I put a complaint regarding this into the council on 19/08/2023.

LCC Highways: With the information that the dormer may be used for an AirBnB, can the block plan please show adequate parking as if this were an additional bedroom. Parking provision should follow the guidance laid out in Lincolnshire County Council's Development Design Guide as follows:

2/3 bedroom units – 2 spaces

4 bedroom units – 3 spaces

5 bedroom units – 4 spaces

Garages are not considered as parking provision unless of a double or sufficient size to allow parking and storage.

Archaeology: No representations received to date.

ECM: Checked on 17/10/2023

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 2023-2043 (CLLP)**

Relevant policies of the CLLP include:

S6: Design Principles for Efficient Buildings

S13: Reducing Energy Consumption in Existing Buildings

S43: Sustainable Rural Tourism

S47: Accessibility and Transport
S49: Parking Provision
S53: Design and Amenity
S57: The Historic Environment
S61: Biodiversity Opportunity and Delivering Measurable Net Gains

<https://www.west-lindsey.gov.uk/planning-building-control/planning/planning-policy/central-lincolnshire-local-plan-2023>

- ***Neighbourhood Plan***

Parish not currently preparing a plan.

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

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

National Policy and Guidance (Material consideration)

- ***National Planning Policy Framework (NPPF)***
- ***National Planning Practice Guidance***
- ***National Design Guide 2019***
- ***National Model Design Code 2021***
- Statutory Duty
Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

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

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

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

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

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

Main Issues

- Principle of Development
 - *Highways*
 - *Conclusion*
- Character and Visual Impact
- Residential Amenity
- Setting of Listed Building
- Foul and Surface Water Drainage
- Climate Change
- Biodiversity Net Gain

Assessment:

Principle of Development

In regards to the use of the outbuilding as an 'Airbnb' short-term let, Policy S43 would apply.

Policy S43: Sustainable Rural Tourism states *'Development proposals within villages named in the Settlement Hierarchy in Policy S1 that will deliver high quality sustainable visitor facilities including (but not limited to) visitor accommodation, sporting attractions, and also including proposals for temporary permission in support of the promotion of events and festivals, will be supported where they:*

- a) contribute to the local economy;*
- b) benefit both local communities and visitors;*
- c) respect the intrinsic natural and built environmental qualities of the area;*
- d) are appropriate for the character of the local environment in scale, nature and appearance; and*
- e) would not result in highway safety or severe traffic impacts.'*

Whilst it is noted that Pilham is not a named village in the Settlement Hierarchy within Policy S1, it is a Hamlet and therefore falls within the Settlement Hierarchy. The latter part of Policy S43 centres on tourism within the countryside, which this application is not, hence why it is being considered against the first part of Policy S43 as above.

It is considered that the provision of a 1no. bedroom 'Airbnb' would benefit the local economy with visitor spending providing benefits for both the local community and visitors alike. The use of an existing outbuilding, set back from the highway, would respect the natural and built environment. The proposal is subservient to the existing dwelling at The Granary and therefore would be of an appropriate scale, nature and appearance so as not to have an unacceptably harmful impact on the host dwelling or wider character of the area.

Highways

Local Plan Policy S47 and S49 requires well designed, safe and convenient access for all, and that appropriate vehicle parking provision is made for development users. Policy S49 also sets parking standards for residential development.

The Local Highways have been consulted and have requested that the block plan shows adequate parking provision as if the 'Airbnb' use was an extra bedroom. A parking plan has been provided by the applicant to show adequate parking provision is available for 4no cars.



It is considered that there is sufficient off-street parking provision to accommodate the use of the outbuilding as an 'Airbnb', therefore the proposal is acceptable in this regard.

Conclusion

It is considered that the principle of development would be acceptable and in accordance with Policies S43, S47 and S49 of the Central Lincolnshire Local Plan and the provisions of the NPPF.

Character and Visual Impact

Local Plan Policy S53 states that all development must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all. Development must relate well to the site, its local and wider context and existing characteristics including the retention of existing natural and historic features wherever possible and including appropriate landscape and boundary treatments to ensure that the development can be satisfactorily assimilated into the surrounding area. It further states that development should contribute positively to the sense of place, reflecting and enhancing existing character and distinctiveness, and should be appropriate for its context and its future use in terms of its building types, street layout, development block type and size, siting, height, scale, massing, form, rhythm, plot widths, gaps between buildings, and the ratio of developed to undeveloped space both within a plot and within a scheme.

The proposal is for the addition of a dormer window to the detached garage as well as the use of the outbuilding as an Airbnb. The external alterations to the outbuilding are as follows:

- Changing of the garage door on northern elevation at ground floor level to a set of full length bi-fold dark grey doors.
- Changing of the window on the western elevation at ground floor level to a set of full length dark grey French doors.
- Addition of timber clad dormer window to western roof-scape at first floor level with two grey window openings.

Glimpse views of the proposal would be visible from the highway; however, the outbuilding is set back from the road by approx. 29 metres, therefore any views of the proposal are relatively limited. It is considered that the proposed dormer window and new openings would be appropriate in design and appearance for the outbuilding as well as the main dwelling at The Granary, and would therefore look acceptable when read within the street scene. The proposal would therefore accord with Policy S53 of the Central Lincolnshire Local Plan.

Residential Amenity

Concerns have been raised by the occupiers of Pilham Hall in regards to overlooking.

Local Plan Policy S53 states that development must 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.

The proposal has introduced 2no window openings at first floor level via the installation of a dormer window on the western roofscape of the outbuilding. There is a substantial amount of high-level tree and shrubbery screening on the southern and western boundaries of the site, between the outbuilding and Pilham Hall and its amenity area to the south west and south of the site, as well as between the Coach House and its amenity area to the west of the site as can be seen in the photographs below submitted by the applicants.



The separation distance between the dormer window at first floor level on the western roof-scape of the outbuilding, and the eastern elevation of Pilham Hall to the south is approx. 32 metres, and the distance to the shared boundary with The Coach House to the west is approx. 18 metres. Given the level of screening as well as the separation distances between the proposal and the neighbouring properties, it is considered that the dormer window

would not give rise to any unacceptably harmful overlooking impacts on the occupiers of the neighbouring dwellings.

There are no concerns in regards to loss of light or over dominance given the minimal alterations proposed and the siting of the garage in relation to neighbouring dwellings. In regards to any potential noise impacts from the use as holiday accommodation, due to the size and scale of the proposed use and the residential character of the surrounding area, it is not considered that a holiday let use in this location would create unacceptably harmful noise issues to the detriment of neighbouring occupiers. If noise issues were to arise then separate Environmental Protection legislation would cover such issues.

Overall, the proposal would therefore accord with Policy S53 of the Central Lincolnshire Local Plan.

Setting of Listed Building

A Grade II Listed Building, namely Firs Farm, lies approx. 82 metres to the west of the site. It is considered that the proposed alterations and use as an 'Airbnb' would be appropriate in size, scale and design for the site, and would therefore look acceptable when read within the street scene. Due to the design, size, siting and scale of the proposal, it is considered that the proposal would preserve the setting of the nearby heritage asset.

Foul and Surface Water Drainage

The site is in flood zone 1 which is sequentially preferable and therefore meets the test within Policy LP14. In addition, the site is not within an area identified by the Environment Agency as at risk from surface water flooding.

The proposed development is for the addition of a dormer window to an existing detached garage that is positively drained. Given the nature of the proposal, it is considered that any impact on surface water would be limited, and the request for a surface water drainage scheme would be unnecessary. The proposal would connect into the existing drainage system on site and this is considered acceptable in principle in accordance with Policy S21.

Climate Change

Policy S13: Reducing Energy Consumption in Existing Buildings encourages applicants to consider all opportunities to improve the energy efficiency of that building. The proposal is for the addition of a dormer window and use of the detached garage as an Airbnb. The only external alterations would be the insertion of a dormer window at first floor level as well as the changing of the openings on the northern and western elevations at ground floor level. It is therefore considered that it would be unreasonable to request changes to the proposal given the nature of what is proposed, and as S13 only encourages applicants to considered improving the energy efficiency of the building, it is not considered to be reasonable or necessary to include conditions in this regard.

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”*.

Due to the nature of the proposal where a dormer window is to be added to the detached garage, and to use the building as an Air bnb, it is considered that this proposal would be exempt from delivering biodiversity net gain under the exemptions contained with Schedule 2, Part 2, Paragraph 17 of The Environment Act 2021.

Conclusion and reasons for decision

The decision has been considered against Policies S1: The Spatial Strategy and Settlement Hierarchy, S6: Design Principles for Efficient Buildings, S13: Reducing Energy Consumption in Existing Buildings, S21: Flood Risk and Water Resources, S43: Sustainable Rural Tourism, S47: Accessibility and Transport, S49: Parking Provision, S53: Design and Amenity, S57: The Historic Environment and S61: Biodiversity Opportunity and Delivering Measurable Net Gains in the first instance. Guidance contained in the National Planning Policy Framework, National Planning Practice Guidance, National Design Guide and National Model Design Code has also been taken into consideration.

In light of this assessment, it is considered that subject to recommended conditions, the proposal is acceptable in principle and will not unacceptably harm the character and appearance of the site or the street-scene, and would not have an unacceptable harmful impact on the living conditions of the residents of neighbouring properties.

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.

Recommended Conditions

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

None.

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 shall be retained in accordance with the following drawings and materials: TGGLP/23/01 dated 27th July 2023 and TGGLP/23/03 dated 27th July 2023. The works shall be retained 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 is retained in accordance with the approved plans and materials and to accord with the National Planning Policy Framework and Policy S53 of the Central Lincolnshire Local Plan.

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

2. The accommodation hereby permitted shall only be used for the purpose of a Bed & Breakfast/Short-term holiday let; and/or for purposes incidental to the residential use of the dwelling now known as The Granary, Green Lane, Pilham, Gainsborough, DN21 3NU. It shall not be used to provide any unit of separate residential accommodation or commercial use, without an express grant of planning permission from the Local Planning Authority.

Reason: The application has been assessed on the basis that it is a short-term holiday let. The development would be likely to raise additional planning matters requiring further assessment if separately occupied as a permanent dwelling or commercial use, in accordance with Policy S53 and guidance within the National Planning Policy Framework.

Agenda Item 7



Planning Committee

**Wednesday, 1
November 2023**

Subject: Determination of Planning Appeals

Report by:

Assistant Director Planning and
Regeneration

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

Key Decision:

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

Yes

No

Appendix A - Summary

- i) Appeals by Miss Victoria Bryceson of Miracle's Mission against the decisions of West Lindsey District Council to refuse to grant certificates of lawful use or development at 54 Field Lane, Morton, Gainsborough DN21 3BY.

Appeal A Allowed – See copy letter attached as Appendix Bi.

Appeal B Dismissed – See copy letter attached as Appendix Bi.

Officer Decisions – Refuse in both appeals.



Appeal Decisions

No Site Visit

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th October 2023

Appeal A Ref: APP/N2535/X/23/3317309

54 Field Lane, Morton, Gainsborough DN21 3BY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Miss Victoria Bryceson of Miracle's Mission against the decision of West Lindsey District Council.
 - The application ref 145548, dated 12 September 2022, was refused by notice dated 27 October 2022.
 - The application was made under section 191(1)(c) of the Town and Country Planning Act 1990 as amended.
 - The failure to comply with any condition or limitation for which a certificate of lawful use or development is sought is to continue occupation of a dwellinghouse without complying with condition of planning permission GR/40/66.
-

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Appeal B Ref: APP/N2535/X/23/3317311

54 Field Lane, Morton, Gainsborough DN21 3BY

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Miss Victoria Bryceson of Miracle's Mission against the decision of West Lindsey District Council.
 - The application ref 145925, dated 28 November 2022, was refused by notice dated 8 February 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the proposed use of the dwelling for occupation by a person or persons, including the dependents of such person or persons, taking an income from renting out land (smallholding) attached to the dwelling to be farmed.
-

Decisions

1. Appeal A is allowed and attached to this decision is a certificate of lawful use or development describing the matter constituting a failure to comply with a condition or limitation which is found to be lawful.
2. Appeal B is dismissed.

Procedural Matter

3. The matter to which an LDC relates is usually taken from the application form. In relation to Appeal B, the application form only states '*Please see attached supporting statement*'. The Planning Statement offers no description but concludes that '*the proposed use of the dwelling for occupation by a person or persons, including the dependents of such person or persons, taking an income from renting out the land attached to the dwelling to be farmed must be lawful and in compliance with the condition on planning permission reference GR/40/66*'. It is therefore reasonable to deduce that the appellant is seeking to determine whether

the use of the dwelling by someone who derives their income from renting out the land attached to the dwelling for agricultural purposes was lawful at the date of the application. The Council has described the matter in their decision notice as *'proposed use of the dwelling for occupation by a person or persons, including the dependents of such person or persons, taking an income from renting out land (smallholding) attached to the dwelling to be farmed.'* I shall proceed on that basis for consistency.

Background

4. The dwelling to which these appeals relate was granted planning permission¹ on 3 May 1966 (the 1966 PP). That planning permission was the subject of a condition stating, *'The occupation of the dwelling shall at all times be limited to persons whose employment or last employment is, or was, employment in agriculture, as defined by Section 221(1) of the Town and Country Planning Act, 1962, and including also the dependents of such persons aforesaid.'* (the agricultural occupancy condition). There is no dispute that the dwelling was erected and first occupied in accordance with the 1966 PP.
5. The condition imposed on the 1966 PP does not tie the occupation of the dwelling to any specific area of agricultural land. Whether or not the land associated with the dwelling has been used for agriculture is not therefore directly relevant to the determination of this appeal.

Appeal A

Main issue

6. The main issue is whether the Council's refusal to issue an LDC is well founded. This turns on whether the appellant can show that the occupation of the dwelling in breach of the agricultural occupancy condition was lawful at the material date, which is 12 September 2022. The onus of proof is on the appellant to show, on the balance of probability, that the dwelling has been occupied in breach of the agricultural occupancy condition for a continuous period of 10 or more years, without material interruption, so as to be immune from enforcement action. Any continuous 10-year period is relevant.

Evidence

7. Sworn evidence is provided by Jane Kostryca, a cousin of the dwelling's previous occupier, Catherine June Sampson, who was known as, and I shall refer to as 'Kitty'. This sets out that the dwelling was formerly occupied by Kitty's parents Douglas and Gladys Sampson. That Douglas Sampson was employed on the land holding in agriculture. That Kitty was living in Sheffield where she worked as a nurse, before moving in with her parents to care for them. That her mother died in 1999 and her father died in 2000. That Kitty inherited the dwelling and land, and continued to live in the dwelling until she died on 13 August 2020. That throughout Kitty's occupation of the dwelling, the agricultural land was tenanted by W Barratt & Sons for agricultural purposes. That Kitty was employed as a nurse and latterly worked as a Complementary Therapist, offering home and mobile services. I find this evidence unambiguous and precise and give it significant weight.

¹ GR/40/66 for the erection of 2-bedroomed bungalow to replace existing cottage in connection with small holding of approximately 11½ acres O.S. Field No. 184, Field Lane, Morton

8. Several neighbouring occupiers corroborate that the Kitty lived and trained as a nurse in Sheffield. However, they also claim that Kitty returned to her parents' home at weekends or when not on shift. During the times she was at her parents' Kitty is claimed to have helped or worked on the land with her father, thereby being employed in agriculture. There is a consensus that at some point during the late 1990's, the land was tenanted for agricultural purposes and that Kitty derived an income from the land. It is also claimed that Kitty was financially dependent upon her parents once she moved in with them and that her Contemporary Therapy business was only a hobby. This is not sworn evidence and there are some conflicting accounts. I find this evidence to be less precise and somewhat ambiguous and therefore give it moderate weight.
9. The Council has no evidence of its own to contradict the evidence provided by Kitty's cousin. It is the Council's case that Kitty remained a dependent of her parents' until they died. Furthermore, as Kitty derived an income from renting out the land for agricultural purposes, the Council claim that her occupation of the dwelling complied with the agricultural occupancy condition.

Reasons

10. While there is conflicting evidence as to when Kitty became the owner and sole occupier of the dwelling, all the evidence points to that having occurred by 2000. The issue to be considered is whether Kitty's occupation of the dwelling complied with the agricultural occupancy condition imposed on the 1966 PP.
11. Section 221(1) of the Town and Country Planning Act 1962 (the 1962 Act) defines agriculture as '*includ[ing] horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, marker gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly*'. A definition is not provided for employment or dependents. It therefore reasonable to assume that their common meaning should be applied, i.e. the state of having paid work, and a person or persons who depend on or need someone for aid or support.
12. All the evidence points to Kitty having trained and been employed as a nurse in Sheffield. The Contemporary Therapy business card includes details of Kitty's qualifications, amongst other things. Other than the undocumented claims of interested parties, there is no evidence to show that Kitty was paid for any agricultural assistance she gave to her parents. Any agricultural activity that she may have partaken in while still being employed as a nurse could reasonably be described as a hobby or simply helping her father.
13. Similarly, when Kitty moved in with her parents, there is a consensus within the evidence that she did so to provide care and support for them. While she may have given up her nursing career, there is no evidence to show that Kitty was supported, financially or otherwise, by her parents during this time. Interested parties suggest Kitty was in her 50s at the time of moving in with her parents, and the evidence shows she had lived independently for a significant period before that and that she moved in to care for them when they fell ill. Taking all this factors together, in my judgement, I find it less than likely that Kitty was a dependent of her parents.

14. There is a common thread running through the evidence that once the land was tenanted by W Barratt and Sons, Kitty only derived a rental income from their agricultural use of the land. The definition of agriculture set out in s221(1) of the 1962 Act does include deriving an income from the agricultural use of land. While a specific date is not given for when W Barrett and Sons first tenanted the land, all the evidence points to their tenancy taking place from at least when Kitty inherited the dwelling, up until her death in August 2020. This spans a period of over 19 years. There is no evidence to show that Kitty was employed in agriculture elsewhere. Furthermore, there is no evidence to show that the dwelling was not occupied by Kitty, as her main place of residence, at any point during that period.
15. Taking all these factors into account, I find it less than probable that kitty was agriculturally employed or that she was a dependent of a person that was agriculturally employed. Kitty's occupation is shown to have exceeded a period of 10 years. Furthermore, there is nothing before me to suggest that the dwelling has been occupied by a person or persons that does comply with the agricultural occupancy since Kitty died.
16. The appellant has therefore shown, on the balance of probability, that Kitty's occupation of the dwelling was in breach of the agricultural occupancy condition and that the breach of condition occurred for more than 10 years. The continued occupation of the dwelling in breach of the agricultural occupancy condition was lawful at the material date.

Conclusion on Appeal A

17. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the continued occupation of a dwellinghouse without complying with condition of planning permission GR/40/66 was not well-founded and that the appeal shall succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Appeal B

Main issue

18. The main issue is whether the Council's refusal to issue an LDC is well founded. This turns on whether the appellant can show that the proposed use of the dwelling for occupation by a person or persons, including the dependents of such person or persons, taking an income from renting out land (smallholding) attached to the dwelling to be farmed was lawful at the material date, 28 November 2022. The onus of proof is on the appellant to show, on the balance of probability, that the occupation of the dwelling by person, persons or dependents of such persons would comply with the agricultural occupancy condition imposed on the 1966 PP.

Reasons

19. I have already found above, in paragraph 14, that the definition of agriculture does not include deriving an income from the agriculture tenancy of land. Whether or not a person is a dependent of someone deriving an income from the agricultural tenancy of land would not change the fact that deriving an income from the tenancy does not represent agricultural employment.

20. The appellant has failed to show, on the balance of probability, that the occupation of the dwelling by person or persons, or their dependents, deriving an income from the agriculture tenancy of land would comply with the agricultural occupancy condition imposed on the 1966 PP. The use proposed would not therefore be lawful at the material date.

Conclusion on Appeal B

21. For the reason given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed use of the dwelling for occupation by a person or persons, including the dependents of such person or persons, taking an income from renting out land (smallholding) attached to the dwelling to be farmed was well-founded and that Appeal B shall fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

M Madge

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 12 September 2022 the matter described in the First Schedule hereto, constituting a failure to comply with a condition or limitation subject to which planning permission has been granted, in respect of the land specified in the Second Schedule hereto and hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(3) of the Town and Country Planning Act 1990 (as amended), for the following reason:

Planning permission GR/40/66 was granted on 3 May 1966 for the erection of 2-bedroomed bungalow to replace existing cottage in connection with small holding of approximately 11½ acres O.S. Field No. 184. The only condition imposed requires *'The occupation of the dwelling shall at all times be limited to persons whose employment or last employment is, or was, employment in agriculture, as defined by Section 221(1) of the Town and Country Planning Act, 1962, and including also the dependents of such persons aforesaid.'* The dwelling was occupied by persons not employed in agriculture and who were not a dependent of such a person. The condition has not therefore been complied with since approximately the year 2000, being an uninterrupted period of more than 10 years prior to the date of the application. The occupation of the dwelling by any person continuing the same breach of the condition is therefore immune from enforcement action under s171(3) of the Town and Country Planning Act 1990 as amended.

Signed

M Madge

Inspector

Date: 11th October 2023

Reference: APP/N2535/X/23/3317309

First Schedule

To continue occupation of a dwellinghouse without complying with condition of planning permission GR/40/66

Second Schedule

Land at 54 Field Lane, Morton, Gainsborough DN21 3BY

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the matter, constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 or 187A of the 1990 Act, on that date.

This certificate applies only to the extent of the matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any matter which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 11th October 2023

by **M Madge Dip TP MA MRTPI**

Land at: 54 Field Lane, Morton, Gainsborough DN21 3BY

Reference: APP/N2535/X/23/3317309

Scale: Not to Scale

