

Officers Report

Planning Application No: 141550

PROPOSAL: Planning application for removal of existing dwelling and erection of 1no. dwellinghouse with associated access alterations, vehicle parking and landscaping.

LOCATION: Rosemary Villa 30 Wragby Road Lincoln LN2 2QU

WARD: Sudbrooke

WARD MEMBER(S): Cllr Waller

APPLICANT NAME: Mr Vaddaram

TARGET DECISION DATE: 16/10/2020

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Martin Evans

RECOMMENDED DECISION: Approve subject to conditions.

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

Description:

This is an application for planning permission for demolition of the existing dwelling and erection of a dwelling (use class C3) with associated access alterations, vehicle parking and landscaping.

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

The proposed dwelling features ground floor living area, separate kitchen/diner and car underpass, with five en-suite bedrooms on the first floor. The second floor contains a cinema room, games room, children's play room, fitness room and study as well as three WC's. The roof is part pitched and part flat. It is approximately 8.3m to ridge height and 11.6m wide with a 0.75m gap to the common boundary with 28 Wragby Road along which it is proposed to erect a new 2m high acoustic panel fence, decreasing to 1m to the front of the property.

Proposed materials for walls are red facing brickwork and through coloured render. Proposed roofing materials are dark grey eternit thrutone artificial slates. Windows and door to be dark grey upvc/aluminium.

A streetscene elevation is submitted showing the proposal in context with the two dwellings adjacent.

It is proposed to erect a rear outbuilding containing two garage parking spaces/storage and two car port spaces. The building would have a ridge height of 5m with external finishing materials to match the main dwelling.

The proposed block plan shows the existing vehicular access from the A158 widened to 5.6m and a driveway and front garden to the front of the proposed dwelling. An underpass through the dwelling would provide access to a rear driveway and the aforementioned outbuilding.

Garden beyond the rear parking spaces would be retained as would the existing hedge to the eastern and southern boundaries. It is proposed to drain surface and foul water to main sewer.

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

Relevant history:

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

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

The proposal has unacceptable design principles as it would harm the coherent group of four dwellings and would discord with the character of the area. The proposal would not function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; would not be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; would not be sympathetic to local character and history, including the surrounding built environment and landscape setting, and would not amount to appropriate innovation or change; would not establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; and would not create places that are safe, inclusive and accessible and which promote

health and well-being, with a high standard of amenity for existing and future users. Therefore, the proposal is not sustainable development and is contrary to Policies LP1, LP13a, LP18 and LP26 of the Central Lincolnshire Local Plan and Paragraph 127 a to d and f of the National Planning Policy Framework.”

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

“Accordingly, the main issues in this case are:

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

On the first issue, the Inspector concluded:

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

On the second issue, the Inspector concluded:

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

On the third issue, the Inspector concluded:

“16. The appeal proposal includes four parking spaces to the front of the building and four to the rear which would be accessed by a

passageway through the building and alongside the common boundary with No 28. An outdoor patio to the rear of the property and rear garden area would also be provided.

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

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

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

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

Representations:

Cllr Waller:

"I would like this "called in" to the planning committee. Whilst I appreciate the new regulations may allow a HMO at a later date, I would like the committee the opportunity to discuss this fully and our residents having the opportunity to see we have gone through the full process."

Sudbrooke Parish Council:

"Sudbrooke Parish Council has been unable to meet formally and agree a corporate response to the above. However available individual Councillors have been contacted by me for their views and those who are in a position to comment have no objections, but ask that neighbours comments be taken into consideration when determining the application."

Residents:

Residents of Fairwoods, 26 Wragby Road; Lismore, 29 Wragby Road; 21 Station Road; Golden Acre, 16 Scothern Lane, Sudbrooke object (summary):

- It will be used as a House of Multiple Occupation (HMO)/air bnb. What would prevent use as a HMO?
- No different from previous application
- Same size as last application
- Previous reasons for refusal given by planning committee apply
- Harm to coherent group of four dwellings and character of the area
- Planning Inspectors reasons for dismissing the appeal apply to this application- conflict with LP26 and NP Policy 9 via adverse noise for neighbours
- Noise and disturbance from vehicles moving to rear of the property and multiple occupiers would make more frequent journeys than just one family. Impact on peace and enjoyment of neighbours gardens
- Parking should be to the front of the dwelling instead of to the rear
- No neighbouring property uses back garden for parking
- Noise assessment is incorrect that a neighbour has a rear garage- this is a gym
- Conflicts with Sudbrooke Neighbourhood Plan as it fails to protect the amenity of neighbouring occupiers and create well connected and attractive outdoor areas
- Noise assessment mentions HMO use
- Inappropriate area for the proposal
- The number of vehicle movements each day will be dangerous
- It will be run with the applicants property opposite causing cumulative HMO problems that are out of character with the area
- It will overpower next door neighbours
- Impact on public right of way

WLDC Environmental Protection Officer:

"I would have no objection to the new proposal as a dwelling (class C3), I would consider that the development would sit in the Lowest Observed Adverse Effect Level category (as there is potential for some reported sleep

disturbance) and that to mitigate and reduce disturbance to a minimum the proposed acoustic fence along the boundary with 28 would be beneficial.”

LCC Highways:

No objection and recommends informatives regarding dedicating footways to the highway authority and works within the highway.

LCC Public Right of Way Officer:

“The Definitive Map and Statement shows Definitive Footpath (Sudbrooke) No.129 in the vicinity of the site although this would not appear to affect the proposed development..... 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”

Relevant Planning Policies:

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

Development Plan

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

Relevant policies of the CLLP include:

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

Policy LP1: A Presumption in Favour of Sustainable Development

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP4: Growth in Villages

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP17: Landscape, Townscape and Views

Policy LP26: Design and Amenity

- **Sudbrooke Neighbourhood Plan (SNP)**

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

Relevant policies of the NP include:

Policy 7: Public Rights of Way

Policy 9: Local Design Principles

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

Lincolnshire Minerals and Waste Local Plan

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

Core Strategy and Development Management Policies

- Site locations

No relevant policies.

National policy & guidance (Material Consideration)

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

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

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

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

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

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

Main issues

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

Assessment:

The principle of development

The proposal is for a replacement dwellinghouse (use class C3), not a house in multiple occupation (HMO- sui generis use) as was previously proposed under application 140180.

CLLP policy LP2 designates Sudbrooke a medium village, stating:

"5. Medium Villages

*Unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support****, the following applies in these settlements:*

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

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

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

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

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

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

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

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

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

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

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

The proposal entails a replacement dwelling. This accords with the requirement for a limited amount of development of up to 9 dwellings. This is considered an appropriate location as defined because a replacement dwelling would retain the core shape and form of the settlement and there is considered to be no harm to the character of the area nor that of surrounding countryside. This is reinforced by the aforementioned findings of the Inspector on that matter of character impacts for a proposal with extremely similar built form (but not use). The latest Monitoring of Growth in Villages table dated 24/09/20 available on the Council's website shows the 10% growth in Sudbrooke has been met and exceeded. However, the proposal is not for an additional dwelling but a replacement dwelling. There will be no net increase in the number of dwellinghouses, meaning the requirement for clear local community support is not engaged. The proposal entails development of brownfield land in an appropriate location within the developed footprint of Sudbrooke making this a sequentially preferable site for development.

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

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

Design and visual impact

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

architectural style; use appropriate high quality materials which reinforce local distinctiveness.

Section 12 of the NPPF seeks to achieve well-designed places. Paragraph 124 states “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve”. Paragraph 127 requires policies and decisions ensure developments function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. LP26 is consistent with section 12 of the NPPF in requiring well designed places. It is therefore attributed full weight.

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

Please note all reference to the SNP is taken from the referendum version because the final version is not yet on the Council’s website.

Policy 9 states:

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

1. In relation to site context:

a) the proposal responds positively to the specific character area as identified within the Sudbrooke Character Assessment, the local distinctiveness and form of its surroundings;

b) key views of village, as identified within the Sudbrooke Character Assessment, and the important landscape views, as identified on figure 16, should be safeguarded. Development proposals should demonstrate that they will not have an unacceptable adverse impact on the views listed 1-11.

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

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

b) protects the amenity of neighbouring occupiers; and

c) creates well-connected and attractive outdoor areas

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

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

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

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

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

Relevant sections of the Sudbrooke Character Assessment state:

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

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

The proposal responds well to site context as it does not harmfully affect the openness on the southern side of Wragby Road or visibility to the countryside beyond, nor does it impact on the public right of way itself. The proposal has a part hipped roof. It does have a section of flat roof although this would not be obvious in the surrounding area and it does not feature a tall red brick chimney stack. The proposal does feature two storey bay windows with front facing gables and it is set slightly back from the road. The front garden would mostly become a driveway/parking area but would remain open in character with the front acoustic fence height reducing to 1m. It is noted the front of 24 Wragby Road is partly enclosed by a large fence. The proposal respond positively to the Wragby Road character area 5 of the Sudbrooke Character Assessment.

The proposal is not within any key views identified in the SNP. Despite this, the site is in a conspicuous location as it is visible in both directions along Wragby Road and from the public right of way to the east and south. There is little landscaping on the site to soften these views. Whilst the proposal is larger than the existing dwelling its overall scale is not considered to be so large and incongruous as to be in conflict with relevant policies LP17 and LP26. The streetscene elevation and other drawings show the proposal is in keeping with the scale of development in this cluster of four dwellings with the resulting landscape and townscape impacts being acceptable. The site design, layout and access proposed entails a building on broadly the same part of the site, albeit with a larger footprint. The front elevation remains in line with 28 Wragby Road and would continue to face the road. Residential amenity impacts are discussed below. Outdoor areas provide some remaining garden with retained hedgerow and tree but is mostly car driveway/parking. The proposal is larger than the existing dwelling but the overall scale, height, form, massing, style, detailing and use of materials (subject to condition) are considered appropriate to the area. The streetscene elevation shows the proposed building height and bulk reflects adjacent properties and the use of render is a feature of 24, 26 and 28 Wragby Road. Some landscaping would be retained as part of the proposal. The rear outbuilding reflects the character of the proposed main dwelling with the same finishing materials. It would be screened from the front of the proposed dwelling but would be visible from the public right of way and the main road to the east. However, the outbuilding is of a scale that would appear appropriate in this context.

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

Impact on residential amenity

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

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

The submitted drawings demonstrate that whilst the proposal projects to the rear of number 28 it would not extend beyond the 45 degree line drawn from the closest rear facing first floor bedroom window. The rear projection is not considered to be harmful.

The Inspectors findings, as quoted above, regarding harm to the residential amenities of the occupiers of 28 Wragby Road by virtue of noise and disturbance are critical. The Inspector considered the impact of a large HMO with 8 rooms to generate noise and disturbance harmful to amenity because of the potential vehicle movements to the side and rear of the property through the underpass and the impact this would have on neighbouring side windows and the enjoyment of their rear garden. The Inspector also raised issue with the use of a rear patio area. There are multiple references to the intensity of the use compared to the impacts arising from use as a family dwelling house.

The proposed use as a 5 bedroom single dwellinghouse is, by its nature, less intense than a large HMO with 8 bedrooms and the associated individual lifestyle patterns and movements to and from the property, particularly by vehicle. It would accommodate a single household, rather than a number of individual households.

The applicant had a noise assessment carried out for the previously proposed large HMO after the appeal decision was issued. Whilst this makes various references to that large HMO use, it can still be used as a reference for noise levels.

The NPPF 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.”

The PPG states;

“How can noise impacts be determined?

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

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

whether or not an adverse effect is occurring or likely to occur; and

whether or not a good standard of amenity can be achieved.

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

Paragraph: 003 Reference ID: 30-003-20190722

What are the observed effect levels?

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

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

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

Although the word ‘level’ is used here, this does not mean that the effects can only be defined in terms of a single value of noise exposure. In some circumstances adverse effects are defined in terms of a combination of more than one factor such as noise exposure, the number of occurrences of the noise in a given time period, the duration of the noise and the time of day the noise occurs.

See the noise policy statement for England for further information.

Paragraph: 004 Reference ID: 30-004-20190722”

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

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

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

“2.22 It is not possible to have a single objective noise-based measure that defines SOAEL (Significant Observed Adverse Effect Level) that is applicable to all sources of noise in all situations. Consequently, the

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

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

The Council’s EPO was advised of the appeal decision, the current proposal and the noise assessment. The following response was received:

“I would have no objection to the new proposal as a dwelling (class C3), I would consider that the development would sit in the Lowest Observed Adverse Effect Level category (as there is potential for some reported sleep disturbance) and that to mitigate and reduce disturbance to a minimum the proposed acoustic fence along the boundary with 28 would be beneficial.”

The table, guidance and comments above makes clear the less intensive noise generated by this proposal compared to the large HMO sits between the LOAEL (Lowest Observed Adverse Effect Level) and SOAEL (Significant Observed Adverse Effect Level) where the requirement is to take all reasonable steps to mitigate and minimise adverse effects on health and quality of life. The proposed acoustic fence represents beneficial mitigation. The Council’s EPO raises no objections to the proposal. The front driveway/parking area is not considered to be harmful. Car fumes and headlight disturbance are not considered harmful.

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

The proposed building layout is conducive to future use as a house in multiple occupation (HMO) within Use Class C4 - being a small shared house occupied by up to six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

Changing the use of a dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) by not more than six residents, is permitted

development by virtue of Government Order¹. Consequently, should the applicant / future owner wish to change the use of the building from a dwellinghouse (use class C3) to a HMO (for up to six persons) under use class C4 at a later date, they could do so, without requiring the local planning authority's permission.

In light of the Inspector's decision to dismiss a large (more than six residents) HMO due to noise and disturbance issues arising from the nature of this use it is necessary to consider whether these permitted development rights should be removed via condition on the grant of planning permission for the current proposal.

Planning Practice Guidance states:

“Is it appropriate to use conditions to restrict the future use of permitted development rights or changes of use?”

Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The local planning authority also has powers under article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to enable them to withdraw permitted development rights across a defined area, where justified.

Paragraph: 017 Reference ID: 21a-017-20190723”

It is considered necessary to remove these permitted development rights because it is reasonable to ensure future consideration of the impact any use as a house in multiple occupation within Use Class C4 would have on the residential amenities of occupiers of adjacent dwellings by virtue of noise and disturbance, a concern within this location that has previously been identified by a Government Planning Inspector.

Consequently, a proposed change to a HMO, would thereafter require an application for planning permission to the Local Planning Authority, and ensure appropriate scrutiny is given to the effect upon neighbouring amenity, prior to any permission being given.

It is therefore recommended that planning permission be granted with a condition to withdraw the current “permitted development” otherwise allowed

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class L

under Part 3 Class L (small HMOs to dwellinghouses and vice versa) of the Order.

Impact on highway safety

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

The vehicular access to the site would be widened to 5.6m to allow two vehicles to pass on another. A total of four car parking spaces are proposed in the application form although more could be accommodated within the front and rear garden parking areas including the outbuilding. LCC Highways raises no objection to the proposal.

Despite objections received, the proposal is considered to provide suitable access, parking and turning arrangements in a location that would not result in harm to highway safety and convenience. The impact on highway safety is acceptable in accordance with Policy LP13.

Flooding and drainage

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

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

Conclusion and recommendation

Replacing the existing dwelling with a dwelling accords with Policies LP2 and LP4 and is acceptable in principle. Whilst the design is larger than the existing dwelling it is considered to comply with the Sudbrooke Neighbourhood Plan and character assessment as well as Central Lincolnshire Local Plan Policies LP17 and LP26 regarding design and landscape and townscape impacts. The proposal will result in an acceptable impact on the residential amenities of the occupiers of adjoining residents in accordance with Policy LP26. The type and

level of traffic generated and the access, turning and parking arrangements on site are considered not to harm highway safety and convenience and comply with Policy LP13. Final details of foul and surface water drainage can be secured via condition. The proposal is considered to comply with the development plan and NPPF. It is recommended that planning permission is granted subject to the following conditions:

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

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

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

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

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

WRA030-EL1 Rev 01

WRA030-PE1 Rev 01

WRA030-PE2 Rev 01

WRA030-PF1 Rev 01

WRA030-PF2 Rev 01

WRA030-PS1 Rev 01

WRA030-PG1 Rev 01

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

4. The vehicular access amendments, vehicular access through the building, parking and turning space shown on drawing WRA030-PS1 Rev 01 shall be provided before occupation of the dwelling and shall be retained for such use in perpetuity.

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

5. The acoustic fence to the western boundary, the location of which is shown on drawing number WRA030-PS1 Rev 01, shall be installed prior to occupation of the development and shall be retained whilst the dwelling is in use.

Reason: To mitigate the impact of the parking arrangements on residential amenity of adjacent occupiers in accordance with Policy LP26 of the Central

Lincolnshire Local Plan.

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

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

7. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 3, Class L or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be used as a house in multiple occupation as defined by Use Class C4 of The Town and Country Planning (Use Classes) Order 1987 (as amended) or any Order revoking and re-enacting that Order unless planning permission has first been granted by the Local Planning Authority.

Reason: In order to allow consideration of such a use on the residential amenities of local residents by virtue of issues such as noise and disturbance in accordance with Policy LP26 of the Central Lincolnshire Local Plan and Policy 9 of the Sudbrooke Neighbourhood Plan.

Informatives

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

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. For approval and specification details, please contact vehiclecrossings@lincolnshire.gov.uk

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

Where a footway is to be constructed on private land, that land must be dedicated to the Highway Authority as public highway.

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