

## **Officers Report**

### **Planning Application No: 138660**

**PROPOSAL:** Outline planning application for the erection of 7no. dwellings with all matters reserved

**LOCATION:** Land to the rear of Marquis Of Granby High Street  
Waddingham Gainsborough DN21 4SW

**WARD:** Waddingham and Spital

**WARD MEMBERS:** Councillor Summers

**APPLICANT NAME:** Total Property Solutions Ltd

**TARGET DECISION DATE:** 7/3/19

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** Martin Evans

**RECOMMENDED DECISION:** It is recommended that planning committee delegate powers to officers to approve the application subject to:

- conditions, and;
- the receipt of a unilateral undertaking securing no amplified music being played in the beer garden or any external areas, and;
- the beer garden will not be used after 2300 hours.

**In the event it is not received within 6 months of the date of this committee the application will be reported back to the next available committee.**

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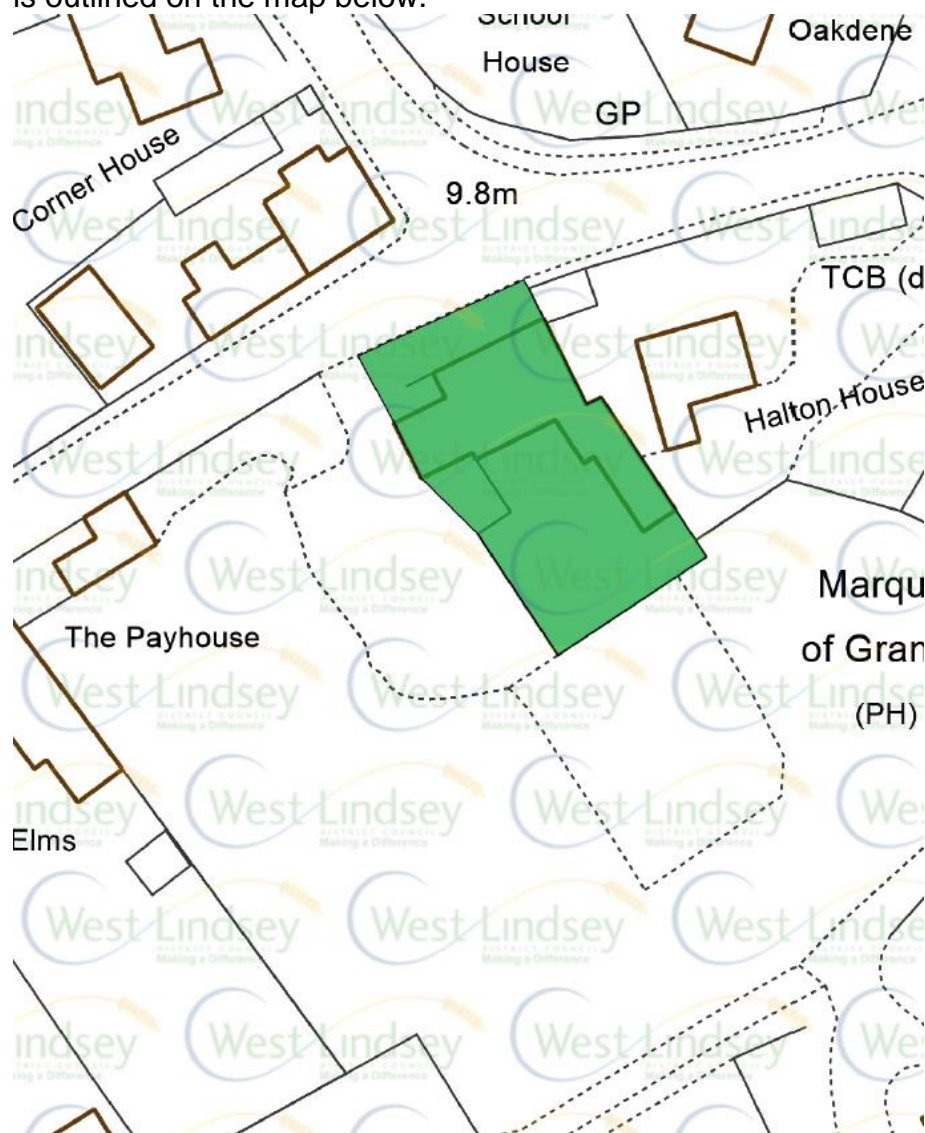
This application is reported to planning committee in view of the objections received and planning history of the site.

#### **Description:**

This is an application for outline planning permission for the erection of seven dwellings. All matters are reserved for subsequent consideration (access, appearance, scale, layout and landscaping).

The application site is 0.44 hectares in area and relatively flat. It wraps around The Marquis of Granby public house to its north, west and south and includes its car parking area and open overgrown land and small orchard along the western fringes. The pub was vacant at the time of the officer site visit. The site is surrounded by residential dwellings. Public Right of Way (ProW) Wdgm/72/1 runs along the southern boundary of the application site. A small section of the ProW is within the application site. The application site includes part of an Important Open Space designated by Policy LP23 of the Central Lincolnshire Local Plan and as shown on the Waddingham policy map. This open space leads into open countryside to the south. The application site is within a limestone minerals safeguarding area.

The public house, its outbuildings and the beer garden are an Asset of Community Value. The adjacent car park and land are not included. The area is outlined on the map below.



The planning statement clarifies the proposed layout plan is illustrative and describes the aspirations of the proposal are:

- “5no. four bedroom houses and 2no. one bedroom bungalows;
- retention of the public house (including its outbuildings and beer garden), which is to be modified so as to seek to ensure its continued trade;
- retention of the site entrance, in the same position as the existing one, redesigned to ensure safety and efficiency;
- creation of a dedicated, formal car park for the public house on either side of the proposed access road;
- retention of the existing trees in the orchard in the north-west corner of the site, which will become a maintained landscaped area;
- generous, well landscaped private amenity space for each proposed dwelling;

- separation of the proposed dwellings and the public house, by way of an internal estate road;
- creation a landscaped buffer between the northern and southern parts of the site, both to limit the impact on views from High Street and to further separate the proposed dwellings from the public house's beer garden; and
- dwellings of subtle variety in terms of form and materials, following the local historic vernacular.”

**Relevant history:**

129108 Outline planning application to erect 11no. 2 storey dwellings with all matters reserved-public house to remain. Withdrawn by the applicant 14/3/2013.

130898 Planning application for 10no. dwellings including 2no. affordable dwellings with associated parking and 12no.parking bays for the public house. Refused 22/5/14 for the following reasons:

*“1. It is considered that although there are some local facilities within easy reach of the application site, a majority of everyday services and needs are reliant on the utility of the private car. The development is also considered to be deficient in responding to local circumstance and need; therefore not supporting sustainability principles embedded within the National Planning Policy Framework.*

*2. The density of the development is not capable of successfully integrating with the surroundings and would, along with the loss of the green space and orchard trees adversely change the local character and identity of this small rural settlement; while also diminishing the historic integrity and biodiversity contributions made. The development would therefore be contrary to the principles of sustainable development within saved Policies STRAT 1, RES 1, CORE 9 and CORE 10 of the West Lindsey Local Plan First Review and the National Planning Policy Framework.*

*3. The development would remove a community asset and the opportunity for community gatherings, recreation activities and events. It therefore has the potential to impact on the value and usability of the public house; which along with the introduction of conflicts between residential and commercial uses, has significant potential to affect its long term sustainability. Consequently these factors weight against the proposals and contrary to the principles of sustainable development and saved policies STRAT 1 and CRT 4 of the West Lindsey Local Plan First Review and the National Planning Policy Framework.*

*4. The application lacks precise detail in relation to drainage, archaeology and highways and thereby the insufficient confirmation of the adequacy of these elements of the development. No robust mechanism(s) have also been indicated or provided in relation to the*

*delivery of affordable housing in accordance with policy RES6 of the Local Plan Review or the provision and maintenance of the proposed green space been offered. All factors which are essential in supporting sustainability principles and the development is therefore contrary to saved policies STRAT 1, RES1 and NBE 14 of the West Lindsey Local Plan First Review 2006 and the National Planning Policy Framework.”*

This refusal was appealed (reference APP/N2535/A/14/2222549) and dismissed on 29/1/15. Key harm identified includes:

*“20. However, due to the proposed layout the rear elevations of Plots 6, 7 and 8 would only be roughly 10m away from the pub’s beer garden which contains a BBQ and outdoor seating area. Whilst the noise associated with delivery vehicles would be temporary and infrequent, local residents confirm that the pub often operates under the terms of its licence until the early hours, with live bands on weekends. As a result, the Environmental Health Officer advises that the proximity of the properties to the pub would cause potential for noise nuisance. When considering that the scheme aims to provide family housing, I consider that this relationship would be unacceptable and lead to a poor standard of living accommodation for potential future occupants. Based on the evidence provided the harmful disturbance from customer noise would not be mitigated by the provision of a 1.8m high timber fence.”*

*27. Despite this the proposed plans illustrate that half the orchard would be removed, leaving only 5 apple trees. By removing such a large proportion of the remaining orchard the scheme would therefore have a significant adverse impact on its biodiversity value. Whilst the appellant refers to the possibility of retaining the trees in the rear gardens of properties, due to the layout and orientation of plots they would come under substantial pressure to be removed by future occupants seeking to gain more daylight and sunlight. Thus, in either scenario the layout and siting of the scheme would facilitate the removal of a substantial element of the remaining orchard which would cause demonstrable harm. In this regard the proposal is contrary to one of the Framework’s Core Planning Principles which states that planning should contribute to conserving and enhancing the natural environment.”*

136796 Outline planning application for the erection of 7no. dwellings with all matters reserved. Refused 10/1/18 for the following reasons:

*“1. The proposed development would fail to provide a satisfactory living standard for the proposed dwellings and associated gardens, in terms of noise and disturbance from the associated activities at the public house which is a community asset. The resulting development may also adversely affect the viability and function of the community asset and the compatibility of the land uses are not supportive of each other.*

*Contrary to Policy LP1, LP15, and LP26 of the Central Lincolnshire Local Plan.*

*2. The proposal also fails to demonstrate the satisfactory preservation of the existing natural environment from the loss of part of the ancient orchard in order to facilitate the development, which will adversely affect the existing biodiversity of the site and fails to provide sufficient information in relation to the impact on below ground archaeological heritage assets. Contrary to policy LP1, LP21, LP25 and LP26 of the Central Lincolnshire Local Plan.”*

**Representations:**

Cllr Summers:

31/12/18:

*“I have now studied the history of this site, 3 applications. Many of the official reasons for refusal previously have not been overcome with the recent application.*

- 1. Reliance on the private car. (in fact this is not fully taken into account as the destruction of the Marquis of Granby, will result from the approval.)*
- 2. Does not respond to a local need.*
- 3. Does not support sustainability.*
- 4. Loss of green community space.*

*The drainage assessment is flawed as it was completed at a time following a very long dry summer. Water table only 1.5 metres below surface is now most likely less than 1 metre below surface.*

*It was stated in the refusal notice for application 136796, 7 homes. It failed to provide a satisfactory living standard in terms of noise and disturbance!*

*Therefore I propose the application is refused on these grounds, supported by LP1, LP15 and LP26 of the Central Lincolnshire Local Plan.*

*Should you be choosing to grant permission then I respectfully request the application would be considered by committee.”*

18/2/19:

*“As you will have noticed this application has attracted numerous reps from residents with an especially good response from the parish council quoting several planning reasons for refusal. Considering there is nothing new about this app from previous ones and the fact this site has been refused previously including at appeal. I am fully expecting your decision to be refuse. Should that not be the case then I request this application be considered by the planning committee.*

*The main reasons being the need for a community facility project to be worked up once the developing Neighbourhood Plan is complete. The area being left as the grounds of the Marquis of Granby are not sufficiently large enough to create the type of facility aspired to by residents. This site is central to the village, next to the school and commands a position on the main route through the village for access and picking up passing trade. The level of response and the detail contained clearly demonstrates the communities desire to retain this site as a community asset.”*

Waddingham Parish Council objects to the proposal for the following summarised reasons:

- The current owners of the site are not maintaining it, despite requests.
- The site has historically been used for events, supporting the community and to support the economic sustainability of the pub.
- The suggested mitigation is unsatisfactory therefore the original grounds for refusal remain.
- Section 8, 8.a and 8.b of the NPPF are referred to. This site is key to the future development and sustainability of strong community services as it will allow synergy and consolidation of services into a central village hub that can grow now and into the future. Changing the use to residential will have a severe impact on the immediate economic future of the pub and remove the opportunity to strengthen and support other services in the future. Development of this site will not meet these needs.
- CLLP Policy LP5 refers to consideration of adverse effects on economic growth and employment opportunities through conversion/change of use.
- LP9(c) refers- this relates to health and wellbeing and expects developments to promote, support and enhance physical and mental health and wellbeing, and thus contribute to reducing health inequalities by “c) Development schemes safeguarding and, where appropriate, creating or enhancing the role of allotments, orchards, gardens and food markets in providing access to healthy, fresh and locally produced food.”
- There is no evidence that sufficient number and range of homes has been objectively and specifically assessed for Waddingham other than a generic target set by the CLLP for different settlement classifications. LP10 refers.
- The neighbourhood plan project conducted a survey of residents’ views on the types of houses needed in the village. They are aware of sites listed in the SHELAA(2015). These sites have more than the capacity needed to meet the CLLP growth figures. We are actively looking at the optimum solutions in developing our Neighbourhood Plan for the sustainability of the village rather than just simply regarding generic target numbers. The applicants did not respond to our call for sites.
- NPPF section 8.c and the tree/ecological section of the officer’s report for 136796 are referred to. Concern is raised that two trees have been removed.

- Concern is raised at the loss of important open space. The orchard is important to the character of the High Street streetscene and links to the open space. When the site was maintained in the past it provided an important visual linkage through the site to Snitterby. LP21 refers.
- The proposed dwellings will be more affected by noise than more distant dwellings.
- We believe that the rising ground will raise the dwelling's upper floor above the level of the sound screen. Also people standing near the back wall of the pub are unlikely to have their noise attenuated as their voices will reflect off the rear pub wall anyway and easily refract over the screens. Furthermore the concept of not opening windows is a nonsensical presumption for rural residents. The 2m screens will also detract from the open character of the beer garden, create extensive areas of shade and will be more successful at reducing noise entering the garden than preventing noise leaving. This will significantly detract from the pub garden's main attraction for example the open character of the site and the ability to hold open air events and so have a significant impact on the sustainability of the public house. LP5 refers.
- The illustrative nature of the application creates uncertainty.
- It is not clear how the orchard area would be maintained and managed if the site is sold with permission.
- The road is unlikely to be adopted meaning residents will have to move wheelie bins to the site entrance which is unsuitable for those with impaired mobility.
- There is no WHSmiths store in the village.
- We were not party to the Written Review Statement and cannot verify the veracity or accuracy of the statements made by TPS. The reasons given to us in the review were lacking in detail or specificity.
- This is not an appropriate location for development.
- Growth figures at the point of determination should be used.
- Housing needs not identified via a housing needs survey.
- Application 130898 retained the important open space.
- Noise mitigation offered will affect the sustainability of the pub.
- The footway on High Street is unsafe for pedestrians due to oncoming traffic.
- Concerns about surface water drainage, increased surface water run-off from the proposal and effectiveness of infiltration.
- Despite Anglian Water comments that the sewers are adequate, there are ongoing problems as the village is entirely dependent on the pumping station to transfer it to the treatment plant. The site could increase the load on the transfer station.

Local residents:

Objections have been received from residents of:

The Elms, High Street, Waddingham  
 Skylark Cottage, The Green, Waddingham  
 Jaspers, Silver Street, Waddingham

Archway, Joshua Way, Silver Street, Waddingham  
17 Cliff Crescent, Waddingham  
4 Broadbeck, Waddingham  
Heron Cottage, Stainton Avenue, Waddingham  
Lindrew, The Green, Waddingham  
The Old School, The Green, Waddingham  
Rose Cottage, The Green, Waddingham  
Barrett's Barn, Bridge Farm, Snitterby Carr  
1 Redbourne Road, Waddingham  
4 Millstone Way, Waddingham  
The Laurels, The Green, Waddingham  
Glebe End Cottage, Church Road, Waddingham  
Halton House, High Street, Waddingham  
Highrise Cottage, High Street, Snitterby  
Stonecroft, Stainton Avenue, Waddingham  
The Bield, Pinnings Lane, Waddingham  
The Old Cottage, High Street, Waddingham  
Kia Mena, Kirton Road, Waddingham

These are summarised as follows;

- Impact on residential amenity including overlooking, loss of light, noise of future residents coming and going, loss of views and pollution. Construction disturbance including vibration.
- The number and type of properties is a concern. Affordable starter homes or retirement homes are needed.
- Proposed buildings are out of scale with and will dominate The Old School House and Halton House. Too many houses for the site and it would be cramped resulting in harm to future residents' amenity.
- There would be restrictions on the pub when it reopens.
- Under provision of vehicle parking for future residents and the pub.
- Previous reasons for refusal/dismissal at appeal not addressed by the proposal.
- Loss of land will affect viability of the pub by removing a way of generating additional revenues and affect the community by removing land used for community events. It does not benefit the community. The land could be used as a caravan site.
- Current pub owners have failed to support it via inappropriate rents and lack of investment.
- Loss of site to residential use will prevent future community facility/employment use and thus sustainability of the village. Site has been used for bonfire night, sports, jubilee celebrations, post-tractor rally celebrations, village fetes, horse and trap gatherings and family fun days.
- The applicant is seeking to avoid Policies LP5 and LP15 by claiming the land in unrelated to the pub.
- Speculative proposal is not related to any identified housing needs for Waddingham potentially contrary to LP10 and LP15.
- The site is commercial land and has never been developed. It is not brownfield nor infill land. Other infill plots have been a problem.



- Noise pollution. The acoustic screen to the pub beer garden will be ineffective. The screen would make the beer garden less pleasant and impact viability of the pub. Proposed acoustic glass to the dwellings shows a lack of concern for future residents that may want to open their windows. Future residents may be effected by neighbouring commercial or semi-commercial properties which operate successfully because they do not have any close neighbours.
- Similar sites with permission have not been built out or dwellings remain unsold.
- The land has not been maintained. Veteran trees have been cut down. The others may be removed at any time. The site is of ecological value for birds, mammals, great crested newts and amphibians. Negative ecological impacts.
- An outline application misses the opportunity to preserve trees. Rubble has been brought onto the site therefore spoiling it. Reserved matters could be for larger houses.
- The application ignores the important open space. The old orchard and IOS are linked as it provides an important view from High Street towards Snitterby Church.
- Proposed drainage may be ineffective and may exacerbate existing problems including for adjacent listed building. The site is 50m from Waddingham Beck, not 500m. The pub cellar floods if the sump pump fails or if drains are inundated. Soakaways are likely to be ineffective due to the water table. Proposed block paving will contribute towards highways flooding during storm events. Foul drainage problems will be exacerbated.
- A neighbourhood plan is being developed that is identifying and assessing more suitable residential sites without harming the central open character of Waddingham.
- Building the dwellings will reduce the chances of the pub reopening.
- There is no requirement for more houses of this nature in the village as there are already some standing empty for sale and other building works. The proposal will not create any new jobs as it will be built by a national house builder. New residents will commute to work, do their shopping in town and not benefit the village.
- Would exacerbate problems at a dangerous road junction for vehicles and pedestrians crossing.
- Residents want to keep the village centre open.
- Loss of views.
- Why can applicants submit documents not related to the proposal when previous letters of objection are discounted?
- Artists' impressions are misleading.
- Impact on the setting of a listed building.
- Conflict with the Neighbourhood Plan, which is in preparation, because; these are not the type of houses wanted by parishioners. There is a consensus for starter homes, affordable homes and retirement homes; NP consultation reveals desire to keep valuable green spaces, keep village centre open and not allow infill building.

- The developers have sought to gain support via an open letter stating money will be invested in the pub once houses are sold. There is no legal agreement to enable this.
- The site notice was put up opposite the site.
- The drawings do not reflect land level changes on the site and surroundings.
- The density is out of character with the area.
- Money making scheme.
- There is no affordable housing in the proposal.
- No public transport and lack of employment results in commuting.
- There is no doctors' surgery.
- There may be boundary disputes.
- The proposed houses would border a working lorry yard and two busy woodworking/engineering workshops.

One letter making general observation has been received from residents of 11 Millstone Way Waddingham summarised as follows;

- Gross under provision of car parking space for guests, visitors and the pub. There is likely to be conflicting demand for use of the pub car park. On street parking would create difficulties for bin lorry access.
- One less property, more spacious development, more off street parking and better turning space should be proposed.

The Council's Environmental Protection Officer comments as summarised below:

- Noise- the proposal is an improvement on previous proposals with paragraphs 4.4 (design principles) and 5.3 (mitigation) noted. "Were the development to proceed as is proposed and the licenced premises remain open and viable under the proposals then I would have no objections, provided that layout, separation distances, enhanced build and acoustic barrier were formalised as part of any permission; I would ask that this is addressed in any event:
- All gardens protected by the respective dwellings
- Enhanced glazing and ventilation of windows facing the licenced premises
- A 2m high acoustic boundary  
Details to be agreed"

Any agreements or conditions to mitigate noise pollution would need to be binding and enforceable. Concern is raised in this regard because of the potential for changes in ownership or control, and if an application is made to vary the restrictions, after permission is granted, on the basis onerous restrictions were jeopardising the business. Future residents may experience odour from smoking and cooking. Imported material on the site means a contaminated land condition is required.

The Council's Tree Officer raises no objections to the proposals in terms of its impact on existing trees and hedges, stating:

“There were two veteran fruit trees which were originally part of a larger old orchard, and had been at risk from previous development proposals, but these two trees no longer exist. The remaining veteran trees in the northerly part of the site are not at risk from the currently proposed development. The Arboricultural Report and Arboricultural Method Statement provide suitable details on the trees Root Protection Areas (RPA’s) and tree protection measures. If the scheme gains permission then tree protection and construction activities around the trees should be required to follow the recommendations in the Arboricultural Method Statement.

The group of existing trees T1 to T5 adjacent the site entrance are shown in the indicative layout of the Tree Protection Plan in the Arb Method Statement as to be removed, and the existing stone wall re-sited further back from the road. This group of trees are mainly category C trees with one wild cherry (T4), amongst them which is a category B tree. Category C trees are low quality trees that should not pose a constraint to development. Category B trees are ones of moderate quality that should be retained where possible. The Category B tree near the site frontage is a wild cherry. Cherry trees are generally fast growing and short lived, and although it is identified to be removed, it could and should be replaced in a suitable clear space near the site frontage as part of a scheme of landscaping for the whole site, as the trees at the site frontage provide some important structural greenery in the street scene/character at this well-used junction. The trees are not of good enough quality for a TPO to be made, but they do provide some amenity and natural softening of the surrounding built structures and hard surfacing.

The veteran fruit trees are very important for biodiversity and cultural values. Old orchards are a priority habitat listed in both the UK and Lincolnshire Biodiversity Action Plans (BAP’s), and the latest NPPF also states the planning system should protect and enhance biodiversity, and promote the conservation, restoration and enhancement of priority habitats. The latest NPPF revision has improved veteran tree protection, and says any development resulting in the loss or deterioration of irreplaceable habitats, such as veteran trees, should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. If the application gains consent then planning should stipulate the veteran trees should be retained.”

LCC Highways and Lead Local Flood Authority:

21/1/19 It considers the proposal acceptable in principle. Access and layout have not been considered due to the nature of the application. Conditions are recommended requiring a 1.8m wide footway from the development to the east; improving the headland section of Waddingham Public Footpath 72 to a stone specification; development to be undertaken in accordance with Estate Road Phasing and Completion Plan to be agreed. Informatives are recommended to make the applicant aware all roads must be constructed to adoptable standards; contact with LCC regarding works within the public highway; highway works require a legal agreement with the developer and LCC.

3/1/19 identical comments to those above but without the recommended condition regarding a surface water drainage scheme.

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

Ancholme Internal Drainage Board:

The application will increase the impermeable area to the site and the applicant will therefore need to ensure that any existing or proposed surface water system has the capacity to accommodate any increase in surface water discharge from the site. General guidance on surface water is provided with soakaway comments as follows:

*"If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year."*

LCC Archaeology: Sufficient information has been provided by the applicant to make an informed recommendation. The northwest corner including the frontage to the street, is the only part that would require further archaeological recording were it to be impacted by development. It recommends an archaeological scheme of works in order to ensure the archaeology in this part of the site can be recorded prior to its destruction.

LCC Public Rights of Way Officer: "The Definitive Map and Statement shows Definitive Footpath (Waddingham) No. 72 adjoining the site although this would not appear to affect the proposed development. Pedestrian permeability into the footpath is to be encouraged as a means of facilitating local journeys within the community and to local facilities on foot. The development should be coupled with surface improvement of the affected length of footpath 72, around 105 metres or thereabouts between the shared driveways which this links.....

Comments;

- i/ It is expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the proposal.
- ii/ The construction should not pose any dangers or inconvenience to the public using the right of way.
- iii/ If any existing gate or stile is to be modified or if a new gate or stile is proposed on the line of the public right of way, prior permission to modify or erect such a feature must be sought from this Division".

Natural England: no comments.

Idox checked 19/2/19.

## **Relevant Planning Policies:**

### **Statutory test**

Planning (Listed Buildings and Conservation Areas) Act 1990

*“66 General duty as respects listed buildings in exercise of planning functions.*

*(1) In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

<http://www.legislation.gov.uk/ukpga/1990/9/contents>

### **Development plan**

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

Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (April 2017); and the Lincolnshire Minerals and Waste Local Plan (December 2017 and June 2016).

### **Central Lincolnshire Local Plan**

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP4: Growth in Villages

Policy LP5: Delivering Prosperity and Jobs

Policy LP9: Health and Wellbeing

Policy LP10: Meeting Accommodation Needs

Policy LP11: Affordable Housing

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP15: Community Facilities

Policy LP16: Development on Land Affected by Contamination

Policy LP17: Landscape, Townscape and Views

Policy LP21: Biodiversity and Geodiversity

Policy LP23: Local Green Space and other Important Open Space

Policy LP25: The Historic Environment

Policy LP26: Design and Amenity

These policies, as far as relevant to the proposal, are considered consistent with the NPPF.

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

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

- **Core Strategy and Development Management Policies**

- **Site locations**

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

The application site is within a limestone minerals safeguarding area.  
Policy M11: Safeguarding of Mineral Resources

## **Other**

NPPF 2018 and PPG

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

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

## **Waddingham and Brandy Wharf Neighbourhood Plan**

West Lindsey District Council approved, on 8<sup>th</sup> June 2016, the application by Waddingham Parish Council to have the parish of Waddingham designated as a neighbourhood area, for the purposes of producing a neighbourhood plan.

The neighbourhood plan group are now consulting with the public and working towards the production of the neighbourhood development plan. There is currently no draft plan to consider therefore it carries no weight in the decision making process.

### **Main issues**

- **The principle of development**
- **Impact on residential amenity and noise impacts**
- **Impact on community facility**
- **Heritage impacts**
- **Arboricultural and ecological impacts**
- **Highway safety and convenience and footpaths**
- **Flood risk and drainage**
- **Other**

### **Assessment:**

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

The site is in a limestone minerals safeguarding area allocated by Policy M11 which requires a minerals assessment. This has been submitted. LCC Minerals and Waste Team raises no minerals safeguarding objections. Minerals implications are acceptable.

Policy LP2 designates Waddingham a tier 5 medium village where unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support\*\*\*\*, the following applies in these settlements:

- they will accommodate a limited amount of development in order to support their function and/or sustainability.

- no sites are allocated in this plan for development, except for Hemswell Cliff and Lea.
- typically, and only in appropriate locations\*\*, development proposals will be on sites of up to 9 dwellings or 0.25 hectares for employment uses. However, in exceptional circumstances\*\*\*\*\* proposals may come forward at a larger scale on sites of up to 25 dwellings or 0.5 hectares per site for employment uses where proposals can be justified by local circumstances.

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

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

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

Policy LP4 permits 15% growth in Waddingham. This is above the normal 10% because of the presence of key facilities in the village. The latest Growth Table dated 11/02/19 available on the Council's website states remaining growth in Waddingham is 33 dwellings.

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

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

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

\*\*\* throughout this policy and Policy LP4 the term 'developed footprint' of a settlement is defined as the continuous built form of the settlement and excludes:

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

Infill is defined in the CLLP as “Development of a site between existing buildings.”

The proposal complies with the scale of development of up to 9 dwellings. With regards to the appropriate location test, the site is near the centre of the village and would therefore retain its core shape and form. Development of the site would result in the loss of the majority of an area of open land near the centre of the village but the contribution this space makes to the character and appearance of the village is not considered to be significant therefore development of this land is not considered to result in significant harm to the settlements character and appearance. The site is removed from the more open countryside to the south. The proposal is not considered to significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement. The proposal would not exceed the remaining growth of 33 dwellings in Waddingham.

The application site is located between existing buildings therefore meeting the definition of an infill site. This is considered an appropriate location as described above. The site is considered to be within the developed footprint of the village as it forms part of the continuous built form of the village, is located near its centre, and relates more to the built up area of the settlement than the countryside to the south. This is not considered to be an outdoor recreation facility on the edge of the settlement. The site is within the developed footprint. For these reasons, the site falls within tier 1 of the site development sequential test in Policy LP4 and is therefore sequentially preferable in accordance with Policy LP4.

Part of the application site, along the southern boundary, is allocated as an important open space (yellow area on the map below) by Policy LP23 of the CLLP which states:

“An area identified as an Important Open Space on the Policies Map is safeguarded from development unless it can be demonstrated that:

- a. In the case of publicly accessible open space, there is an identified over provision of that particular type of open space in the community area and the site is not required for alternative recreational uses or suitable alternative open space can be provided on a replacement site or by enhancing existing open space serving the community area; and
- b. In the case of all Important Open Spaces, there are no significant detrimental impacts on the character and appearance of the surrounding area, ecology and any heritage assets.”





The application provides the following justification for development of this important open space:

“The southwestern corner of The Site is, however, listed as an ‘important open space’ by the Council. Its presence in The Site seems to be due to it previously being the north-eastern section of a much larger field with a public footpath diagonally crossing its northern half. However, over the years the back gardens of the houses to the west appear to have been extended, and the remaining small portion in our site is considerably overgrown and has little visual linkage to the larger field. The line of the footpath now effectively forms the boundary of the open space, and the area previously mentioned is perceptually separate from the larger field and simply part of The Site.”

The section of important open space on the application site is not publicly accessible, because it is in private ownership, therefore part a of the policy does not apply. With regards to part b of the policy, it is considered development of this small area would not result in significant detrimental impacts on the character and appearance of the area because the public right of way would be maintained and this small parcel of land does not make a significant contribution to the character of the area. Ecological and heritage matters are discussed in detail below but are concluded to be acceptable. Development of this parcel of important open space is considered acceptable in accordance with Policy LP23.

The principle of development is considered acceptable for above reasons.

### **Impact on residential amenity and noise impacts**

Policy LP26 requires the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development. Proposals should demonstrate how the following matters have been considered:

- m. Compatibility with neighbouring land uses;
- n. Overlooking;
- o. Overshadowing;
- p. Loss of light;

- q. Increase in artificial light or glare;
- r. Adverse noise and vibration;
- s. Adverse impact upon air quality from odour, fumes, smoke, dust and other sources;
- t. Adequate storage, sorting and collection of household and commercial waste, including provision for increasing recyclable waste;
- u. Creation of safe environments.

Similarly, proposals for development adjacent to, or in the vicinity of, existing 'bad neighbour' uses will need to demonstrate that both the ongoing use of the neighbouring site is not compromised, and that the amenity of occupiers of the new development will be satisfactory with the ongoing normal use of the neighbouring site, taking account of criteria m to u above.

The indicative site layout shows a 13.5m gap from the proposed bungalows to the main body of The Old School, The Green with an intervening existing outbuilding; 15.5m gap between the bungalows and front elevation of Rose Cottage, The Green; 40m gap between The Laurels, The Green and the nearest 4 bedroom dwelling; 26m gap between the accommodation above the Marquis of Granby and the nearest proposed dwelling; 21m gap between Halton House, High Street and the proposed bungalows; 31m gap between The Payhouse, High Street and nearest 4 bedroom dwelling; 21m gap between The Elms, High Street and the nearest 4 bedroom dwelling. The proposed site plan is purely indicative with this type of application. However, it serves to demonstrate the proposed number of dwellings can be accommodated on the site in a manner that is compatible with neighbouring land uses, would not result in overshadowing or loss of light that would be harmful to the amenities of adjoining residential dwellings.

Some objectors have mentioned adjacent uses of land and buildings including HGV parking and maintenance, and workshops as potential sources of noise pollution and future complaint. However, such uses are relatively small scale in nature and would not represent a constraint to development. Such uses would not harm the amenities of future residents of the proposal nor would the proposal prevent the ongoing use of the adjacent sites.

The application includes an environmental noise report. Policy relevant to noise includes the following.

The NPPF 2018 states:

“170. Planning policies and decisions should contribute to and enhance the natural and local environment by:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;”

“180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects

(including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life<sup>60</sup>;

Footnote 60 refers the reader to Explanatory Note to the Noise Policy Statement for England (DEFRA). Further information on this is given below.

182. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

The PPG states;

“How to determine the noise impact?”

Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

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

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

#### Observed Effect Levels

- Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.
- Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.
- No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.”

This table summarises the noise exposure hierarchy, based on the likely average response.

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

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

“2.22 It is not possible to have a single objective noise-based measure that defines SOAEL (Significant Observed Adverse Effect Level) that is applicable

to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.”

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

The local plan policy test in LP26 is to prevent undue harm to amenity via adverse noise.

Noise surveys from the previous planning application have been used because the pub is currently closed preventing further noise reading assessment.

Measurements were taken by Leema Technologies at one location in line with the façade of the nearest proposed property to the Pub. Measurements were carried out during three periods and included measurements of use of the beer garden (17.30 – 19.45 Saturday 26th August 2017); noise from playing of music in the beer garden (20.15 – 22.00 hrs Sunday 27th August 2017); and noise levels when a delivery was taking place and music being played in the pub (10.30 – 12.15 hrs Thursday 7th September 2017). The survey results from 27<sup>th</sup> August 2017 are not included in the table below because the pub does not have a licence for such events.

**TABLE 3: Summary of noise survey results**

Date	Time	Noise Level dB			Observations
		L <sub>Aeq15min</sub>	L <sub>Amax</sub>	L <sub>A90,15min</sub>	
26.8.17	17.30 – 19.45	63- 69	69 - 90	51 - 60	Main noise was from patrons using beer garden. Approx. 10 people in garden. Other noise sources included neighbouring properties, mowing lawns, hedge cutting
7.9.17	10.30 – 12.15	45 - 50	46 - 67	43 - 45	Delivery took place for about 15mins and occurs about once a week. Noise climate dominated by neighbourhood noise, mowing lawns, dog barking. Noise from delivery activity was considered very low. Measurements also included periods when landlord turned on juke box within pub and left doors open. This impact of music noise was negligible

The noise assessment states “Typical maximum noise levels from people shouting are 82 - 85 dB when measured at 1m. The measurement location was approx. 18m from the boundary of the car park at these distance maximum noise levels would be in the region of 57 – 60 dB LAmax. It is therefore evident from the results that noise levels measured on 26 August 2018 was affected by other noise events and whilst measurements of 90 dB LAmax were recorded these were unlikely to be caused by activity within the beer garden.”

The noise assessment considers the impact of noise from entertainment playing of music with 4.4 stating:

“4.4 The proposed properties have been designed with good acoustic design principles taken into account with all gardens screened from activity at the pub by the properties themselves. Unlike the previous scheme for 10 properties on the site there are no gardens directly facing the public house. The proposed properties will also be designed with enhanced acoustic glazing and alternative means of ventilation so that windows can be kept closed.”

The assessment considers noise from the internal juke box, when the music was turned up at a high volume and doors left open, negligible; it can therefore be concluded that noise from playing of music within the pub will not cause significant adverse impact to future residents; notwithstanding the above there is potential for noise from external entertainment to give rise to significant noise disturbance. SR understands that there is no licence which currently permits the use of the garden for outdoor entertainment nor is it the intention of the owner of the public house to do so. This can be confirmed through a written agreement with the Council; noise from unloading occurs on average once a week and typically during the daytime therefore no assessment is required.

The assessment considers noise from use of the beer garden, noting noise levels from people using the beer garden were recorded on Saturday 27th August 2017 and found to be typically 63 – 69 dB LAeq15min when measured at a location representative of the front façade of the nearest proposed property; assuming a 10 dB reduction predicted noise levels in the garden of the properties will be between 53 – 59 dB LAeq. At the upper limit noise from the beer garden would exceed the external noise criteria of 55 dB referred to in section 2.0 of this report. Therefore to reduce noise levels it is recommended that an acoustic screen is erected around the beer garden. This could be an extension of the existing boundary wall. A 2 metre high fence as shown in the proposed layout, Appendix A, will reduce noise levels from the beer garden by approx. 8 dB. The fence should fully enclose the beer garden including a solid gate. The noise assessment considers noise from general disturbance, noting the movement of people and cars will be away from the proposed properties given the potential site layout therefore the general disturbance is not considered to be significant; it considers the proposed development would not, following the mitigation measures recommended, result in the closure of the pub or loss of the community asset.

The noise assessment recommends the mitigation measures detailed in paragraph 4.4 quoted above; the beer garden will be screened by a new 2m high acoustic wall/fence which will screen the area from both the existing and proposed residential properties; there will be no amplified music played in the beer garden or any external areas; the beer garden will not be used after 2300 hours; and concludes that subject to this mitigation noise from the Marquis of Granby will not cause significant adverse impacts to future residents in line with the policy aims of the NPPF (para.180); furthermore the mitigation measures proposed will not place unreasonable restrictions on the operation of the public house in line with national and local policy aims.

The lack of objection and comments of the Environmental Protection Officer are noted. It is considered the proposal would not result in significant adverse impact from noise for future residents in accordance with LP26 and NPPF paragraph 180 and that this application establishes the proposed number of dwellings can be accommodated on the site in an acceptable manner.

A unilateral undertaking is required to secure no amplified music played in the beer garden or any external areas and the beer garden will not be used after 2300 hours.

A condition will be required to secure a scheme of noise mitigation (for those matters not secured by the unilateral undertaking) based on the principles established in the noise assessment, to include private rear gardens to be screened from the pub by the dwellings permitted; enhanced acoustic glazing and alternative ventilation so that windows facing the pub can be kept closed; a 2m high acoustic screen to the boundary of the beer garden.

### **Impact on community facility**

Policy LP15 relates to community facilities. It states all development proposals should recognise that community facilities such as public houses or any registered asset of community value, are an integral component in achieving and maintaining sustainable, well integrated and inclusive development. LP15 states:

#### **“Existing facilities**

The redevelopment or expansion of an existing facility to extend or diversify the level of service provided will be supported.

In most instances, the loss of an existing community facility will not be supported.

The loss, via redevelopment, of an existing community facility to provide an alternative land use which is not that of a community facility will only be permitted if it is demonstrated that:

a. The facility is demonstrably no longer fit for purpose and the site is not viable to be redeveloped for a new community facility; or

b. The service provided by the facility is met by alternative provision that exists within reasonable proximity: what is deemed as reasonable proximity will depend on the nature of the facility and its associated catchment area; or  
c. The proposal includes the provision of a new community facility of similar nature and of a similar or greater size in a suitable on or offsite location.”

The appeal Inspector considered:

“18. The Council has also raised concerns that the scheme would affect the viability of the pub and result in the loss of a community asset which provides space for gatherings, recreational activities and events. However, at the Hearing local residents confirmed that the site is used relatively infrequently by a local club and for annual bonfires. During my inspection I also saw that it was largely overgrown, uninviting and appeared to be used primarily as a short-cut to the adjacent public footpath and primary school to the south-east.

19. In contrast, the appeal proposal would create an attractive and useable area of open space. Ensuring the future maintenance of this area could be secured through the use of an appropriately worded planning condition, and it would not restrict use of the public right of way to the south. I am also mindful that situated within close proximity to the appeal site is the village green. Despite being close to a main road it occupies a central position, is close to the primary school and is overlooked by houses. When also taking into account that the pub benefits from a large beer garden at the rear, neither its long-term future nor the community’s ability to hold events would therefore be prejudiced by the appeal proposal.”

It appears the application site has been used relatively infrequently for community uses since the time of the appeal Inspectors decision and many of the current neighbour representations note past use of the site rather than recent or future use.

The pub would retain a beer garden as part of the proposal and I see no reason to disagree with the Inspectors view that the proposal would not prejudice the long term future of the pub. It could be argued the application site, as land used infrequently for community events, is a community facility. The loss of such a facility is acceptable under policy LP15 if:

“b. The service provided by the facility is met by alternative provision that exists within reasonable proximity: what is deemed as reasonable proximity will depend on the nature of the facility and its associated catchment area;”

The Inspectors reasoning in paragraph 19 is clear that the presence of The Green a short distance to the east of the site mean development of the application would not prejudice the community’s ability to hold events. It is clear The Green provides alternative provision of land within a very short distance. The proposal therefore complies with LP15.

It should be noted the landowner can prevent any future community use if they wish.



The proposal would prevent amplified music played in the beer garden or any external areas and the beer garden will not be used after 2300 hours. This is not considered to unreasonably impact on the viability of the pub. The impact on the community facility is considered acceptable in accordance with LP15.

### **Heritage impacts**

The statutory test in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a critical consideration with regards to the impact of the proposal on the setting of the grade II listed buildings at Old School House (approximately 30m north of the potential entrance to the application site) and a row of dwellings Wagtail, Skylark, Chiffchaff, Kestrel, Lapwing and Nightingale Cottages (approximately 60m north east of the application site).

NPPF paragraph 193 requires great weight is given to the listed buildings conservation. LP25 states “Development proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building.”

In having special regard to the desirability of preserving their setting it is noted the likely access arrangements may result in the widening of the existing vehicle access and opening up of the frontage with associated loss of tree cover along the roadside which will increase the visibility of the site and dwellings within. The indicative site layout demonstrates it will be possible to create an approximate 70m gap between Old School House and the nearest proposed dwelling with glimpses of the application site between the pub and Corner House. The open nature of Halton House means the application site is unusually conspicuous for a back land plot. This would afford views of the development from the listed cottages.

It is considered the distance of the listed buildings from the application site combined with the intervening buildings and the detached nature of the heritage assets from the application site, on the opposite side of the main road through the village, means there would be no harm to the setting of these listed buildings. The proposal therefore accords with the statutory test, the NPPF and LP25.

NPPF paragraph 189 and LP25 require archaeological desk based assessment and where necessary, field evaluation. This has been provided. Five trenches, four measuring 10m long by 1.6m wide and one measuring 20m long by 1.6m wide, were excavated across the site. Trenches 2–4 contained no deposits of archaeological interest. Trench 1 contained a single ditch, backfilled with modern rubble, and Trench 5 exposed a probable medieval quarry pit. Based on the results of the trenching, the site has a limited potential for archaeological remains, with a late medieval quarry pit at the west end of the trench the only archaeological remains of interest.

LCC Archaeology considers this information acceptable and requires a scheme of archaeological works for the North West corner of the site. Subject to this condition, the proposal complies with the requirements of the NPPF and LP25.

The heritage impacts of the proposal are considered acceptable.

### **Arboricultural and ecological impacts**

NPPF states:

“170. Planning policies and decisions should contribute to and enhance the natural and local environment by:… d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

“174. To protect and enhance biodiversity and geodiversity, plans should:… b) promote the conservation, restoration and enhancement of priority habitats”

“175. When determining planning applications, local planning authorities should apply the following principles:…

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>58</sup> and a suitable compensation strategy exists”.

CLLP Policy LP17 considers landscape, townscape and view. It requires proposals have regard to maintaining and responding positively to any natural and manmade features within the landscape and townscape which positively contribute to the character of the area such as trees, walls and intervisibility between rural historic settlements. Where a proposal may result in significant harm, it may, exceptionally, be permitted if the overriding benefits of the development demonstrably outweigh the harm: in such circumstances the harm should be minimised and mitigated. Proposals should take account of views into, out of and within development and be designed to preserve or enhance key local views and vistas.

LP21 requires proposals minimise impacts on biodiversity and seek to deliver net gains; permission will be refused for development resulting in loss, deterioration or fragmentation of irreplaceable habitats, including ancient woodland and aged or veteran trees, unless the need for, and benefits of, the development in that location clearly outweigh the loss or harm. Any development which could have an adverse effect on sites with designated features and / or protected species, either individually or cumulatively, will require an assessment as required by the relevant legislation or national planning guidance.

LP26 requires proposals incorporate and retain as far as possible existing natural and historic features such as trees and boundary walls.

The trees on the site are not protected by conservation area status nor are they deemed appropriate for protection via tree preservation order, as confirmed by the Council's tree officer, due to their modest quality and limited amenity value.

The submitted arboricultural method statement shows the probable access arrangements would result in the need to remove:

T1 (semi-mature wild cherry- category C)  
T3 (semi-mature field maple- category C)  
T4 (early-mature wild cherry- category B)  
T5 (early-mature wild cherry- category C)  
T13 (semi-mature wild cherry- category C)  
G2 (semi-mature group including common oak and common ash- category C)  
G14 (semi-mature group including areas of self-set scrub vegetation of little arboricultural value. Species include Elder, Hawthorn, Sycamore, Bramble and Ivy- category C).

The same statement also demonstrates the following trees can be retained and protected by fencing:

T6 (early mature orchard apple category B)  
T7 (early mature orchard apple veteran category B)  
T8 (early mature orchard apple veteran category B)  
T9 (mature orchard apple veteran category A)  
T10 (early mature orchard apple veteran category B)  
T11 (semi mature orchard apple category C)  
T12 (early mature orchard apple veteran candidate category C)

It is noted two veteran trees south of those proposed for retention and not included in the statement have been removed.

The lack of objection from the Council's Tree Officer is noted. The proposal demonstrates the remaining veteran trees can be retained in accordance with the NPPF and CLLP. The productive orchard apple trees would be retained in accordance with LP9 which seeks to promote orchards. The proposal would likely result in the loss of a series of category C and one category B tree along the site frontage. The former are not considered a constraint to development. The latter would ideally be retained but the need to provide suitable access to the site is considered to outweigh the need to retain this tree. The trees do have some value in creating a small area of landscaping that positively contributes to the character of the site and street scene. Compensatory planting will be sought at landscaping reserved matters stage beyond the required visibility splay. The small frontage wall may need to be removed to secure appropriate visibility splays to the west of the potential access. Collectively, these potential changes are not considered to result in harm to the character and appearance of the area given the ability to secure new planting. The presence of the existing frontage landscaping means this part of the site has a limited role in creating important views in the area and

intervisibility between settlements. The proposal offers the potential of retaining the veteran trees and grassed area around them resulting in a green wedge to soften the appearance of the site in the street scene. This addresses the previous arboricultural reasons for refusal and reason for dismissal of the appeal.

The landscaping reserved matter will present an opportunity to secure appropriate soft landscaping along the public right of way to prevent a means of enclosure being erected on the back edge of the footway.

The indicative layout demonstrates it is be possible to secure a development that does not result in a harmful backdrop to the street scene when viewed across Halton House.

The submitted phase 1 habitat survey report states:

“To the west of the site is a traditional orchard, which is listed as a priority habitat in the UK BAP. The orchard contains a total of seven Apple (*Malus domestica*) and four Wild Cherry (*Prunus avium*) trees. Two apple trees on site contain significant hollowing in their stems, which would provide excellent roosting opportunities for bats. For full details of the trees on site, please see the accompanying arboricultural report (JCA Ref: 13363/SR). The orchard is to be retained within the proposed development.”

The habitat survey considers;

- The proposal is unlikely to affect designated nature conservation sites.
- The hard standing and bare ground on site has negligible ecological value as they do not contain any floral species. The ephemeral vegetation is also of negligible value due to its small area and lack of floral diversity. The amenity grassland on site has low ecological value, as it is heavily managed and has reduced biodiversity.
- The orchard on site also has high ecological value, as it has appropriate cavities to support roosting bats, as well as providing habitat for nesting birds and foraging invertebrates and mammals. It is also listed as a priority habitat in the UK BAP. This area will also be retained within the development, meaning that no ecologically valuable habitat will be lost here.

And recommends the following:

- The removal of any vegetation should take place outside of the bird nesting season. If works within the nesting season are unavoidable, a nesting survey must be carried out immediately prior to any works to ensure that no birds are currently nesting and that any young have fledged. The nesting season typically extends from March – September inclusive.
- The loss of improved grassland and scrub on site should be mitigated through an appropriate planting scheme post development. This should incorporate the planting of locally native trees and shrubs.
- The orchard on site should be maintained and managed to ensure it retains its ecological value. More details on the trees within the orchard

can be found in the accompanying arboricultural report (JCA Ref: 13363/SR).

- The residential development creates opportunities for biodiversity enhancement. The inclusion of bat boxes and bricks and bird boxes should be considered at the design stage.

By cross referencing the tree and habitat surveys it is clear the apple trees with bat roost potential are proposed to be retained as part of the proposal.

Contrary to the statement made in the habitat statement, it is clear the likely access point will require removal of the four wild cherry trees forming part of the traditional orchard at the site frontage in order to achieve necessary road width and visibility splays. This is demonstrated in the arboricultural method statement appendix 4. The loss of part of this UK Biodiversity Action Plan priority habitat is a clear harm arising from the proposal. It is noted the landowner could remove the entire orchard at any point without the need for permission.

LP21 states “Development should seek to preserve, restore and re-create priority habitats, ecological networks and the protection and recovery of priority species set out in the Lincolnshire Biodiversity Action Plan and Geodiversity Action Plan.”

The Inspector previously noted a group of 15 trees in the North West corner of the site, of which 10 were orchard apples. The dismissed appeal retained only half the orchard (5 apple trees). The Inspector considered “By removing such a large proportion of the remaining orchard the scheme would therefore have a significant adverse impact on its biodiversity value.”

The current proposal identifies a group of 12 trees in the same North West corner (noting 2 orchard apple trees have been removed since the original survey) with 7 to be retained all of which are orchard apple.

It can be seen the current proposal retains a far greater proportion of existing orchard than did the dismissed scheme. All existing veteran trees, which have the most lichen, mosses and cavities which attract insects and beetles, are indicated to be retained. It is considered the impact on biodiversity value from the loss of orchard in this proposal does not amount to significant harm (NPPF paragraph 175), rather than significant in the dismissed appeal. The proposal would fail to preserve *part* of this priority habitat contrary to LP21. Other ecological and arboricultural matters are considered acceptable.

### **Highway safety and convenience and footpaths**

NPPF paragraph 108 requires safe and suitable access to the site for all users. Paragraph 109 states:

“109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

LP13 requires development contributes towards an efficient and safe transport network stating:

“All developments should demonstrate, where appropriate, that they have had regard to the following criteria:

- a. Located where travel can be minimised and the use of sustainable transport modes maximised;
- b. Minimise additional travel demand through the use of measures such as travel planning, safe and convenient public transport, walking and cycling links and integration with existing infrastructure;
- c. Should provide well designed, safe and convenient access for all, giving priority to the needs of pedestrians, cyclists, people with impaired mobility and users of public transport by providing a network of pedestrian and cycle routes and green corridors, linking to existing routes where opportunities exist, that give easy access and permeability to adjacent areas;
- d. Ensure allowance is made for low and ultra-low emission vehicle refuelling infrastructure....

For Parking Provision:

- q. Ensure that appropriate vehicle, powered two wheeler and cycle parking provision is made for residents, visitors, employees, customers, deliveries and for people with impaired mobility. The number and nature of spaces provided, location and access should have regard to surrounding conditions and cumulative impact and set out clear reasoning in a note submitted with the application (whether that be in a Design and Access Statement / Transport Statement / Transport Assessment and/ or Travel Plan as appropriate, depending on the nature and scale of development proposed).”

To the east of the indicative access, the carriageway is currently flush with the hardstanding to the front of the pub and there is no formal footway. A formal footway is in place to the front of Halton House. To the west of the indicative access there is currently an extremely narrow footway leading to The Paddock. This footway is unusable for pushers and wheelchairs. It is highly likely any pedestrian traffic uses the footway on the north side of High Street. The public right of way to the south of the site appears well used and has an attractive rural character.

The application includes a two way speed survey at the current site access and technical note for transport considerations. The note considers “As the traffic effect of seven houses on the road network is likely to be negligible, neither a detailed traffic assessment, nor detailed accident analysis are necessary for this TN.” The note considers accessibility for pedestrians, cyclists, bus users, highway access and access/internal layout. It suggests the existing access will be widened and visibility splays increased to 2.4 x 43m to the left (west) and 2.4 x 33m to the right (east). Footway improvements to the east and west are indicated and potential internal road layouts have been designed to accommodate refuse collection vehicles. It states “Servicing of the public house will likely remain as existing, i.e. if from the car park currently then from the access road in the future, if from High Street / hardstanding in front of the public house then as present. The internal access road and turning head has been designed to be suitable to accommodate servicing by a 10m rigid vehicle.”

The technical note justifies the potential visibility splays based on the speed survey and nature of the junction. The indicative proposal allows two vehicle parking spaces per dwelling and eleven pub car parking spaces.

LCC Highways raises no objection to the proposal. A series of conditions is considered necessary to secure a footway from the development to the existing footway to the front of the pub, estate road phasing and completion plan and surface water drainage (discussed in more detail below). The highway safety and convenience and footpath implications of the proposal are considered acceptable in accordance with Policy LP13.

It is not considered necessary to condition the upgrade of the PRow to a stone specification. The condition was sought by LCC on the basis the proposal would result in increased foot traffic on the ProW because of potential direct links between the two. Such a link is considered undesirable because it would likely generate pub customers walking past the proposed dwellings, resulting in disturbance. A condition is recommended requiring no public pedestrian link between the application site and ProW in order to prevent undue disturbance harmful to residential amenity in accordance with LP26.

It is considered necessary to condition the provision of 11 pub car parking spaces as this is the basis of the proposal and would secure future parking for the pub.

### **Flood risk and drainage**

The NPPF requires a sequential test is carried out in relation to permitting development on sites at risk of flooding.

Policy LP14 requires, amongst other things, proposals demonstrate:

- that there is no unacceptable increased risk of flooding to the development site or to existing properties
- that they have incorporated Sustainable Drainage Systems (SuDS) in to the proposals unless they can be shown to be impractical
- that adequate foul water treatment and disposal already exists or can be provided in time to serve the development

The site is in flood zone 1 low risk as defined by the Environment Agency's flood maps and the site is at very low risk of surface water flooding based on the gov.uk website. Part of the public right of way to the south of the site and High Street are at risk of surface water flooding.

The application includes a drainage strategy noting:

- The site is currently permeable
- The soakaway testing did note that groundwater levels we encountered approximately 1.5m down within TP3 and TP4. In accordance with current guidance, soakaways should be sited a minimum of 1.0m above the recorded groundwater level. On this basis any soakaway

systems would need to be shallow to ensure no interaction with the ground water table below.

- Surface water from the dwellings and garage roofs shall discharge via a piped system into soakaways which are not to be located within 5 meters of any building.
- Surface water from the proposed access way and parking spaces will be disposed of through infiltration.
- This will be achieved by permeable block paving with voided stone below, which attenuates any surplus flow.
- The development area is 0.440ha of which 0.069ha (15%) will be impermeable and require collecting and attenuating. The permeable area of 0.391ha will be made up of landscaping and permeable Driveways.
- Due to the existing topographical nature of the site it is proposed to utilise linear or dished channel at the back of the highway boundary and a connection into the voided stone sub base below to prevent discharge of surface water onto the existing High Street. No surface water from the site would be allowed to discharge onto the highway.
- There is a 150mm diameter foul sewer in High Street belonging to Anglian Water. It is proposed that foul drainage will be conveyed from the properties by adoptable gravity sewers below the proposed highway prior to connection into the existing Anglian Water sewer within High Street.

The Lead Local Flood Authority raises no objection to the proposed surface water drainage scheme. It is acknowledged the proposal may be significantly revised at reserved matters stage and that the drainage strategy would need to reflect these changes. It has been established that the site is capable of being drained in a sustainable manner via infiltration, despite objections. A full surface water drainage condition is required to allow for future change.

Foul and surface water drainage is acceptable in accordance with LP13 and the NPPF.

### **Other**

The proposal does not exceed the threshold for affordable housing in the CLLP or NPPF therefore no affordable housing is required.

Odour from smokers and food preparation is not considered to amount to a reason for refusal because of the potential separation distances between source and receptor.

There are reports of imported material on the site therefore it is considered necessary to impose a contaminated land condition.

The application site is not used for B1, B2 or B8 use class purposes therefore does not fall to be considered under policy LP5, despite objections.

LP10 requires 30% of the dwellings be constructed to higher access standards of Part M(2) of the Building Regulations (Access to and use of



buildings). It also requires “*new residential development should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.*” A condition is recommended securing details of the mix of housing types and sizes, and 30% to higher access standards in accordance with LP10.

## **Conclusion**

The proposal has been considered in light of the statutory test in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and relevant development plan Policy M11: Safeguarding of Mineral Resources of the Lincolnshire Minerals and Waste Local Plan- Core Strategy and Development Management Policies and Policy LP2: The Spatial Strategy and Settlement Hierarchy, Policy LP4: Growth in Villages, Policy LP5: Delivering Prosperity and Jobs, Policy LP9: Health and Wellbeing, Policy LP10: Meeting Accommodation Needs, Policy LP11: Affordable Housing, Policy LP13: Accessibility and Transport, Policy LP14: Managing Water Resources and Flood Risk, Policy LP15: Community Facilities, Policy LP16: Development on Land Affected by Contamination, Policy LP17: Landscape, Townscape and Views, Policy LP21: Biodiversity and Geodiversity, Policy LP23: Local Green Space and other Important Open Space, Policy LP25: The Historic Environment and Policy LP26: Design and Amenity of the Central Lincolnshire Local Plan as well as the National Planning Policy Framework and Guidance.

There are no minerals safeguarding issues with the proposal. The proposal complies with the scale of development of up to 9 dwellings, is an appropriate location and would not exceed growth permitted in Waddingham.

Development of this infill site in an appropriate location within the developed footprint is sequentially preferable. Development of part of an important open space is accords with the related policy as it would result in no significant detrimental impacts. The indicative layout demonstrates this number of dwellings can be accommodated on the site with no harm to residential amenity. The noise assessment demonstrates, subject to conditions and unilateral undertaking, the noise impacts as acceptable. The impact on community facilities is policy compliant. The impact on the setting of listed buildings is acceptable in light of the statutory test and policies.

Archaeological impacts are suitably assessed and subject to further condition.

The current proposal retains a far greater proportion of existing orchard than did the dismissed scheme. All existing veteran trees are indicated to be retained. It is considered the impact on biodiversity value from the loss of orchard in this proposal does not amount to significant harm (NPPF paragraph 175), rather than significant in the dismissed appeal. The proposal would fail to preserve *part* of this priority habitat contrary to LP21. Other ecological and arboricultural matters are considered acceptable subject to conditions. The impact of the proposal on highway safety and convenience and the adjacent public right of way is considered acceptable and no objection is raised to the access principles submitted whilst improved footway links are secured. It has been demonstrated an infiltration based surface water drainage scheme can be achieved in principle. There are no other technical problems with the application. The one harm arising from the proposal is the

loss of part of a priority habitat. This is considered to be demonstrably outweighed by the benefits of the proposal.

### **Recommendation**

It is recommended that planning committee delegate powers to officers to approve the application subject to conditions and the receipt of a unilateral undertaking securing no amplified music played in the beer garden or any external areas and the beer garden will not be used after 2300 hours.

In the event it is not received within 6 months of the date of this committee the application will be reported back to the next available committee.

Conditions:

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

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

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

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

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

3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

4. The reserved matters referred to by condition 2 shall include no public pedestrian link between the application site and public right of way Wdgm/72/1.

Reason: In order to prevent undue disturbance harmful to residential amenity by virtue of passing pub customers, in accordance with Policy LP26 of the Central Lincolnshire Local Plan.

5. The reserved matters referred to by condition 2 shall include biodiversity enhancements including bat boxes and bricks and bird boxes.

Reason: To secure ecological enhancements in accordance with Policy LP21 of the Central Lincolnshire Local Plan.

6. The reserved matters referred to by condition 2 shall include at least 11 car parking spaces for the use of the Marquis of Granby Public House.

Reason: This is the basis on which the application has been made and is considered to be an appropriate amount of vehicle parking for the pub in order to prevent parking harmful to amenity in accordance with Policies LP13 and LP26 of the Central Lincolnshire Local Plan.

7. The reserved matters referred to by condition 2 shall include details demonstrating at least 30% of the dwellings shall be constructed to the higher access standards of Part M(2) of the Building Regulations (Access to and use of buildings) and details of the types and sizes of all dwellings.

Reason: To help support the creation of mixed, balanced and inclusive communities and to cater for the needs of less mobile occupants, including older people and disabled people in accordance with Policy LP10 of the Central Lincolnshire Local Plan.

8. The reserved matters application referred to by condition 2 shall include a scheme of noise mitigation based on the principles established in the submitted noise assessment, namely:

- private rear gardens to be screened from the pub by the dwellings permitted;
- enhanced acoustic glazing and alternative ventilation so that windows facing the pub can be kept closed;
- a 2m high acoustic screen to the boundary of the beer garden.

Reason: To prevent undue harm to residential amenity in accordance with Policy LP26 of the Central Lincolnshire Local Plan.

9. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;

- provide attenuation details and discharge rates which shall be restricted to greenfield run off rate;
- provide details of the timetable for and any phasing of implementation for the drainage scheme; and;
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

No dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development in accordance with Policy LP14 of the Central Lincolnshire Local Plan.

10. No development shall take place on the site until a Written Scheme of Investigation (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook) shall have been submitted to and approved in writing by the local planning authority. This shall involve monitoring of all groundworks in the northwest corner of the site (west of the Marquis of Granby) only, with the ability to stop and fully record archaeological features. The scheme shall include an assessment of significance and research questions and:

- i) the programme and methodology of site investigation and recording;
- ii) the programme for post investigation assessment;
- iii) the provision to be made for analysis of the site investigation and recording;
- iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v) the provision to be made for archive deposition of the analysis and records of the site investigation;
- vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

Reason: To secure appropriate assessment and recording of potential archaeology at the site in accordance with Policy LP13 of the Central Lincolnshire Local Plan.

11. No development shall take place until an estate road phasing and completion plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall set out how the construction of the development will be phased and standards to which the estate roads on each phase will be completed during the construction period of the development.

Reason: To ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period

of the development in accordance with Policy LP13 of the Central Lincolnshire Local Plan.

12. No development shall take place until, a contaminated land assessment and associated remedial strategy, together with a timetable of works, have been submitted to and approved in writing by the Local Planning Authority (LPA) and the measures approved in that scheme shall be fully implemented. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically in writing:

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

Reason: In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Protection Officer in accordance with Policy LP16 of the Central Lincolnshire Local Plan.

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

13. The removal of any vegetation should take place outside of the bird nesting season March – September inclusive. If works within the nesting season are unavoidable, a nesting survey must be carried out immediately prior to any works to ensure that no birds are currently nesting and that any young have fledged.

Reason: To protect nesting birds in accordance with Policy LP21 of the Central Lincolnshire Local Plan.

14. The development hereby permitted shall not be occupied before a 1.8 metre (minimum) wide footway, to connect the development to the existing footway network to the east of the indicated access point, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.

Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property in accordance with Policy LP13 of the Central Lincolnshire Local Plan.

15. Tree protection and construction activities shall proceed in accordance with sections 3, 4 and 5 of the submitted Arboricultural Method Statement.

Reason: To ensure the protection of the veteran and orchard trees on the site in accordance with Policies LP17 and LP26 of the Central Lincolnshire Local Plan.

16. Prior to the first occupation of the development hereby permitted, a maintenance and management plan for the areas of existing (including remaining orchard trees) and proposed soft landscaping outside residential curtilage shall be submitted to and approved in writing by the Local Planning Authority. Such areas shall be maintained in accordance with the approved details.

Reason: To ensure appropriate long term treatment of soft landscaping areas in accordance with Policies LP17 and LP26 of the Central Lincolnshire Local Plan.

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

None.

**Human Rights Implications:**

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European

Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

**Legal Implications:**

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