Officers Report
Planning Application No: 142542

PROPOSAL: Planning application to erect 3no. dwellings.

LOCATION: Land off 72 Scothern Road Nettleham Lincoln LN2 2TX
WARD: Nettleham
WARD MEMBER(S): Cllr G McNeill, Cllr Mrs A White
APPLICANT NAME: Miss Emma Truelove

TARGET DECISION DATE: 12/05/2021
DEVELOPMENT TYPE: Minor - Dwellings
CASE OFFICER: Daniel Evans

RECOMMENDED DECISION: That the decision to grant planning permission subject to conditions be delegated to Officer's upon the completion and signing of an agreement under section 106 of the Planning Act 1990 (as amended) pertaining to:-

1. A capital contribution of £1,897.50 to the Council towards capital infrastructure for health services necessary to serve the development.
2. A capital contribution of £68,919 to the Council towards off-site affordable housing.

And, in the event of the s106 not being completed and signed by all parties within 6 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 6 months.

This application has been referred to the planning committee in view of the objections from the Parish Council who consider that the application proposes development that would be contrary to the made Nettleham Neighbourhood Plan.

Description:
The application site is located within the development site now known as Cricketers' Walk, off Scothern Road, Nettleham.

The site is currently under construction with permission granted for 68no. dwellings and associated infrastructure. To the north-west and west of the site are existing residential properties with houses to Scothern Road and bungalows to High Leas and Highfields. Properties to High Leas in particular have short gardens. A public footpath also exists to the boundary of the rear gardens of 23 – 34 High Leas. To the east and south are agricultural fields.

The application seeks permission to erect 3no. dwellings. The 3no. dwellings proposed would be visually and functionally incorporated into the wider development site. For clarity, this application is not an amendment to the previous permission, and is in addition to, which would result in 71 dwellings total

Relevant history:

Application Site History

W65/33/80 – Residential Development. Permission refused 15/02/80.

W65/1191/89 – Outline application for residential development. Permission refused 27/04/90 Appeal dismissed 01/03/91.

131975 – Outline planning application to erect 68 dwellings – 10 affordable – including open space provision, associated garages and infrastructure and footpath cycleway link to Sudbrooke – layout and scale to be considered and not reserved for subsequent applications. Permission granted 14/03/17

136312 – Planning to erect 68 dwellings with associated garages and infrastructure and footpath/cycleway link to Sudbrooke. Permission refused 12/08/17

136900 – Application for a non-material amendment to previously approved outline application 131975 granted 14 March 2017 – amendments to layout. Granted 31/10/17

137106 – Application for approval of reserved matters (appearance and landscaping) to erect 68 dwellings – following outline planning permission 131975 granted 14 March 2017. Permission granted 22/03/18

139085 – Application for non-material amendment to planning permission 131975 and 137106 granted 14 March 2017 – Amendment to plots 1, 2, 3, 4, 11, 12, 13 and 14 and changes to the site plan. Granted 29/03/19

139351 – Application for non-material amendment to planning permission 131975 granted 14 March 2017 – amendment to plots 19-23 inclusive and site plan. Planning permission required 14/05/19

140292 – Planning application to vary condition 1 of reserved matters approval 137106 (erect 68 dwellings considering appearance and landscaping granted 22 March 2018) – variation of plots (4, 5, 10, 19, 23, 26 & 68) to include alterations to housing designs, relocation of houses and garages on plots together with provision of substation at plot 19. Permission granted 08/07/2020

140640 – Planning application to vary condition 19 of outline planning permission ref. 131975 granted 14 March 2017 (as amended by 139998 approved on 7 November 2019) (erect 68no. dwellings-10no. affordable including open space provision, associated garages and infrastructure and footpath cycleway link to Sudbrooke considering layout and scale) – variation of plots (4, 5, 10, 19, 23, 26 & 68) to include alterations to housing designs, relocation of houses and garages on plots together with provision of substation at plot 19. Permission granted 08/07/2020

141487 – Application for non-material amendment to planning permission

131975 granted 14 March 2017 – amendment to boundary locations. Part granted-part refused 04/09/20.

141843 – Outline planning application to erect 68no. dwellings-10no. affordable-including open space provision, associated garages and infrastructure and footpath cycleway link to Sudbrooke-layout and scale to be considered and not reserved for subsequent applications - being variation of condition 19 of planning permission 131975 granted 14 March 2017 (as amended by 140640 granted 8th July 2020) - amended plans to change position of plots 15, 16, 17, 18 and 26, change house types of plots 5, 10, 15, 16 and 17 and include conservatories on plots 20-23. Granted January 2021.

142448 – Application for non-material amendment to planning permission 141843. Granted 10/03/2021.

142609 – Application for non-material amendment to planning permission 141843 – Granted 08/04/2021.

Other Relevant History
Neighbourhood Plan Site C - 138494 and Appeal ref APP/N2535/W/19/3233948 - Outline planning application for erection of up to 63no. dwellings with garages, access roads, footpaths and open space-access to be considered and not reserved for subsequent applications. Granted subject to condition restricting development to max 50no. dwellings. Appeal allowed – in summary the inspector found that the condition limiting development to 50no dwellings was both unreasonable and unnecessary. **A copy of this appeal decision is provided at Appendix A.**

Representations:
Ward Member:
No representations received to date.

Nettleham Parish Council:
Planning permission has already been granted for 68 houses on this site, an additional 3 will take this to 42% uplift on the number for the site stated in the Nettleham Neighbourhood Plan and the CLLP ie 50 max. We believe this increase should be rejected as it will have a negative impact on the housing density and general spacious ambiance of the development.

Local residents:
Objections received from the following properties:
1 Midway Close Nettleham, 2 The Steepers Nettleham, 34 Greenfields Nettleham, 41 High Street Nettleham, 54 Scothern Road Nettleham, 68 Scothern Road Nettleham, 24 Highfields Nettleham.

Comments summarised as follows:

- We live in a village not a town.
- There is too much development on the site already.
- The wildlife corridors will be affected.

- The highway network cannot cope with more cars.
- The development is contrary to the neighbourhood plan.
- If this is granted more applications will be applied for.
- The infrastructure cannot cope.
- Approval of this application would make a mockery of the planning application process.
- A line has to be drawn here to state 68 was approved and that is all that can be built.

LCC Highways & Lead Local Flood Authority:
Please condition a vertically opening garage door for Plot 19A due to the driveway length only being 5m deep.

LCC Rights of Way Team:
No representations received to date.

NHS England:
(in summary)
Additional financial contribution requested of £1,897.50.

LCC Education:
(in summary)
Having reviewed our current projections, there is projected to be sufficient capacity in the locality for one additional child at the present time so no ask would be attracted.

There is no need for additional education contributions from the extra 3 dwellings.

WLDC Strategic Housing:
Based on the previous application on this site being or 68 dwellings, this application for 3 dwellings on a larger site will trigger an affordable housing contribution based on policy LP11 which states:

> "If a development scheme comes forward which is below these thresholds and thus does not require the provision of affordable housing, but the scheme is followed by an obviously linked subsequent development scheme at any point where the original permission remains extant, or up to 5 years following completion of the first scheme, then, if the combined total of dwellings (or floorspace) provided by the first scheme and the subsequent scheme/s provide 11 or more dwellings (or 1,000 sqm or more floorspace), then Policy LP11 as a whole will be applied, with the precise level of affordable housing to be provided being 'back dated' to include the earlier scheme(s)."

This means the additional three dwellings will trigger an affordable housing contribution. LP11 requires 25% affordable housing to be delivered on sites within the Lincoln Strategy area where this site is located.

A 25% requirement would equate to 0.75 units of affordable housing to be delivered. Our preference is for on-site delivery which would be one unit. However, due to the contribution requiring only 0.75 of a unit, on this occasion, an off-site contribution in lieu of 0.75 units could be provided should the developer wish to. The current commuted sum for off-site contributions in the Lincoln Strategy area is £91,892, this would equate to an off-site contribution of £68,919 for this application.

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 Nettleham Neighbourhood Plan (made March 2016); 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:
LP1: A Presumption in Favour of Sustainable Development
LP2: The Spatial Strategy and Settlement Hierarchy
LP3: Level and Distribution of Growth
LP10: Meeting Accommodation Needs
LP11: Affordable Housing
LP12: Infrastructure to Support Growth
LP13: Accessibility and Transport
LP14: Managing Water Resources and Flood Risk
LP17: Landscape, Townscape and Views
LP21: Biodiversity and Geodiversity
LP26: Design and Amenity
LP52: Residential Allocations - Large Villages

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

Relevant policies of the NP include:
Policy D-3 Parking Provision (New Housing)
Policy D-4 Water Resources and Flood Risk
Policy D-6 Design of new development
Policy H-1 Managed Housing Growth
Policy H-4 The provision of Affordable Housing
Policy H-6 Site B Land off Scothern Road

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

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

National policy & guidance (Material Consideration)

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

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

Main issues

- **Principle of Development**
- **Affordable Housing**
- **Infrastructure**
- **Character and Visual Impact**
- **Residential Amenity**
- **Highway Safety and Parking and Public Right of Way**
- **Other matters**

Assessment:

Principle of Development

CLLP policy LP2 categorises Nettleham as a tier 4 large village. Policy LP2 outlines that Nettleham will be a focus for accommodating an appropriate level of growth to maintain and enhance its role as a large village which provides housing, employment, retail, and key services and facilities for the local area. Most of this growth will be via sites allocated in the CLLP, or appropriate infill, intensification or renewal within the existing developed footprint.

The application site falls within the wider development site which is allocated under Policy LP52 under reference CL4661 (4.42 hectares) for an indicative 68 dwellings. The 3no. dwellings proposed would be visually and functionally assimilated into the wider development site. Therefore, for the purposes of this assessment, the development is considered cumulatively with the permission for the wider site. In total, allocated sites in Nettleham are identified to deliver an indicative 237 dwellings.

Policy H-1 of the NNP states, in reference to the four allocated sites in the plan area, that they will each be restricted to a yield of 50 homes ***"unless it***

can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community and also that their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings". Policy H-6 of the NNP is specific to the application site (Site B in the NP). It states an allocation of 'approximately 50 dwellings' subject to the retention and strengthening of the existing footpath (FP149), creation of a 15m planting buffer along the south eastern and eastern boundary, retention of a minimum of 50% of the mature trees and hedgerow that runs in a south-easterly direction from the eastern end of High Leas, appropriate safeguarding of the archaeological features, the formation of safe and convenient cycle and vehicular access and allotment provision.

The indicative capacity within the NP allocation (50no.) differs from the CLLP allocation (68no.). The CLLP was adopted on 24th April 2017, this plan consequently postdates the NP which was formally 'made' in March 2016. As part of the development plan its policies post-date and can take precedence over the NP, where there is any conflict within the policies (s38(5) of the Planning & Compulsory Purchase Act 2004).

The supporting text of the CLLP at Paragraph 10.2.1 states that the indicative numbers of dwellings for each site are used to demonstrate how the overall housing requirement can be met, and it is emphasised that these numbers are only 'indicative' and do not represent a fixed policy target for each individual site.

In addition, Paragraph 10.2.2 states that developers are encouraged to produce the most appropriate design-led solution, taking all national policies and other CLLP policies into account, in arriving at a total dwelling figure for their site, and they need not be constrained by the figure that appears in the column headed 'indicative dwelling figure' in the relevant table of, in this case, Policy LP52.

Although an indicative 237 dwellings are planned for in Nettleham, the development plan is clear that this figure is not a maximum. Policy LP2 is clear that other windfall sites such as appropriate infill, intensification or renewal within the existing developed footprint are permitted together with development in appropriate locations outside of, but immediately adjacent to, the developed footprint where exceptional circumstances can be demonstrated. Whilst this part of the policy relates to non-allocated sites, it indicates that additional growth in a village beyond that indicated for allocated sites would potentially accord with the overall spatial strategy.

Overall, it is evident that the housing figures outlined for each of the allocated sites are not rigid maximums, and the policies of the NP in particular clearly set out circumstances where more than the indicative number may be acceptable. These are:

- Where it can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community; and,

- Where their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings.

Given the incorporation of the 3no dwelling within the site layout, it would not be readily discernible whether there were 68 or 71 dwellings on the site. The dwellings would be viewed in the context of the wider development scheme, making more efficient use of the site, which consequently would be satisfactorily incorporated into the surrounding topography and landscape, in accordance with Policy H-1. The proposed dwellings would utilise the house types already proposed on site and there would be no harm the character and appearance of the area.

The Parish Council have concerns that the proposed dwellings will have a negative impact on the housing density and general spacious ambiance of the development.

The gross allocated development land area is detailed within the NP is 4.8ha. Based on the presumed developable area at 75% (as calculated within the CLLP Residential Allocations Evidence Report April 2016[1]), the area of land that can reasonably be expected to be developed for housing is 3.6ha. A total of 71 dwellings located on a site of 3.6ha would result in a density of 19.72 dwellings per hectare (dph).

The supporting text for Policy D-6 of the NP advises that a figure of 20dph was used to set a bench mark for maximum density for future development.

Therefore, the wider site, when considered cumulatively with the proposed additional 3no. dwellings, would provide 71no. dwellings in total, at an overall approximate density of 19.72 dph. Consequently, the proposed density falls within the bench mark maximum density advised within the NP.

It is therefore considered that the proposed additional 3no dwellings would not lead to an overly dense or cramped arrangement on site, when considering the advice contained within the NP.

The Parish Council objection states that the "additional 3 will take this to 42% uplift on the number for the site stated in the Nettleham Neighbourhood Plan and the CLLP i.e. 50 max". However, the development plan does not place a maximum restriction of 50 dwellings. Paragraph 10.2.2 of the CLLP is clear that:

> *"Developers are encouraged to produce the most appropriate design-led solution, taking all national policies and other Local Plan policies into account, in arriving at a total dwelling figure for their site, and they need not be constrained by the figure that appears in the column headed 'indicative dwelling figure'.*

[1] https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library/

And policy H-1 of the NP is clear that the sites will each be restricted to a yield of 50 homes *"unless it can be demonstrated that their numbers can be satisfactorily incorporated…"*

This policy interpretation was tested thoroughly at appeal by a Government Inspector, when planning permission was granted for 'site C' The Hawthorns. The applicant sought to appeal the imposition of a condition that restricted the number of dwellings to 50 (WLDC ref 138494; appeal ref APP/N2535/W/19/3233948) (See Appendix A). The Inspector allowed the appeal and found the condition to be both unreasonable and unnecessary. The Inspector was clear:

> *"it is my judgement that the stated allocations within Policies LP52, H-1 and H-7 are not to be treated as absolute maximums and that there is flexibility built into the relevant policies, including those of the NNP, that set out circumstances where delivery of more dwellings than indicated would nevertheless accord with the overall spatial strategy, provided relevant criteria are met, in particular those of Policies H-1 and H-7."*

To conclude, it is considered that the proposal has demonstrated that the proposed additional 3no. dwellings can be satisfactorily incorporated into the community and also that the proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings. The proposal is therefore deemed to accord with policy LP2 and LP52 of the CLLP and policies H1 and H7 of the NP and is acceptable in principle.

It is considered that policies LP1, LP2, LP52, H-1 and H7 are consistent with the sustainability and housing growth guidance of the NPPF and can be attached full weight.

<u>Affordable Housing</u>

Policy LP11 of the CLLP seeks to deliver 17,400 affordable dwellings across Central Lincolnshire. Policy H4 of the NP also seeks to deliver the provision of affordable housing.

Whilst a development of 3no units would not typically meet the thresholds for providing affordable housing, this proposal is being assessed cumulatively with the wider development site against policy LP11. In this regard, policy LP11 advises that where a scheme is followed by an obviously linked subsequent development scheme at any point where the original permission remains extant, then Policy LP11 as a whole will be applied. This development is visually and functionally connected to the wider development site and therefore is subject to the cumulative requirements of LP11.

Affordable housing shall be provided on-site, unless it can be demonstrated that exceptional circumstances exist which necessitate provision on another site, or the payment of a financial contribution to the relevant local planning

authority (equivalent in value to it being provided on-site), to enable the housing need to be met elsewhere.

In this instance, given that 25% affordable housing would equate to 0.75 of a dwelling, it is considered reasonable to accept an off-site capital contribution. This approach is supported by the WLDC Strategic Housing Team.

It is considered that, subject to such a S106 planning obligation, the development will accord with policy LP11.

It is considered that policy LP11 is consistent with the chapter 5 of the NPPF and can be attached full weight.

Infrastructure

Policy LP12 of the CLLP requires there to be sufficient infrastructure capacity to support and meet all the necessary requirements arising from the proposed development.

The Local Education Authority (LEA) has confirmed that there is projected to be sufficient capacity in the locality for one additional child at the present time. As such, the LEA have not requested any additional contribution as a result of this proposal.

NHS England seek a capital contribution of £632.50 per dwelling, to create additional capacity for the 156 patients expected to be generated by this development (cumulatively with the wider development site). The surgery most likely to be affected is Nettleham Medical Practice. The applicant has agreed to meet this contribution, which will need to be secured through a S106 planning obligation.

It is considered that, subject to such a S106 planning obligation, development will accord with policy LP12.

Character and Visual Impact

Policy LP26 seeks to ensure development respects the existing topography, landscape character and identity, and relates well to the site and surroundings, particularly in relation to siting, height, scale, massing, form and plot widths. Policy LP17 seeks to protect and enhance the intrinsic value of our landscape and townscape.

Policy D-6 of the NP sets out a number of design criteria aimed to preserve and enhance the village. In meeting the requirements of policy D-6, proposals should reflect existing residential densities in the locality and reinforce the local character of the village. The Village Design Statement advises that, amongst other local criteria, buildings should reflect design styles and features such as walls, doors, windows and roofs of other nearby houses.

The dwellings proposed will reflect housing types already used on the site. Plot 19A will consist of the ‘Butterwick’ property and plots 24A and 24B will

consist of the ‘Pembrey’ house type. The ‘Butterwick’ house type is a two-storey, 4 bedroom property and the ‘Pembrey’ house type is a two-storey, 3 bedroom property. All three properties will also include a detached garage.

The design of these properties has been found to be acceptable by virtue of the granting of permission for the wider development site. Accordingly, the use of similar house types would accord with the established character of the development site. As stated previously, given the incorporation of the 3no dwelling within the site layout, it would not be readily discernible whether there were 68 or 71 dwellings on the site. The dwellings would be viewed in the context of the wider development scheme, making more efficient use of the site and would not harm the character and appearance of the area.

Overall, the design is appropriate and the proposed dwellings will integrate into the streetscape. The proposal therefore complies with policy LP26 and LP17 of the CLLP and policy D-6 of the NP.

It is considered that policy LP17 and LP26 are consistent with the design, character and visual amenity guidance (Chapter 12) of the NPPF and can be attached full weight.

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 is adjoined by residential properties to the north, east and south, as such, the impact on neighbouring dwellings is an important consideration.

The proposed dwellings would retain similar separation distances to the neighbouring properties which surround the site. Overall, the additional 3no dwellings will not contribute to undue loss of privacy, over and above the levels experienced on site.

Within the site itself, the house designs and proposed window positions avoid significant overlooking issues and the proposal offers an adequate amount of outside amenity space for modern standards of living for all of the proposed dwellings.

Overall, it is concluded that the development would not have an unduly adverse impact upon the amenities of neighbouring properties, and would accord with the Local Plan, particularly policy LP26, in this regard.

It is considered that policy LP26 is consistent with the residential amenity guidance of the NPPF and can be attached full weight.

Highway Safety, Parking and Public Right of Way

Policy LP13 requires well designed, safe and convenient access for all and that appropriate vehicle parking provision is made for development users.

The 3no proposed dwellings will utilise access points to the existing highway network which is proposed for the site. Each dwelling will contain a detached garage and parking area, which is consistent with the approach adopted across the wider development site. The parking arrangements accord with policy D-3 of the NP.

It is noted that there are concerns regarding highway capacity raised by third parties however, it is considered that a cumulative development of 71 dwellings would not suddenly be harmful in comparison to the approved development of 68 dwellings. The addition of 3 further dwellings would not be expected to result in a severe residual cumulative effect on the road network (severe being the test under NPPF paragraph 109). The Highway Authority have not raised concerns relating to highway capacity or any other safety matters. The NPPF indicates that permission should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It is considered that there would not be an unacceptable effect on highway safety by virtue of the 3no. dwellings proposed and the proposal accords with policy LP13.

In addition to this, the proposed development would not impact on the provision or functions of the public right of way network.

It is considered that policy LP13 is consistent with the highway safety guidance (paragraph 109) of the NPPF and can be attached full weight.

Other matters

Drainage – The application has confirmed that the proposed dwellings will utilise the proposed drainage system which is being implemented for the wider development site. This approach is considered to be both reasonable and acceptable.

Conclusion

The proposal has been considered in light of relevant development plan policies namely LP1: A Presumption in Favour of Sustainable Development, LP2: The Spatial Strategy and Settlement Hierarchy, LP3: Level and Distribution of Growth, LP10: Meeting Accommodation Needs, LP11: Affordable Housing, LP12: Infrastructure to Support Growth, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk, LP17: Landscape, Townscape and Views, LP21: Biodiversity and Geodiversity, LP26: Design and Amenity and LP52: Residential Allocations - Large Villages of the Central Lincolnshire Local Plan and policies D-3 Parking Provision (New Housing), D-4 Water Resources and Flood Risk, D-6 Design of new development, H-1 Managed Housing Growth, H-4 The provision of Affordable Housing and H-6 Site B Land off Scothern Road of the Nettleham Neighbourhood Plan in the first instance as well as the National Planning Policy Framework and National Planning Practice Guidance.

In light of this assessment it is considered that the proposed development will satisfactorily incorporate into the wider development site and is an appropriate location for housing within an allocated housing site. The design is appropriate and the development would not detrimentally impact the character of the area nor the living conditions of neighbouring residents. The proposal will not result in an adverse impact on flood risk in the wider area or for future occupants. No harm would arise to highway safety or the provision of the right of way network.

Therefore, it is recommended that the application be delegated back to Officer's, to determine the application in accordance with the given resolution, following completion and signing of an agreement under section 106 of the Planning Act 1990 (as amended) pertaining to:-

1. **A capital contribution of £1,897.50 to the Council towards capital infrastructure for health services necessary to serve the development.**
2. **A capital contribution of £68,919 to the Council towards off-site affordable housing.**

And, in the event of the s106 not being completed and signed by all parties within 6 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 6 months.

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

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

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

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

None.

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

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

Site Plan: TL016-SL-15
Plot 19A: TL016-BU-20
Plot 24A and 24B: TL016-PE-SP
Garages: TL-SGD-01, TL-SGD-03.

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

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and policy LP17 and LP26 of the Central Lincolnshire Local Plan.

3. The materials used in the development shall match those stated within the following document: MATERIAL SCHEDULE-22.2.21.

Reason: To ensure the use of appropriate materials to accord with the National Planning Policy Framework and Policy LP26 of the Central Lincolnshire Local Plan.

4. The proposed garage doors for Plot 19A only, as shown on drawing TL-SGD-03 shall be vertical opening only.

Reason: In the interests of highway safety in accordance with policy LP13 of the Central Lincolnshire Local Plan and the National Planning Policy Framework.

5. The proposed foul and surface water drainage to serve the hereby approved dwellings shall connect to the foul and surface water drainage infrastructure approved under condition discharge approval 137462.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, ensure future maintenance of the surface water drainage system and to accord with policy LP14 of the Central Lincolnshire Local Plan and the provisions of the National Planning Policy Framework.

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

None.

Appendix A – Appeal decision (APP/N2535/W/19/3233948) relating to Neighbourhood Plan 'Site C' The Hawthorns.

The Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2019 **by K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/N2535/W/19/3233948 Land off the Hawthorns, Nettleham, Lincoln

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by J Dixon, J Gauke, J Pickwell and J Pickwell against the decision of West Lindsey District Council.
- The application Ref 138494, dated 17 October 2018, was approved on 5 July 2019 and planning permission was granted subject to conditions.
- The development permitted is outline planning application for erection of up to 63 no. dwellings with garages, access roads, footpaths and open space-access to be considered and not reserved for subsequent applications.
- The condition in dispute is No 12 which states that: The development shall comprise of a maximum of fifty dwellings.
- The reason given for the condition is: To preserve the character of the area and to integrate with the adjoining built residential form and to protect residential amenity to accord with the National Planning Policy Framework, local policies LP2, LP10, LP17, LP26 and LP52 of the Central Lincolnshire Local Plan 2012-2036 and policies H-1 and H-7 of the Nettleham Neighbourhood Plan.

Decision

1. The appeal is allowed and the outline planning permission Ref 138494, for

FW_ Planning Inspectorate APP_P02 erection of up to 63 no. dwellings with garages, access roads, footpaths and open space-access to be considered and not reserved for subsequent applications, at Land off the Hawthorns, Nettleham, Lincoln, granted on 5 July 2019 by West

Lindsey District Council, is varied by deleting Condition No 12 and its replacement with the following condition:

12) The development shall comprise of a maximum of sixty three dwellings.

Application for costs

2. An application for costs was made by J Dixon, J Gauke, J Pickwell and J Pickwell against West Lindsey District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appeal site address above is taken from the appeal form, as the address given on the application form was insufficient to identify the site without resorting to grid references.

Background and Main Issue

4. Planning permission was granted by the Council in July 2019 for the residential development of the site, following consideration of the proposal by the Council's Planning Committee. The officer's report recommended approval of the proposal, which sought up to 63 dwellings on the site, with recommended Condition No 12 limiting the number of dwellings to 63. The Planning Committee voted to approve the application with this condition amended to limit the development to 50 dwellings. That condition is now under appeal.

5. The reason given for the imposition of the condition on the Council's decision notice is 'to preserve the character of the area and to integrate with the adjoining built residential form and to protect residential amenity.' The appellants object to the imposition of the condition on the grounds that it unreasonably restricts the development of an allocated site, contrary to the principles of sustainable development and which reduces the benefits that can be delivered.

6. Taking this background into account, I consider that the **main issue** is whether the condition is necessary and reasonable, having regard to relevant development plan policies relating to the delivery and location of housing, the effect on the character and appearance of the area and the effect on living conditions of neighbouring occupants.

Reasons

Policy Context

7. The appeal site is located to the northern side of the settlement of Nettleham, near Lincoln, comprising parts of two agricultural fields accessed from the end of the cul-de-sac of the Hawthorns, a residential street.

8. The relevant development plan documents for the area are the Central Lincolnshire Local Plan 2012-2036 (April 2017) (the CLLP) and the Nettleham Neighbourhood Plan 2014-2031 (2016) (the NNP). The CLLP sets out a spatial strategy for the District. Policy LP1 sets out the desire to deliver sustainable growth that brings benefits for all sectors of the community. Policy LP2 sets out the settlement hierarchy for the district. Policy LP3 sets out a housing target to deliver some 36,960 dwellings between 2012 and 2036, an average annual target of 1,540 dwellings. The supporting text at paragraph 3.3.3 states that the housing target should not be seen as a ceiling, but rather the level of growth which is both needed and anticipated to take place in the plan period.

9. Under Policy LP2, Nettleham is listed under Category 4 – Large Villages, in which most growth will be via sites allocated in the CLLP, or appropriate infill, intensification or renewal within the existing developed footprint. The appeal site is allocated under Policy LP52 under reference CL4662 (2.79 hectares) for an indicative 50 dwellings. In total, allocated sites in Nettleham are identified to deliver an indicative 237 dwellings.

10. The supporting text of the CLLP at Paragraph 10.2.1 states that the indicative numbers of dwellings for each site are used to demonstrate how the overall housing requirement can be met, and it is emphasised that these numbers are only 'indicative' and do not represent a fixed policy target for each individual site. It is well-established that a development plan allocation sets out the principle of the specific land-use, with exact details to be determined through development management processes. It is no different in this case and it is clear to me that the allocation number is intended to set general parameters for development which would accord with the overall spatial strategy, rather than setting rigid targets.

11. In addition, Paragraph 10.2.2 states that developers are encouraged to produce the most appropriate design-led solution, taking all national policies and other CLLP policies into account, in arriving at a total dwelling figure for their site, and they need not be constrained by the figure that appears in the column

headed 'indicative dwelling figure' in the relevant table of, in this case, Policy LP52. The minutes of the Planning Committee meeting on 9 January 2019 where the application was considered make it clear that this explanatory text was referred to by both the appellant's representative and the planning officers present.

12. Policy LP2, under Large Villages, also sets out that in exceptional circumstances (which are a matter for the decision maker), additional growth on nonallocated sites in appropriate locations outside of, but immediately adjacent to, the developed footprint of these large villages might be considered favourably, provided they are at a scale of less than 25 dwellings per hectare. Whilst this part of the policy relates to non-allocated sites, it indicates that additional growth in a village beyond that indicated for allocated sites would potentially accord with the overall spatial strategy.

13. Policy H-1 of the NNP states, in reference to the four allocated sites in the plan area, that they will each be restricted to a yield of 50 homes unless it can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community and also that their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings. Policy H-7 of the NNP is specific to the appeal site (Site C in the NNP). It states an allocation of 'approximately 50 dwellings' subject to achieving satisfactory vehicular access, a design and layout which safeguards residential amenities of existing properties, and provision of a footpath across the site. I note that the site is identified in the NNP as being approximately 3.5 hectares rather than 2.79 hectares in the CLLP, but with the same indicative number of dwellings. The appellant states that the actual area is 3.09 hectares.

14. On my reading of these policies and the supporting text, it is evident that the housing figures outlined for each of the allocated sites are not rigid maximums, and the policies of the NNP in particular clearly set out circumstances where more than the indicative number may be acceptable. Moreover, there is flexibility in the policies of both the CLLP and NNP, and notwithstanding the differences in site area, they are largely consistent in their approach. These policies are recently adopted, have been formulated in light of the guidance of the Framework and found to be sound. They are consistent with the Framework in planning positively for a significant boost in housing.

15. The Council argues that developing the site for 50 dwellings would result in 273 additional dwellings in Nettleham when permissions already granted and other allocations in the CLLP are taken into account, which exceeds the 237 set out in the CLLP allocations. This would also be more than the circa 250 dwellings which would equate to the anticipated 12-15% growth for Nettleham outlined by the CLLP and NNP. However, the number of dwellings already granted demonstrates that the Council is prepared to countenance delivery of housing beyond the numbers expressed in the CLLP and NNP, in line with the flexibility of the relevant policies. This is borne out by the fact that permissions have been granted on allocated sites A and B[2] in NNP which are similarly indicated to deliver approximately 50 dwellings, but which were granted for schemes of 86 and 68 units respectively.

16. Whilst I do not have full particulars of the permissions on sites A and B, both have been approved with more than the 26% uplift on the indicative figure which the Council now argues is a 'substantial over supply' of housing on the appeal site. The Council does not explain why its stance has differed between the applications for Sites A and B and the appeal site, but these other permissions demonstrate that the indicative dwelling numbers have been treated flexibly as allowed for by the aforementioned policies and a higher quantum of development on a site can be permitted without undermining the overall spatial strategy.

17. In this case, layout is a reserved matter and the details presented with the application are indicative; however, they show that 63 dwellings could be delivered on the site at a density of 20 dwellings per hectare (dph), which would accord with the maximum permissible density set out in the NNP, and the size of the site given in the CLLP. Moreover, the Officer's report set out that 20 dph would be comparable with surrounding development, whereas 50 dwellings would either deliver some 16.2 dph based on the appellant's measurement or as low as 14.28 dph based on the site area in Policy H-7. Regardless, the development proposed in this case would be compliant with the Council's own density parameters, and I am not persuaded that there is any justification for limiting the development to 50 dwellings on the basis of density.

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[2] Council Ref 135567 – Land off Deepdale Lane, Nettleham Lincoln LN2 2LT – Granted 8 November 2017
Council Ref 131975 – Land rear of 72 Scothern Road, Nettleham, Lincolnshire LN2 2TX – Granted 14 March 2017

18. I have considered the wider concerns raised by the Council in respect of the total number of dwellings being granted in Nettleham. However, the figures provided by the Council suggest the CLLP allocation number of 237 would be surpassed by the 50 dwelling scheme in any event. Moreover, there is little cogent evidence submitted to demonstrate that the impact of 63 dwellings at the appeal site would be harmful in comparison to that of 50 dwellings. Even accounting for the additional dwellings approved on sites A and B, the total delivery of housing in Nettleham would not be significantly out of step with the village's anticipated growth of the spatial strategy, and an additional 13 dwellings would be limited in the context of the overall delivery of housing in Nettleham. The appellants refer to the annual target of 1,540 dwellings representing a significant increase on the average of 934 dwellings completed between 2012 and 2016 and even the average of 1199 completed between 2008 and 2012. As such, the additional dwellings would assist in achieving the ambitious overall housing targets in place.

19. The Council also cites a potential precedent for increased development across Central Lincolnshire which may lack the necessary infrastructure to support it. I have little evidence before me that such concerns are warranted. Any future applications in other locations will fall to be considered on their own merits against the development plan policies in place at the time. As such, I give limited weight to the Council's concerns in this respect.

20. Taking these considerations together, therefore, it is my judgement that the stated allocations within Policies LP52, H-1 and H-7 are not to be treated as absolute maximums and that there is flexibility built into the relevant policies, including those of the NNP, that set out circumstances where delivery of more dwellings than indicated would nevertheless accord with the overall spatial strategy, provided relevant criteria are met, in particular those of Policies H-1 and H-7. It is to these that I now turn.

Character and appearance

21. As set out above, the 63 dwellings could be laid out at a density of 20 per hectare and would incorporate public open space. Based on the indicative plans, the layout and density of the development would be similar to that of adjacent residential development and I see no reason why it could not integrate with it. Although the northern boundary is presently undefined and would have to be created by dividing the existing fields, the site

would be largely contained in the landscape by residential development to two sides and an existing field boundary to a third. The dwellings would not be seen from the south or west due to the intervening built form, except from the properties immediately adjoining the site, whilst from the north and east, the site would be seen against a backdrop of existing residential development.

22. Given these physical characteristics, it would not be readily discernible whether there were 50 or 63 dwellings on the site and the higher quantum of development could be satisfactorily incorporated into the surrounding topography and landscape, in accordance with Policy H-1, and would not harm the character and appearance of the area. There would be not conflict wither with Policies LP17 and LP26 of the CLLP, which seek high quality sustainable design that contributes positively to local character, landscape and townscape

Living conditions

23. Policy H-7 includes further requirements relating to vehicular access, design and layout which safeguards residential amenities of existing properties, and provision of a footpath across the site. In terms of residential amenities of existing properties, the layout of the dwellings is a reserved matter. However, based on the indicative site plan, it would be possible to provide sufficient separation distances and screening between the proposed dwellings and those adjoining the site, such that there would not be harmful effects on existing occupants in terms of overlooking, outlook, enclosure or noise.

Other considerations

24. The indicative plans show a footpath could be provided as required by Policy H-7. Access was considered under the application and has been approved, to be taken from the end of the cul-de-sac of The Hawthorns. I have had regard to the evidence relating to access and other highway safety matters, including concerns raised by members of the Planning Committee and the representations of interested parties.

25. I note the Local Highway Authority did not raise objection to the proposal on the basis of a 63 dwelling scheme. There is nothing I have seen in evidence to suggest the Council limited the number of dwellings due to specific concern over the capacity of the proposed access or levels of proposed traffic. Though I recognise the local concerns regarding these matters, the Framework indicates

that permission should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The evidence before me does not demonstrate that a development of 63 dwellings would be harmful in comparison to the approved development of 50 dwellings and based on all I have seen and read, I find that there would not be an unacceptable effect on highway safety.

Conclusions on Main Issue

26. Having regard to the above, and taking into account my observations on site, there is no persuasive evidence before me to demonstrate why 63 dwellings would be harmful when 50 dwellings were found to be acceptable. For the reasons set out, I am satisfied that the proposal would represent an acceptable quantum of development which would accord with the overall spatial strategy set out in the CLLP and the site-specific policies of the NNP. Consequently, I find no conflict with Policies LP2 and LP52 of the CLLP or Policies H-1 and H-7 of the NNP.

27. As such, I find that the disputed condition limiting development to 50 dwellings is both unreasonable and unnecessary and so does not meet the tests of conditions set out at Paragraph 55 of the Framework. It should therefore be removed. However, a 63 dwelling scheme would represent the maximum density of development set out in the NNP, and represents the quantum of development which the Council considered. In order to ensure the development is undertaken as proposed and additional dwellings are not sought which may have unanticipated impacts, it is necessary to replace the disputed condition with one defining the maximum development permitted as being 63 dwellings. There is no evidence before me of any need to amend or delete any other conditions of the permission.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed and the planning permission should be varied as set out in the formal decision.

K Savage

INSPECTOR