

Officers Report

Planning Application No: 146729

PROPOSAL: Planning application to raise the ground to 5.90m AOD and increase the width and depth of the existing pond

LOCATION: 33 West Bank Saxilby Lincoln LN1 2LU

WARD: Saxilby

WARD MEMBER(S): Cllr Mrs J Brockway, Cllr P M Lee

APPLICANT NAME: Mr Giles Kirk

TARGET DECISION DATE: 13/09/2023 (Extension agreed until 1st March 2024)

DEVELOPMENT TYPE: Major - Other

CASE OFFICER: Ian Elliott

RECOMMENDED DECISION: Grant permission subject to conditions

Planning Committee:

This application has been referred to the Planning Committee at the request of Saxilby Parish Council who consider the development does not comply with the Saxilby with Ingleby Neighbourhood Plan, and following a number of 3rd party objections including the Ward Member.

At the planning committee meeting dated 31st January 2024 the planning committee resolved to undertake a member site visit to look at the levels of the site and the highway. The site visit took place on 8th February 2024 at 11am.

Description:

The application site is an area of land (12,250m²) to the rear of 33 West Bank. The site is covered by overgrown grass and vegetation. It is lower than a lot of the other land around it. The boundaries to the north, east and west are screened by trees and hedging. The south boundary is open. The host dwelling sits to the south with other residential dwellings to the east. To the south is the Fosdyke River (British Waterway/Navigation Canal). Open countryside sits to the north, east and west. The site is within flood zone 2 (medium probability of flooding).

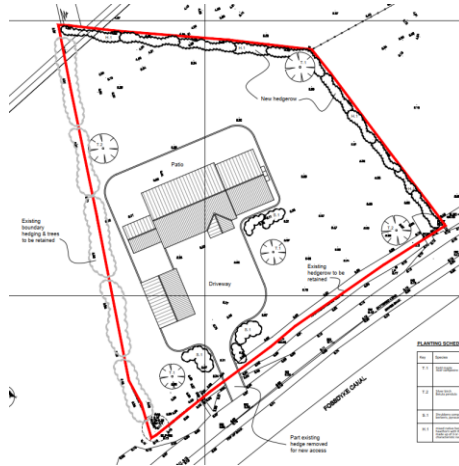
The application seeks permission to reinstate and raise the ground "back to the original levels". The accompanying Design & Access Statement says "*It is understood that material has previously been won and the field used as a borrow pit*" but otherwise the application does not appear to offer any empirical evidence of any previous or historical ground floor levels.

The original application applied to change the use of the land to domestic garden space to 33 West Bank but this was removed from the application following agreement from the applicant.

Relevant history:

144343 - Planning application for removal of existing house and outbuildings replace with 1 dwelling – 11/04/22 - Granted time limit plus conditions

Approved Site Layout Plan:



Representations:

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

Cllr Jackie Brockway: Objection

This application is very serious because the applicant is attempting to raise the levels of what has been a flood plain and boggy ground for more than a hundred years. Residents have advised me that it is recognised as such in very old ordnance survey maps.

The application talks of raising the land to where it was previously, but residents who have lived on West Bank for many years assert that it has always been low as it is now. If this land is raised it will flood the neighbours. At the moment the site is under a lot of water and it is certainly not suitable for raising or development of any kind. It's a flood plain and needs to remain as such.

Saxilby Parish Council: Objection

There is an anticipated impact with amount of HGV movements along West Bank which is a single lane road. There are no passing places. The construction traffic could cause instability of the bank alongside the canal if vehicles try to pass each other.

This will also have an impact at the A57/junction and along Bridge Street to access Westbank. Plus, there are a large number of lorries already accessing the sewerage treatment at the end of West Bank. It can be up to three to four tankers per hour, 24 hours a day if there is a problem.

The surface of the single lane road is already in a bad state of disrepair and has potholes. This is not supported in NDP Policy 17.

We support The Wildlife Trust recommendation of an ecological survey. It is not supported with our council objective of biodiversity.

Great concern over flooding if the land is levelled. – LP14 Local plan.

We would like this application to go to WLDC planning committee so the parish council can speak on behalf of the residents. Very disappointed that there are no detailed reports in the application on such a serious matter.

This application is not supported by the following policies in the Saxilby with Ingleby Neighbourhood development plan (2017):

- Policy 17 Traffic and Movement Around the Village
- Policy 13: Development along the Fosdyke Canal
 - b) Respect and protect the amenity, biodiversity species, wildlife value and recreational value of the Fosdyke Canal.
- Policy LP14 Managing Water Resources and flood Risk

The council does not support this application due to the number of concerns from residents.

Local residents: Representations received from:

Objections:

4, 10, 13, 20, 23, 24, 25, 26, 27, 42 West Bank, Saxilby
The Annexe 25 West Bank, Saxilby
Fosse Cottage, West Bank
1 High Street, Saxilby

Petition of 50 signatures (43 addressed from Saxilby and 7 others (walker, dog walker, boat owner))

Flooding

- During heavy rainfall paddock adjoining site and rear of bungalows becomes sodden and raising land level would slow drainage process and would impact existing properties
- The site is a recognised flood plain
- If going to take 11,500m³ to raise level where would 11.5 million litres of water go
- FRA provides no guarantee against flooding
- Area floods every year. Where will the water go?
- If passed and properties flooded who would be liable
- Cause neighbours' gardens and area to flood
- West Bank flood defences over topped yet again today. 2ft of water on road and houses using sandbags to protect property. Land has 1000 litres of water in the marshland
- The site has always been lower than surroundings fields/lane
- The ground at 33 is a clay seam

- If the land level were to be raised where would the water go

Highway Safety

- Rough calculation suggests 1,000 trucks would be needed to complete importation of soil along failing lane
- Lack detail on number of vehicles
- Further damage and disruption to West Bank
- Impact on stability/condition of road which continues to deteriorate
- Road is subsiding along canal side and canal bank showing signs of collapse
- Lorries on top of waste centre treatment lorries (1-2 a day to 3-4 an hour) will further degrade bank and road
- West Bank cannot take the amount of traffic
- No passing places for tractors, delivery vehicles etc.
- Pedestrian safety for walkers as nowhere to stand for passing trucks
- West Bank now has sand bags and has been closed for 3 days due to sinkage of the road
- You cannot take 16 lorries a day which is not a minor detail

Drainage

- Has the land drainage plan been presented in this planning application to LCC, River and Canal Authority and the Drainage Board.
- No details of drainage.

Ecology

- Impact on biodiversity needs clarifying
- It has a diverse range of plant and animal life
- Becomes a wetland over winter and early spring
- S60 Protects biodiversity
- Habitat loss and biodiversity
- Ecology survey needs conducting
- When floods it provides a safe haven for all wildlife such as bats, water fowl, toads, newts and breeding birds
- Crested newts seen in past in immediate area
- Ecology report was deliberately delayed
- Dispute the claim of no ground nesting/roosting birds if the report had been carried in March/April
- The report is a revision of the first but no additional visits have taken place.

Trees and Hedging

- Policy S66 – risk of trees (veteran) and woodland cover will be lost

Climate Change

- Carbon impact of importation of 11,000 cubic tonnes of material, that is over 100 lorries

Residential Amenity

- Traffic noise on 1 High Street, Saxilby

Other

- The ground is at its original level already
- No evidence of what they call original levels
- Planning creep
- There is an Anglian Water sewerage pipe which runs east to west through the land
- Concern that being raised for large development
- What is going to happen with land – more buildings/dwellings
- House value lost or unsellable
- Mental health issues of residents
- Building on this land would have a disastrous effect on nearby properties

LCC Highways/Lead Local Flood Authority: No objection subject to a condition and advice

Representations received 5th February 2024:

As part of the planning consultation, we requested a Traffic Management Plan, so that we could assess the impact of the HGV movements along West Bank. The movement numbers are acceptable to us, and it is only temporary. All things considered; the development proposal is acceptable. As you are aware, the Highway Authority are responsible for maintaining the public highway, we also have the power under Section 59 of the Highway Act 1980 to recover expenses for maintaining the highway where excessive damage has been caused by a third party.

Representations received 20th December 2023:

Perforated pipes will draw surface water away from neighbouring properties prior to outfall. This, together with the updated Transport Statement, is sufficient in meeting my original requests.

Representation received 6th November 2023:

The proposed development is situated off an unclassified road, West Bank. This road runs north of Foss Bank and serves a number of residents, as well as sewage works and a campsite.

A review of the accident data was undertaken to assess the historic road safety performance of the local highway network for the last five years and there were no recorded collisions on West Bank, and given that vehicle parking and turning will take place onsite, highway safety will not be exasperated by the development. The visibility at the access complies with Manual for Streets (MfS). West Bank is an unclassified road, but due to factors including the frequency of junctions, alignment of the road and driver behaviour; visibility in accordance with MfS is deemed appropriate.

The applicant's correspondence indicates an increase of 10 - 15 lorries per day, with 2 at peak times, during the extent of the works only. There is no precise definition of "severe" with regards to NPPF Paragraph 111, which advises that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Planning Inspector's decisions regarding severity are specific to the locations of each proposal, but have common considerations:

- The highway network is over-capacity, usually for period extending beyond the peak hours
- The level of provision of alternative transport modes
- Whether the level of queuing on the network causes safety issues. In view of these criteria, the Highways and Lead Local Flood Authority does not consider that this proposal would result in a severe impact with regard to NPPF.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to Drainage on all Major Applications. This application is located in Flood Zone 2, with potential risk of fluvial flooding from Fosdyke Canal. Surface water runoff will be managed by a land drainage system which will direct surface water to the existing watercourse. The importing of clean inert material will still allow for direct infiltration on the land.

The Environment Agency have reviewed the plans and are satisfied that the raising of ground levels, as proposed, will not have an adverse effect on the flood risk and therefore, have no objections to the planning application. Therefore, the Lead Local Flood Authority does not consider that this proposal would increase flood risk in the immediate vicinity of the site.

To mitigate noise and air pollution a Construction Management Plan will be conditioned. This will also ensure surface water runoff is managed during the works.

Condition:

- Construction Method Plan and Method Statement

Representation received 3rd November 2023:

Please request that the applicant show an assessment of the surface water flood risk within the FRA, from raising the ground. Where will the run-off be directed, etc.

Environment Agency: No objections with comment

We have reviewed the plans and are satisfied that the raising of ground levels, as proposed, will not have an adverse effect on the flood risk.

LCC Archaeology: No objections

Lincolnshire Wildlife Trust: No objection subject to conditions

Representation received 6th December 2023:

Lincolnshire Wildlife Trust have previously commented on this application and following the most recent revisions of the ecological information with this application we wish to remove our previous holding objection.

The latest Preliminary Ecological Appraisal gives several recommendations as part of the landscaping works. We strongly encourage these are actioned through an appropriate planning condition, particularly that of a habitat creation plant as the biodiversity net gain of the site is predicated on appropriate shrub and wildflower planting as well as ongoing management for the required 30 years following completion.

Representation received 30th June 2023:

- There has been no Preliminary Ecological Appraisal (PEA), or equivalent document submitted with this application in breach of Local Plan Policies S60 and S61.
- In its current form, we see no reason why the Proposed Site Plan would not deliver the minimum of 10% Biodiversity Net Gain

Anglian Water: Comment

The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.

The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/development-services/locating-our-assets/>

Please note that if diverting or crossing over any of our assets permission will be required. Please see our website for further information:

<https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/>

Canal and River Trust: No objection subject to a condition

The main issue relevant to the Trust as statutory consultee on this application is the impact on the structural integrity of the canal cutting slope. Advise that suitably worded conditions are necessary to address these matters.

The application site is located to the north of the Fossey Canal that is owned and managed by the Trust. West Bank is an adopted road, which separates the site from the canal. The road is relatively narrow, and there is a risk during development that larger construction traffic associated with the development could run wide onto the crest of the canal cutting when manoeuvring in and out of the site. This could impact the stability of the bank alongside the canal.

The application proposes the importation of 11,480m³ of material to infill the land associated with a newly built house. Whilst the Flood Risk Assessment provided in support of the application sets out the quantity of material to be imported the Design & Access Statement does not estimate the number of lorry loads this would require, the size of vehicles to be used, or means to

prevent lorries turning into/out of the site from leaving the narrow West Bank lane. We therefore advise that consideration is given towards a traffic management plan to prevent vehicles departing the highway while manoeuvring. The incorporation of temporary red/white water filled barriers opposite the construction site entrance during development could be an appropriate measure, for example.

Confirmation of the incorporation of preventative measures could be provided prior to the determination of the application or ensured through the use of an appropriately worded planning condition.

IDOX Checked: 9th February 2024

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 Saxilby with Ingleby Neighbourhood Plan (made 8th May 2017); 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
S5 Development in the Countryside
S21 Flood Risk and Water Resources
S47 Accessibility and Transport
S53 Design and Amenity
S56 Development on Land Affected by Contamination
S57 The Historic Environment
S60 Protecting Biodiversity and Geodiversity
S61 Biodiversity Opportunity and Delivering Measurable Net Gains
<https://www.n-kesteven.gov.uk/central-lincolnshire>

- ***Saxilby with Ingleby Neighbourhood Plan (SINP)***

Relevant policies of the NP include:

Policy 2 Design of New Development
Policy 13 Development along the Fosdyke Canal
Policy 17 Traffic and Movement around the Village

Character Assessment:

The application site falls outside any of the character areas but sits adjacent Area E – High Street and opposite Area C – South of the Canal.

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

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

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

<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 September 2023.

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>

Main issues:

- Principle of the Development
Central Lincolnshire Local Plan 2023
Saxilby with Ingleby Neighbourhood Plan
Flood Risk
Concluding Statement
- Highway Safety
- Surface Water Drainage
- Visual Amenity
- Residential Amenity
- Ecology
- Biodiversity Net Gain

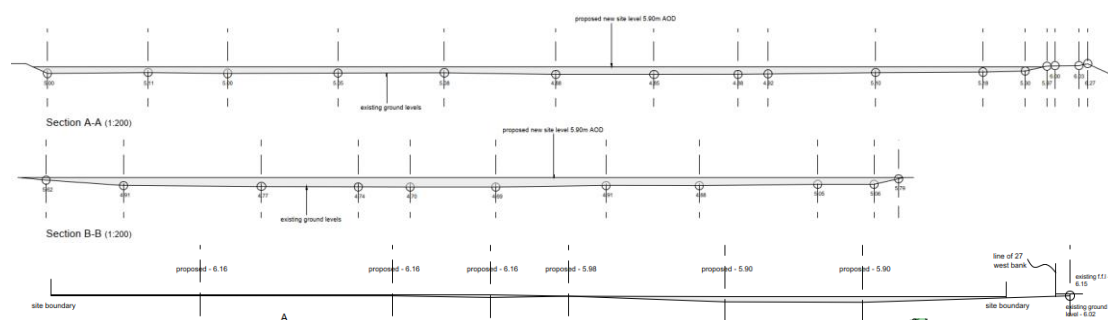
Assessment:

Principle of the Development

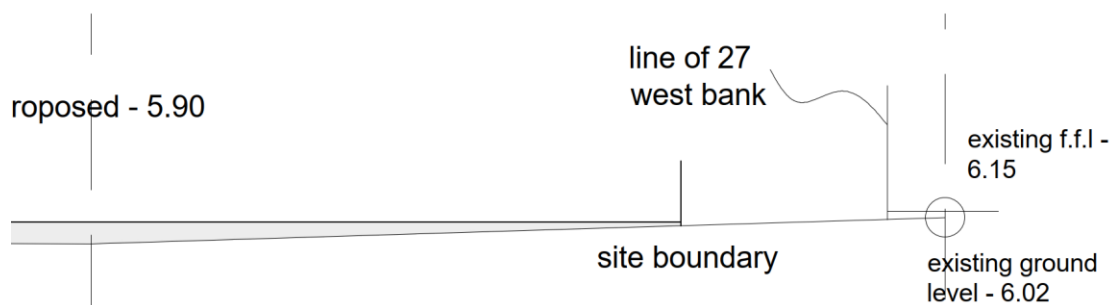
Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Central Lincolnshire Local Plan 2023:

The application has been submitted to raise the land levels of the site to 5.90 metres Above Ordnance Datum (AOD) See section plan below showing existing/proposed levels and the land levels of the shared boundary with 27 West Bank and neighbouring land (27 West Bank):



This would mean land levels being raised from existing levels of at least 4.69m AOD, by 0.9 to 1.21 metres, to achieve the 5.90 metre AOD proposed height. The section plan identifies the first floor (ground floor) level of the neighbouring dwelling (27 West Bank) to the east as 6.15AOD (See below enlarged plan).



The application claims this would restore “original levels” and has stated “it is believed in 1938 the material was removed for building the railway”

Local policy S5 of the CLLP comprises a number of parts (A-G) which apply and can be assessed against differing development types in the countryside. It is considered that this particular development does not comfortably fit within any of the parts set out in local policy S5 of the CLLP.

Saxilby with Ingleby Neighbourhood Plan:

Policy 2 of the SINP provides criteria on the design of new development including criteria i) which states “*Incorporate flood resilience and resistance*”

measures including, where appropriate, Sustainable Urban Drainage Systems”.

Policy 13 of the SINP provides criteria for development which sits along and adjoining the Fosseydyke Canal. The application site is on the other side of West Bank therefore cannot be considered along or adjoining the Fosseydyke Canal.

Flood Risk:

As already stated the site sits within flood zone 2 (medium probability - Land having between a 1% and 0.1% annual probability of river flooding) and 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 dated 6th November 2023 (Revision 2) by Roy Lobley Consulting Associates has been submitted. The FRA acknowledges the site is prone to surface water flooding which it states *“are caused by the site being considerably lower than the adjacent land”*. The FRA additionally states *“as part of the land restoration a land drainage system will be installed and the surface water will be directed into the existing watercourse system around the site” and that “the raising of the land will remove the existing surface water flood risk as shown and the land will drain as that to the north and east and most of the land to the west.”*

The Lead Local Flood Authority and the Environment Agency have no objections to the development stating that *“We have reviewed the plans and are satisfied that the raising of ground levels, as proposed, will not have an adverse effect on the flood risk”*.

Whilst the land level would be raised the proposed use of the site would be retained as grassed open land in the ownership of 33 West Bank. Therefore, as the use of the land would not change the development passes the sequential test.

Comments and photographs have been received through the consultation process in relation to objections on flood risk grounds. This includes photos of the site recently flooding from rainfall consistently over a number of days.

The FRA acknowledges that the site is currently prone to surface water flooding and collecting on site. Paragraph 4.3 of the FRA states that *“The existing surface water flood extents [-] are caused by the site being considerably lower than the adjacent land where the modelling assumes that there is no drainage. Surface water is shown to “pond” on the site but on the natural land levels to the north and east there is no flooding shown. The low surface water flood risk to the west is in another depression where it is again shown to pond.”*

Paragraph 4.4 of the FRA confirms that a land drainage system would be installed directing water to the existing watercourse system and the land

would drain to the north, east and most of the land to the west. Land drainage is considered in the surface water drainage assessment in the next section of this report.

Concluding Statement:

It is therefore considered that the proposal passes the flood risk sequential and with a suitable land drainage system would not increase the risk of flooding on the site or elsewhere. The development would therefore be expected to accord with local policy S21 of the CLLP, criteria i) of policy 2 of the SINP and the provision of the NPPF.

Surface Water Drainage

Objections have been received in relation to the drainage of the land. It is clear from comments and photographs submitted that the land holds standing water at times of heavy rainfall.

Criteria k of the flood risk section of local policy S21 of the CLLP requires that:

“they have followed the surface water hierarchy for all proposals:

- i. surface water runoff is collected for use;*
- ii. discharge into the ground via infiltration;*
- iii. discharge to a watercourse or other surface water body;*
- iv. discharge to a surface water sewer, highway drain or other drainage system, discharging to a watercourse or other surface water body;*
- v. discharge to a combined sewer;*

Criteria i) of policy 2 of the Saxilby with Ingleby Neighbourhood Plan requires that all new development must *“incorporate flood resilience and resistance measures including, where appropriate, Sustainable Urban Drainage Systems”*.

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

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

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

Paragraph 4.4 of the FRA states that *“As part of the land restoration a land drainage system will be installed and the surface water will be directed into the existing watercourse system around the site.”*

A further technical note by Roy Lobley Consulting has been submitted providing details of the proposed land drainage scheme to improve the surface water drainage of the site. Section 2 of the technical note states that:

“The scheme involves 25 number 80mm perforated lateral pipes running from South to North spaced 4.00m apart across the width of the site. The lateral pipes will then feed into a 100mm perforated main drainage pipe running from East to West. The 100mm pipe will outfall into the existing pond in the North West corner of the site.”

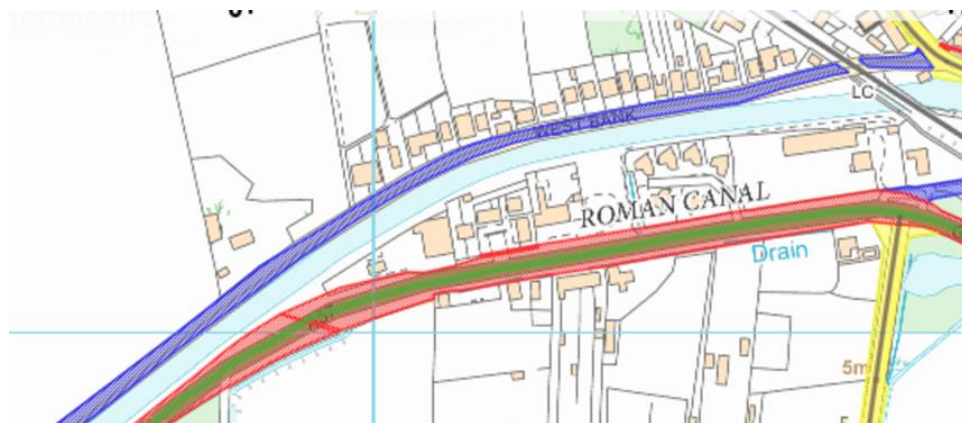
The Lead Local Flood Authority have accepted the land drainage system proposed in the technical note stating that the *“perforated pipes will draw surface water away from neighbouring properties prior to outfall.”*

The proposed development would therefore use a sustainable urban drainage system to drain the land of surface water alongside natural drainage into the land. Therefore, subject to a condition the development would not be expected to have an unacceptable harmful impact on surface water drainage and accords to local policy S21 of the CLLP, policy 2 of the Saxilby with Ingleby Neighbourhood Plan and the provisions of the NPPF.

Highway Safety

Objections have been received in relation to the impact on the user and condition of West Bank from the deliveries used to complete the raised land level.

West Bank is a single-track publicly maintained highway (see coloured purple on plan below) which serves a number of dwellings primarily off its north boundary before the site.



The proposed development would require a 10-15 deliveries of earth a day to raise the levels of the land to the proposed 5.90 AOD. These would be completed by 8-wheel rigid lorries similar to the example below:



The application has included the submission of a Traffic Management Plan which is summary states:

- 11480 cubic metres/18368 tonne of imported material is required.
- 920 vehicle loads using non-articulated heavy goods vehicles.
- 16 lorries per day with a maximum of 2 at peak times.
- Delivery and collection hours of 08:00 – 17:00 weekdays and Saturdays 08:00-12:30.
- Wheel washing facility will be used.
- Access from the existing gate.
- Turning and manoeuvring will be within the site.
- No delivery/materials left outside the site.
- Vehicles will be routed from Mill Lane, down Queensway and onto West Bank and return using the same route.
- There is a potential for dust emission from moving vehicles within site, on hot dry periods, if any visible dust can be seen, all movement of vehicles shall halt, until all traffic areas are damped with water to stop any further dust emissions.

The traffic management would be required to be conditioned on the permission and would need to be adhered to throughout the development.

Access to the site would be via an existing wide access to the dwelling which is currently under construction adjacent the site. Plan A1/01 identifies plenty of room for the delivery lorries to turn into the site, turn around and exit the site safely in a forward gear.

No objections have been received from the Highways Authority at Lincolnshire County Council.

The Highways Authority consider the impact of the development on the condition of the highway as part of their assessment. As confirmed by the Highways Officer the Highways Authority “*are responsible for maintaining the public highway, we also have the power under Section 59 of the Highway Act 1980 to recover expenses for maintaining the highway where excessive damage has been caused by a third party.*” This is therefore an area outside of the planning system, covered by other legislation and within the control of the Local Highways Authority.

It is considered that the proposed development subject to conditions would not be expected to have an unacceptable harmful impact on highway safety

and would be expected to accord with local policy S47 of the CLLP, policy 17 of the SINP and the provisions of the NPPF.

Visual Amenity

Local policy S53 of the CLLP sets out 10 criteria based on design and amenity. It is considered that criteria 1 (Context), 2 (Identity), 3 (Built Form), 5 (Nature) and 8 (Homes and Buildings) of S53 are the most relevant to the development.

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

The proposed development would purely raise the level of the land and would not include any new structures. The site would therefore have the same appearance albeit at a raised level.

It is not considered that the proposed development would have an unacceptable harmful visual impact on the site or the surrounding area and would therefore accord to local policy S53 of the CLLP, policy 2 of the SINP and the provisions of the NPPF.

Residential Amenity

The nearest dwelling to the site is 27 West Bank which sits to the east. The west boundary of 27 West Bank and the east boundary of the site are separated by a track which leads to the field/paddock and stable building to the rear.

It is considered that the proposed development would not have an unacceptable harmful impact on the living conditions of neighbouring dwellings. The proposed development would therefore accord to local policy S53 of the CLLP, policy 2 of the SINP and the provisions of the NPPF.

Ecology

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;

This application on the request of the case officer has included a Preliminary Ecological Appraisal (PEA) by CBE Consulting dated 29th October 2023 (Version 1 – P2814/1023/01) and an updated PEA (Version 2 – P2814/1223/01). In summary section 4 of version 1 and version 2 sets out the same pre-cautionary measures and recommendations:

Birds

- Vegetation removal or hedgerow sections needed to be trimmed back should be done outside of nesting season or preceded by an ecologist check to ensure no nesting birds are present.

Reptiles

- Inspection by hand of timber pile identified within site supervised by ecologist.

Amphibians

- Seasoned pond and vegetation immediately surrounding this should be inspected to search for amphibians by an ecologist as a precaution prior to any works being started.

Hedgehog and other mammals

- A construction methodology that protects these species from accidental harm should be implemented within the site area.

General Observations

- Hedgehog and reptile refugia should be constructed in suitable locations close to the northern boundary.
- A habitat creation scheme should be prepared to enhance the biodiversity and wildlife potential around the existing seasonal pond.
- Native shrubs should be used to provide habitat around the pond area.

The proposed development subject to conditions would therefore not be expected to have an unacceptable harmful impact on protected species accords to local policy S60 of the CLLP 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*”.

A Biodiversity Net Gain (BNG) excel spreadsheet calculated on Natural England’s Biodiversity Metric 4.0 has concluded that the development would provide a 12.63% BNG for habitat units.

The 12.63% BNG would be provided by other neutral grassland, mixed scrub and improvements to the existing pond in the north west corner of the site.

The Lincolnshire Wildlife Trust Officer has removed the holding objections subject to “*appropriate planning condition, particularly that of a habitat*

creation plant as the biodiversity net gain of the site is predicated on appropriate shrub and wildflower planting as well as ongoing management for the required 30 years following completion”.

The proposed development would therefore exceed the 10% Biodiversity Net Gain target and would accord with local policy S61 of the CLLP and guidance contained within the NPPF.

Other Considerations:

Contamination

The proposed development would involve a significant amount of earth/soil brought to the site to raise the land to the proposed level. It is important that the material imported to the site is safe and free of contamination so it would be reasonable and necessary to add a condition requiring details prior to commencement of works.

Canal and River Trust

The Canal and River Trust have replicated comments made in application 144343 and 145919 in relation to the potential impact of the construction phase on the stability of the River Bank. Protective measures are recommended.

This recommendation from the Canal and River Trust was not responded to in the application 144343 but in application 145919 the report stated *“whilst their comment is acknowledged it would not be considered reasonable or necessary to condition protective measures, however an advisory note would be added to the permission.”* This approach is considered acceptable and would be consistent with previous applications.

Pre-commencement Conditions

The applicant has agreed in writing to the three pre-commencement conditions (No. 2, 3 and 4) recommended at the end of this report.

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: 9th February 2024

Recommended Conditions:

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

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

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

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

2. No development must take place until details of the material used to raise the land levels have been submitted to and approved in writing by the Local Planning Authority. The material must be a clean inert material and appropriately certificated as contaminant free. The infilling of the site must be completed using the approved material.

Reason: To ensure that material brought onto the site is appropriate and will not contaminate the site to accord with the National Planning Policy Framework and local policy S56 of the Central Lincolnshire Local Plan 2023.

3. No development must take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
 - Position and type of reptile refugia
 - Position and type of hedgehog refugia
 - Construction methodology for the protection of hedgehogs and other mammals

Reason: In the interest of nature conservation to accord with the National Planning Policy Framework and local policy S60 and S61 of the Central Lincolnshire Local Plan 2023.

4. No development must take place until a 30-year Biodiversity Net Gain Management and Maintenance plan has been submitted to and approved in writing by the Local Planning Authority. The development must be completed in strict accordance with the approved Management and Maintenance plan.

Reason: To ensure the biodiversity net gain measures are maintained for a 30-year period to accord with the National Planning Policy Framework and local policy S60 and S61 of the Central Lincolnshire Local Plan 2023.

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

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

- A1/L01 Rev G dated May 2023 – Site Plan, Land Sections, Pond Sections and Land Drainage Details

The land levels must not be raised any higher than 5.90 metres Above Ordnance Datum as identified on the plan listed above and all other 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 S53 of the Central Lincolnshire Local Plan 2023 and Policy 2 of the Saxilby with Ingleby Neighbourhood Plan.

6. The development must be completed in strict accordance with the surface water land drainage scheme identified in Technical Note 01 (RLC/1183/TN01) by Roy Lobley Consulting dated 19th December 2023. The approved scheme must be maintained and retained as such thereafter.

Reason: To ensure adequate drainage facilities are provided to serve the development 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.

7. The development hereby approved must be completed in strict accordance with Traffic Management Plan received 12th December 2023.

Reason: To manage the routing of traffic and delivery of earth to the site to accord with the National Planning Policy Framework, local policy S47 of the Central Lincolnshire Local Plan 2023 and Policy 17 of the Saxilby with Ingleby Neighbourhood Plan.

8. Apart from the biodiversity measures listed in condition 4 of this permission, the development hereby approved must only be carried out in accordance with the recommendations set out in section 4.3 and the landscape specification (excluding hedgehog refugia) set out in appendix 4 of the Preliminary Ecological Appraisal by CBE Consulting dated 4th December 2023.

Reason: In the interest of nature conservation to accord with the National Planning Policy Framework and local policy S60 and S61 of the Central Lincolnshire Local Plan 2023.

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

NONE