

## **Officers Report**

### **Planning Application No: 144574**

**PROPOSAL:** Planning application to erect 5no. detached dwellings with attached garages.

**LOCATION:** Land to the east of Church Road Upton Gainsborough  
DN21 5NS

**WARD:** Lea

**WARD MEMBER(S):** Cllr Mrs JB Milne

**APPLICANT NAME:** Mr D Churchill

**TARGET DECISION DATE:** 09/05/2022 (Extension of time agreed until 31st August 2022)

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** Ian Elliott

**RECOMMENDED DECISION:** Grant permissions subject to condition and the signing of a S106 Legal Agreement for:

- **An offsite affordable housing contribution of £92,326.00.**
- 

#### **Planning Committee:**

The application was referred to the Planning Committee for determination following receipt of ward member and third-party representations on planning matters, and implications for village growth levels.

The planning committee at its meeting on 10th August 2022 resolved to defer this planning application for a member site visit. The planning committee site visit took place on 25th August 2022 commencing at 10.30am.

#### **Description:**

The application site is a grassed overgrown agricultural field (0.92 hectares) to the south east of Upton which is adjoining Upton's built form to the north and adjacent to the west. The site is relatively flat with an extremely modest downward slope from west to east. The Church sits to the west with a track along the south boundary towards the sewage works. The north boundary is screened by a mixture of high and low hedging, low fencing and an occasional tree. The east boundary is open with high hedging and trees to the south boundary. Low hedging screens the west boundary with a single tree. Neighbouring dwellings are adjacent or opposite to the north and west. Open agricultural fields sit adjacent or opposite to the east and south. The site is a Sand and Gravel Minerals Safeguarding Area with Public Rights of Way Upto/51/1 adjacent the west boundary.

The application seeks permission to erect 5no. detached dwellings with attached garages.

### **Relevant history:**

138896 - Outline planning application for the erection of up to 5no. dwellings - all matters reserved – 21/02/19 – Granted time limit and other conditions

142078 - Outline planning application for the erection of up to 5no. dwellings - all matters reserved being removal of condition 9 of outline planning permission 138896 granted 21 February 2019 re: total number and size of dwellings – 20/01/21 - Refused

144299 - Application for approval of reserved matters for the erection of 5no. dwellings, considering access, appearance, landscaping, layout and scale, following outline planning permission 138896 granted 21 February 2019 – 24/03/22 – Withdrawn by Applicant

### **Representations**

#### **Cllr J Milne:** Objection

I wish to request that the above application goes to planning committee the reasons are :-

Church Road is restricted in places where only one vehicle can travel along, the road is of poor quality with very bad surfaces in places and does have a tendency to flood in certain places too. There are no footpaths and pedestrians can be hidden from cars approaching from High Street also the entrance and exit from High street and onto High Street comes out on to a blind bend. These houses are not within keeping of the rest of Church Road which are mainly bungalows. The village of Upton has reached it allotted allocation already. And affordable housing is more essential.

#### **Upton Parish Council:** Objections

The Parish Council are aware that the applicant has gone for s106 in compliance with the National Planning Policy Framework and local policy LP11 of the Central Lincolnshire Local Plan 2012-2036. However, this affordable housing contribution will not benefit Upton what so ever. The applicant still intends to build the size of housing as was in the original planning application 144299, which was withdrawn when it was pointed out that this breached this planning policy and condition 9 as was set in the planning application 138896. These 5 dwellings all have double garages, which potentially in turn mean that each household would have at least 2 cars, as well as visitors and local tradespersons visiting. Church Road is only 1 car wide in places with no footpaths. The road is very badly potholed and floods on many occasions. Perhaps this s106 contribution could go towards improvements for Church Road instead of benefiting another Parish at the detriment to the residents of Church Road, Upton. We also would welcome more affordable housing. All these big builds are making it impossible for families to stay local.

This part of Church Road is predominantly bungalows and the impact of these 2 storey dwellings will swamp this area and considerably ruin the views and

vistas in this historic part of the village. This area including, Main Street, Ave A and Ave B was built by the American Airforce after World war 11 and is unique in itself. These 5, two storey dwellings would be completely out of character for this part of Upton. Bungalows of similar size would be more acceptable and would not look out of place. For these reasons the Parish Council strongly objects to this planning application, and hope that these matters are taken into consideration before any decision is made. The Parish Council would also like the reassurance of the case officer that if planning is granted, that all 16 conditions as set in the original planning application 138896 are strictly adhered

**Local residents:** Representations received from:

Hirondelles, 5a Church Road, Upton  
7 Church Road, Upton

Objections (summarised):

#### Highways

- The access road to the top field is excessive compared to current access
- Location of access is unsuitable
- Church Road not suitable for large farm traffic.
- Church Road not suitable for any more traffic as a single track road.
- Development will make it dangerous for walkers.

#### Trees/Hedging

- Object to hedging on boundary being cut back.
- The willow tree on our side and its roots are not being protected.

#### Drainage

- Worried about surface water run-off onto 7 Church Road
- Increase the flood risk

#### Ecology

- Proposed field sees a lot of wildlife including barn owls and other birds of prey.
- Cutting back hedges detrimental to birdlife
- Spotted a Great Crested Newt close to field in our garden (7 Church Road)
- The preliminary ecology report contains at least one factual inaccuracy. The pond in the residential garden to the south of the site is stated to be less than one year old. The pond has in fact been in situ for many years and any assumptions made regarding the wildlife that it supports are therefore potentially inaccurate.
- The report also states that the site is a poor hunting ground for barn owls, yet these have been observed hunting on this land.
- Relying upon a desk search for the presence of species seems a poor substitute when comments have already been made by local residents regarding the actual presence of these species.

### Other

- Houses exceed size allowed in outline permission and should be reduced

### **Homes, Health and Wellbeing Manager:** Comment

The size of the dwellings proposed units on the above site exceeds 1000sqm which would trigger an affordable housing contribution under policy LP11 of the Central Lincolnshire Local Plan. However, that has now been superseded by the NPPF paragraph 64 which states affordable housing should only be sought on major developments. The NPPF defines major developments as “For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.” The site is 0.92 hectares in size and so will still trigger an affordable housing contribution. With the location of the site, the contribution would be 20% of the units proposed to be delivered as affordable, on a site of 5 that would equate to 1 unit. Although the Central Lincolnshire Local Plan states that all delivery of affordable housing must be on-site, I feel that due to the size of the proposed dwellings, none of them would be suitable to be delivered as affordable on the proposed site plan. With this in mind, an affordable housing commuted sum could be provided in lieu of on-site delivery. The current commuted sum for affordable housing in the nonLincoln Strategy Area is £92,326 per dwelling which would mean that it would be a total of £92,236 commuted sum required on this site. The contribution would be required to be secured through a S106 with a preferred trigger of payment on completion of 50% of the dwellings on site.

### **LCC Highways/Lead Local Flood Authority:** No objections subject to a condition and advisory notes

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.

### **Anglian Water:** No objections

No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. As per the submitted drawing, this requirement is met and so I can confirm the proposed site plan is acceptable to Anglian Water.

### **LCC Archaeology:** No objections subject to a condition

The proposed development is located in an area of archaeological potential within the boundary of the medieval village of Upton, adjacent to a historic street in an area where historic settlement might reasonably be expected. A cropmark of a probable medieval boundary ditch has also been identified as crossing the site north to south as part of the National Mapping Project by the Royal Commission on the Historical Monuments of England. This boundary may represent the boundary between the developed medieval village and the open fields beyond, which would suggest that medieval settlement.

Recommendation: Prior to any groundworks the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the

Lincolnshire Archaeological Handbook) in accordance with a written scheme of investigation submitted to and approved in writing by the local planning authority. This should be secured by an appropriate condition to enable heritage assets within the site to be recorded prior to their destruction. Initially I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

**NHS:** No contribution required

**LCC Education:** No contribution required

The County Council has no comments on this consultation in relation to education as it is below 10 houses and deemed to not generate any additional children.

**LCC Minerals and Waste:** No objections

**WLDC Tree and Landscape Officer (Verbal):** No objections

No objections to tree protection detail or the landscaping plan and planting details.

**Ramblers Association:** No representations received to date

**IDOX checked:** 25th July 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

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

LP25 The Historic Environment

LP26 Design and Amenity

<https://www.west-lindsey.gov.uk/my-services/planning-and-building/planning-policy/central-lincolnshire-local-plan/>

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

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

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

National policy & guidance (Material Consideration)

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

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

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**

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

- **National Design Guide (2019)**

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

- **National Design Model Code**

<https://www.gov.uk/government/publications/national-model-design-code>

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).*

- **Consultation Draft Central Lincolnshire Local Plan Review June 2021 (DCLLPR)**

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 is now 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 consultation is taking place and the extent to which there may still be unresolved objections is currently unknown.

Relevant Policies:

- S1 The Spatial Strategy and Settlement Hierarchy
- S2 Growth Levels and Distribution
- S4 Housing Development in or Adjacent to Villages
- S6 Reducing Energy Consumption – Residential Development
- S19 Resilient and Adaptable Design
- S20 Flood Risk and Water Resources
- S21 Affordable Housing
- S22 Meeting Accommodation Needs
- S44 Strategic Infrastructure Requirements
- S46 Accessibility and Transport
- S48 Parking Provision
- S50 Creation of New Open Space, Sports and Leisure Facilities
- S52 Design and Amenity
- S56 The Historic Environment
- S59 Protecting Biodiversity and Geodiversity
- S60 Biodiversity Opportunity and Delivering Measurable Net Gains
- S65 Trees, Woodland and Hedgerows
- S66 Best and Most Versatile Agricultural Land

<https://central-lincs.inconsult.uk/connect.ti/CLLP.Draft.Local.Plan/consultationHome>

- **Neighbourhood Plan**

West Lindsey District Council has approved the joint application by Upton and Kexby Parish Councils to have their parishes designated as a neighbourhood area for the purposes of producing a neighbourhood plan. The neighbourhood plan group are now working towards the production of the neighbourhood plan. There is therefore currently no neighbourhood plan to consider.

**Other:**

Natural England's East Midlands Agricultural Land Classification Map 2010

## **Main issues**

- Principle of the Development  
*Central Lincolnshire Local Plan 2012-2036*  
*Minerals Resource*  
*Agricultural Benefit*  
*Concluding Assessment*
- Affordable Housing
- Infrastructure Contributions
- Visual Impact
- Residential Amenity
- Highway Safety
- Drainage
- Archaeology
- Biodiversity

## **Assessment:**

### Principle of the Development

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

### *Central Lincolnshire Local Plan 2012-2036:*

Local policy LP2 sets out a spatial strategy and settlement hierarchy from which to focus housing growth. This policy identifies Upton as a small village and *'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 small scale development of a limited nature in appropriate locations.*
- *proposals will be considered on their merits but would be limited to around 4 dwellings, or 0.1 hectares per site for employment uses.*

Local policy LP2 states around 4 dwellings and not a maximum or up to 4 dwellings therefore 5 dwellings has to be considered an acceptable number providing the location is acceptable and the site can accommodate 5 dwellings.

Local policy LP2 states that *'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'.*

Local policy LP4 goes on to say that Upton has a growth level of 10%. An updated table of remaining growth for housing (dated 22nd April 2022) in medium and small village's states that Upton has 217 dwellings which equates to a remaining growth of 22 dwellings. Since the publication of this growth level there has been 18 further dwellings approved with a remaining level of growth in Upton of 4 dwellings.

Submitted policy LP4 additionally requires a sequential approach to be applied to prioritise the most appropriate land for housing within small villages. LP4 states that:

*'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'.*

The site is located to an east and south edge of Upton. The site has adjacent built form to the north and west in the form of residential dwellings and developing this corner will square off the settlement edge of Upton. There is no dwelling directly to the east or south of the site. Therefore, the site when looking north and west appears part of the settlement but in contrast to this when looking east and south the site appears part of the open countryside. The site is a grassed agricultural field therefore is a greenfield site at the edge of the settlement.

On investigation of Upton through the authority's internal mapping system (Earthlight) and officers site visit there appears to be limited opportunity for housing development of up to five dwellings within the settlement. Therefore although this site is considered as a greenfield edge of settlement site it is still considered appropriate and will square off the built form if this section of the village.

The proposed development proposes 5 dwellings when as stated previously the remaining growth of Upton is 4 dwellings. Therefore, one of the dwellings in accordance with local policy LP2 of the CLLP should require a demonstration of clear community support with a community consultation completed prior to submission of an application.

Local policy LP2 of the CLLP states that *“throughout this policy and Policy LP4 the term ‘demonstration of clear local community support’ means that at the point of submitting a planning application to the local planning authority, there should be clear evidence of local community support for the scheme, with such support generated via a thorough, but proportionate, pre-application community consultation exercise. If, despite a thorough, but proportionate, pre-application consultation exercise, demonstrable evidence of support or objection cannot be determined, then there will be a requirement for support from the applicable Parish or Town Council. If an applicant is in doubt as to what would constitute a ‘thorough, but proportionate, pre-application consultation exercise’, then the applicant should contact the applicable local planning authority.”*

On submission of this application the remaining housing growth for Upton was 0 as identified by the housing growth table dated 4th March 2022. However this table included planning permission 138896 which was for 5 dwellings on the identical site as this application. Planning permission 138896 expired on 22nd February 2022 meaning that the housing growth increased by 5 dwellings. Therefore on submission there was no requirement for the applicant to complete a community consultation prior to submission and it would be unreasonable to request this at this stage as this would require withdrawal of the application and re-submission once a community consultation exercise was completed for the single dwelling.

#### *Minerals:*

Guidance contained within paragraph 203-211 of the NPPF sets out the needs to safeguard mineral resources through local plan policies *‘to support sustainable economic growth and our quality of life’*. Policy M11 of the Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) states that:

*‘Applications for non-minerals development in a minerals safeguarding area must be accompanied by a Minerals Assessment. Planning permission will be granted for development within a Minerals Safeguarding Area provided that it would not sterilise mineral resources within the Mineral Safeguarding Areas or prevent future minerals extraction on neighbouring land. Where this is not the case, planning permission will be granted when:*

- the applicant can demonstrate to the Mineral Planning Authority that prior extraction of the mineral would be impracticable, and that the development could not reasonably be sited elsewhere; or*
- the incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed; or*
- there is an overriding need for the development to meet local economic needs, and the development could not reasonably be sited elsewhere; or*
- the development is of a minor nature which would have a negligible impact with respect to sterilising the mineral resource; or*
- the development is, or forms part of, an allocation in the Development Plan.*

The application has included the submission of a Minerals Assessment. The Minerals and Waste team at Lincolnshire County Council have no objections to the development as it will have '*a negligible impact with respect to sterilising the mineral resource*'.

Therefore the proposal would not unacceptably sterilise a minerals resources in West Lindsey. The development therefore would accord with policy M11 of Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) and the provisions of the NPPF.

It is considered that policy M11 is consistent with the minerals guidance of the NPPF and can be attached full weight.

*Agricultural Benefit:*

Guidance contained within Paragraph 170 of the NPPF states that '*Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'*

The field is classed in Natural England's East Midlands Agricultural Land Classification Map as grade 3 (good to moderate). This designates the site as being fairly productive for agricultural use. The application form states that the site has an agricultural field use of 0.92 hectares. The land appeared unused at the officer's site visit with no animals grazing or crop production. The grassed condition of the site would suggest that animal grazing was possible but not with the gaps in some of the boundary hedging. The development would lead to a loss of agricultural land but the land is not of the highest quality and its loss is not considered significant.

*Concluding Assessment:*

The proposed development is within the dwelling limit (around 4) set out in local policy LP2. Upton currently has a remaining housing growth of 4 dwellings therefore one of the dwellings in strict accordance with local policy LP2 of the CLLP requires a demonstration of clear community support on submission. However on submission of the application Upton had no remaining housing growth but this included the 5 dwellings approved in 138896 on the same site. No community support was required as this application when submitted had a neutral impact on the remaining housing growth in Upton. It would be unreasonable to request a community consultation exercise is completed due to the change in the housing growth situation during the timeline of the application.

The site in accordance with the land availability sequential test in LP4 has the lowest priority for housing, however it has been demonstrated that there is no

other appropriate or available land for up to 5 dwellings in the settlement and this development will square off this section of the village. The site passes the sequential test in LP4 and is considered a sustainable appropriate location for housing development. It will not mean the loss of productive agricultural land or significantly sterilise a minerals resource in West Lindsey.

Therefore the principle of the development is acceptable and accords to Local Policy LP1, LP2, LP3 and LP4 of the CLLP, Policy M11 of the LMWLP and the provisions of the NPPF.

It is considered that policy LP1, LP2, LP3, LP4 and M11 are consistent with the sustainability, housing growth and minerals guidance of the NPPF and can be attached full weight.

#### Affordable Housing

The submitted full application is for 5 dwellings on a site measuring 0.92 hectares. The proposed floor space created by the development would be in the region of 1,355m<sup>2</sup> for the dwelling and 282 m<sup>2</sup> for the attached garages totalling over 1,600m<sup>2</sup>.

The Development Management Procedure Order 2015 states that major development means development where:

*'(c) the provision of dwellinghouses where—*

*(i) the number of dwellinghouses to be provided is 10 or more; **or** (emphasis added)*

*(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i)'*

Therefore as the amount of dwellings was described in the application (up to 5) then the application was correctly validated as a 'minor dwellings' application.

Local policy LP11 states that *'to help maximise what the planning system can contribute to meeting affordable housing need, then:*

*a. Affordable housing will be sought on all qualifying housing development sites of 11 dwellings or more, or on development sites of less than 11 units if the total floorspace of the proposed units exceed 1,000 sqm.*

*and*

*Where a site qualifies for affordable housing, the percentage sought will be:*

*i. Lincoln Strategy Area (excluding SUEs\*) 25%*

*ii. Lincoln Strategy Area SUEs\* 20%*

*iii. Other SUEs\* 15%*

*iv. Elsewhere 20%'*

Paragraph 64 of the NPPF states that the *'provision of affordable housing should not be sought for residential developments that are not major developments'*.

However Annex 2 of the NPPF defines major development as *“for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”*.

Therefore although the site would be below the 10 dwelling threshold it would be above the 0.5 hectares (0.92 hectares) therefore identifying the application as a major development, under the NPPF definition for the purposes of paragraph 64.

Therefore an affordable housing contribution can be sought as the site is considered a major development and the floor space created would exceed the threshold of 1,000m<sup>2</sup> local policy LP11 of the CLLP.

The Homes, Health and Wellbeing Manager (HHWM) has confirmed that *“the current commuted sum for affordable housing in the non-Lincoln Strategy Area is £92,326 per dwelling which would mean that it would be a total of £92,236 commuted sum required on this site. The contribution would be required to be secured through a S106 with a preferred trigger of payment on completion of 50% of the dwellings on site.”*

The HHWM goes on to state that *“although the Central Lincolnshire Local Plan states that all delivery of affordable housing must be on-site, I feel that due to the size of the proposed dwellings, none of them would be suitable to be delivered as affordable on the proposed site plan. With this in mind, an affordable housing commuted sum could be provided in lieu of on-site delivery.”*

The application on submission included a heads of terms for *“a contribution of £92,326.00, in lieu of an onsite affordable housing dwelling”*. The Section 106 has been instructed and is currently being created.

It is therefore considered that the proposed development by providing an offsite affordable housing financial contribution would accord to local policy LP11 of the CLLP and the provisions of the NPPF.

It is considered that local policy LP11 is not wholly consistent with the affordable housing guidance of the NPPF and can be attached some weight.

#### Infrastructure Contributions

Local policy LP12 of the CLLP states that *‘developers will be expected to contribute towards the delivery of relevant infrastructure. They will either make direct provision or will contribute towards the provision of local and strategic infrastructure required by the development either alone or cumulatively with other developments’*.

#### *LCC Education:*

Paragraph 8.3 of the Central Lincolnshire Developer Contributions Supplementary Planning Document adopted June 2018 states that *“Planning contributions for additional school capacity will only be sought where*

*appropriate and on sites of eleven or more residential units or on sites of less than 11 units if the total floorspace of the development exceeds 1000 square metres.”*

Lincolnshire County Council Education have recommended that no contribution is sought for this application.

*National Health Service (NHS):*

Paragraph 9.7 of the Central Lincolnshire Developer Contributions Supplementary Planning Document adopted June 2018 states that *“However, planning contributions for additional or improved health facilities will only be sought where appropriate and on sites of eleven or more residential units, or on development sites of less than 11 units if the total floorspace of the proposed units exceed 1,000 sqm”*.

The NHS has recommended that no NHS contribution is sought for this application.

*Open Space:*

The table in Paragraph 10.2 of the Central Lincolnshire Developer Contributions Supplementary Planning Document adopted June 2018 sets out when an onsite contribution for open space is required. Developments between 1-9 residential units would not be required to provide on-site open space provision.

The table does state that off-site contributions to existing strategic playing fields and local greenspace provision are required where there is a need/opportunity are identified. Upton and Kexby have a joint playing field which is approximately 700 metres to the site via public footpaths. It is not considered that there is a need/opportunity identified for an offsite provision to the playing field.

Visual Impact

Local policy LP17 states that *“To protect and enhance the intrinsic value of our landscape and townscape, including the setting of settlements, proposals should have particular regard to maintaining and responding positively to any natural and man-made features within the landscape and townscape which positively contribute to the character of the area, such as (but not limited to) historic buildings and monuments, other landmark buildings, topography, trees and woodland, hedgerows, walls, water features, field patterns and intervisibility between rural historic settlements”*.

Developments should also *“be designed (through considerate development, layout and design) to preserve or enhance key local views and vistas”*.

Local policy LP26(c) of the CLLP states that *All development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they:*

*c. Respect the existing topography, landscape character and identity, and relate well to the site and surroundings, particularly in relation to siting, height, scale, massing, form and plot widths;*

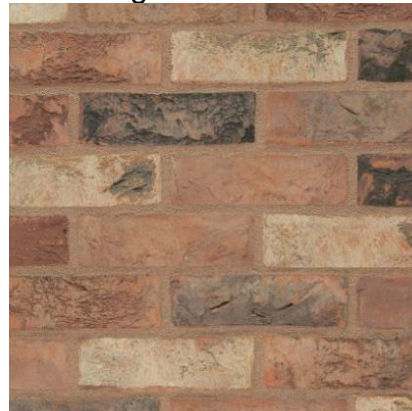
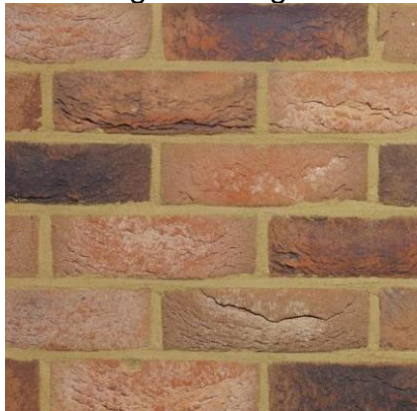
The Identity chapter (pages 14-17) of the National Design Guide places importance on the need for development to either reflect its local character or create a sense of character through the built form.

The two storey dwellings are proposed to be (all approximate metres from submitted plans):

Plot	Bed	Height	Eaves	Width	Length	Garage
1	4	7.3	5	21.5	10.3	Attached Double
2	4	7.2	5	22	12.5	Attached Double
3	4	7.3	5	21.5	10.3	Attached Double
4	4	7.3	5	22	12.5	Attached Double
5	4	7.2	5	22	12.5	Attached Double

The proposed materials would be:

- Wienerberger Heritage Blend Brick or Wienerberger Jasmin Blend Brick



- Wienerberger Old English Natural Red clay pantiles or Wienerberger 2020 Natural Red traditional clay roof pantiles
- Off-white/cream Upvc frames with double glazed units doors and windows

The proposed dwellings would be wide dwellings with gable end and monopitch elements to the front. The surrounding area comprises a mix of dwelling sizes and designs. To the west are bungalows with two storey dwellings to the north and north west. The existing two storey dwellings vary in design including a number of modern new builds.

The proposed five dwellings would sit within a large site providing low density housing well separated with large gardens.

It is therefore considered that the proposed development would not have an unacceptable harmful impact on the site or the surrounding area and accords to local policy LP17 and LP26 of the CLLP and the provisions of the NPPF.

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

#### Residential Amenity

Local policy LP26 states that *“The amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development.”*

The proposed dwellings are well separated from the existing dwellings to the north, west and north west and from each other. The siting of the dwellings and the separation distance ensures that the future occupant of each dwelling would have acceptable private external amenity spaces.

Therefore the development would not be expected to harm the living conditions of the existing or future residents and would accord with local policy LP26 of the CLLP and the provisions of the NPPF.

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

#### Highway Safety

Objections have been received in relation highway safety.

Local policy LP13 of the CLLP States that *“development proposals which contribute towards an efficient and safe transport network that offers a range of transport choices for the movement of people and goods would be supported.”*

Paragraph 11 of the NPPF states that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.*

The proposed development would introduce two new vehicular access points off Church Road. One serving plots 1, 2 and field access and one serving plots 3, 4 and 5.

Each 4 bedroom dwelling is served by adequate off street parking provision from driveways with turning provision and garage parking. Therefore off street provision is acceptable and would not be expected to harm highway safety

The Highways Authority at Lincolnshire County Council have no objections to the development subject to recommended conditions.



Site plan 272021-02 Rev 0 dated 24th January 2022 identifies a new pedestrian footpath to the front of the site which sits between the two new accesses. There is no footpath along Church Road to the west of the site until you reach the junction with Main Street. The introduction of the pedestrian footpath would provide safe access and connection to the existing footpath which provides safe access to the remainder of the village particular the recreational ground, the public house and small shop. Details of construction would be required to be secured by condition.

Therefore the development would not have a severe harmful highway safety impact and would accord with local policy LP13 and LP26 of the CLLP and the provisions of the NPPF.

It is considered that policy LP13 and LP26 are consistent with the Highway Safety guidance of the NPPF and can be attached full weight.

### Drainage

Paragraph 169 of the NPPF guides that *“Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits.”*

Paragraph 80 (Reference ID: 7-080-20150323) of the Flood risk and coastal change section of the NPPG states that *“Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:*

- 1. into the ground (infiltration);*
- 2. to a surface water body;*
- 3. to a surface water sewer, highway drain, or another drainage system;*
- 4. to a combined sewer.”*

*Particular types of sustainable drainage systems may not be practicable in all locations. It could be helpful therefore for local planning authorities to set out those local situations where they anticipate particular sustainable drainage systems not being appropriate.”*

Criteria f of the flood risk section of local policy LP14 of the CLLP requires that *“they have incorporated Sustainable Drainage Systems (SuDS) in to the proposals unless they can be shown to be impractical.”*

Criteria m of the protecting the water environment section of local policy LP14 of the CLLP requires that *“that adequate foul water treatment and disposal already exists or can be provided in time to serve the development”.*

*Foul Water:*

The application form states that foul water will be disposed of to the mains sewer which is the preferred method.

*Surface Water:*

Surface water is proposed to be dealt with through a sustainable urban drainage system (SuDs) which is encouraged but an exact method is not specified.

Therefore it is considered that foul and surface water drainage is capable of being addressed by condition and would be expected to accord with local policy LP14 of the CLLP and the provisions of the NPPF.

It is considered that policy LP14 is consistent with the drainage guidance of the NPPF and can be attached full weight.

Archaeology

It has been highlighted by the Historic Environment Officer at Lincolnshire County Council Archaeology that the proposed development lies *'in an area of archaeological potential within the boundary of the medieval village of Upton, adjacent to a historic street in an area where historic settlement might reasonably be expected. A cropmark of a probable medieval boundary ditch has also been identified as crossing the site north to south as part of the National Mapping Project by the Royal Commission on the Historical Monuments of England. This boundary may represent the boundary between the developed medieval village and the open fields beyond, which would suggest that medieval settlement.'*

Consequently it has been recommended that prior to any ground works the developer should be required to commission a scheme of Archaeological Works which should be secured by appropriate conditions to enable heritage assets within the site to be recorded prior to their destruction. Initially this would involve monitoring of all groundwork's. Therefore a suitable pre-commencement condition will be attached to the planning permission. Therefore the development would accord with local policy LP25 of the CLLP and the provisions of the NPPF.

It is considered that policy LP25 is consistent with the historic environment guidance of the NPPF and can be attached full weight.

Biodiversity

Objections have been received from residents on the loss of trees and impact on protected species.

Local Policy LP21 of the CLLP states that *'All development should:*

- *protect, manage and enhance the network of habitats, species and sites of international ,national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a Local Site;*

- *minimise impacts on biodiversity and geodiversity; and*
- *seek to deliver a net gain in biodiversity and geodiversity.*

Guidance contained within paragraph 174 and 179 of the NPPF encourages the protection and enhancement of protected species (fauna and flora) and providing net biodiversity gains.

#### *Protected Species:*

The application site was assessed by DeltaSimons Limited in December 2018 as part of a previously approved outline permission (138896) for 5 dwellings. The Preliminary Ecological Appraisal dated January 2019 published by DeltaSimons submitted in 138896 recommended:

#### Nesting Birds

- Timing of site clearance activity and periods when an experienced ecologist is required on site.

#### Bats

- Lighting
- Further surveys are only required should any management works be required to any of the trees assessed as offering BRP (Tree TN1-4 in figure 2) that are currently due to be retained.

#### Badgers, Hedgehogs and Brown Hares

- Precautionary measures during construction

#### Other

- Site protection measures
- Appropriate native planting for the area and biodiversity.
- Two open fronted nest boxes, two small holed nest boxes and a starling box.
- Two Schwegler 2F bat boxes should be installed on mature trees on-Site.

This application has included a new Preliminary Ecological Appraisal (PEA) dated July 2022 by DeltaSimons which included a further site visit on 10th June 2022. The PEA has incorporated the recommendations in the 2019 with the addition of the following:

- Lighting Plan to consider the presence of bats with details of advised position and type lighting.
- Hedgehog fencing throughout the development.

#### *Trees:*

The application does not include any protected trees on the site or adjacent the boundaries but trees are present adjacent the north and south boundaries. A tree protection plan (TPP-211221-01 Rev A) dated 21st December 2021 has been submitted identifying the position and type of measures used to protect the adjoining trees and their roots.

The Authority's Tree and Landscape Officer has no objections to the development or the protection measures submitted.

Landscaping is assessed later in the report but the development includes a number of new trees within the site which would increase the presence of trees in the area and provide a biodiversity gain.

The proposal would not be expected have a harmful impact on biodiversity and the recommendations have the potential to overall provide a positive biodiversity net gain. It is considered relevant and necessary to attach ecology and trees related conditions. Therefore subject to conditions the development accords to local policy LP21 of the CLLP and guidance contained within the NPPF.

It is considered that policy LP21 is consistent with the biodiversity guidance of the NPPF and can be attached full weight.

### **Other Considerations:**

#### Anglian Water Pipeline Easement

The application site has an underground pipeline running through it. The site plan takes account of the pipeline in terms of the layout and Anglian Water have not objected stating that *"no building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. As per the submitted drawing, this requirement is met and so I can confirm the proposed site plan is acceptable to Anglian Water"*.

#### Landscaping

Paragraph 131 of the NPPF states that *"trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users."*

The application has included landscaping plan LMP-221221-02 Rev B dated 16th March 2022. The landscaping plan includes the loss of hedging to the front of the site to make way for the vehicular accesses but also includes the infilling of hedging to be retained and the planting of a variety of trees throughout the site. The Authority's Tree and Landscape Officer has verbally accepted the landscaping plan and the planting details.

Details of fencing is additionally provided including appropriate post and rail fencing to the east boundary. No details have been submitted in relation to

hardstanding but this would be conditioned to be constructed from a permeable material.

The landscaping of the site is considered acceptable and would provide an increased amount of trees to the area.

#### Public Rights of Way

Public Rights of Way Upto/51/1 (shared surface used by vehicles and pedestrians) runs adjacent the west boundary of the site. No representations have been received from the Rights of Way Officer at Lincolnshire County Council. The proposed development will increase the amount of traffic using Church Road but not to a degree which will harm or obstruct the use of the public rights of way.

#### Community Infrastructure Levy (CIL)

West Lindsey District Council adopted a Community Infrastructure Levy (CIL) which will be charged from 22<sup>nd</sup> January 2018. The site is within zone 2 where a charge of £15 per square metre would be liable prior to the commencement of the development.

#### Pre-commencement conditions

The agent has confirmed in writing that the recommended pre-commencement conditions are acceptable.

#### **Conclusion and reasons for decision:**

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, LP11 Affordable Housing, LP12 Infrastructure to Support Growth, LP13 Accessibility and Transport, LP14 Managing Water Resources and Flood Risk, LP16 Development on Land Affected by Contamination, LP17 Landscape, Townscape and Views, LP21 Biodiversity and Geodiversity, LP25 The Historic Environment, LP26 Design and Amenity and LP55 Development in the Countryside of the adopted Central Lincolnshire Local Plan 2012-2036 and the Lincolnshire Minerals and Waste Local Plan in the first instance and guidance contained within the National Planning Policy Framework, National Planning Practice Guidance, National Design Guide and the National Design Model Code. In light of this it is considered that the principle of the proposal is acceptable and would provide up to five dwellings in an appropriate location to meet the housing growth target for Upton and Central Lincolnshire. The development would contribute an off-site affordable housing contribution. It would not have a harmful visual impact on the site or the surroundings or harm the living conditions of existing and future neighbouring dwellings. The proposal would not harm highway safety, ecology, trees, archaeology or drainage subject to satisfying a number of conditions.

#### **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

**Representors to be notified -**

*(highlight requirements):*

**Standard Letter**       **Special Letter**       **Draft enclosed**   
**Decision Level** (tick as appropriate)

Committee

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

1. The development hereby permitted must 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:**

2. No development must take place until a construction method statement has been submitted and agreed in writing by the local planning authority. The approved statement(s) must be adhered to throughout the construction period. The statement must provide for:

- (i) the routing and management of traffic;
- (ii) the parking of vehicles of site operatives and visitors;
- (iii) loading and unloading of plant and materials;
- (iv) storage of plant and materials used in constructing the development;
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vi) wheel cleaning facilities;
- (vii) measures to control the emission of dust and dirt;
- (viii) details of noise reduction measures;
- (ix) a scheme for recycling/disposing of waste;
- (x) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;

Reason: To restrict disruption to the living conditions of the neighbouring dwelling and surrounding area from noise, dust and vibration and to

accord with the National Planning Policy Framework and local policy LP26 of the Central Lincolnshire Local Plan 2012-2036.

3. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. This scheme shall include the following

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording.
3. Provision for site analysis.
4. Provision for publication and dissemination of analysis and records.
5. Provision for archive deposition.
6. Nomination of a competent person/organisation to undertake the work.
7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and in accordance with the National Planning Policy Framework and local policy LP25 of the Central Lincolnshire Local Plan 2012-2036.

4. The local planning authority shall be notified in writing of the intention to commence the archaeological investigations in accordance with the approved written scheme referred to in condition 6 at least 14 days before the said commencement. No variation shall take place without prior written consent of the local planning authority.

Reason: In order to facilitate the appropriate monitoring arrangements and to ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with the National Planning Policy Framework and local policy LP25 of the Central Lincolnshire Local Plan 2012-2036.

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

5. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved must be carried out in accordance with proposed plan:
  - 272021-02 Rev 0 dated 24th January 2022 – Site Plan
  - 272021-03 Rev 0 dated 20th January 2022 – Plot 1 and 3 Elevation and Floor Plans
  - 272021-04 Rev 0 dated 20th January 2022 – Plot 2 and 5 Elevation and Floor Plans
  - 272021-05 Rev 0 dated 20th January 2022 – Plot 4 Elevation and Floor Plans
  - LMP-221221-02 Rev B dated 16th March 2022 – Landscaping Plan

- TPP-211221-01 Rev A dated 21st December 2021 – Tree Protection Plan

The works must 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 local policy LP17, LP21 and LP26 of the Central Lincolnshire Local Plan 2012-2036.

6. No construction works above ground level must 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 must 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.

7. The development hereby permitted must not be occupied before a 2 metre wide footway, to connect the development to the existing footway network, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway. The footway and surface water drainage must be completed in strict accordance with the approved scheme and retained as such thereafter.

Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property to accord with the National Planning Policy Framework and local policy LP13 and LP26 of the Central Lincolnshire Local Plan 2012-2036.

8. The proposed development must be completed in strict accordance with tree protection plan TPP-211221-01 Rev A dated 21st December 2021. All tree protection measures must be installed prior to commencement of the development and retained in place until the development is fully completed.

Reason: To safeguard the existing trees adjacent the site during construction works, in the interest of visual amenity to accord with the National Planning Policy Framework and local policy LP21 of the Central Lincolnshire Local Plan 2012-2036.



9. Prior to completion of the first dwelling details of the type and position of two open fronted bird nest boxes, two small holed bird nest boxes, a starling nest box and two bat boxes as per the recommendations of the Preliminary Ecological Appraisal dated June 2022 by DeltaSimons have been submitted to and approved by the Local Planning Authority. The bird and bat boxes must be installed in the approved locations prior to occupation of any dwelling.

Reason: In the interest of nature conservation to accord with the National Planning Policy Framework and local policy LP21 of the Central Lincolnshire Local Plan 2012-2036.

10. Apart from the details approved in condition 9 of this permission the development hereby approved must only be carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal dated June 2022 by DeltaSimons

Reason: In the interest of nature conservation to accord with the National Planning Policy Framework and local policy LP21 of the Central Lincolnshire Local Plan 2012-2036.

11. All areas of onsite hardstanding must be constructed from a permeable material and retained as such thereafter.

Reason: To reduce the risk of flooding to the proposed development and future occupants to accord with the National Planning Policy Framework and local policy LP14 of the Central Lincolnshire Local Plan 2012-2036

12. The archaeological site work shall be undertaken only in full accordance with the written scheme required by condition 6.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with the National Planning Policy Framework and local policy LP25 of the Central Lincolnshire Local Plan 2012-2036.

13. Following the archaeological site work referred to in condition 14 a written report of the findings of the work shall be submitted to and approved in writing by the local planning authority within 3 months of the said site work being completed. .

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with the National Planning Policy Framework and local policy LP25 of the Central Lincolnshire Local Plan 2012-2036.

14. The report referred to in condition 15 and any artefactual evidence recovered from the site shall be deposited within 6 months of the archaeological site work being completed in accordance with a

methodology and in a location to be agreed in writing by the local planning authority.

Reason: To ensure the satisfactory archaeological investigation and retrieval of archaeological finds in accordance with the National Planning Policy Framework and local policy LP25 of the Central Lincolnshire Local Plan 2012-2036.

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

NONE