

# Officers Report

## Planning Application No: 146424

**PROPOSAL:** Outline planning application for 3no. dwellings - all matters reserved

**LOCATION:** Land Adjacent 51 A Washdyke Lane Nettleham Lincoln LN2 2PX

**WARD:** Nettleham

**WARD MEMBER(S):** Cllr F J Brown, Cllr J S Barrett

**APPLICANT NAME:** Mr J Jackson

**TARGET DECISION DATE:** 04/05/2023 (Extension agreed until 14<sup>th</sup> July 2023)

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** Ian Elliott

**RECOMMENDED DECISION:** Grant permission subject to conditions

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### **Planning Committee:**

This application has been referred to the Planning Committee following third party objections including the Nettleham Parish Council referring to Neighbourhood Plan Policy.

### **Description:**

The application site is garden land to the side and rear of 51A Washdyke Lane, Nettleham. The host dwelling is a detached two storey dwelling set down a track to driveway parking. The site is set well back from the highway and slopes upwards from east to west. The main part of the site to the side and rear of 51A Washdyke Lane is primarily screened by a mix of high hedging and high fence panels. There are some gaps to the east boundary adjacent the Nettleham Beck. The west boundary section of the site adjacent the east elevation of the host dwelling is partly open and partly screened by low level hedging. Neighbouring dwellings are adjacent or opposite each boundary with the Nettleham Beck to adjacent the east boundary.

The site is in a Limestone Minerals Safeguarding Area. The majority of the site is within flood zone 1 with a small section of flood zone 2 and 3 adjacent the Nettleham Beck.

The application seeks outline planning permission for 3no. dwellings with all matters reserved.

### **Relevant history:**

Pre-application 144227 - Pre-application enquiry for 4no. dwellings – 11/03/22

## **Representations**

*Representations made in relation to the application, the substance of which are summarised below (full representations can be viewed online).*

**Chairman/Ward member(s):** No representations received to date

### **Nettleham Parish Council:** Objections

- It is not in keeping with policy D6(b) of the Neighbourhood Plan as it will not recognise existing residential density of larger housing with extensive gardens.
- Only two car spaces are shown. To comply with policy D3 of the Neighbourhood Plan the maximum number of bedrooms should be 2.
- There are several sharp bends which will make vehicle passing a hazard.
- No footpath provision presents a hazard to pedestrians, children playing in the area and other vehicles contrary to policy D2(c) of the Neighbourhood Plan.
- Driveway not large enough to serve 4 large dwellings.
- No FRA contrary to policy D4 of the Neighbourhood Plan.
- Increase in non-permeable hard surfacing would increase run-off into the Beck.
- Policy D6(f) of the Neighbourhood Plan relates to the retention of mature or important trees and is contravened by the proposal.
- Unacceptable overdevelopment and strongly oppose.
- Would like to see it called into planning committee.

**Local residents:** Objections received from:

28 Cliff Avenue, Nettleham  
51 Washdyke Lane, Nettleham  
53 Washdyke Lane, Nettleham  
55 Washdyke Lane, Nettleham  
Kemmel, Lincoln Road, Nettleham

### **Principle**

- Not an appropriate location contrary to policy LP2, S1 and S4 of the Central Lincolnshire Local Plan.

### **Density**

- Density does not align with D6b) or paragraph 5.3.1 of the Nettleham Neighbourhood Plan. Paragraph 5.3.1 states New housing should be of a scale, design, and density to fit within the existing character of the village.
- Average home in area covers 0.33 hectares whilst these cover 0.16 hectares.

### **Flooding**

- Building 3 four bedroom house in area classified as having medium/high risk areas will add to flooding problem.
- Increased impermeable area will significantly increase water run-off towards Beck adding to flood risk of adjoining properties.

- Flood risk assessment should be provided given slope of site, urbanising effect and flood risk associated with Nettleham Beck.
- Not clear if safe for life time contrary to S21 of Central Lincolnshire Local Plan and D4 of Neighbourhood Plan.
- Flooding in 2007 showed it is possible with increase in sudden weather events.
- Land important for flood mitigation.
- New roads and driveways on a slope and not allow water to run down towards the Beck.
- 100% trees/grassed to 60% adding significant flood risk.
- The FRA does not consider the impact of increased hardstanding (1540m<sup>2</sup>) on surface water drainage and Nettleham Beck.

#### Drainage

- Concerned with sewerage arrangements as 51A Washdyke Lane connects to 51 Washdyke Lane.
- Difficulty with blocked sewer recently and doubling use unsustainable.
- Soakaways unlikely to effectively manage surface water.

#### Highway Safety

- Construction vehicle access will be difficult.
- No footpath provision along single narrow access road which would be a hazard to drivers and people on foot.
- There are only two spaces per home. Policy D-3 of the Neighbourhood Plan requires 3 spaces for 4 bedroom dwellings.
- Drive is too small for a housing development.
- Access is very narrow with restricted visibility.
- Lead to more traffic on busy road which often has long queues.
- No room for cars to pass.

#### Biodiversity

- Adjacent the Nettleham Beck which is home to endangered wildlife such as water voles/kingfisher.
- Removal of significant amount of trees.
- Survey required or contrary to S60 of Central Lincolnshire Local Plan and NPPF.
- Seen colony of water voles and would be damaged.
- Significant number of trees have been felled degrading ecosystem and the rich and dense population of bird species.
- Land important for wildlife protection.
- Negative impact on environment.
- Area acts as a green corridor for wildlife through to Beck.

#### Residential Amenity

- Overlooking 28 Cliff Avenue.
- Overlook and impede natural daylight to surrounding properties.
- Addition of 18 people living in an area which is now a silent orchard will create a noise nuisance.

- Noise and pollution impact.

#### Green Wedge

- Land backs onto green wedge and further development would squeeze this shrinking piece of green space.
- Acts as a corridor to wildlife contrary

#### Reserved Matters

- Local Planning Authority should request layout secured under article 5(2) of the Town and Country Planning Development Management Procedure Order.

#### Other

- There is a need for smaller housing.
- Dwellings in area are larger and proposed are significantly smaller.
- Could lead to more development behind 53 and 55 Washdyke Lane.
- Construction vehicles causing noise and damage to narrow driveway.
- Road not wide enough for waste collection and far to take bins to road.
- Struggle to see how 3 large 4 bedroom houses would help to rebalance the community demographic.
- Neighbourhood Plan 5.2.2 states its essential no homes should be built on land that lies adjacent the Nettleham Beck.
- Policy H-4 expects a mix of dwellings.
- Contrary to S1, S4, S21, S49, S53, S57, S60, S63 and S66 of the Central Lincolnshire Local Plan and E1, E5, D3, D4 and D6 of the Neighbourhood Plan.

#### **LCC Highways:** No objections with advice

- This proposal is for 3 dwellings, to be served via an existing private drive which has adequate width and visibility.
- Any subsequent reserved matters application should make arrangements for refuse storage within the site curtilage for the 3 proposed dwellings and the host dwelling.

#### **LCC Lead Local Flood Authority:** Comment

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

#### **WLDC Tree and Landscape Officer:** Comments

- The trees intended to be removed, as described above, are all category C trees, therefore I have no objections to their removal in terms of their quality.
- Tree loss needs to be assessed against the new CL Local Plan 2023 for its impact on biodiversity and habitat value. Four large, mature trees have already been lost, with a further 9 individual trees and an unknown number

of trees within groups identified for removal. Nine replacements (of trees and shrubs) are proposed, along with some native mixed hedgerow, but if permission is granted then a scheme of landscaping should be required to be submitted in a RM or Full application to provide further details and clarification of species and what will be planted where.

- If permission is granted, there is a high risk new owners would remove more trees to reduce shade to modest sized gardens and gain more usable space.
- Details of tree protection measures should be submitted for prior approval as part of a subsequent RM or Full application. The details need to clarify type/form of the protection measures and their positions, with the aim of protecting the whole area of the trees RPAs or creating a barrier to separate areas of trees from all development activities. Tree protection methods should be in line with BS5837:2012 recommendations. Tree protection should be put in approved positions prior to any commencement of works, and be kept in place until completion.

**Environment Agency:** No objections

We have no objection to the application, however request that your local authority lists the FRA as an approved document, to which the development must adhere to.

**LCC Archaeology:** No objections

LCC Minerals and Waste: No objections

**Natural England:** No objection with advice

**Lincolnshire Wildlife Trust:** Objection (Holding)

There is no BNG report associated with this application and given the number of distinctive and species-rich habitats onsite (e.g., the orchard and neutral grassland) gains in biodiversity units would be extremely difficult given the current design. The orchard fulfils the criteria of a 'traditional orchard' owing to its species composition and the low intensity management (Paragraph 4.6 of the PEA). The proposed development would thus result in a loss of priority habitat rendering the overall design incompatible with the mitigation hierarchy and BNG metric because of this unavoidable loss.

Bespoke compensation for this loss would need to be agreed for the same habitat type to be created on land offsite. A minimum of 10% BNG now required under the Environment Act 2021 and Policy S61 of the Central Lincolnshire Local Plan (CLLP). The baseline, pre-development habitat units, would need to be assessed using the latest DEFRA Biodiversity Metric and the UK Habitat assessment.

The site contains important elements of the local green and blue infrastructure network (Policy S59) such as orchard, grassland (Paragraph 11.0.2 CLLP) and Nettleham beck - which connects the site to the wider landscape (Section 4.6 of the PEA). Nettleham beck runs adjacent to the eastern boundary of the proposed development (though not shown in the 'Indicative Site Plan').

Settlements usually act as 'pinch points' for watercourses with traditional engineering techniques implemented such as solid banks (as seen in Photograph 13 and 15 of the PEA) leading to increased flood risk during times of high rainfall, or surface water flooding. Surface water flooding was highlighted as the main risk to the site and with the assessment lacking any climate change scenario the future risks to the site are not being fully considered.

**ECM checked:** 3rd July 2023

### **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 2023) and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

#### Development Plan

- ***Central Lincolnshire Local Plan 2023 (CLLP)***

Relevant policies of the CLLP include:

- S1 The Spatial Strategy and Settlement Hierarchy
- S4 Housing Development in or Adjacent to Villages
- S6 Design Principles for Efficient Buildings
- S7 Reducing Energy Consumption –Residential Development
- S20 Resilient and Adaptable Design
- S21 Flood Risk and Water Resources
- S23 Meeting Accommodation Needs
- S47 Accessibility and Transport
- S49 Parking Provision
- S53 Design and Amenity
- S57 The Historic Environment
- S59 Green and Blue Infrastructure Network
- S60 Protecting Biodiversity and Geodiversity
- S61 Biodiversity Opportunity and Delivering Measurable Net Gains
- S66 Trees, Woodland and Hedgerows

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

- ***Nettleham Neighbourhood Plan (NNP) – Made 3<sup>rd</sup> March 2016***

Relevant Policies are:

- Policy E-5 Nettleham Beck Green Corridor
- Policy D-1 Access
- Policy D-2 Pedestrian and Cycle Access
- Policy D-3 Parking Provision
- Policy D-4 Water Resource and Flood Risk
- Policy D-6 Design of New Development

<https://www.west-lindsey.gov.uk/planning-building-control/planning/neighbourhood-planning/all-neighbourhood-plans-west-lindsey/nettleham-neighbourhood-plan-made>

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

The site is within a Limestone Minerals Safeguarding Area. Policy M11 (Safeguarding of Mineral Resources) applies.

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

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/publications/national-design-guide>

- **National Design Model Code (2021)**

<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).*

- **Nettleham Neighbourhood Plan Review (NNPR)**

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 and supporting Character Assessment March 2021.

Relevant Draft Policies are:

D1 Parking Standards for New Residential Development

D3 Water Resource and Flood Risk

D4 Design of New Development and Parish Design Code Principles

D5 Climate Change Mitigation and Adaptation

D6 Housing Development within Nettleham

D7 Housing Mix and Affordable or Specialist Housing

The Nettleham Neighbourhood Plan Review can be afforded some limited weight in the determination of the application.

<https://www.west-lindsey.gov.uk/planning-building-control/planning/neighbourhood-planning/all-neighbourhood-plans-west-lindsey/nettleham-neighbourhood-plan-made>

Other:

Section 38 of the Planning and Compulsory Purchase Act 2004

<https://www.legislation.gov.uk/ukpga/2004/5/section/38>

**Main issues:**

- Principle of the Development  
*Central Lincolnshire Local Plan 2023*  
*Nettleham Neighbourhood Plan*  
*Nettleham Neighbourhood Plan Review 2023*  
*Concluding Assessment*
- Flood Risk
- Minerals Resource
- Biodiversity  
*Protected Species*  
*Biodiversity Net Gain*  
*Trees*

**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 2023:*

Local policy S1 of the CLLP sets out a spatial strategy and settlement hierarchy from which to focus housing growth. This policy identifies Nettleham as a large village and *'to maintain and enhance their role as large villages which provide housing, employment, retail and key services and facilities for the local area, the following settlements will be a focus for*



*accommodating an appropriate level of growth'. Local policy S1 states that most of the housing growth in Nettleham will be 'via sites allocated in this plan. Beyond site allocations made in this plan or any applicable neighbourhood plan, development will be limited to that which accords with Policy S4: Housing Development in or Adjacent to Villages'.*

Section 1 of local policy S4 of the CLLP states that large villages “*will experience limited growth to support their role and function through allocated sites of 10 or more dwellings in the Local Plan, sites allocated in neighbourhood plans, or on unallocated sites in appropriate locations within the developed footprint of the village that are typically:*

- *up to 10 dwellings in Large Villages”*

Section 2 of local policy S4 of the CLLP states that “*Residential development proposals for unallocated sites within the size thresholds set out in part 1 of this policy and within the developed footprint of the village will only be supported where it would:*

- a) preserve or enhance the settlement’s character and appearance;*
- b) not significantly harm the character and appearance of the surrounding countryside or the rural setting of the village; and*
- c) be consistent with other policies in the development plan.”*

An appropriate location is defined within the glossary of the CLLP as:

*“Appropriate locations means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan. 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.”*

The developed footprint is defined within the glossary of the CLLP as:

*“Developed footprint of a settlement is defined as the continuous built form of the settlement and excludes:*

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

The application site is unallocated garden land to the side and rear of the host dwelling. The development proposes 3 dwellings on land within the developed footprint of the settlement and adjacent land which has been developed for three back land housing (Lysterfield Road).

*Nettleham Neighbourhood Plan:*

The policies of the NNP only considers development on allocated housing site therefore is silent on smaller residential developments within the developed footprint of the settlement.

*Nettleham Neighbourhood Plan Review 2023*

The Nettleham Neighbourhood Plan Review includes a new draft policy (D6) for residential development away from allocated sites that are within and outside the developed footprint of the settlement. Criteria 1 of policy D6 includes a maximum number of dwellings, location and character considerations.

*Concluding Statement:*

The proposed development would be within the dwelling number limit for large settlements and is considered to be within the developed footprint of the settlement. The development would be expected to retain the core shape and form of the settlement, preserve the character of the settlement and would not be expected to significantly harm the character and appearance of the surrounding countryside or the rural setting of the village. Back land development adjacent the application site has been introduced into the character of this section of Nettleham.

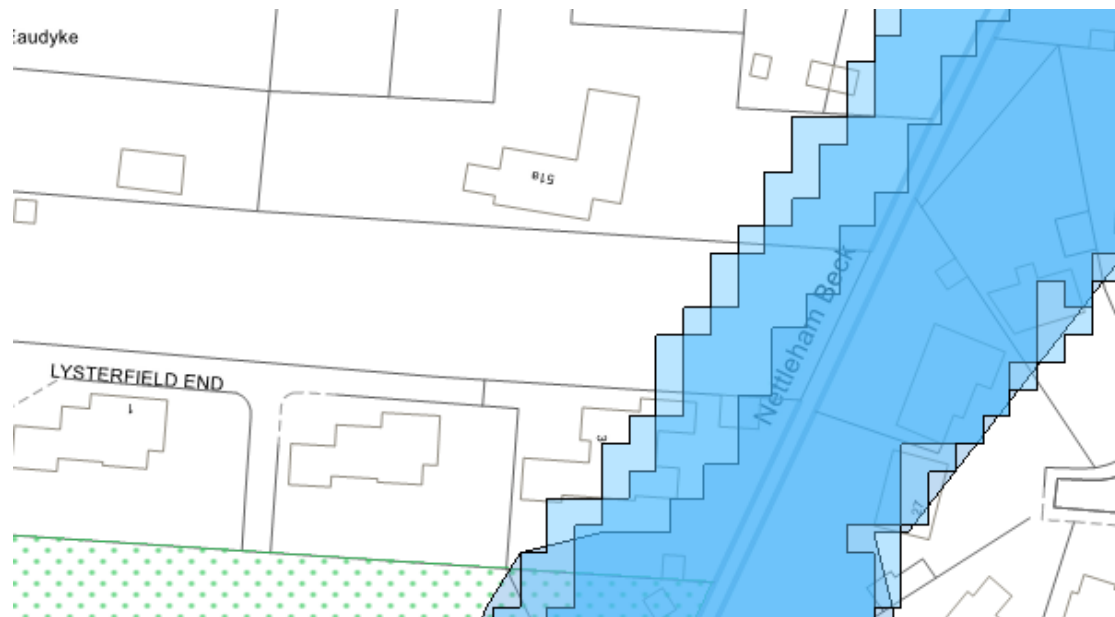
It is therefore considered that the development would accord to local policy S1 and S4 of the CLLP, draft policy D6 of the NNPR and the provisions of the NPPF.

Flood Risk

Objections have been received on the risk of flooding caused by the development through reducing the permeability of the site and increasing run-off to Nettleham Beck. Drainage of the site is considered later in the report.

Local policy S21 of the CLLP states that *“all development proposals will be considered against the NPPF, including application of the sequential and, if necessary, the exception test.”*

Policy D-4 of the NNP states that *“proposals for development in flood zone 2 as identified on the plan at Appendix L will be required to demonstrate through reference to the West Lindsey Strategic Flood Risk Assessment and to a site specific flood risk assessment that the proposed development will not increase the flood risk to the site and to other parts of the Plan area in general, and to the Nettleham Beck in particular.”*



As previously described and as identified on the plan above the site lies primarily in flood zone 1 with the eastern edge adjacent Nettleham Beck in flood 2 and 3. Local policy S21 and the National Planning Policy Framework (NPPF) requires a sequential approach towards locating development to areas at lower risk of flooding and the submission of a Flood Risk Assessment (FRA). An FRA Rev A01 dated 25<sup>th</sup> May 2023 by Origin Designs has been submitted. The FRA confirms that all three dwellings are positioned in flood zone 1 therefore passes the sequential test. The Floor level and Mitigation section (pg10) states that:

*“Standing advice requires finished floor levels (FFL) should be a minimum of whichever is higher of 300mm above the:*

- *Average ground level of the site*
- *Adjacent road level to the building*
- *Estimated river or sea flood level*

*Final floor levels for the dwellings would be a matter to be determined through reserved matters.”*

The Environment Agency have no objections subject to the FRA being listed as an approved document.

The proposed use of the site for dwellings is classed under Annex 3 (Flood Risk Vulnerability Classification) of the NPPF as being more vulnerable. Given consideration to table 3 (Flood risk vulnerability and flood zone ‘compatibility’) of the NPPG and the position of the dwellings within flood zone 1 it is considered by the Local Planning Authority that the proposed three dwellings would not be required to pass the sequential or exceptions test.

In section 5.2.2 of the NNP (justification for policy D-4 Water Resource and Flood Risk) it states that *“in order to minimise the risk of the effects of*

*flooding, especially flash flooding, on the centre of the village it is considered essential that no new homes should be built on land that lies adjacent to the Nettleham Beck*". Paragraph 6.10 of policy D3 of the NNPR replicates the extract in section 5.2.2 of the NNP noted above. It is important to consider that the justification in section 5.2.2 and paragraph 6.10 uses the word should which is not as definitive as the word shall or must.

Paragraph 3.7.3 of local policy S21 of the CLLP states that *"a sequential risk based approach to the location of development, known as a 'sequential test,' will be applied to steer new development to areas with the lowest probability of flooding"*.

Paragraph 162 of the NPPF states that *"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source"*.

The proposed development would therefore fail to comply with the justification in policy D-4 of the NNP but would accord with local policy S21 of the CLLP and the flood risk guidance of the NPPF.

Section 38 (5) of the Planning and Compulsory Purchase Act 2004 states that *'If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document'*.

The Nettleham Neighbourhood Plan was made on 3<sup>rd</sup> March 2016, whereas the Central Lincolnshire Local Plan was adopted on 13<sup>th</sup> April 2023. As the Central Lincolnshire Local Plan is the most recent plan the conflict must be resolved in favour of local policy S21.

It is therefore considered that the proposed dwellings would be located in flood zone 1, which sequentially is the preferred location as having the lowest risk of flooding and accords to local policy S21 of the CLLP and the provisions of the NPPF.

### Minerals Resource

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 site is within a Limestone Minerals Safeguarding Area and a Minerals Assessment has been submitted within the supporting statement. The Minerals and Waste team at Lincolnshire County Council have no objections to the development.

The development would not have an unacceptable harmful impact on a Minerals Resource and would accord with policy M11 of Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) and the provisions of the NPPF.

### Biodiversity

#### *Protected Species:*

Policy S60 of the CLLP states “*all development should:*

- a) protect, manage, enhance and extend the ecological 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;*
- b) minimise impacts on biodiversity and features of geodiversity value;*

Policy E-5 Nettleham Beck Green Corridor of the NNP states:

*“Development proposals which enhance the setting of the Beck and its associated amenity value will be supported. Where appropriate development proposals adjacent to the Beck should:*

- a) Seek to retain public access and extend access through the formation of waterside walkways; and*
  - b) Preserve and enhance its amenity, biodiversity and recreational value.*
- Development proposals which encroach upon or materially harm the function, character or appearance of the Beck will not be supported.”*

This application on the request of the case officer has included a Preliminary Ecological Appraisal (PEA) by CGC Ecology dated June 2023. In summary section 5 of the PEA sets out the following recommendations:

### Badgers

- Precautionary measures for badgers.

### Bats

- No further work is required in respect of bats if any trees on site are to be managed or felled.
- No requirement for bat activity surveys providing precautionary measures are implemented as listed.

### Water Voles

- If there are any anticipated impacts to Nettleham Beck then further survey work will be required. One water vole survey must be undertaken between mid-April and the end of June, and another between July and September, unless there is sufficient information from the first survey to determine either the absence of water vole or the relative size and extent of the water vole population to be affected.

### Wild Birds

- Any removal or management of any of the trees, shrubs or hedgerows on site should commence outside the active nesting season which typically runs from early March through to early September. If work commences during the bird breeding season, a search for nests should be carried out beforehand by a suitably experienced ecologist, and active nests protected until the young fledge.

### Recommendations

- The orchard on site should be retained in full, with continued appropriate management to maximise biodiversity. Any removal must be compensated for by re-planting at least the amount removed either somewhere else on the site, or on nearby land.
- Although the neutral grassland on site does not qualify as a Local Wildlife Site, it does have value for biodiversity, and replacement areas of species-rich grassland must be incorporated into the proposals.
- Any works taking place adjacent to Nettleham Beck must ensure that there is no risk of sediment, dust or pollutants entering the waterway, or damage to the banks. It is recommended that a buffer zone of 3m is installed along the edge of the beck, to ensure there are no incursions by heavy machinery.
- A Construction Environmental Management Plan or similar may be required to ensure the works do not adversely affect the beck.

### Ecological Enhancements

- Any new hedgerows to be planted must comprise native species that provide pollen, nectar and fruit in order to provide a food source for birds and invertebrates.
- Any new trees to be planted must include field maple *Acer campestre*, bird cherry *Prunus padus*, pedunculate oak *Quercus robur*, lime species *Tilia* sp., goat willow *Salix caprea*, holly *Ilex aquifolium*, rowan *Sorbus aucuparia*, hawthorn *Crataegus monogyna*, crab apple *Malus sylvestris*

and wild cherry *Prunus avium*, which provide foraging opportunities for various invertebrate and bird species.

- Some areas of longer grass must be created within any areas of public open space or road verges, and seeded with a general-purpose wildflower meadow seed mix. Any new wildflower must be cut as specified.
- To maintain commuting routes for hedgehogs, any solid fences that are installed must have a small hole at the base measuring 13x13cm, or be raised off the ground. Ideally, hedges should be used instead of, or as well as, fencing.
- Integral swift boxes (Manthorpe Swift Brick, Woodstone, Vivara Pro or Schwegler type) must be installed on the northern or eastern elevation of the new dwellings.
- Integral Habitat, Ibstock or Woodstone bat boxes must be installed on the southern or eastern elevations of the new dwellings for use by pipistrelle bats.

The proposed development subject to conditions would therefore not be expected to have an unacceptable harmful impact on protected species or trees and would be expected to preserve and enhance the Nettleham Beck and accords to local policy S60 of the CLLP, policy E-5 Nettleham Beck Green Corridor and guidance contained within the NPPF.

*Biodiversity Net Gain:*

Local policy S61 of the CLLP requires “*all development proposals should ensure opportunities are taken to retain, protect and enhance biodiversity and geodiversity features proportionate to their scale, through site layout, design of new buildings and proposals for existing buildings with consideration to the construction phase and ongoing site management*”. Local policy S61 goes on to state that “*All qualifying development proposals must deliver at least a 10% measurable biodiversity net gain attributable to the development. The net gain for biodiversity should be calculated using Natural England’s Biodiversity Metric*”.

The Lincolnshire Wildlife Trust has commented on the Environment Act 2021 and the requirement of the Bill to provide a 10% net biodiversity gain. The Environment Act 2021 received royal assent on 9<sup>th</sup> November 2021. It is noted that policy S61 of the Local Plan Review proposes 10% as part of the statutory development plan.

However, this application was valid on 9<sup>th</sup> March 2023 when the adopted Local Plan was the Central Lincolnshire Local Plan 2012-2036. Whilst revoked policy LP21 of the Central Lincolnshire Local Plan 2012-2036 required some net biodiversity gain it did not require at least 10%. This application has included an ecology report which has made recommendations to mitigate and enhance the ecological value of the site. In this case with consideration given to the date of validation it is considered that it would be unreasonable to expect the applicant to satisfy the requirements of local policy S60(c) or S61 of the CLLP. It is also noted that the Government’s 2023 response to the 2022 BNG consultation set out that the transition period for small sites will be extended to April 2024

Small sites are defined as:

(i) For residential: where the number of dwellings to be provided is between one and nine inclusive on a site having an area of less than one hectare

*Trees:*

Local Policy S66 of the CLLP states:

*“Planning permission will only be granted if the proposal provides evidence that it has been subject to adequate consideration of the impact of the development on any existing trees and woodland found on-site (and off-site, if there are any trees near the site, with ‘near’ defined as the distance comprising 12 times the stem diameter of the off-site tree). If any trees exist on or near the development site, ‘adequate consideration’ is likely to mean the completion of a British Standard 5837 Tree Survey and, if applicable, an Arboricultural Method Statement.*

*Where the proposal will result in the loss or deterioration of:*

- a) ancient woodland; and/or*
- b) the loss of aged or veteran trees found outside ancient woodland,*

*permission will be refused, unless and on an exceptional basis the need for, and benefits of, the development in that location clearly outweigh the loss.*

The application has includes an Arboricultural Implications Assessment (AIA) by Andrew Belson dated 17<sup>th</sup> January 2023. The AIA summarises that *“it is my opinion that the proposed development scheme could provide dwellings in the approximate locations without any significant conflict.”*

The Authority’s Tree and Landscape Officer has not objected to the removal of category C trees, acknowledges the introduction of new trees and recommends conditions for more detailed landscaping information and tree protection measures.

The removal of category C trees should not be a constraint to restrict development. It is agreed that the application lacks landscaping details but landscaping is a reserved matter and full details of landscaping (including replacement trees) would be expected to be submitted with a future reserved matters application if this outline application is permitted.

The AIA includes a tree plan on the last page which identifies the position of the trees, the trees to be removed and the root protection areas. It does not include any tree protection measures. It is therefore agreed that it would be relevant and necessary to include a condition on any outline permission requiring tree protection measures.

It would therefore be expected that the development would not have an unacceptable harmful impact on protected species or trees and would accord to local policy S60 and S61 of the CLLP and the provisions of the NPPF.



## Other Considerations:

Details of access, scale, appearance, layout and landscaping cannot be assessed at this stage as they are reserved for subsequent approval. An indicative site plan (ISP) J1852-PL-03 Rev P02 dated 5th May 2023 has been submitted but not any indicative elevation and floor plans.

### Access

In planning law access is defined as:

*“in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made”*

The ISP identifies that the proposed 3 dwellings would be accessed using the existing vehicular access off Washdyke Lane (30mph) which serves the host dwelling. The vehicle access is set back from Washdyke Lane with pedestrian footpath and grass verge providing good visibility in both directions as confirmed by the Highways Authority at Lincolnshire County Council.



The Highways Authority at Lincolnshire County Council have not objected to the development but have recommended that *“any subsequent reserved matters application should make arrangements for refuse storage within the site curtilage for the 3 proposed dwellings and the host dwelling”*.

It is considered that the proposed access would not be expected have an unacceptable harmful impact on highway safety and would be expected to accord with local policy S47 of the CLLP, policy D-6 of the NNP, policy D4 of the NNPR and the provisions of the NPPF.

It is considered that policy D-6 and D4 are consistent with the highway safety guidance of the NPPF and can be attached full weight.

### Layout

In planning law layout is defined as:

*“the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development”.*

The ISP identifies three detached dwellings in a row to the rear of the host dwelling matching the character of Lysterfield End. The dwellings would be in acceptable plots with more than adequate private garden sizes and off street parking provision for 5 bedroom dwellings in accordance policy S49 of the CLLP and 4 bedroom dwellings in accordance with policy D-3 of the NNP and policy D1 of the NNPR. The dwellings would be appropriately separated from each other.

The ISP includes an access road off the initial track which at 4.1 metres would be wide enough for two cars to pass. The existing track down to the host dwelling is 3.4 metres wide and would not be wide enough for two vehicles to pass. It would be advised to widen at least the first 10 metres of the track from the highway to 4.1 metres wide.

The ISP would not be considered to be an overdevelopment of the site and would relate well to the character of the area.

It is therefore considered that the proposed layout would not be expected to have an unacceptable harmful impact and would accord to local policy S49 and S53 of the CLLP, policy D-6 of the NNP, policy D4 of the NNPR and the provisions of the NPPF.

In planning law Scale and Appearance is defined as:

*“the height, width and length of each building proposed within the development in relation to its surroundings.”*

*“the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.”*

No elevation and floor plans have been submitted with the application. The ISP suggests that dormer bungalows are to be proposed on the site. It is not considered relevant or necessary to restrict the scale of the dwellings through a condition on the outline permission. However any future reserved matters application must be mindful of the proximity of neighbouring existing dwellings.

The site has residential uses adjacent or opposite each boundary. These residential uses includes a mix of dwelling types, designs and sizes including bungalows, dormer bungalows and two storey dwellings. It would be advised that the scale and appearance through a reserved matters application would need to be appropriate and informed by its locality including the use of any locally distinctive materials.

*Landscaping:*

*‘Landscaping’ – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;*

The ISP provides an indicative concept of landscaping for the site. Mitigation or compensation for the trees to be removed is an important matter for any future landscaping plans including consideration of the Nettleham Beck.

#### Archaeology

The Historic Environment Officer at Lincolnshire County Council has no objection to the development. Therefore the development would not be expected to have a harmful archaeological impact and would be expected to accord to local policy S57 of the CLLP and the provisions of the NPPF.

#### Residential Amenity

Objections have been received from neighbouring residents in relation to loss of privacy, loss of daylight, noise disturbance and air pollution.

Criteria d of section 8 of local policy S53 of the CLLP states that all development proposals will *“Not result in harm to people’s amenity either within the proposed development or neighbouring it through overlooking, overshadowing, loss of light or increase in artificial light or glare”*

Indicative elevation and floor plans have not been submitted with the application. The site shares a boundary with a number of existing neighbouring dwellings. The ISP demonstrates that three dwellings carefully positioned on the site would not be expected to have an unacceptable harmful impact on the living conditions of existing or potential neighbouring dwellings through loss of light or loss of privacy. The position of the dwellings on the ISP provides adequate separation distances and sufficient private garden spaces.

#### *Noise/Air Pollution:*

Comments have been received from neighbours in relation to noise and air pollution from the traffic entering and exiting the site.

The access road to the site would sit between the boundary of 51 Washdyke Lane and 53 Washdyke Lane as well as running past the east elevation of the host dwelling (51A Washdyke Lane). Vehicles (residents, visitors, deliveries etc.) expected to use the access road would generate some noise but at low speed and not to an amount which would be expected to unacceptably harm the living conditions of neighbouring dwellings.

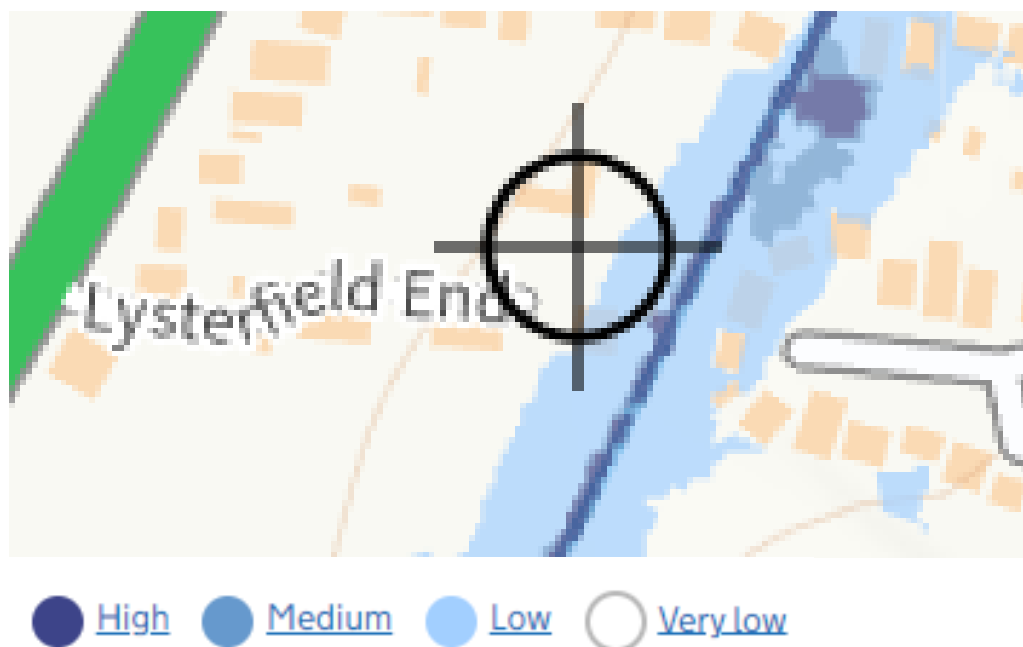
The use of the access road by vehicles would pollute the air through exhaust fumes but not to an amount which would be expected to unacceptably harm the living conditions of neighbouring dwellings.

It would be considered reasonable and necessary to attach a condition requiring a demolition and construction method statement to ensure the works do not unacceptably harm the neighbouring residents.

It is therefore considered that the proposed development would not be expected to have an unacceptable harmful impact on the living conditions of neighbouring and future residents and would accord to local policy S53 of the CLLP and the provisions of the NPPF.

#### Foul and Surface Water Drainage

Objections have been received in relation to drainage and surface water flooding. The government's flood map <sup>1</sup> for planning website confirms that the site has some low to high risk of flooding from surface water near and on the Nettleham Beck as identified below:



The application form does not state how foul water would be disposed of. Given the location of the development it would be preferred and expected that the development would connect to the existing mains sewer. The application form states that surface water would be disposed of to soakaways which as a sustainable urban drainage system is preferred. Further details would be required either through a condition or a reserved matters application to appropriately drainage the propose site.

Comments have been received in relation to surface water run-off and the reduction of the permeable qualities of the site. It is agreed that the permeable qualities of the site would be reduced by the introduction of built form and associated infrastructure. However any future surface water

<sup>1</sup> <https://flood-map-for-planning.service.gov.uk/>

drainage scheme would have to take into consideration the impact of the development and Nettleham Beck.

Therefore foul and surface water drainage would be expected to be capable of being addressed by the use of a condition and subject to further details would be expected to accord to local policy S21 of the CLLP, Policy D-4 Water Resource and Flood Risk of the NNP, policy D3 of the NNPR and the provisions of the National Planning Policy Framework.

#### Climate Change

Local policy S6 and S7 of the CLLP sets out design principles for efficient buildings and reducing energy consumption. Local policy LP7 states that:

*“Unless covered by an exceptional basis clause below, all new residential development proposals must include an Energy Statement which confirms in addition to the requirements of Policy S6”.*

Local policy S7 provides guidance and criteria on the generation of renewable electricity and the limit on the total energy demand for each single dwelling (*“not in excess of 60 kWh/m<sup>2</sup>/yr”*).

As previously stated this application was valid on 9<sup>th</sup> March 2023 when the adopted Local Plan was the Central Lincolnshire Local Plan 2012-2036. Revoked policy LP19 of the Central Lincolnshire Local Plan 2012-2036 required consideration of renewable energy developments but it did not require all development to reduce energy consumption.

In this case with consideration given to the date of validation it is considered that it would be unreasonable to expect the applicant to satisfy the requirements of local policy S6 and S7 of the CLLP.

#### Policy S59 of the CLLP

The Lincolnshire Wildlife Trust Officer has stated that *“The site contains important elements of the local green and blue infrastructure network (Policy S59) such as orchard, grassland (Paragraph 11.0.2 CLLP) and Nettleham beck - which connects the site to the wider landscape (Section 4.6 of the PEA). Nettleham beck runs adjacent to the eastern boundary of the proposed development (though not shown in the ‘Indicative Site Plan’)”.*

Consideration of trees and the Nettleham Beck have been assessed earlier in the report including comments from the Authority’s Tree and Landscape Officer. Conditions have been recommended for:

- Tree Mitigation/Compensation
- Tree Protection Measures
- Nettleham Beck Enhancements

It is therefore considered that the development subject to further information and conditions would not have a harmful impact on a local green and blue infrastructure network and would be expected to accord with local policy S59

of the CLLP, the policy of the Nettleham Neighbourhood Plan and provisions of the NPPF.

Community Infrastructure Levy

The development would be liable to CIL payment prior to works commencing.

**Conclusion and reasons for decision:**

The decision has been considered against policies S1 The Spatial Strategy and Settlement Hierarchy, S4 Housing Development in or Adjacent to Villages, S6 Design Principles for Efficient Buildings, S7 Reducing Energy Consumption –Residential Development, S20 Resilient and Adaptable Design, S21 Flood Risk and Water Resources, S23 Meeting Accommodation Needs, S47 Accessibility and Transport, S49 Parking Provision, S53 Design and Amenity, S57 The Historic Environment, S59 Green and Blue Infrastructure Network, S60 Protecting Biodiversity and Geodiversity, S61 Biodiversity Opportunity and Delivering Measurable Net Gains and S66 Trees, Woodland and Hedgerows of the Central Lincolnshire Local Plan 2023 and policy E-5 Nettleham Beck Green Corridor, D-1 Access, D-2 Pedestrian and Cycle Access, D-3 Parking Provision, D-4 Water Resource and Flood Risk and D-6 Design of New Development in the first instance. Furthermore consideration is given to D1 Parking Standards for New Residential Development, D3 Water Resource and Flood Risk, D4 Design of New Development and Parish Design Code Principles, D5 Climate Change Mitigation and Adaption, D6 Housing Development within Nettleham and D7 Housing Mix and Affordable or Specialist Housing and guidance contained within the National Planning Policy Framework, National Planning Practice Guidance, National Design Guide and the National Design Code. In light of this assessment the principle of the proposed development is considered acceptable and would introduce three dwellings in an appropriate location within the developed footprint of the settlement. The development would not have an unacceptable harmful flood risk impact or have a harmful impact on protected species and trees. This is subject to conditions and the submission of the reserved matters of access, scale, appearance and landscaping.

**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**

**Prepared by:** Ian Elliott

**Date:** 3rd July 2023

**Decision Level** (tick as appropriate)

**Recommended Conditions:**

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

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

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

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

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

3. The development hereby permitted must be begun before the expiration of two years from the date of final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

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

4. No development must take place until full details to protect all the retained on site and boundary trees and their root protection areas have been submitted to and approved in writing by the Local Planning Authority. The approved protection measures must be installed prior to the commencement of development and retained in place until the development has been fully completed.

Reason: To safeguard the existing trees on or adjacent the site during construction works, in the interest of visual amenity to accord with the National Planning Policy Framework and local policy S60 and S66 of the Central Lincolnshire Local Plan 2023.

5. No development must take place until a demolition and 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. wheel cleaning facilities;
  - vi. measures to control the emission of dust and dirt;
  - vii. protection of the Nettleham Beck including buffer zone (see page 21 Preliminary Ecological Appraisal by CGC Ecology dated June 2023);
  - 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 S53 of the Central Lincolnshire Local Plan 2023.

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

6. 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 the following proposed drawings:

- J1852-PL-01 Rev P01 dated 8<sup>th</sup> March 2023 – Location 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, local policy S1, S4 and S53 of the Central Lincolnshire Local Plan 2023.

7. No development above ground level must take place until full details of a scheme for the disposal of foul and 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. The Drainage Strategy will need to identify how run-off from the completed development will be prevented from causing an impact elsewhere. No occupation of each individual



dwelling must take place until its individual foul and surface water drainage connection has been fully installed in strict accordance with the approved details. The approved drainage scheme must be retained as such thereafter.

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 S21 of the Central Lincolnshire Local Plan 2023.

8. Any reserved matters planning application submitted to the Local Planning Authority must include the details listed below as recommended in the Preliminary Ecological Appraisal by CGC Ecology dated June 2023:

- Hedgehog appropriate fencing including elevation plan.
- Integral swift box (Manthorpe Swift Brick, Woodstone, Vivara Pro or Schwegler type) identified on the northern or eastern elevation of each dwelling.
- Integral Habitat, Ibstock or Woodstone bat box identified on the southern or eastern elevation of each dwelling for use by pipistrelle bats.
- Retention of the orchard or justification for its removal with appropriate compensation by re-planting
- Nettleham Beck enhancements

The details submitted must be in accordance with the positions, types and specifications identified in the Preliminary Ecological Appraisal by CGC Ecology dated June 2023. The approved details must be installed prior to occupation of each individual dwelling and must be retained as such thereafter.

Reason: In the interest of nature conservation and to respond to the enhancement recommendations of the Preliminary Ecological Appraisal by CGC Ecology dated June 2023 and to accord with the National Planning Policy Framework, local policy S59 and S60 of the Central Lincolnshire Local Plan 2023 and policy E-5 of the Nettleham Neighbourhood Plan.

9. Apart from the details described in condition 8 of this permission the development hereby approved must only be carried out in accordance with the recommendations set out in section 5 of the Preliminary Ecological Appraisal by CGC Ecology dated June 2023.

Reason: To respond to the enhancement recommendations of the Preliminary Ecological Appraisal by CGC Ecology dated June 2023 to accord with the National Planning Policy Framework, local policy S60 of the Central Lincolnshire Local Plan 2023 and policy E-5 of the Nettleham Neighbourhood Plan.

10. The proposed development hereby approved must be completed in strict accordance with the approved Flood Risk Assessment by Origin Design

Studio Ltd dated 25<sup>th</sup> May 2023 and the following mitigation measure detailed on page 10:

- Standing advice requires finished floor levels (FFL) should be a minimum of whichever is higher of 300mm above the average ground level of the site, adjacent road level to the building and estimated river or sea flood level.

Reason: To prevent flooding and protect the future residents to accord with the National Planning Policy Framework, local policy S21 of the Central Lincolnshire Local Plan 2012-2036 and policy D-4 of the Nettleham Neighbourhood Plan.

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

NONE