

Officers Report

Planning Application No: 138794

PROPOSAL: Planning Application for the erection of 1 no. two storey detached dwelling and detached, single storey double garage.

LOCATION: Land east of St Marys Lane Claxby Market Rasen LN8 3YX

WARD: Wold View

WARD MEMBER: Cllr T Regis

APPLICANT NAME: Mr S Kinch (John Kinch Builds)

TARGET DECISION DATE: 05/04/2019

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Richard Green

RECOMMENDED DECISION: Refuse

This application is referred to the planning committee as the applicant is an elected member of the Council, Councillor S Kinch.

Description:

The application site is located to the west and south of the main built footprint of Claxby which is a small village within the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). It is to the east of St. Mary's Lane which is a single track road. At the time of the Case officer's previous site visit (22nd December 2017) on the earlier refused permission (137092) the site was largely overgrown. More recently, at the time of the site visit (18/01/2019) for this application (138794) the site had now been cleared with a low laurel hedge remaining on the western boundary, an open wire fence within wooden posts on the eastern boundary. There are a number of trees screening the northern boundary of the site and the southern boundary is open (no boundary treatment). Close to the southern boundary of the site are various building materials, which appear to be left over from the building of the dwelling granted permission (128334) in April 2013. Close to the northern boundary of the site are tree stumps and other parts of the protected trees felled/removed from the site a number of years ago.

Roughly one half of the site towards the eastern boundary of the site is earth/grass with the other half of the site on the western boundary by St Mary's Lane being compacted hardcore and mud from the past use as a car park connected to The Public House (see planning history) which used to operate from 'The Coach House' to the south of the site. The car park for the public house ceased to operate in the early 1990's. It is therefore considered that the site has naturally regenerated over the years, has blended into the landscape and would no longer be considered to qualify as "previously

developed land” under the definition¹ given within the National Planning Policy Framework (NPPF).

The site is located to the north of a small group of buildings which are detached from the rest of the village. This group of dwellings include Claxby House (Grade II Listed) and The Coach House to the south. The Grade I Listed Church of St. Mary’s and the Old Rectory to the south west and a new dwelling immediately to the south of the site which was granted planning permission (128334) in April 2013.

The site is considered to be countryside and is located within the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) and there are Public Rights of Way to the south (ClxW/105/1) and to the west (ClxW/94/1) of the site. The remains of the ‘Medieval Claxby Stew Ponds’ are located to the south east of the site. There is also a Tree Preservation Order on the eastern half of the site and a laurel hedge fronting St. Mary’s Lane, trees on the northern boundary and an overgrown hedgerow on the eastern boundary.

After amended plans were received the proposed development relates to the erection of one no. two-storey five-bedroom house with its principal elevation facing south towards St. Mary’s Lane. A detached double garage is proposed in the north eastern corner of the site with an access drive off St. Mary’s Lane with off road car parking and a turning area.

The agent submitted the application with the following representations:

- Supporting representation from Mr I Forster of The Coach House, St Mary’s Lane, Claxby stating that the proposed dwelling is for Melissa Forster.
- Supporting representation from Corner House Farm, St Mary’s Lane, Claxby.
- Supporting representation from The Laurels, Mulberry Road, Claxby.

The agent sent the following representations by email on the 17th and 21st January 2019:

- The Shire, St Mary’s Lane, Claxby from Mr and Mrs I&J Forster
- Supporting representation from Croft Ambrey, Mulberry Road, Claxby.
- Supporting representation from 13 Windermere Road, Long Eaton.

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

¹ Annex 2 (NPPF): Previously Developed Land is “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

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

Relevant history:

The planning history of the site shows a number of applications for residential development, which have been refused planning permission, both within the site and immediate vicinity:

Within the application site:

137092 – Full planning application for the erection of 1no. local needs/live work dwelling and garage refused 24/01/2018 (Applicant Ms Melissa Forster). Permission was refused for the following reasons:

1. *The site is clearly detached from the rest of the settlement with open fields to the north, west and east of the site and is considered to be located in the countryside. Policy LP55 of the Central Lincolnshire Local Plan (CLLP) states that planning permission for new dwellings in the countryside will only be acceptable where they are essential to the effective operation of rural operations listed in category 8 of Policy LP2 such as development that is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services; renewable energy generation or minerals or waste development. No evidence has been provided to demonstrate that the proposed dwelling would fall within any of the specified categories of development that would be appropriate in this location. The principle of development therefore cannot be supported as the proposal is located within the countryside and conflicts with the NPPF and Policy LP2 and LP55 of the Central Lincolnshire Local Plan.*
2. *The proposal is a large two storey four bed dwelling of an L-shaped plan. A detached double garage is also part of the proposal, with a driveway and an area of hard-standing. This substantial dwelling is inappropriate for its setting and would infill this greenfield site and add to the built development in this countryside setting. This increase in density would begin to create/or strengthen a ribbon type character (to the dwellings found in the main built foot print of Claxby to the north of the site) which would be contrary to the rural character of this location. Therefore, a new dwelling here would be contrary to the NPPF and Policy LP17 and LP26 of the Central Lincolnshire Local Plan.*

3. *The proposal would be located in the Lincolnshire Wolds AONB and would block the far reaching views you gain from St.Mary's Lane of the wider Wolds beyond the site (to the east). The dwelling would also harm views taken from Mulberry Road which will affect the views of the historic group of buildings, namely the Grade I Listed Church, Claxby House (Grade II), the former coach house of Claxby House, and the Old Rectory. It is therefore considered that this proposal would harm the natural beauty of this landscape and would be contrary to the NPPF and Policy LP17 of the Central Lincolnshire Local Plan.*
4. *The site is located to the north of a small group of buildings which are detached from the rest of the village. This group of dwellings includes Claxby House (Grade II Listed) and the Grade I Listed Church of St. Mary's. The proposed dwelling would be a further consolidation of modern development, which would dilute the important sense of detachment of this group of historic buildings from the main part of the village of Claxby, which is key to experiencing and understanding the significance of the medieval settlement. This application has therefore been deemed to have a negative impact on the setting of nearby Listed Buildings and is deemed to be contrary to Section 66 of the Planning (Listed Building and Conservation Area) Act 1990, the NPPF and Policy LP25 of the Central Lincolnshire Local Plan.*
5. *The application does not contain a heritage statement contrary to paragraph 128 of the NPPF, and of Policy LP25 of the Central Lincolnshire Local Plan, and therefore has given no consideration to the context and setting of affected heritage assets. The proposal fails the requirement of Section 66 of the Planning (Listed Building and Conservation Area) Act 1990.*
6. *The site is overgrown and has naturally regenerated over the years and has blended into the landscape and is considered to be a greenfield site which could provide a habitat for protected species. No ecological assessment has been submitted with the application contrary to Policy LP21 of the Central Lincolnshire Local Plan and the NPPF.*
7. *The proposed landscaping scheme will fail to soften the impact of this substantial dwelling especially when viewed from Mulberry Road which will affect the setting and views of the historic group of buildings, namely the Grade I Listed Church, Claxby House (Grade II), the former coach house of Claxby House, and the Old Rectory. It is therefore considered that this proposal would harm the natural beauty of this landscape and would be contrary to the NPPF and Policy LP17 of the Central Lincolnshire Local Plan.*

134913 – Full planning application to erect 1no. dwelling and associated garage refused 21/10/2016 (Applicant Ms Melissa Forster).

133674 – Full planning application to erect 1no. dwelling and detached garage on site of former public house car park withdrawn 15/12/2015 (Applicant Ms Melissa Forster).

W21/211/90 – Application to construct a carpark granted 18/09/90.

W21/210/90 – Outline application to construct to bungalows refused 13/06/90.

W21/422/84 – Outline application to erect two dwellings refused 12/07/84.

W21/717/90 – Outline application to erect two dwellings refused 08/09/90 and refused on appeal 13/06/91.

W21/902/80 – Outline application to erect a single dwelling refused 15/10/80.

Sites to the South:

128334 – Full planning application for erection of local needs dwelling including physiotherapy treatment rooms on a plot of land to the south of this application site granted consent at Planning Committee 25/04/2013 against Officers recommendation for refusal (Applicant Mr James Forster).

W21/176/93 – Full planning application to extend and change the use of 'The Coach House' to form a dwelling and erect a detached double garage granted 11/05/1993.

W21/668/88 – Full application to convert barn 'The Coach House' to public house and restaurant and extend to form staircase granted 09/08/88.

Representations:

Parish Council: Claxby Parish Council has no comments/objections to planning application 138794.

Local residents: The Laurels and Croft Ambrey Mulberry Road, The Shire, The Coach House, Corner Farm House, Swallows Barn, The Old Rectory (all on St Mary's Lane) and Windy Ridge Normanby Rise all in Claxby and 13 Windermere Road, Long Eaton, The Shepherd's Cottage Harrington Road Brinkhill Louth, Cheriton Mill Lane Osgodby, Wold View 6 Church Street Nettleton all support the application for the following reasons:

- When we first moved to the village the proposed site was a grassy area, in 1988 we witnessed it being converted into the pub car park for the former Coach House.
- The application site is unsightly. The application site is an ex 'stoned' Pub Car Park relating to a Public House which closed in 1994.
- The site is brownfield.

- Recently we have helped to clear the site of rubbish, a digger was used to remove tree stumps and level the soil from the footings that were dumped onto the site from the recently built Shire next door. We can confirm that nothing was removed from the site and the only things that were burnt on the site were rubbish, brambles, weeds, and items left by fly tippers.
- The size of the proposed building would be the smallest in the lane, and it is clear to see that new design has been reduced in size from the previous application in order to maximise the views over the Wolds.
- Ageing population in the village need new dwellings to encourage family living/young people.
- The landscaping plan would further enhance the lane.
- Traffic will not be an issue.
- The Physiotherapy Practice run from 'The Shire' has benefited the village. This property was not initially supported by residents but has now blended in.
- The application site is unsightly. The application site is an ex 'stoned' Pub Car Park relating to a Public House which closed in 1994.
- When walking the footpaths around the site it would look better redeveloped than in its current state.
- The application should be granted to allow the applicant to foster children in a rural setting.
- The parents of the applicant also foster children.
- The applicant has a long association with Claxby.
- The site is an appropriate location for a dwelling.
- The proposal would enhance the open character of the lane and would not affect the setting of the Grade I Listed Church.
- The building would bring a more managed environment for wildlife and vegetation.
- The proposal is a sympathetic design.

Claxby House, St Mary's Lane, Claxby objects to the application for the following reasons:

- The applicant name on the scanned document states Stuart Kinch and on the website, it states John Kinch from John Kinch Builds. We are aware that Stuart Kinch is a councillor for WLDC and is also a Director of Kinvena Homes. The construction company for this planning application is John Kinch Builds and we are raising this as a concern, due to a conflict of interest.
- This will be the fourth time this planning application has been submitted and we cannot see any evidence to justify a dwelling of this size. Having reviewed the previous planning applications, the property associated to 138794 has increased in accommodation and living space than previous planning applications.
- The site was recently excavated and flattened prior to the Protected Species Report being conducted by the Agent for this Planning Application, therefore it is not providing a true reflection of the landscape. The habitat for any protected species has been destroyed

and the natural regeneration of the site over the years has been demolished.

- The Orchard and now Corner Farm House has recently been placed on the market in St Marys Lane, Claxby and would be a suitable property for purchase.
- The introduction of a building of this scale proposed would result in an intrusive, alien feature within an important area of open character and greenery which provides a historic setting to the building to the south, specifically it would be particularly prominent in this context and adversely affect the setting of the Grade II Listed Claxby House and the Grade I Listed St. Mary's Church.
- The impact of this setting would be particularly noticeable from the public bridleway and also from St. Mary's Lane. The site is in the Lincolnshire Wolds AONB.
- Planning approval has already been provided for a dwelling (The Shires) to be erected on St. Mary's Lane back in March 2013 (128334) by the same family, which has had detrimental aesthetic impact to Claxby House, Grade II Listed from both the north side of the building and the surrounding gardens.
- The addition of another large dwelling should not be considered. St. Mary's Lane is a single-track no through road. There is only sufficient road for a single vehicle at any time.
- The site for this proposed new dwelling has an outstanding approved Tree Planning Application for Protected Tree Removal and Replacement, which has still not been completed. The approved replacement trees shall be planted within twelve months of the date of the removal of the original trees with suitable support during their establishment. The replacement trees should have been completed by March 2016. We are now in January 2019, 35 months past the planting date and still no commitment.
- The application site is within the setting of a Grade I Listed Building and Grade II Listed Building. This is part of a historic group of buildings, St. Mary's Church and Claxby House. The applicant has failed to demonstrate a clear understanding of the significance of the affected heritage assets and their settings. It is clear that the proposed scheme would cause harm to the setting of Claxby House and the Church of St. Mary.
- This historic group of buildings is clearly detached from the rest of Claxby Village and is surrounded by open spaces and fields and forms part of a shrunken Medieval Village.
- The proposed siting of this dwelling is particularly ill-considered, as the setting along St Mary's Lane is used by many villagers, tourists and guests of the Viking Centre for recreation and walking dogs and building here would diminish the striking view across Claxby village and impact the view towards Claxby House.
- Significant impact has already been caused by the approved planning application (128334 – The Shires) to Bridleway (Claxby) No. 105 and approving this application will only cause further impact.

- This planning application must be convinced that any harm to significance is outweighed by clear justification and there is absolutely no justification for this type of dwelling to be built within Claxby village.

LCC Rights of Way: No comments or observations to make and none to make on the proposed amendment.

The Ramblers Association: No representations received to date.

Lincolnshire Wolds AONB Officer: No representations received to date.

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.

LCC Highways and Lead Local Flood Authority: Requests that any permission given by the Local Planning Authority shall include 2 specified conditions and two informatives. The conditions relate to a specification for the proposed vehicular access and the submission of a Flood Risk Assessment as the site is located within an area at risk of surface water flooding.

Conservation Officer: I support wholly the advice from Historic England [who object to the proposed development]. I would therefore refer you to my original comments with regard to a similar application under 137902 as a starting point. I would also add the following comments:

1. The proposed design is very large, and has a 'backside' which would be experienced as part of the setting of the grade I listed church and the Manor House. The twin gable view of the 'backside' of the house would be a dominating factor and is inappropriate to the setting of a grade I listed building, the setting of a grade II listed building and a non-designated heritage asset (earthworks monument) considered by Historic England to be of national importance.

2. The list descriptions of both listed buildings note the letters GV – which means group value, which is defined by the Department for Culture, Media and Sport (DCMS) in their document Principles of Selection for Listed Buildings, paragraph 17 as:

The extent to which the exterior of the building contributes to the architectural or historic interest of any group of buildings of which it forms part, generally known as group value. The Secretary of State will take this into account particularly where buildings comprise an important architectural or historic unity or a fine example of planning (e.g. squares, terraces or model villages) or where there is a historical functional relationship between the buildings. Sometimes group value will be achieved through a co-location of diverse buildings of different types and dates.

It is clear that the setting should be preserved as is, and that Historic England make reference to a development that has already been allowed and reminds the local planning authority to have 'special regard' for the preservation of this setting. It is the case that any further building in this location would be harmful to that setting, and would consist of cumulative impact. There is no public benefit that I can see that could balance this harm.

In the event that a decision is made to grant permission, I would advise that design revisions are required to minimise and mitigate harm as set out in paragraph 190 of the NPPF which states that:

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

The local authority has received advice from the Government's advisor on heritage matters, but if the planning authority is minded to disregard this advice, minimising harm is essential. This would consist of:

- a. the proposed building having its principle front (northern) elevation should become the west elevation (facing St Mary's Lane).
- b. All natural and locally distinctive materials, e.g, natural slate, etc)
- c. Sample panels of masonry for approval in writing
- d. Full boundary treatments and landscaping

In this way at the least, final build quality can be carefully considered, and the poorest elevation of the design will have less impact on the setting of the listed buildings.

Further representation received on the 20/02/2019 (re-consultation of the amended plans): The objection in principle to a dwelling in this location is still my recommendation in respect of the proposed development, and I would reiterate all of my concerns sent by email to you on 20 January 2019 about the inappropriateness of developing this site in such a sensitive setting.

The advice to try and mitigate and minimise the harm arising from this proposal is not to appease concerns about quality of design for a building in a sensitive location, it is to ensure that if, contrary to the recommendations of Historic England and planning officers, a building is to be approved in this location, that at the very least, its 'backside' is not the first thing seen from the shared setting of Claxby House and the Church. In no way should my advice be taken as acceptance of building in this sensitive setting.

Historic England: The medieval church of St Mary is listed grade I which means it is included within the top approximately 2% of listed buildings in the country, because of its exceptional architectural and historic interest. The

church has 13th, 15th and 16th century phases of construction and was restored in 1871. The church stands in a group of buildings on St Mary's Lane (a principal focus of the medieval village along which it was orientated), including the nearby Claxby House (listed grade II, and built in the late C18 with C19 alterations), the former coach house of Claxby House, and the Old Rectory. This historic ensemble is clearly detached from the rest of the village of Claxby and is surrounded by open spaces, including fields and former gardens. Together these buildings and associated open spaces are on the site of, and form part of, a shrunken medieval village.

Overlying the medieval village many of the substantial archaeological earthworks visible in the grounds, and former grounds, of Claxby House and nearby fields today comprise the remains of the C16 or early C17 formal gardens of a former house on the site of Claxby House, and C19 landscaping. This includes the feature known as Claxby Stew Ponds which may have originated as a medieval moat. It is Historic England's view that the buried and standing archaeological remains on this site are a non-designated heritage asset of archaeological interest, which is demonstrably of equivalent significance to a scheduled monument. The archaeological remains at Claxby are assessed in detail in 'Change and Continuity: Rural Settlement in North West Lincolnshire', Everson et al, 1991.

The reduction of a former medieval village to the basic structure of a church, large house and outbuildings, and former rectory, all surrounded by fields, landscaped parkland or gardens with associated archaeological remains, is a classic form of reduced settlement and this historic ensemble of heritage assets forms a key part of the significance and setting of the Church of St Mary, Claxby House, and the surrounding historic and archaeological landscape.

In our view the proposed scheme will cause harm to the setting and significance of the Church of St Mary and Claxby House. The proposed scheme will introduce a substantial new building into the open areas and fields around the detached, shrunken, former medieval settlement at the end of St Mary's Lane. This will, in principle and in practice, destroy the intrinsic, historic character of a settlement that has been reduced to its core elements of church, large house and outbuildings, former rectory, and surrounding fields with important archaeological remains. We note that consent was granted by your authority for a dwelling of similar scale on the adjoining site to the south, and on which we provided advice, having judged that proposal to constitute unjustified harm.

In our view the proposed dwelling would be a further consolidation of modern development, which would dilute the important sense of detachment of this group of historic buildings from the main part of the village of Claxby, which is key to experiencing and understanding the significance of the medieval settlement.

We consider that the proposal would result in harm to the significance of those assets described above. We do not believe that the harm is justified,

nor do we consider that the proposal provides public benefit that would outweigh the harm that would result.

Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 184, 192, 194, 196 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Further representation received on the 13/02/2019 (re-consultation of the amended plans): We note the additional information that has been submitted and have no further comments to add to our earlier consultation response of 28 January 2019.

Trees and Landscaping: There is a PRow bridleway running past the site across its southerly end, from Claxby Lane to Mulberry Road to the east. This is outside the site and crosses the access drive to the adjacent property, so it should not be directly affected by the proposals, but the development would be an intrusion into the views and local character of this area for the users of the PRow. Therefore, if the proposals are granted permission then a scheme of soft landscaping should be required to reduce the impact of the development on the surrounding area.

The band of TPO trees along the easterly side of the site no longer exist. Area A1 of TPO Claxby 1981 originally contained a row of hardwoods and softwoods. The species and numbers were not specified in the TPO, but there was a large sycamore at the SE end near the PRow bridleway, a long row of pines running parallel with the rear/easterly site boundary, and a large ash tree near the NE corner of the site. These all had consent in May 2013 to be removed for various tree health and structure related reasons, with a condition that 11 specific replacement trees were planted following removal of the original trees. These were sourced but not planted due to planning applications on the site. For the current planning application on the land, if consent is granted for development of the site there should be a scheme of landscaping to include at least 11 new trees, which is the number that was conditioned in the TPO decision.

Various trees are shown on the site layout plan with information down the side of the plan, however, the plan does not indicate which species of tree is to be planted in which position – this should be clarified. The trees are specified as bare-rooted, extra-heavy standards. Extra-heavy trees would be susceptible to transplanting stress and at greater risk of failure than smaller trees. Bare-rooted trees of this size in particular will require careful transporting, storage, planting, and good aftercare due to their risk of dying. Bare rooted trees

greater than 14cm girth should be supplied root-wrapped or root-balled to minimise risk of tree death.

I have no objections to development of the site in relation to its impact on existing trees and hedges, but any new development should allow sufficient space for adequate soft landscaping for important screening and softening of any built structures in this location. A scheme of soft landscaping should be required. Any tree failures within 5 years of planting should be replaced with trees of the same species, form and size.

Further representation received on the 27/02/2019 (re-consultation of the amended plans):

Proposals for soft landscaping: Please also refer to my earlier comments dated 30th January 2019. The revised site layout plan has rotated the dwelling and repositioned the proposed new planting. The new planting also now shows what tree species would be planted in which position and the composition of intended hedges. The information on the 'proposed plan', drawing number LDC2308-PL-03A is suitable.

Potential effect on any trees or hedges on or near the site: Please also refer to my earlier comments dated 30th January 2019.

Conclusion: I have no objections to the proposals in terms of its impact on trees and hedges. If planning permission is granted, the decision should include a condition requiring the landscape scheme to be implemented within a specified time frame.

Archaeology: No archaeological impact and no objections or comments to make on the proposed amendment.

Relevant Planning Policies:

Planning law² requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the relevant development plan is the Central Lincolnshire Local Plan, adopted in April 2017.

Central Lincolnshire Submitted Local Plan 2012-2036. The following policies are considered to be particularly relevant:

LP1: A Presumption in Favour of Sustainable Development
LP2: The Spatial Strategy and Settlement Hierarchy
LP13: Accessibility and Transport
LP14: Managing Water Resources and Flood Risk
LP17: Landscape, Townscape and Views
LP25: The Historic Environment

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

LP21: Biodiversity and Geodiversity
LP26: Design and Amenity
LP55: Development in the Countryside

Neighbourhood Plan

No neighbourhood plan currently in preparation, or that could be taken into consideration.

National Guidance

National Planning Policy Framework (NPPF) (February 2019)
National Planning Practice Guidance (NPPG)

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

Listed Buildings Statutory Duty

[Section 66](#) of the Planning (Listed Buildings and Conservation Areas) Act 1990, places a statutory duty upon the local planning authority:

“66(1) In considering whether to grant planning permission... for development which affects a listed building or its setting, the local planning authority... 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.”

Statutory Duty regarding the Area of Outstanding Natural Beauty (AONB)

Section 85(1) of the Countryside and Rights of Way Act 2000 places a general duty that:

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

<http://www.legislation.gov.uk/ukpga/2000/37/contents>

Other Material Guidance:

Lincolnshire Wolds AONB Management Plan 2018-2023

<https://www.lincswolds.org.uk/looking-after/lincolnshire-wolds-aonb-management-plan>

National Planning Practice Guidance on the Natural Environment³ states that:

³ <https://www.gov.uk/guidance/natural-environment>

“ Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area. As part of this, local planning authorities and neighbourhood planning bodies should have regard to management plans for National Parks and Areas of Outstanding Natural Beauty, as these documents underpin partnership working and delivery of designation objectives... National Parks and Areas of Outstanding Natural Beauty management plans may also be material considerations in making decisions on individual planning applications, where they raise relevant issues. (Paragraph: 004 Reference ID: 8-004-20140306)

Main issues

- Principle of Development
- Residential amenity
- Listed Buildings
- Visual Impact and effect on AONB
- Archaeology
- Foul and Surface Water Drainage
- Ecology
- Garden Space
- Trees and Landscaping
- Public Right of Way
- Highway Safety and Car parking

Assessment:

Principle of Development

The application site is located to the west and south of the main built footprint of Claxby which is a small village, and to the east of St. Mary's Lane which is a single track road. There is evidence of hardstanding at the front of the site (adjacent to St. Mary's Lane) that was a car park connected to The Public House (see planning history) which used to operate from 'The Coach House' to the south of the site. Roughly one half of the site towards the eastern boundary of the site is earth/grass with the other half of the site on the western boundary by St Mary's Lane being compacted hardcore and mud from the past use as a car park. It is considered that the site has blended back into the landscape, and would no longer meet the NPPF definition of "previously developed land". The site is considered to be greenfield and could easily revert back to a grass field as it was prior to the car park.

Policy LP2's definition of 'developed footprint' specifically excludes "*individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement*". The site is clearly detached from the rest of the settlement with open fields to the north, west and east of the site and is considered to be located outside the developed footprint, and in the countryside.

Planning policy at local and national level seeks to prevent the establishment

of isolated dwellings (this site is considered to be physically separated from the main built footprint of Claxby) in the countryside except where the nature and demands of the work connected make it essential for one or more persons engaged in the enterprise to live at, or very close to, the site of their work.

The term “isolated dwellings” has, for planning purposes, been the recent subject of a Court of Appeal⁴ judgment. The Court upheld an earlier High Court Judgment⁵ in which Mrs Justice Lang observed that *“isolated”* should be given its ordinary objective meaning of *“far away from other places, buildings or people; remote”*

The NPPF states that rural housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Paragraph 79 of the NPPF states that Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside.

Policy LP55 of the Central Lincolnshire Local Plan (CLLP) states that planning permission for new dwellings in the countryside will only be acceptable where they are essential to the effective operation of rural operations listed in category 8 of Policy LP2 such as development that is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services; renewable energy generation or minerals or waste development. No evidence has been provided to demonstrate that the proposed dwelling would fall within any of the specified categories of development that would be appropriate in this location.

The accompanying Design & Access Statement states that *“the proposed dwelling will be constructed by John Kinch Builds on behalf of Mr Darren Drury and Ms Melissa Forster.”*

It states that *“[Ms Forster] has very fond memories of growing up in this pleasant Lincolnshire village alongside her siblings and numerous foster children and it is for this reason that she wishes to build a new home close to her parents for her own family.”*

It states that Ms Forster’s parents have fostered children for many years, and that [Ms Forster] *“wishes and to carry on the work of her parents when they retire and this proposal will enable her to work from home with vulnerable and*

⁴ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610 Case Number: C1/2017/3292

⁵ Braintree District Council v Secretary of State for Communities and Local Government & Ors. [2017] EWHC 2743 (Admin)

disadvantaged parents and their babies. The dwelling has been specifically designed to meets the needs and aspirations of [Mr Drury and Ms Forster] and will provide a pleasant environment for their current family and future foster children.”

However, this use and need conflicts with policy as it does not fall within any of the specified categories of development outlined above that would be appropriate in this location. There are also numerous properties for sale on Rightmove (as of the 14/03/2019) in a three mile radius of the site either within small villages in the countryside or within Market Rasen the nearest market town (the centre of which is only 3.5 miles from the site) which would be suitable for fostering children.

Whilst it is understood that it may be desirable for the landowner to want a purpose-built new dwelling within proximity of Claxby, planning law is concerned only with the regulation of land in the public interest. Planning permission runs with the land and not with an individual (unless the permission otherwise provides).

As national Planning Practice Guidance⁶ clearly sets out:

Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. *There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.*

A condition used to grant planning permission solely on grounds of an individual’s personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, *but might, for example, result from enforcement action which would otherwise cause individual hardship (emphasis added).*

The application seeks planning permission for a dwelling within the countryside, outside of the developed footprint of Claxby. It is not demonstrably essential for the effective operation of a countryside use, and does not meet any of the criteria set out within policy LP2. It does not meet the criteria for new dwellings permitted within the countryside in the criteria, set under policy LP55 part D.

⁶ [Paragraph: 015 Reference ID: 21a-015-20140306](#), National Planning Practice Guidance on the Use of Planning Conditions

These policies are consistent with national policy on rural housing within the NPPF (paragraphs 77-79) and can be attached full weight.

The principle of development therefore cannot be supported as the proposal is located within the countryside and conflicts with the NPPF and Policy LP2 and LP55 of the Central Lincolnshire Local Plan.

Residential Amenity

Local Plan Policy LP26 states that planning permission will be granted for new development provided the proposal will not adversely affect the residential amenity of neighbouring properties by virtue of overlooking, overshadowing, loss of light or over dominance.

The application site has no neighbouring residential dwellings apart from to the south of the site. This dwelling was given permission under application 128344. However, the two dwellings are approximately 45 metres apart with the position of openings on the south elevation of the proposed property and the north elevation of the property built under application 128344 giving no rise to residential amenity concerns.

Therefore it is considered that the proposed dwelling will not have a significant harmful impact on the living conditions of neighbouring dwellings, and would be compliant with policy LP26 in this respect. This is consistent with paragraph 127 of the NPPF.

Listed Buildings

In respect of Listed Buildings, The Local Planning Authority has a statutory duty to '*...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.*'

The site is located to the north of a small group of buildings which are detached from the rest of the village. This group of dwellings includes Claxby House (Grade II Listed) and the Grade I Listed Church of St. Mary's. The proposal would infill this greenfield site and add to the built development in this countryside setting. An objection has been received from Historic England (which is further endorsed by the Conservation Officer) which states that 'In our view the proposed scheme will cause harm to the setting and significance of the Church of St Mary and Claxby House. The proposed scheme will introduce a substantial new building into the open areas and fields around the detached, shrunken, former medieval settlement at the end of St Mary's Lane. This will, in principle and in practice, destroy the intrinsic, historic character of a settlement that has been reduced to its core elements of church, large house and outbuildings, former rectory, and surrounding fields with important archaeological remains. We note that consent was granted by your authority for a dwelling of similar scale on the adjoining site to the south, and on which we provided advice, having judged that proposal to constitute unjustified harm. In our view the proposed dwelling would be a further consolidation of modern development, which would dilute the important sense of detachment

of this group of historic buildings from the main part of the village of Claxby, which is key to experiencing and understanding the significance of the medieval settlement.'

The proposal has been amended in line with the advice offered by the Conservation Officer on the plans as originally submitted. However, this advice was only offered to try and minimise the harm if the planning authority is otherwise minded to disregard the advice from the Government's advisor on heritage matters (Historic England). Following the submission of amended plans Historic England re-iterate their objection to this proposal. The Conservation Officer also states 'the objection in principle to a dwelling in this location is still my recommendation in respect of the proposed development, and I would reiterate all of my concerns sent by email to you on 20 January 2019 about the inappropriateness of developing this site in such a sensitive setting.'

Chapter 16 of the NPPF – Conserving and Enhancing the Historic Environment paragraph 194 states that a designated heritage asset can be harmed through development within its setting. The proposed dwelling would be a further consolidation of modern development, which would dilute the important sense of detachment of a group of historic buildings from the main part of the village of Claxby, which is key to experiencing and understanding the significance of the medieval settlement.

Harm to the setting of nearby heritage assets has been identified, both by Historic England and the Conservation Officer.

The Council has a statutory duty to "*have special regard to the desirability of preserving the [listed] building[s] or its setting*".

The proposed development would fail to preserve the setting of surrounding heritage assets.

The proposal is deemed to have a harmful impact on the setting of nearby Listed Buildings and is deemed to be contrary to the NPPF and Policy LP17, LP25 and LP26 of the Central Lincolnshire Local Plan.

Visual Impact and effect on AONB

The Council has a statutory duty⁷ that:

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

The Lincolnshire Wolds AONB Management Plan (2018-23) was adopted in April 2018. The production of five yearly management plans is a statutory duty

⁷ Section 85(1) of the Countryside and Rights of Way Act 2000

for all local authorities that have AONBs, or part of an AONB, within their administrative boundaries and one plan must be produced in partnership with other local authorities and relevant statutory bodies.

The proposed development relates to the erection of one large two storey five bed house with its principal elevation facing north and its rear elevation facing south. A detached double garage is proposed in the north eastern corner of the site with an access drive off St. Mary's Lane with off road car parking and a turning area.

This substantial dwelling is considered to be inappropriate for its setting and would infill this greenfield site and add to the built development in this countryside setting. This increase in density would begin to create/or strengthen a ribbon type character (to the dwellings found in the main built foot print of Claxby to the north of the site) which would be contrary to the rural character of this location. Therefore, a new dwelling here would be contrary to the NPPF and Policy LP17 and LP26 of the Central Lincolnshire Local Plan.

Paragraph 172 of the NPPF states that *'Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.'*

The proposal would be located in the Lincolnshire Wolds AONB and would block the far reaching views you gain from St.Mary's Lane of the wider Wolds beyond the site (to the east). The dwelling would also harm views taken from Mulberry Road which will affect the views of the historic group of buildings, namely the Grade I Listed Church, Claxby House (Grade II), the former coach house of Claxby House, and the Old Rectory.

It is therefore considered that this proposal would harm the natural beauty of this landscape and would be contrary to the NPPF and Policy LP17, LP25 and LP26 of the Central Lincolnshire Local Plan.

Archaeology

It is Historic England's view that the buried and standing archaeological remains on this site are a non-designated heritage asset of archaeological interest, which is demonstrably of equivalent significance to a scheduled monument. The archaeological remains at Claxby are assessed in detail in 'Change and Continuity: Rural Settlement in North West Lincolnshire', Everson et al, 1991. The Historic Environment Officer at Lincolnshire County Council has stated that no archaeological input is required. However, if it was minded to grant permission more discussion would take place with Lincolnshire County Council and if necessary a condition could be attached to the permission requiring the developer to undertake a scheme of archaeological monitoring and recording.

Foul and Surface Water Drainage

The application states that the main sewer will dispose of foul sewerage with surface water being dealt with through a soakaway. If permission were to be granted a condition could be attached to the decision notice requiring that no development shall take place until details of a scheme for the disposal of foul and surface water from the site (including the results of soakaway/percolation tests) have been submitted to and approved in writing by the local planning authority. A condition could also be attached to the decision notice requiring that any hardstanding shall be constructed from a porous material and be retained as such thereafter or shall be drained within the site.

LCC Highways and Lead Local Flood Authority also state that the site is within an area at risk from surface water flooding and recommends that a Flood Risk Assessment (FRA) is submitted. In the event of this application being determined for approval an FRA would be required.

Ecology

The NPPF (paragraph 170) requires the planning system to conserve and enhance the natural environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. Policy LP21 of the Central Lincolnshire Local Plan requires that an ecological assessment is undertaken if any development could have an adverse effect on sites with designated features and / or protected species.

The overgrown site has been cleared prior to an ecological survey being undertaken by Scarborough Nixon (Dated December 2018). The report found that precautionary measures are required to ensure there is no adverse impacts on great crested newts or foraging/commuting bats. Some further measures and ecological enhancements are recommended to ensure legal compliance and no net loss to biodiversity. The precautionary measures and the ecological enhancements recommended can be conditioned if it is minded to grant planning permission.

Garden Space

The development sits on a relatively large plot for a five bedroomed detached property and it is considered that there is an acceptable amount of private amenity space.

Trees and Landscaping

There is a Tree Preservation Order on the eastern half of the site and a laurel hedge fronting St. Mary's Lane, and trees on the northern boundary of the site.

The TPO trees were removed from the site a few years ago but there was a subsequent condition requiring a number of replacement trees. The Tree and Landscape Officer states that if consent is granted for development of the site through this application then there should be a scheme of landscaping to include at least 11 new trees, which is the number that was conditioned in the TPO decision and goes on to state the following:

‘Various trees are shown on the site layout plan with information down the side of the plan, however, the plan does not indicate which species of tree is to be planted in which position – this should be clarified. The trees are specified as bare-rooted, extra-heavy standards. Extra-heavy trees would be susceptible to transplanting stress and at greater risk of failure than smaller trees. Bare-rooted trees of this size in particular will require careful transporting, storage, planting, and good aftercare due to their risk of dying. Bare rooted trees greater than 14cm girth should be supplied root-wrapped or root-balled to minimise risk of tree death.

I have no objections to development of the site in relation to its impact on existing trees and hedges, but any new development should allow sufficient space for adequate soft landscaping for important screening and softening of any built structures in this location. A scheme of soft landscaping should be required. Any tree failures within 5 years of planting should be replaced with trees of the same species, form and size.’

Further comments were provided by the Tree and Landscape Officer following the submission of amended plans ‘please also refer to my earlier comments dated 30th January 2019. The revised site layout plan has rotated the dwelling and repositioned the proposed new planting. The new planting also now shows what tree species would be planted in which position and the composition of intended hedges. The information on the ‘proposed plan’, drawing number LDC2308-PL-03A is suitable.’

If it was minded to grant permission a condition would be attached to the decision notice requiring a landscaping scheme to be implemented within a specified time frame.

However, it is considered that the proposed position of the trees (two are proposed close to the northern boundary and the rest are shown on the western, eastern and southern boundaries of the main garden which is to the south of the proposed dwelling.

The proposed position of the trees will provide little screening and softening of the proposed dwelling, but due to the size of the house and the space between the dwelling and the western and eastern boundaries there is limited space for tree planting to screen and soften these elevations. A beech hedge (with black metal railings) is proposed to the front (west) elevation of the dwelling, with a native hedge proposed to the rear (east) elevation of the property. This would only provide low level screening of this substantial house.

It is considered that the proposed landscaping scheme will fail to soften the impact of this substantial dwelling especially when viewed from Mulberry Road which will affect the setting and views of the historic group of buildings, namely the Grade I Listed Church, Claxby House (Grade II), the former coach house of Claxby House, and the Old Rectory and when viewed from the

Public Rights of Way to the south (ClxW/105/1) and to the west (ClxW/94/1) of the site.

It is therefore considered that this proposal would harm the natural beauty of this landscape and would be contrary to the NPPF and Policy LP17 of the Central Lincolnshire Local Plan.

Public Right of Way

There are Public Rights of Way to the south (ClxW/105/1) and to the west (ClxW/94/1) of the site. The proposed dwelling is located approximately 33 metres to the north of the right of way to the south with the other right of way running down St. Mary's Lane. The proposed access to the dwelling is located close to the northern boundary of the site and the plot is also relatively large and it is considered that construction could be undertaken which does not obstruct the public right of way or cause inconvenience to the users of the public right of way. It is therefore considered that the proposed dwelling and detached garage would not be significantly detrimental to existing users and potential future users of the nearby Public Rights of Way.

However, as explained above views from these public rights of way of the Lincolnshire Wolds and the Historic Group of buildings including the Grade I Listed Church would be affected.

Highway Safety & Car Parking

Access will be taken off St. Mary's Lane with a double garage, off street parking and a turning area to be provided. Lincolnshire County Council Highways do not object to this proposal but recommend two conditions (relating to a specification for the proposed vehicular access and the submission of a Flood Risk Assessment). If it is minded to grant permission these conditions and informatives will be attached to the decision notice.

Conclusions and reasons for decision:

In summary the proposal is recommended for refusal as the site is located in the countryside and therefore the principle of development cannot be supported. This substantial dwelling is inappropriate for its setting and would infill this greenfield site and add to the built development in this countryside setting. This increase in density would begin to create/or strengthen a ribbon type character (to the dwellings found in the main built foot print of Claxby to the north of the site) which would be contrary to the rural character of this location.

The site is located to the north of a small group of buildings which are detached from the rest of the village. This group of dwellings includes Claxby House (Grade II Listed) and the Grade I Listed Church of St. Mary's and a non-designated heritage asset (earthworks monument) considered by Historic England to be of national importance. The proposed dwelling would be a further consolidation of modern development, which would dilute the important sense of detachment of this group of historic buildings from the main part of the village of Claxby, which is key to experiencing and understanding the

significance of the medieval settlement. This application has therefore been deemed to have a negative impact on the setting of nearby Listed Buildings. The proposed landscaping scheme will fail to soften the impact of this substantial dwelling on these heritage assets and the AONB.

Recommendation:

The decision has been considered against policy LP1: A Presumption in Favour of Sustainable Development, LP2: The Spatial Strategy and Settlement Hierarchy, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk, LP17: Landscape, Townscape and Views, LP25: The Historic Environment, LP21: Biodiversity and Geodiversity, LP26: Design and Amenity and LP55: Development in Hamlets and the Countryside of the Central Lincolnshire Local Plan in the first instance and the guidance contained in National Planning Policy Framework and National Planning Practice Guidance and against Section 66 of the Planning (Listed Building and Conservation Area) Act 1990. The application has been refused for the following reasons:

1. This greenfield site is clearly detached from the rest of the settlement with open fields to the north, west and east of the site and is considered to be located in the countryside. Policy LP55 of the Central Lincolnshire Local Plan (CLLP) states that planning permission for new dwellings in the countryside will only be acceptable where they are essential to the effective operation of rural operations listed in category 8 of Policy LP2 such as development that is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services; renewable energy generation or minerals or waste development. No evidence has been provided to demonstrate that the proposed dwelling would fall within any of the specified categories of development that would be appropriate in this location. The principle of development therefore cannot be supported as the proposal is located within the countryside and conflicts with the NPPF and Policy LP2 and LP55 of the Central Lincolnshire Local Plan.
2. The proposal is a large two storey five bed dwelling with its principal elevation facing west and its rear elevation facing east. A detached double garage is proposed in the north eastern corner of the site with an access drive off St. Mary's Lane with off road car parking and a turning area. This substantial dwelling is inappropriate for its setting and would infill this greenfield site and add to the built development in this countryside setting. This increase in density would begin to create/or strengthen a ribbon type character (to the dwellings found in the main built foot print of Claxby to the north of the site) which would be contrary to the rural character of this location. Therefore, a new dwelling here would be contrary to the NPPF and Policy LP17 and LP26 of the Central Lincolnshire Local Plan.
3. The proposal would be located in the Lincolnshire Wolds AONB and would block the far reaching views you gain from St.Mary's Lane of the

wider Wolds beyond the site (to the east). The dwelling would also harm views taken from Mulberry Road which will affect the views of the historic group of buildings, namely the Grade I Listed Church, Claxby House (Grade II), the former coach house of Claxby House, and the Old Rectory and a non-designated heritage asset (earthworks monument) considered by Historic England to be of national importance. It is therefore considered that this proposal would harm the natural beauty of this landscape and would be contrary to the NPPF and Policy LP17 of the Central Lincolnshire Local Plan.

4. The site is located to the north of a small group of buildings which are detached from the rest of the village. This group of dwellings includes Claxby House (Grade II Listed) and the Grade I Listed Church of St. Mary's and a non-designated heritage asset (earthworks monument) considered by Historic England to be of national importance. The proposed dwelling would be a further consolidation of modern development, which would dilute the important sense of detachment of this group of historic buildings from the main part of the village of Claxby, which is key to experiencing and understanding the significance of the medieval settlement. This application has therefore been deemed to have a negative impact on the setting of nearby Listed Buildings and is deemed to be contrary to Section 66 of the Planning (Listed Building and Conservation Area) Act 1990, the NPPF and Policy LP25 of the Central Lincolnshire Local Plan.
5. The proposed landscaping scheme will fail to soften the impact of this substantial dwelling especially when viewed from Mulberry Road which will affect the setting and views of the historic group of buildings, namely the Grade I Listed Church, Claxby House (Grade II), the former coach house of Claxby House, and the Old Rectory and a non-designated heritage asset (earthworks monument) considered by Historic England to be of national importance and when viewed from the Public Rights of Way to the south (ClxW/105/1) and to the west (ClxW/94/1) of the site. It is therefore considered that this proposal would harm the natural beauty of this landscape and would be contrary to the NPPF and Policy LP17 of the Central Lincolnshire Local Plan.