

## **Officers Report**

### **Planning Application No: 142929**

**PROPOSAL:** Outline planning application for residential development of up to 9no. dwellings - all matters reserved being removal of conditions 4, 5 & 6 of planning permission 135868 granted 3 May 2018 - removal of footpath provision and adoptable roads

**LOCATION:** Land off Carr Road North Kelsey Market Rasen LN7 6LG

**WARD:** Kelsey

**WARD MEMBER(S):** Cllr P Howitt-Cowan

**APPLICANT NAME:** Miss H Shepherd

**TARGET DECISION DATE:** 21/06/2021

**DEVELOPMENT TYPE:** Minor - Dwellings

**CASE OFFICER:** Rachel Woollass

**RECOMMENDED DECISION:** Grant permission

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This application is presented to planning committee due to the site history.

#### **Description:**

The site comprises a field off Carr Road, which is bounded by hedging. The site lies within North Kelsey which is defined as a medium village in the Central Lincolnshire Local Plan. There are residential properties to the south, residential properties including a pond to the east, Beeches Farm to the west and residential garden to the north of the site.

The application seeks removal of conditions 4, 5 and 6 of planning permission 135868 which relates to the footpath provision and adoptable roads.

Conditions 4, 5 and 6 are detailed below –

**4.** No development shall take place before a scheme has been agreed in writing by the local planning authority for the construction of a 1.2 metre wide link footway and uncontrolled tactile paved crossing point, together with arrangements for the disposal of surface water run-off from the highway at the frontage of the site. The agreed works shall be fully implemented before (any of) the dwelling(s) is/are occupied. Or in accordance with a phasing arrangement to be agreed in writing with the local planning authority.

**Reason:** To ensure safe access to the site and each dwelling/ in the interests of residential amenity, convenience and safety and in accordance with Policy LP 13 of the Central Lincolnshire Local Plan.

**5.** No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed

streets within the development have been submitted to and approved by the Local Planning Authority

**Reason:** To ensure that the future maintenance of the streets serving the development thereafter, are secured and shall be maintained by the Local Highway Authority under Section 38 of the Highways Act 1980 or via an established private management and maintenance company in the interests of highway safety and to ensure a satisfactory appearance to the highways infrastructure serving the development in accordance with Policies LP 13 and LP26 of the Central Lincolnshire Local Plan.

**6.** No development shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway in accordance Policies LP 13 and LP26 of the Central Lincolnshire Local Plan.

**Relevant history:**

135868 – Outline planning application for residential development of up to 9no. dwellings - all matters reserved. Permission granted 03/05/18

142532 – Application for approval of reserved matters to erect 6no. dwellings, considering access, appearance, landscaping, layout and scale following outline permission 135868 granted 03 May 2018. Awaiting decision

**Representations:**

**Chairman/Ward member(s):** Cllr Morris - My own view is that this site does constitute a flooding risk and that having multiple access points is just asking for trouble on such a narrow road, I would ask the planning committee to carefully consider these points when arriving at their decision.

**Parish/Town Council/Meeting:** No representations received to date

**Local residents:** Objections received from Becks House and Lucas House with the main concerns -

- Road safety concerns. The applicant's plans show 3 direct access points from Carr Road for vehicles and pedestrians to the development. Suggestions have been made previously, by both by myself and others, that there should only be one access point to all the properties. This is an extremely good idea for enhancing road safety. If this becomes a condition for this application then I believe it will become necessary to have a condition that the access road should be constructed to an adoptable standard due to the number of dwellings it will service.

- Concerned that the condition laid down in the outline planning permission that a footpath be constructed from the development down to West Street will be removed, and that the removal will increase the pedestrian risk to those people living on the development. In the application the applicant states: "Also there is no footpath on the site side or the road, the closest footpath is a on the opposite west of West Street Junction some 140m away from the site entrance. It is impossible to provide a footpath in this location due to dykes, landscape features and site ownerships. We assume the footpath request was made by LCC when the larger 25 unit scheme was being considered. There is a full adoptable footpath on the South side of the road serving this area of the village, with crossing points to the site, making this is condition unnecessary and un-viable for the smaller scheme submitted with the reserved matters application."

The footpath was indeed a condition requested by Lincolnshire Highways, but as I read their documents, it applied to the 9 dwelling application, not the 25 dwelling one, as assumed by the applicant. It is a matter of opinion, and your view on pedestrian safety, as to whether it is "un-necessary" and "un-viable" as stated by the applicant. It is also not "impossible" to provide as the applicant would like to make out. Nothing is impossible, it is purely a matter of how much it would cost to provide the safety. The footpath condition should not be removed.

- The applicant also says that there are "crossing points to the site". There are currently no designated pedestrian crossing points to the site.

It doesn't say. Also in regard to crossing points if there are to be any then wouldn't it be safer to have just one crossing point instead of 3?

I do feel that there is a lack of knowledge and understanding, both within Lincolnshire Highways and West Lindsey Planning, as to the hazardous nature of Carr Road with its narrowness and use by farm traffic.

- Flooding risk. Consideration as to where and how the water will flow away once it has left the site does not seem to have been adequately covered. Carr Road regularly floods at the front of the development.

- As I understand it the gross internal floor space is still either at or above the 1000 square metres that was a condition of the outline planning. Therefore, it would seem to me, that the surface water volumes leaving the site will be no different to those on the original 9 dwelling application (ref no 135868).

- In order to maximise property size garages are not being built and the parking/visitor parking shown on the applicants plan does not appear in any way adequate for the size of the properties and likely number of cars each property will own - most likely, given the lack of any public transport in the area, at least 2 per property minimum plus any visitor vehicles. I repeat my comment in my objection made against application 142532 - Carr Road is not a suitable road to have overflow vehicles parked along the side of it. Vehicles already have to pull onto the verge in order to pass and, given the large farm vehicles that use Carr Road on an almost daily basis year round plus horses and riders, cars parking at the side of the road will be a serious hazard.

- Furthermore, I am astonished that highways, who on the original 9 dwelling outline planning application (135868), expressed so much concern about the development exacerbating the flooding on Carr Road, now show no concern for flooding at all. They describe themselves as the lead agency for flooding, but now seem to want to put the onus for flooding assessment on to the

District Council. The applicant must provide details of how they propose to effectively handle surface water from the site in a way that will not exacerbate the existing flooding on Carr Road.

- note that from the requested changes the applicant appears to be taking responsibility for the site internally including street lighting. If permission is granted for some form of development brightness and the number of street lights should be kept to a minimum so that as a rural area we continue to enjoy low light pollution and a dark night sky.

**LCC Highways and Lead Local Flood Authority:** Please see discussion in the report.

**LCC Education:** The County Council has no comments to make on this application in relation to education.

**Lincolnshire Police:** Do not have any objections to this application.

**Environment Agency:** We did not recommend the conditions referred to on application 135868 and therefore have no comment to make on this application.

#### **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).

#### Development Plan

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

Relevant policies of the CLLP include:

LP1: A Presumption in Favour of Sustainable Development

LP13: Accessibility and Transport

LP14: Managing Water Resources and Flood Risk

LP17: Landscape, Townscape and Views

LP26: Design and Amenity

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

#### National policy & guidance (Material Consideration)

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

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions.

The most recent iteration of the NPPF was published in February 2019.

Paragraph 213 states:

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

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

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

### **Main issues**

- Principle
- Conditions

### **Assessment:**

#### Principle

The application seeks to remove conditions 4, 5 and of 135868 granted 3rd May 2018.

Under s73(2) the Council may consider **only** the question of the conditions subject to which planning permission should be granted – it is not an opportunity to reconsider the granting of planning permission.

[Paragraph 55](#) of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

The principle of housing has already been established by the previous outline consent (135868). What has to be considered is the impact, if any, that the variation of the conditions would have.

The variation is to remove conditions 4, 5 and 6 of outline application 135868 which is the requirement of a footpath and adoptable roads.

The reserved matters application (142532) is running concurrently with this application. This application proposes only 6 dwellings out of the 9 that were approved in outline 135868. The reserved matters application was submitted in time and during the application lifetime the outline has expired for further reserved matters to come forward. Therefore, due to the time limits this site

will only propose 6 dwellings even though the application allows for up to 9. Any further dwellings would need separate permission.

Due to this time constraint and the knowledge that no further dwellings can come forward under reserved matters, we can assess the removal of the conditions in relation to the amount of dwellings proposed in 142532, which is 6 dwellings.

As the dwellings to come forward have reduced from 9 to 6 this will not require the construction of an adoptable highway to serve the dwellings. Plots 5 and 6 are to be served by a private drive. Therefore conditions 5 and 6 are no longer necessary and should be removed.

There are conflicting views from LCC Highways with regards to condition 4 and the requirement of the footpath provision.

In the reserved matters application 142532 they state that the frontage footway is no longer required. However, more recent comments suggest that a footpath could still be provided.

Given the reduction in the number of dwellings that can come forward and the footpath already in existence opposite the site, it is not deemed necessary to provide a footpath at this site.

It is recommended that all three conditions applied to for removal (4, 5 & 6) be removed from the permission.

Should members determine to keep condition 4 for the footpath provision, it is recommended that 5 and 6 still be removed.

### Conditions

Condition 1 – This has been amended to reflect that the outline permission has expired for further reserved matters to be submitted.

Condition 2 – No change

Condition 3 – The time condition has been changed as a variation application cannot extend the time limit and needs to reflect this.

Condition 4 – Removed

Condition 5 – Removed

Condition 6 – Removed

Condition 7 – No change

Condition 8 – No change

Condition 9 – No change

### *Other matters*

Flooding was considered extensively in application 135868 and is not a matter for this application. We can only consider the conditions in question.

Access is a matter for the reserved matters application.

The dwellings proposed in the reserved matters do not exceed 1000sqm. However, the condition that requires the dwellings to not exceed 1000sqm is not applied to be removed or varied and is therefore not a matter for this application.

### **Conclusion**

The application has been assessed in the first instance against the provisions of the development plan policies LP1: A Presumption in Favour of Sustainable Development, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk LP17: Landscape, Townscape and Views and LP26: Design and Amenity of the Central Lincolnshire Local Plan as well as other material considerations and guidance contained within the National Planning Policy Framework and National Planning Practice. In light of this assessment it is considered that the proposed variation is acceptable and it is recommended to remove conditions 4, 5 and 6 and grant outline permission with the conditions as per the below. Should members determine to keep condition 4, it is recommended that conditions 5 and 6 still be removed.

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

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before 03/05/2021.

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

2. No development shall take place until, plans and particulars of the appearance, layout and scale of the buildings to be erected and the landscaping of and access to the site (hereinafter called "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority, and the development shall 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 shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

4. Void

5. Void

6. Void

7. Notwithstanding the drainage details submitted, no development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to 5 litres per second;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime. The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

**Reason:** To ensure that surface water run-off from the development will not adversely affect, by reason of flooding, the safety, amenity and commerce of the residents of this site in accordance with policy LP 14 of the Central Lincolnshire Local Plan.

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

8. No more than nine dwellings shall be erected on the site. There shall be no more than 1000 square metres of combined gross internal floor space on the site.

**Reason:** For the purposes of proper planning and to ensure that affordable housing is not required.

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



9. The applications shall be in accordance with the recommendations within the Ecology and Protected Species Survey by Scarborough Nixon Associates Limited dated June 2017.

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