

# Officers Report

## Planning Application No: 144955

**PROPOSAL:** Outline planning application to erect 3no. bungalows with all matters reserved.

**LOCATION:** Land at Britannia Mill Upton Road Kexby Gainsborough DN21 5NF

**WARD:** Lea

**WARD MEMBER(S):** Cllr Mrs J Milne.

**APPLICANT NAME:** Mr Ron Gore

**TARGET DECISION DATE:** 13/07/2022 (EOT until 11/08/2022)

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** Daniel Evans

**RECOMMENDED DECISION:** Grant Permission Subject to Conditions

---

The application is being referred to the Planning Committee for determination as the planning matters under consideration are deemed to be finely balanced.

### **Description:**

The application site comprises of land to the rear of Britannia Mill, Upton Road, Kexby. The site is currently occupied by an existing large Industrial building used as a Warehouse and Distribution facility by Barrier Healthcare (the Applicant's business).

The site is adjoined by two residential properties to the west, the recreation ground to the north and open (agricultural/paddock) land to the east and south.

The site lies within a minerals safeguarding area and within the Upton/Kexby green wedge.

The application seeks outline permission for 3no. dwelling with all matters reserved for subsequent applications. Matters of access, scale, appearance, layout and landscaping are therefore all reserved for subsequent approval.

### **Relevant history:**

None relevant to the proposal.

### **Representations:**

Chairman/Ward member(s):

None received.

Kexby Parish Council:

We should declare an interest since the proposed development is on land owned by the Chairman of our Parish Council. The other Council members were given the opportunity of a meeting without the Chairman to discuss the proposal but they felt that this was unnecessary as no-one on the Council had any objections.

Local residents:  
None received.

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

Archaeology:  
No impacts.

Idox Checked: 11/07/2022

#### **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); 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

LP4: Growth in Villages

LP10: Meeting Accommodation Needs

LP13: Accessibility and Transport

LP14: Managing Water Resources and Flood Risk

LP17: Landscape, Townscape and Views

LP21: Biodiversity and Geodiversity

LP22: Green Wedges

LP26: Design and Amenity

LP55: Development in the Countryside

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

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

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

<https://www.lincolnshire.gov.uk/planning/minerals-waste>

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 July 2021. Paragraph 219 states:

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

National Planning Practice Guidance -

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

Draft Local Plan / Neighbourhood Plan (Material Consideration)

NPPF paragraph 48 states that Local planning authorities may give weight to relevant policies in emerging plans according to:

- (a) *the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- (b) *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- (c) *the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

- **Central Lincolnshire Local Plan Review Consultation Draft June 2021**

Review of the Central Lincolnshire Local Plan commenced in 2019. The 1st Consultation Draft (Reg18) of the Local Plan was published in June 2021, and was subject to public consultation. Following a review of the public response, the Proposed Submission (Reg19) draft of the Local Plan has been published (16th March) - and this has now been subject to a further round of public consultation which expired on 9th May 2022.

The Draft Plan may be a material consideration, where its policies are relevant. Applying paragraph 48 of the NPPF (above), the decision maker may give some weight to the Reg19 Plan (as the 2nd draft) where its policies

are relevant, but this is still limited whilst extent to which there may still be unresolved objections is unknown.

#### Upton and Kexby Parishes Neighbourhood Plan

Whilst designated as a Neighbourhood Area in November 2019, to date there is no Neighbourhood Plan in circulation. The above NP is not at a stage where it can be afforded any weight.

#### **Main issues**

- **Principle of Development**
- **Green Wedge**
- **Minerals**
- **Other Matters**
  - Residential Amenity
  - Foul and Surface Water Drainage
  - Access, Scale, Appearance, Layout and Landscaping
  - Community Infrastructure Levy

#### **Assessment:**

##### Principle of Development

The proposal seeks to redevelop the site to provide 3no dwellings. The principle of development is guided by policies LP2, LP4 and LP55 which provide guidance in relation to residential development. In addition to this, policy LP5 provides guidance in relation to the loss of a business site.

##### New Dwellings

Kexby is identified as a tier 6 'Small Village' within LP2 of the CLLP. The 'developed footprint' of a settlement is defined within LP2 as "*the continuous built form of the settlement and **excludes:***

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

The application site is an existing business site located off Upton Road. The site is adjoined by two residential properties to the west with agricultural land beyond the highway and the recreation ground to the north. To the east and south of the site are open fields/paddocks. The nearest dwellings to the east are approximately 50m detached from the boundary of the site. It is considered that this site is clearly detached from the continuous built up area of the settlement. Therefore, for the purposes of LP2, the site would be categorised within tier 8 as 'Countryside'.

With reference to tier 8, policy LP2 states that: *“Unless allowed by:*

*a. policy in any of the levels 1-7 above; or  
b. any other policy in the Local Plan (such as LP4, LP5, LP7 and LP57),  
development will be regarded as being in the countryside and as such  
restricted to:*

- that which is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services;*
- renewable energy generation;*
- proposals falling under policy LP55; and*
- to minerals or waste development in accordance with separate Minerals and Waste Local Development Documents.”*

Policy LP55 seeks to guide development in the open countryside across Central Lincolnshire. The proposal is for a new dwelling within the open countryside therefore Part D of Policy LP55 would apply. Part D allows new dwellings in the countryside where they are essential to the effective operation of rural operations listed in policy LP2. Applications should be accompanied by evidence of:

- a. Details of the rural operation that will be supported by the dwelling;*
- b. The need for the dwelling;*
- c. The number of workers (full and part time) that will occupy the dwelling;*
- d. The length of time the enterprise the dwelling will support has been established;*
- e. The ongoing concern of the associated rural enterprise through the submission of business accounts or a detailed business plan;*
- f. The availability of other suitable accommodation on site or in the area; and*
- g. Details of how the proposed size of the dwelling relates to the enterprise.*

*Any such development will be subject to a restrictive occupancy condition.*

No information has been provided within the applicant’s submission which states that the dwelling will be used for a rural operation as above. The application form advises that the proposed development is for 3no. open market dwellings. Therefore, the principle of open market dwellings in this countryside location, conflicts with the policy LP2, LP4 and LP55 of the Central Lincolnshire Local Plan.

#### Loss of Business Site

The site is currently occupied by an existing large Industrial building used as a Warehouse and Distribution facility by Barrier Healthcare (the Applicant’s business). Policy LP5 advises that the conversion and redevelopment of, or change of use from, existing non-allocated employment sites and buildings to non-employment uses will be considered on their merits. Taking account of the employment opportunities in the area; impacts on the character and appearance of the area and residential amenity; and, if it can be demonstrated that the site is inappropriate or unviable for any employment use to continue.

The submission does not directly address the criteria of LP5 however, the applicant has advised that the business will be re-locating to a new building on a larger site on the Somerby Way Industrial Site in Gainsborough. The applicant also advises that the existing building is poorly insulated, expensive to heat and run and cannot be extended or upgraded easily to suit modern business needs.

Although an existing feature within the landscape, the removal of this existing business site would provide significant benefits to the character and appearance of the area. The removal of the business use would also provide some limited benefits to the amenity of neighbouring dwellings and traffic conditions.

Overall, it is considered the proposal would generally conform with the requirements of Policy LP5.

#### Concluding Assessment

The site is clearly detached from the continuous built up area of Kexby and is considered to be in the 'countryside'. The proposal does not demonstrate that there is an essential need for three new dwellings in this countryside location. The principle of open market dwellings in this countryside location conflicts with the policy LP2, LP4 and LP55 of the Central Lincolnshire Local Plan.

To grant permission for the 3no. open market bungalows in this countryside location would represent a departure from the development plan.

In this case the application relates to an existing business site which consists of a large commercial building together with areas of hardstanding, ground mounted solar panels and several smaller ancillary structures.

The existing commercial building is large and very prominent from the north, particularly views across the recreation ground. The proposal would remove this large commercial building from the green wedge and countryside which would be a significant benefit to the character and appearance of the area and the green wedge. This matter weighs in significant favour of the development.

The layout of the 3no. dwellings would be contained within the same footprint as the existing business site. As such, the proposed development would not result, or contribute towards, the physical coalescence between Kexby and Upton. Furthermore, the current business on site is re-locating to a new building on a larger site on the Somerby Way Industrial Site in Gainsborough, an area where future business and investment should be centred.

It is noted that there have been some recent planning applications for residential development to the south of this site which have been refused. The site is materially different from the adjacent undeveloped land as this is a previously developed site and the redevelopment of the site would remove a large commercial building from the green wedge which is considered to be a significant benefit to the character and appearance of the area and the green wedge.

On balance, the proposed benefits of the redevelopment of this previously developed site, notably the removal of the large commercial building, would offer significant benefits to the character and appearance of the area and the green wedge. The benefits are considered to outweigh the conflict identified relating to the principle of 3no. open market dwellings in this countryside location. The development is found to be acceptable in all other regards and the proposal is therefore recommended for approval subject to the conditions set out below.

### Green Wedge

The site lies within the Upton/Kexby green wedge. Policy LP22 states: “*Within the Green Wedges planning permission will not be granted for any form of development, including changes of use, unless:*

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

The Upton/Kexby green wedge serves a function to prevent the coalescence of the two villages.

The application site is contained within the same footprint as the existing business site. As such the proposed development would not result, or contribute towards, the physical coalescence between Kexby and Upton. It is considered that subject to a reserved matters submission, the proposal could comply with policy LP22.

### Minerals

The application site lies within a Sand and Gravel Mineral Safeguarding Area (MSA). Policy M11 of the LMWLP seeks to ensure that developments do not prevent the exploitation of mineral deposits as an economic resource within identified MSAs without adequate justification. Within MSAs proposals for non-minerals development should be accompanied by a Minerals Assessment, unless the development falls within one of the exemptions to the Policy. As the appropriate authority, Lincolnshire County Council should be consulted before any planning approval is given for non-exempt developments in MSAs.

The application site is an existing business site in very close proximity to residential dwellings. Given the scale of the proposed site, it is considered that the proposed development would have a negligible impact on the sterilisation of the mineral resource. The proposal therefore accords with policy M11 of the LMWLP.

- **Other Matters**
  - Residential Amenity

There are residential properties which adjoin the application site to the west. It is considered that three bungalows could be designed and positioned so as

not to harm the living conditions of neighbouring dwellings. Subject to a successful reserved matters application the development could accord with local policy LP26 of the CLLP and the provisions of the NPPF.

- Foul and Surface Water Drainage

The site is in flood zone 1 which is sequentially preferable and therefore meets the test within policy LP14 (and NPPF paragraph 162). The application form states that surface water is proposed to be dealt via a soakaway system. The site is not within an area identified by the Environment Agency as at risk from surface water flooding. It is anticipated that subject to receiving further details, the development will introduce a positive drainage strategy where there currently is the absence of such.

Flood risk, foul and surface water drainage matters are considered acceptable in principle, subject to receiving further details, the scheme accords with policy LP14 of the Central Lincolnshire Local Plan.

- Access, Scale, Appearance, Layout and Landscaping

Details of access, scale, appearance, landscaping and layout cannot be assessed at this stage as they are reserved for subsequent approval.

*Access:*

Planning law requires<sup>1</sup> that *“where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.”*

The application includes an indicative site plan which identifies that the proposed dwellings will be accessed via the existing access into the site. The Highways Authority (HA) have no objection to the proposed access or on highway safety grounds. It is considered that the proposed access arrangements are acceptable in principle. An advice note will be placed on the decision notice in order to make the applicant aware of the highway authority's requirements for access, parking, visibility, turning and layout; as detailed within the Lincolnshire County Council Design Approach and Development Road Specification<sup>2</sup> and DFT Manual for Streets<sup>3</sup>.

*Scale and Appearance:*

Scale and appearance are reserved matters, and the application has not included any indicative elevation plans or sketches at this stage. There is a mixture of property styles, forms and ages within the immediate vicinity of the application site. Any future details of scale and appearance through a reserved matters application would need to be informed by the locality of the site. The future design approach and the materials palette should take inspiration from the surrounding character of the area.

---

<sup>1</sup> Article 5(3) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

<sup>2</sup> <https://www.lincolnshire.gov.uk/transport-and-roads/strategy-policy-and-licences/control-of-new-development-affecting-the-highway/development-road-and-sustainable-drainage-specification-and-construction/87183.article>

<sup>3</sup> <https://www.gov.uk/government/publications/manual-for-streets>



It is however considered that the site has the capacity to accommodate three bungalows of an appropriate scale and appearance.

*Layout:*

The submitted indicative site plan outlines three individual plots, with all dwellings facing west (towards the access). Whilst layout is a “reserved matter”, the application provides an indicative layout and it is clear that the site is of a size which is capable of accommodating three dwellings with sufficient space for parking, turning a vehicle and external amenity space, without unduly harming the amenity of neighbouring land or unduly harming the prevailing character.

*Landscaping:*

Landscaping is a “reserved matter” and the application has not included any indicative landscaping. The site would need to be appropriately landscaped to ensure its effective incorporation into the streetscape and surrounding countryside. All boundaries which adjoin the field/paddock area should be planted with mixed native hedgerow, and a condition will ensure the relevant details are submitted with the ‘reserved matters’ submission.

Subject to the above the development could reasonably be expected to accord with local policies LP17 and LP26 of the CLLP and the provisions of the NPPF.

○ Community Infrastructure Levy

West Lindsey District Council adopted a Community Infrastructure Levy (CIL) which will be charged from 22nd January 2018. The site is within zone 2 where there is a charge of £15 per square metre. This is an outline application with scale to be considered through the submission of a future reserved matters application. Therefore no accurate CIL calculation can be made at this stage. An informative will be attached to the permission making it clear that a CIL charge would be liable.

**Conclusion**

The decision has been considered against policies LP1: A Presumption in Favour of Sustainable Development, LP2: The Spatial Strategy and Settlement Hierarchy, LP3: Level and Distribution of Growth, LP4: Growth in Villages, LP10: Meeting Accommodation Needs, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk, LP17: Landscape, Townscape and Views, LP21: Biodiversity and Geodiversity, LP22: Green Wedges; LP26: Design and Amenity and LP55: Development in the Countryside of the Central Lincolnshire Local Plan and Policy M11 Safeguarding of Mineral Resources of the Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) 2016 and in the first instance and the guidance contained in National Planning Policy Framework and National Planning Practice Guidance.

In light of this assessment it is considered that the site is clearly detached from the continuous built up area of Kexby and is considered to be in the

'countryside'. The proposal does not demonstrate that there is an essential need for three new dwellings in this countryside location. The principle of open market dwellings in this countryside location conflicts with the development plan.

The existing commercial building is large and very prominent from the north, particularly views across the recreation ground. The proposal would remove this large commercial building from the green wedge and countryside which would be a significant benefit to the character and appearance of the area and the green wedge. The layout of the 3no. dwellings would be contained within the same footprint as the existing business site. As such, the proposed development would not result, or contribute towards, the physical coalescence between Kexby and Upton.

On balance, the proposed benefits of the redevelopment of this previously developed site, notably the removal of the large commercial building, would offer significant benefits to the character and appearance of the area and the green wedge. The benefits are considered to outweigh the conflict identified relating to the principle of 3no. open market dwellings in this countryside location.

All other matters such as the impact on drainage, highway safety, mineral safeguarding and residential amenity are found to be acceptable subject to conditions. The proposal is therefore recommended for approval, subject to the following conditions.

### **Conditions**

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

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

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

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

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

3. The development hereby permitted must be begun before the expiration of two years from the date of final approval of the reserved matters or, in the

case of approval on different dates, the final approval of the last such matter to be approved.

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

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

4. The reserved matters (landscaping) referred to in condition 2 above must include full details (size, species, density and position) for the provision of a mixed native hedgerow to eastern and southern boundaries of the site (see 'Hedgerow Advice' note below).

**Reason:** In the interest of the visual amenity in accordance with policies LP17 and LP26 of the Central Lincolnshire Local Plan.

5. No development shall take place until a scheme of ecological enhancements including the provision of Bat and Bird boxes within the site, have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect and enhance the biodiversity value of the site to accord with the National Planning Policy Framework and LP21 of the Central Lincolnshire Local Plan.

6. No development shall take place until details of a scheme for the disposal of foul/surface water (including any necessary soakaway/percolation tests) from the site and a plan identifying connectivity and their position has been submitted to and approved in writing by the local planning authority. No occupation shall occur until the approved scheme has been carried out.

**Reason:** To ensure adequate drainage facilities are provided to serve each dwelling, to reduce the risk of flooding and to prevent the pollution of the water environment to accord with the National Planning Policy Framework and local policy LP14 of the Central Lincolnshire Local Plan 2012-2036.

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

7. Any tree, shrub or plant forming part of the scheme approved under the details of landscaping and the hedging scheme (condition 4) which within a period of 5 years from the completion of the development dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with another tree, shrub or plant of similar size and species, unless the Local Planning Authority gives written consent to any variation.

**Reason:** In the interest of the visual amenity in accordance with policy LP26 of the Central Lincolnshire Local Plan.

8. 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: BMKOPP/22/01. 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 site location plan.

9. The 3no. (three) dwellings hereby permitted shall be single storey only.

**Reason:** The development hereby approved was only considered acceptable on this basis in accordance with policy LP17, LP22 and LP26 of the Central Lincolnshire Local Plan.

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

None.

**Notes to the Applicant**

**HIGHWAYS**

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. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application. For approval and specification details, please contact

[vehiclecrossings@lincolnshire.gov.uk](mailto:vehiclecrossings@lincolnshire.gov.uk)

The road serving the permitted development is approved as a private road which will not be adopted as a Highway Maintainable at the Public Expense (under the Highways Act 1980). As such, the liability for the future maintenance of the road will rest with those who gain access to their property from it.

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.

Please be aware of the highways authority's requirements for access, parking, visibility, turning and layout; as detailed within the Lincolnshire County Council Design Approach and Development Road Specification<sup>4</sup> and DFT Manual for Streets<sup>5</sup>.

**HEDGEROW ADVICE**

It is recommended that the mixed native hedgerow required by condition 4 is maintained at a height of at least 2m to increase its benefit for nesting birds and that planting schedule utilises suitable species such as; hawthorn, blackthorn, field maple,

---

<sup>4</sup> <https://www.lincolnshire.gov.uk/transport-and-roads/strategy-policy-and-licences/control-of-new-development-affecting-the-highway/development-road-and-sustainable-drainage-specification-and-construction/87183.article>

<sup>5</sup> <https://www.gov.uk/government/publications/manual-for-streets>

spindle, wayfaring tree, guelder rose, buckthorn, hazel, field rose, dog rose, wild privet, holly, ivy and bramble.

**COMMUNITY INFRASTRUCTURE LEVY**

Please be aware that as of the 22<sup>nd</sup> January 2018 West Lindsey District Council implemented a Community Infrastructure Levy and that eligible development granted on or after this date will be subject to this charge. The development subject to this Decision Notice could fall within the definitions held within the adopted charging schedule and as such may be liable to pay the levy. For further information on CIL, processes, calculating the levy and associated forms please visit the Planning Portal [www.west-lindsey.gov.uk/cilforms](http://www.west-lindsey.gov.uk/cilforms) and West Lindsey District Council's own website [www.west-lindsey.gov.uk/CIL](http://www.west-lindsey.gov.uk/CIL)

Please note that CIL liable development cannot commence until all forms and necessary fees have been submitted and paid. Failure to do so will result in surcharges and penalties