

## **Officers Report**

### **Planning Application No: 144480**

**PROPOSAL:** Planning application to erect 7no. dwellings.

**LOCATION:** Land off 72 Scothern Road Nettleham Lincoln LN2 2TX

**WARD:** Nettleham

**WARD MEMBER(S):** Cllr Mrs J Oliver, Cllr Mrs A White

**APPLICANT NAME:** Miss Emma Truelove

**TARGET DECISION DATE:** 07/07/2022

**DEVELOPMENT TYPE:** Major - Dwellings

**CASE OFFICER:** Daniel Evans

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

1. A capital contribution of £6,052.50 (£4,427.50 + £1,625.00) to the Council towards capital infrastructure for health services necessary to serve the development.
2. On-site delivery of 2no. Affordable Housing Units for affordable rented accommodation.

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

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

#### **Description:**

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

The site is currently under construction with permission granted for 71no. (68+3) dwellings and associated infrastructure. To the north-west and west of the site are existing residential properties with houses to Scothern Road and bungalows to High Leas and Highfields. Properties to High Leas in particular have short gardens. A public footpath also exists to the boundary of the rear gardens of 23 – 34 High Leas. To the east and south are agricultural fields.

The application seeks permission to erect 7no. dwellings. The 7no. dwellings proposed would be visually and functionally incorporated into the wider development site. For clarity, this application is not an amendment to the

previous permission, and is in addition to, which would result in 78 dwellings total.

It is noted that simultaneously to this assessment there is a further application for two dwellings (WLDC Ref: 145076), as such, where necessary this assessment considers both applications cumulatively.

Amended plans were received on 09/11/2022 and 10/11/2022, a re-consultation is currently being undertaken and this determination is based on the amended drawings.

**Relevant history:**

Application Site History

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

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

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

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

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

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

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

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

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

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

141487 – Application for non-material amendment to planning permission 131975 granted 14 March 2017 – amendment to boundary locations. Part granted-part refused 04/09/20.

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

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

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

142542 – Planning application to erect 3no. dwellings. Granted 11 November 2021.

143657 – Planning application to erect 4no. dwellings, including 1no. affordable bungalow. Refused 30/11/2021.

143824 - Planning application to erect 2no. dwellings. Refused 23/12/2021.

144115 - Planning application to erect 5no. dwelling, including 2no. social housing dwellings. Refused 24/03/2022.

144264 - Planning application to vary condition 5 of outline planning permission ref. 131975 granted 14 March 2017 (as amended by 140640 approved 8 July 2020 and 141843 approved 12 February 2021) (erect 68no. dwellings-10no. affordable- including open space provision, associated garages and infrastructure and footpath cycleway link to Sudbrooke considering layout and scale) - amended construction method statement. Refused 14/04/2022 – Appeal APP/N2535/W/22/3300608 allowed 06/10/2022.

144569 - Request for confirmation of compliance with condition 13 of planning permission 131975 granted 14 March 2017. Discharged 19/04/2022.

144614 - Application for non-material amendment to planning permission 131975 granted 14 March 2017 - adding orangeries to plots 35, 38, 40, 41, 60,62, 63, 64, 66 and 67. Granted 29/04/2022.

144725 - Application for non-material amendment to planning application 131975 granted 14 March 2017 - addition of conservatory to plot 5a. Granted 04/05/2022.

144807 - Application for non-material amendment to planning permission 131975 granted 14 March 2017 - amend location of plot 43 and 52. Granted 17/05/2022.

145058 - Application for non-material amendment to planning permission 131975 granted 14 March 2017 - amend the position of plot no.48. Refused 06/07/2022.

145048 - Planning application to vary condition 5 of outline planning permission ref. 131975 granted 14 March 2017 (as amended by 140640 approved 8 July 2020 and 141843 approved 12 February 2021) (erect 68no. dwellings-10no. affordable- including open space provision, associated garages and infrastructure and footpath cycleway link to Sudbrooke considering layout and scale) - amended construction method statement - resubmission of 144264 – Refused 07/09/2022.

145076 - Planning application for 2no. dwellings, including landscaped area. Currently undetermined.

#### Other Relevant History

Neighbourhood Plan Site C - 138494 and Appeal ref

APP/N2535/W/19/3233948 - Outline planning application for erection of up to 63no. dwellings with garages, access roads, footpaths and open space- access to be considered and not reserved for subsequent applications.

Granted subject to condition restricting development to max 50no. dwellings.

Appeal allowed – in summary the inspector found that the condition limiting development to 50no dwellings was both unreasonable and unnecessary. **A**

**copy of this appeal decision is provided at Appendix A.**

#### **Representations:**

##### Ward Member:

No representations received to date.

##### Nettleham Parish Council:

- The Neighbourhood plan and Local plan originally called for 50 homes on this site and 68 were finally approved. Since then there have been numerous attempts to increase this number. The Parish council objects to this continuous creep in housing numbers for this site which will change the whole character of the originally approved and supported

development from a spacious open development to one which is more appropriate for an urban area.

- The proposed development to provide 9no. additional dwellings would fail to assimilate satisfactorily with the surrounding character, topography and landscape setting and would cause lasting harm to the spacious and rural character of the wider development site. Contrary to the NNP and CLLP.
- If permission for these houses is granted we would request a condition mandating the developer to build a cycle track along Sudbrooke Lane - this was originally outlined in planning application 131975 but was not made a condition of the permission.

#### Local residents:

Objections received from the following properties:

- 4 Crickets Drive, Nettleham
- 8 Crickets Drive, Nettleham
- 10 Crickets Drive, Nettleham
- 16 Scothern Lane, Subbrooke.
- 58 Scothern Road, Nettleham

Comments summarised as follows:

- The open spaces within the development site are important to keeping Nettleham as a green community.
- Matters in relation to access and lack of information for construction works and boundaries.
- Comments raised in relation to lack of consultation with regards to any party wall agreement.
- The proposed development will lead to an overdevelopment of plots on the site.
- Plot 11A in particular appears too large for the site and does not accord with National Space Standards.
- 80 houses equates to 22-25dph, exceeding the NNP density.
- The densification of Phase 1 contravenes the principle of retaining the open, rural character of the site, tending more towards an urban feel.
- Concerns in relation to extra noise and disturbance.
- Plots 11A, 10A and 10B appear to have inadequate parking.
- The incremental infill of plots will create an overcrowded development.
- The construction management plan is unacceptable and will cause extra noise and disturbance to the detriment of existing residents and neighbouring properties.
- The original planning application has been already subverted this has allowed the developer to chance a further attempt at expansion on a site designated for a restricted number of dwellings. This developer has no consideration for the inter-structure of Nettleham.

General observations received from the following properties:

- 58 Scothern Road, Nettleham

Comments summarised as follows:

- Why are no boundary treatments shown.

LCC Highways & 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.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to surface water risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water risk for this planning application.

Environment Agency:

No comments.

WLDC Growth and Projects:

No comments.

Anglian Water:

No Comments.

LCC Education (Corporate Property Team):

11/11/2022 (in summary)

Requests financial contribution towards primary education only.

*Planning Officer Comments – Additional clarity is sought from the Education authority relating to the disparity in their consultation responses. No financial contribution was requested at the original consultation stage, despite the original application proposing 4no. more dwellings than now proposed.*

21/04/2022 (in summary)

No financial contribution requested to mitigate the impact of the development at local level.

*Planning Officer Comments - The development will create 1no secondary school place to be mitigated but these monies are collected through CIL as opposed to a s.106 agreement in line with Central Lincolnshire Developer Contributions Supplementary Planning Document Adopted June 2018.*

Lincs Police:

Lincolnshire Police do not have any objections to this application

NHS:

(in summary)

The development (cumulatively) is proposing 82 dwellings which based on 2.3 per dwelling for the West Lindsey District Local Authority (WLDC) Area may

result in an increased patient population of 189. The practice that is most likely to be affected by any increase in population is the local Nettleham Medical Practice in Lodge Lane, Nettleham, LN2 2RS.

The financial contribution requested to mitigate the impacts of the development is £632.50 x 11 (dwellings) = £6,957.50

The S106 contribution would provide capital to improve their car parking facilities and fund internal room reconfiguration to accommodate the extra consulting space requirements.

LCC Archaeology:

(in summary)

We have commented on earlier proposals for this site and would recommend that the same conditions as added to previous permissions (131975, 137084) also apply to the present application.

WLDC Environmental Protection:

15/11/2022 (in summary)

I have reviewed the information and have no further comments to add to those originally made by Jeanette Reith's attached for your information.

30/06/2022 (in summary)

Requests a construction management plan and contamination condition.

WLDC Strategic Housing:

15/11/2022 (in summary)

Looking at the above applications as cumulative applications, there are 9 additional units being provided on the site, as this is part of the wider site, it will trigger an affordable housing contribution as per LP11 of the Central Lincolnshire Local Plan. The site is within the Lincoln Strategy area and so will require a 25% contribution, for these applications of 9 units, that equates to 2.25 units of affordable housing.

The amended proposal at application 144480 includes 2 units of affordable rented housing which is an acceptable proposal based on the requirement. These will need securing through a S106. The trigger for delivery will need to be negotiated with the developer based on the site progress so far. The S106 will need to detail that these units are to be transferred to a Registered Provider but also give the opportunity for an off-site contribution in lieu of onsite delivery should an RP not be willing to take such a small number of units on a site.

The Commuted sum for the Lincoln Strategy area is currently £105,796 per unit which on this site where two units of affordable housing are to be delivered would equate to £211,592. Again, this will need securing in the S106 as a figure with indexation applied.

30/08/2022 (in summary)

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

Three options provided relevant to the outcomes of applications 144480 and 145076.

In summary, the applications should be dealt with cumulatively (if both are to be recommended for approval). The developer should provide the required units on site as part of the development.

There are two options here for delivery of the affordable housing on site –

- The tenure is split to deliver 1 unit of First Homes and 2 units of Affordable Rented – this could have a trigger that should an RP not be secured, then a contribution could be paid in lieu of affordable housing, this would be secured as a per unit cost of £105,796 equating to £211,592.
- The affordable housing is all delivered as First Homes.

A S106 will need to be in place to secure the affordable housing contribution on whichever option is to be taken forward.

#### **Relevant Planning Policies:**

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

#### Development Plan

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

Relevant policies of the CLLP include:

LP1: A Presumption in Favour of Sustainable Development

LP2: The Spatial Strategy and Settlement Hierarchy



LP3: Level and Distribution of Growth  
LP10: Meeting Accommodation Needs  
LP11: Affordable Housing  
LP12: Infrastructure to Support Growth  
LP13: Accessibility and Transport  
LP14: Managing Water Resources and Flood Risk  
LP17: Landscape, Townscape and Views  
LP21: Biodiversity and Geodiversity  
LP26: Design and Amenity  
LP52: Residential Allocations - Large Villages

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

Relevant policies of the NP include:

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

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

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

National policy & guidance (Material Consideration)

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

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in 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 (“Reg 18”) 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 Draft (“Reg 19”) of the Local Plan was published in March 2022, and was subject to a further round of consultation. On 8th July 2022, the Local Plan Review was submitted to the Planning Inspectorate in order for it to commence its examination.

The Draft Plan may be a material consideration, where its policies are relevant. Applying paragraph 48 of the NPPF, the decision maker may give some weight to relevant policies within the submitted “Reg 19” Plan, with the weight to be given subject to the extent to which there may still be unresolved objections to those policies (the less significant the unresolved objections, the greater the weight that may be given).

Consultation responses can be found in document STA022 Reg 19 Consultation Responses by policy / STA023 Reg 19 Consultation Responses by respondent.

- **Nettleham Neighbourhood Plan Review**

A review of the Nettleham Neighbourhood Plan is in progress. Nettleham Parish Council has completed Regulation 14 consultation on its Draft Plan Review July 2022.

The Draft Plan may be a material consideration, where its policies are relevant. Applying paragraph 48 of the NPPF, the decision maker may give some weight to relevant policies within the submitted “Reg 19” Plan, with the weight to be given subject to the extent to which there may still be unresolved objections to those policies (the less significant the unresolved objections, the greater the weight that may be given).

At this time, the extent to which there are unresolved objections is unknown and the emerging neighbourhood plan can only be attributed limited weight.

Relevant policies of the emerging Neighbourhood Plan include:  
Policy D1 – Parking Standards for New Residential Development  
Policy D3 – Water Resources and Flood Risk  
Policy D4 – Design of New Development and Parish Design Code Principles  
Policy D5 – Climate Change Mitigation and Adaption  
Policy D6 – Housing Development within Nettleham  
Policy D7 – Housing Mix and Affordable or Specialist Housing

### **Main issues**

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

### Principle of Development

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

The application site falls within the wider development site which is allocated under Policy LP52 under reference CL4661 (4.42 hectares) for an indicative 68 dwellings.

The site has planning permission for 68 dwellings and more recently has been subject to a further application (WLDC Ref: 142542) for an additional 3no dwellings. This was subsequently granted by WLDC Planning Committee in July 2021.

The 9no. additional dwellings proposed (7no. within 144480 & 2no. within 145076) would be visually and functionally assimilated into the wider development site. Therefore, for the purposes of this assessment, the development is considered cumulatively with the permission for the wider site of 71 dwellings (68+3). In total, allocated sites in Nettleham are identified to deliver an indicative 237 dwellings.

Policy H-1 of the NNP states, in reference to the four allocated sites in the plan area, that they will each be restricted to a yield of 50 homes ***“unless it can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community and also that their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings”***. Policy H-6 of the NNP is specific to the application site (Site B in the NP). It states an allocation of

'approximately 50 dwellings' subject to the retention and strengthening of the existing footpath (FP149), creation of a 15m planting buffer along the south eastern and eastern boundary, retention of a minimum of 50% of the mature trees and hedgerow that runs in a south-easterly direction from the eastern end of High Leas, appropriate safeguarding of the archaeological features, the formation of safe and convenient cycle and vehicular access and allotment provision.

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

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

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

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

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

- Where it can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community; and,
- Where their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings.

Given the incorporation of the 9no. additional dwelling within the site layout, it would not be readily discernible whether there were 71 or 80 dwellings on the site. The dwellings would be viewed in the context of the wider development

scheme, making more efficient use of the site, which consequently would be satisfactorily incorporated into the surrounding topography and landscape, in accordance with Policy H-1. The proposed dwellings would utilise the house types already proposed on site and there would be no harm the character and appearance of the area.

The Parish council have objected to both applications (144480 & 145076) stating that the *“continuous creep in housing numbers for this site will change the whole character of the originally approved and supported development from a spacious open development to one which is more appropriate for an urban area”*.

The supporting text for Policy D-6 of the NP advises that a figure of 20dph was used to set a bench mark for maximum density for future development. The site area stated in the application form is c.5.2ha. A total of 80 dwellings located on a site of 5.2ha would result in a density of 15.4 dwellings per hectare (dph). Consequently, the proposed density falls within the bench mark maximum density advised within the NP and would indicate that the proposed layout is more effective use of the land available.

It is therefore considered that the proposed additional 9no. dwellings (7no. within 144480 & 2no. within 145076) would not lead to an overly dense or cramped arrangement on site, when considering the advice contained within the NP.

The Parish Council objection states *“The Neighbourhood plan and Local plan originally called for 50 homes on this site and 68 were finally approved”*. However, the development plan does not place a maximum restriction of 50 dwellings. Paragraph 10.2.2 of the CLLP is clear that:

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

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

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

*“it is my judgement that the stated allocations within Policies LP52, H-1 and H-7 are not to be treated as absolute maximums and that there is*

*flexibility built into the relevant policies, including those of the NNP, that set out circumstances where delivery of more dwellings than indicated would nevertheless accord with the overall spatial strategy, provided relevant criteria are met, in particular those of Policies H-1 and H-7.”*

Finally, it is noted that the site is located within the developed footprint as shown on Map 3 of the Nettleham Neighbourhood Plan review (NNPR). The site is not allocated in the NNPR but is identified as a site with planning permission. Policy D6 of the NNPR states:

*“proposals for new residential development will only be supported if it is filling a gap within the existing\* developed footprint of Nettleham, as identified on Map 3”.*

This proposal is effectively a series of infill developments within an approved development. Although only limited weight can be applied at this stage of the plans preparation, it is considered that the development proposal is in accordance with the aims of policy D6 of the NNPR.

To conclude, it is considered that the proposal has demonstrated that the proposed additional 9no. dwellings (7no. within 144480 & 2no. within 145076) can be satisfactorily incorporated into the community and also that the proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings. The proposal is therefore deemed to accord with policy LP2 and LP52 of the CLLP and policies H1 and H7 of the NP and is acceptable in principle.

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

#### Affordable Housing

This section is considered cumulatively with application 145076.

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

These proposals are being assessed cumulatively with the wider development site against policy LP11. In this regard, policy LP11 advises that where a scheme is followed by an obviously linked subsequent development scheme at any point where the original permission remains extant, then Policy LP11 as a whole will be applied. This developments are visually and functionally connected to the wider development site and therefore is subject to the cumulative requirements of LP11.

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

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

The site lies within the Lincoln Strategy Area and therefore the site qualifies for 25% affordable housing requirement. 25% affordable housing would equate to 2.25 units. This figure is rounded down to the nearest figure and as such two affordable housing units would meet the required provision.

Plots 52a and 52b are to be delivered as on site affordable rented accommodation. This will be secured by a Section 106 Agreement.

It is considered that, subject to such a S106 planning obligation, the development meets the required provision of affordable housing and will accord with policy LP11.

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

#### Infrastructure

This section is considered cumulatively with application 145076.

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

The Local Education Authority (LEA) has confirmed that there is no financial contribution requested to mitigate the impact of the development at local level. The development will create 1no secondary school place to be mitigated but these monies are collected through CIL as opposed to a s.106 agreement in line with Central Lincolnshire Developer Contributions Supplementary Planning Document Adopted June 2018.

NHS England seek a capital contribution of £632.50 per dwelling, to create additional capacity for the 184 patients expected to be generated by these developments (cumulatively with the wider development site). The surgery most likely to be affected is Nettleham Medical Practice. The applicant has agreed to meet this contribution, which will need to be secured through a S106 planning obligation.

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

#### Character and Visual Impact

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

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

The dwellings proposed will reflect housing types already used on the site.

Plot 10a/10b – 3 bedroom two-storey detached dwelling with an integral garage. 'Taylor B' house type.

Plot 15a – 5 bedroom two-storey detached dwelling with a detached garage. 'Snitterby' house type.

Plot 32a – 5 bedroom two-storey detached dwelling with a detached garage. 'Highgrove' house type.

Plot 41a – 4 bedroom two-storey detached dwelling with a detached garage. 'Pembrey' house type.

Plot 52a/52b – 3 bedroom two-storey semi-detached dwellings.

Materials for the development will match those used throughout the wider site. The design of these properties has been found to be acceptable by virtue of the granting of permission for the wider development site. Accordingly, the use of similar house types would accord with the established character of the development site. The dwellings would be viewed in the context of the wider development scheme, making more efficient use of the site and would not harm the character and appearance of the area.

An area of open landscaping will be created as a result of this application, to the benefit of the character of the area.

Comments have been raised in the consultation period relating to the development on open spaces within the site. The applicant has provided an 'open space statement' which advises that the gaps between dwellings have been introduced as a result of changes to the layout, the spaces have never formally been considered as public open space for the wider development site. The original development proposal for 68 dwellings included provision of open space which was to be delivered on site through a large allotment space with public parking and a circular field walk to the south with a dedicated footway. As such, the development would not lead to the loss of public open space within the development site.

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

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



### Residential Amenity

Local Plan Policy LP26 states that planning permission will be granted for new development provided the proposal will not adversely affect the residential amenity of neighbouring properties by virtue of overlooking, overshadowing, loss of light or over dominance. The application site is adjoined by residential properties to the west, east and south, as such, the impact on neighbouring dwellings is an important consideration.

Plot 4a is located to the rear of plot 4 and will be located nearby to the side boundary with the rear garden space of plot 4. Whilst it is located nearby to the side boundary, the separation to the rear elevation of plot 4 is c.15m.

Plot 4a is a bungalow with a ridge height of c.4.8m. Whilst the side gable end will be visible in the garden space of Plot 4, it is considered that the relationship is acceptable and the proposed dwelling will not lead to unacceptable loss of light or over dominance to plot 4.

Plot 4b is suitably sited so as to prevent overlooking towards neighbouring dwellings. Overall, plots 4a/4b will not contribute to undue loss of privacy, over and above the levels experienced on site.

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

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

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

### Highway Safety, Parking and Public Right of Way

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

Plots 4a/4b will utilise a new access point which connects to the existing 'Private Drive 1'. Both dwellings contain a garage and parking area, which is consistent with the approach adopted across the wider development site. The parking arrangements accord with policy D-3 of the NP.

It is noted that there are concerns regarding highway capacity raised by third parties however, it is considered that a cumulative development of 80 (7no. within 144480 & 2no. within 145076) dwellings would not suddenly be harmful in comparison to the approved development of 71 dwellings. The addition of 9no. (7no. within 144480 & 2no. within 145076) further dwellings would not be expected to result in a severe residual cumulative effect on the road network (severe being the test under NPPF paragraph 109). The Highway Authority

have not raised concerns relating to highway capacity or any other safety matters. The NPPF indicates that permission should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It is considered that there would not be an unacceptable effect on highway safety by virtue of the 9no. dwellings proposed (7no. within 144480 & 2no. within 145076) and the proposals accord with policy LP13.

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

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

#### Other matters

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

#### **Conclusion**

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

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

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

1. A capital contribution of £6,052.50 (£4,427.50 + £1,625.00) to the Council towards capital infrastructure for health services necessary to serve the development.
2. On-site delivery of 2no. Affordable Housing Units for affordable rented accommodation.

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

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

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

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

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

None.

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

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

Site Plan: TL016-SL-04 Rev F  
Plot 10a/10b: TL016-TA-10AB REV A  
Plot 15a: TL016-SN-15A-07  
Plot 32a: TL016-HI-06 REV F  
Plot 41a: TL016-PE-41A-10  
Plot 52a/52b: TL016-SP-52A REV B  
Garages: TL-SGD-01, TL-SGD-03.

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

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

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

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

4. The development shall proceed in accordance with the approved Construction Method Statement (Received 04 Jul 2022) throughout the build, except that construction works shall take place only between the hours of 07:30 and 18:00 on Mondays to Fridays and between 08:00 and 13:00 on Saturdays, and such works shall not take place at any time on Sundays or on Bank or Public Holidays.

**Reason:** In the interest of residential amenity in accordance with Policy 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.

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



The Planning Inspectorate

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## Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

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

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

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



FW\_ Planning

Inspectorate APP\_P02 erection of up to 63 no. dwellings with garages, access roads, footpaths and open space-access to be considered and not reserved for subsequent applications, at Land off the Hawthorns, Nettleham, Lincoln, granted on 5 July 2019 by West

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

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

### **Application for costs**

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

### **Preliminary Matter**

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

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### **Background and Main Issue**

4. Planning permission was granted by the Council in July 2019 for the residential development of the site, following consideration of the proposal by the Council's Planning Committee. The officer's report recommended approval of the proposal, which sought up to 63 dwellings on the site, with recommended Condition No 12 limiting the number of dwellings to 63. The Planning Committee voted to approve the application with this condition amended to limit the development to 50 dwellings. That condition is now under appeal.
5. The reason given for the imposition of the condition on the Council's decision notice is 'to preserve the character of the area and to integrate with the adjoining built residential form and to protect residential amenity.' The appellants object to the imposition of the condition on the grounds that it unreasonably restricts the development of an allocated site, contrary to the principles of sustainable development and which reduces the benefits that can be delivered.
6. Taking this background into account, I consider that the **main issue** is whether the condition is necessary and reasonable, having regard to relevant development plan policies relating to the delivery and location of housing, the effect on the character and appearance of the area and the effect on living conditions of neighbouring occupants.

## **Reasons**

### **Policy Context**

7. The appeal site is located to the northern side of the settlement of Nettleham, near Lincoln, comprising parts of two agricultural fields accessed from the end of the cul-de-sac of the Hawthorns, a residential street.
8. The relevant development plan documents for the area are the Central Lincolnshire Local Plan 2012-2036 (April 2017) (the CLLP) and the Nettleham Neighbourhood Plan 2014-2031 (2016) (the NNP). The CLLP sets out a spatial strategy for the District. Policy LP1 sets out the desire to deliver sustainable growth that brings benefits for all sectors of the community. Policy LP2 sets out the settlement hierarchy for the district. Policy LP3 sets out a housing target to deliver some 36,960 dwellings between 2012 and 2036, an average annual target of 1,540 dwellings. The supporting text at paragraph 3.3.3 states that the housing target should not be seen as a ceiling, but rather the level of growth which is both needed and anticipated to take place in the plan period.
9. Under Policy LP2, Nettleham is listed under Category 4 – Large Villages, in which most growth will be via sites allocated in the CLLP, or appropriate infill, intensification or renewal within the existing developed footprint. The appeal site is allocated under Policy LP52 under reference CL4662 (2.79 hectares) for an indicative 50 dwellings. In total, allocated sites in Nettleham are identified to deliver an indicative 237 dwellings.
10. The supporting text of the CLLP at Paragraph 10.2.1 states that the indicative numbers of dwellings for each site are used to demonstrate how the overall housing requirement can be met, and it is emphasised that these numbers are only 'indicative' and do not represent a fixed policy target for each individual site. It is well-established that a development plan allocation sets out the principle of the specific land-use, with exact details to be determined through development management processes. It is no different in this case and it is clear to me that the allocation number is intended to set general parameters for development which would accord with the overall spatial strategy, rather than setting rigid targets.
11. In addition, Paragraph 10.2.2 states that developers are encouraged to produce the most appropriate design-led solution, taking all national policies and other CLLP policies into account, in arriving at a total dwelling figure for their site, and they need not be constrained by the figure that appears in the column

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

12. Policy LP2, under Large Villages, also sets out that in exceptional circumstances (which are a matter for the decision maker), additional growth on nonallocated sites in appropriate locations outside of, but immediately adjacent to, the developed footprint of these large villages might be considered favourably, provided they are at a scale of less than 25 dwellings per hectare. Whilst this part of the policy relates to non-allocated sites, it indicates that additional growth in a village beyond that indicated for allocated sites would potentially accord with the overall spatial strategy.
13. Policy H-1 of the NNP states, in reference to the four allocated sites in the plan area, that they will each be restricted to a yield of 50 homes unless it can be demonstrated that their proposed numbers can be satisfactorily incorporated into the community and also that their proposed design, layout and dwelling numbers can be satisfactorily incorporated into their topography and landscape settings. Policy H-7 of the NNP is specific to the appeal site (Site C in the NNP). It states an allocation of 'approximately 50 dwellings' subject to achieving satisfactory vehicular access, a design and layout which safeguards residential amenities of existing properties, and provision of a footpath across the site. I note that the site is identified in the NNP as being approximately 3.5 hectares rather than 2.79 hectares in the CLLP, but with the same indicative number of dwellings. The appellant states that the actual area is 3.09 hectares.
14. On my reading of these policies and the supporting text, it is evident that the housing figures outlined for each of the allocated sites are not rigid maximums, and the policies of the NNP in particular clearly set out circumstances where more than the indicative number may be acceptable. Moreover, there is flexibility in the policies of both the CLLP and NNP, and notwithstanding the differences in site area, they are largely consistent in their approach. These policies are recently adopted, have been formulated in light of the guidance of the Framework and found to be sound. They are consistent with the Framework in planning positively for a significant boost in housing.



15. The Council argues that developing the site for 50 dwellings would result in 273 additional dwellings in Nettleham when permissions already granted and other allocations in the CLLP are taken into account, which exceeds the 237 set out in the CLLP allocations. This would also be more than the circa 250 dwellings which would equate to the anticipated 12-15% growth for Nettleham outlined by the CLLP and NNP. However, the number of dwellings already granted demonstrates that the Council is prepared to countenance delivery of housing beyond the numbers expressed in the CLLP and NNP, in line with the flexibility of the relevant policies. This is borne out by the fact that permissions have been granted on allocated sites A and B<sup>1</sup> in NNP which are similarly indicated to deliver approximately 50 dwellings, but which were granted for schemes of 86 and 68 units respectively.
16. Whilst I do not have full particulars of the permissions on sites A and B, both have been approved with more than the 26% uplift on the indicative figure which the Council now argues is a 'substantial over supply' of housing on the appeal site. The Council does not explain why its stance has differed between the applications for Sites A and B and the appeal site, but these other permissions demonstrate that the indicative dwelling numbers have been treated flexibly as allowed for by the aforementioned policies and a higher quantum of development on a site can be permitted without undermining the overall spatial strategy.
17. In this case, layout is a reserved matter and the details presented with the application are indicative; however, they show that 63 dwellings could be delivered on the site at a density of 20 dwellings per hectare (dph), which would accord with the maximum permissible density set out in the NNP, and the size of the site given in the CLLP. Moreover, the Officer's report set out that 20 dph would be comparable with surrounding development, whereas 50 dwellings would either deliver some 16.2 dph based on the appellant's measurement or as low as 14.28 dph based on the site area in Policy H-7. Regardless, the development proposed in this case would be compliant with the Council's own density parameters, and I am not persuaded that there is any justification for limiting the development to 50 dwellings on the basis of density.

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<sup>1</sup> Council Ref 135567 – Land off Deepdale Lane, Nettleham Lincoln LN2 2LT – Granted 8 November 2017

Council Ref 131975 – Land rear of 72 Scothern Road, Nettleham, Lincolnshire LN2 2TX – Granted 14 March 2017

18. I have considered the wider concerns raised by the Council in respect of the total number of dwellings being granted in Nettleham. However, the figures provided by the Council suggest the CLLP allocation number of 237 would be surpassed by the 50 dwelling scheme in any event. Moreover, there is little cogent evidence submitted to demonstrate that the impact of 63 dwellings at the appeal site would be harmful in comparison to that of 50 dwellings. Even accounting for the additional dwellings approved on sites A and B, the total delivery of housing in Nettleham would not be significantly out of step with the village's anticipated growth of the spatial strategy, and an additional 13 dwellings would be limited in the context of the overall delivery of housing in Nettleham. The appellants refer to the annual target of 1,540 dwellings representing a significant increase on the average of 934 dwellings completed between 2012 and 2016 and even the average of 1199 completed between 2008 and 2012. As such, the additional dwellings would assist in achieving the ambitious overall housing targets in place.
19. The Council also cites a potential precedent for increased development across Central Lincolnshire which may lack the necessary infrastructure to support it. I have little evidence before me that such concerns are warranted. Any future applications in other locations will fall to be considered on their own merits against the development plan policies in place at the time. As such, I give limited weight to the Council's concerns in this respect.
20. Taking these considerations together, therefore, it is my judgement that the stated allocations within Policies LP52, H-1 and H-7 are not to be treated as absolute maximums and that there is flexibility built into the relevant policies, including those of the NNP, that set out circumstances where delivery of more dwellings than indicated would nevertheless accord with the overall spatial strategy, provided relevant criteria are met, in particular those of Policies H-1 and H-7. It is to these that I now turn.

### **Character and appearance**

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

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

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

### **Living conditions**

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

### **Other considerations**

24. The indicative plans show a footpath could be provided as required by Policy H-7. Access was considered under the application and has been approved, to be taken from the end of the cul-de-sac of The Hawthorns. I have had regard to the evidence relating to access and other highway safety matters, including concerns raised by members of the Planning Committee and the representations of interested parties.
25. I note the Local Highway Authority did not raise objection to the proposal on the basis of a 63 dwelling scheme. There is nothing I have seen in evidence to suggest the Council limited the number of dwellings due to specific concern over the capacity of the proposed access or levels of proposed traffic. Though I recognise the local concerns regarding these matters, the Framework indicates

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

### **Conclusions on Main Issue**

26. Having regard to the above, and taking into account my observations on site, there is no persuasive evidence before me to demonstrate why 63 dwellings would be harmful when 50 dwellings were found to be acceptable. For the reasons set out, I am satisfied that the proposal would represent an acceptable quantum of development which would accord with the overall spatial strategy set out in the CLLP and the site-specific policies of the NNP. Consequently, I find no conflict with Policies LP2 and LP52 of the CLLP or Policies H-1 and H-7 of the NNP.
27. As such, I find that the disputed condition limiting development to 50 dwellings is both unreasonable and unnecessary and so does not meet the tests of conditions set out at Paragraph 55 of the Framework. It should therefore be removed. However, a 63 dwelling scheme would represent the maximum density of development set out in the NNP, and represents the quantum of development which the Council considered. In order to ensure the development is undertaken as proposed and additional dwellings are not sought which may have unanticipated impacts, it is necessary to replace the disputed condition with one defining the maximum development permitted as being 63 dwellings. There is no evidence before me of any need to amend or delete any other conditions of the permission.

### **Conclusion**

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

*K. Savage*  
INSPECTOR