

Officers Report

Planning Application No: 147926

PROPOSAL: Planning application to remove existing agricultural building and erect 1no. dwelling.

LOCATION: Land at Gate Cliffe Farm, Bardney Road, Newball, Lincoln LN3 5DQ

WARD: Cherry Willingham

WARD MEMBER(S): Cllr Darcel, Cllr Bridgwood and Cllr Palmer

TARGET DECISION DATE: 03/04/2024

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Dan Galpin

RECOMMENDED DECISION: Grant (subject to conditions)

This application has been referred to the Planning Committee as it would represent a departure from Policy S1 (The Spatial Strategy and Settlement Hierarchy) and Policy S5 (Development in the Countryside) of the Central Lincolnshire Local Plan.

Description: The site is located within the open countryside with the closest settlements being Newball, Barlings and Low Apley, all of which are identified as hamlets. The closest village is Langworth which is located to the north-west of the site. Woodside Wildlife Park is also located approximately 1.6 kilometres to the north-west of the site. There are two patches of woodland (Gatecliff and Hardy Gang Wood) within 250 metres of the site. Gatecliff Wood is designated as a Local Wildlife Site and Site of Special Scientific Interest and Hardy Gang Wood is designated as ancient woodland. The site is located within Flood Zone 1 which is at the lowest risk of flooding.

Planning permission is being sought for the removal of an existing agricultural building and the erection of a single dwelling with a detached garage in lieu of a Class Q approval for a change of use from the existing agricultural building to a single dwelling.

Relevant history:

147272 – Planning application for the conversion of existing agricultural building to 1no. residential dwelling including change of use of additional land to residential curtilage. Refused – 1st November 2023. The reasons for refusal were as follows:

1. *Comprehensive and proportionate evidence has not been provided to demonstrate that the building can no longer be used for the purpose that it was original built or that there is no demand. The building is not considered to be of architectural or historic merit and it not intrinsically*

worthy of retention its setting. The alterations proposed are not minimal and incorporate a substantial number of new and inappropriate openings. The presence of a potential fallback position is not sufficient to outweigh this principle harm. The proposed development is therefore considered to be in conflict Policies S1 and S5 of the Central Lincolnshire Local Plan.

2. *The proposed development would see the change of use of an existing agricultural building to a single dwelling that would result in an unacceptable harm to the character appearance of the area. The proposed fails to be based on a sound understanding of its context and would go beyond design changes that are reasonably necessary. The proposal including the large curtilage and hard boundary treatments would result in the site appearing as an incongruous alien feature that would also cause harm to the rural openness of the landscape. It is therefore considered that the proposed development would conflict with Policy S53 of the Central Lincolnshire Local Plan and paragraphs 126, 130 and 134 of the NPPF. Paragraph 134 makes it clear that ‘development that is not well-designed Version: 1, Version Date: 01/11/2023 Document Set ID: 1188973 should be refused, especially where it fails to reflect local design policies and government guidance on design’.*

147605 – Prior approval application for change of use of agricultural building to 1no. dwelling. GC – 5th January 2024.

Representations:

Chairman/Ward Member(s)

No representations received to date.

Langworth Group Parish Council

Support – ‘Council is in favour’

Local Residents

No representations received to date.

LCC Highways/Lead Local Flood Authority

No objection – ‘*The proposal is for a dwelling and it does not have an unacceptable impact on the Public Highway*’

LCC Minerals & Waste

No reply received to date.

WLDC Archaeology

Comments – No archaeological input required.

ECM Checked: 8th April 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 (CLLP) (adopted in April 2023); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- **Central Lincolnshire Local Plan (Adopted April 2023)**

Relevant policies of the CLLP include:

Policy S1: The Spatial Strategy and Settlement Hierarchy
Policy S2: Growth Levels and Distribution
Policy S5: Development in the Countryside
Policy S6: Design Principles for Efficient Buildings
Policy S7: Reducing Energy Consumption – Residential Development
Policy S11: Embodied Carbon
Policy S12: Water Efficiency and Sustainable Water Management
Policy S14: Renewable Energy
Policy NS18: Electric Vehicle Charging
Policy S20: Resilient and Adaptable Design
Policy S21: Flood Risk and Water Resources
Policy S47: Accessibility and Transport
Policy S49: Parking Provision
Policy S53: Design and Amenity
Policy S56: Development on Land Affected by Contamination
Policy S60: Protecting Biodiversity and Geodiversity
Policy S61: Biodiversity Opportunity and Delivering Measurable Net Gains
Policy S66: Trees, Woodland and Hedgerows

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

National Policy & Guidance (Material Consideration)

- **National Planning Policy Framework (NPPF)**
https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf
- **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 Model Design Code (2021)**
<https://www.gov.uk/government/publications/national-model-design-code>

Main issues

- Principle of Development
- Visual Amenity
- Residential Amenity
- Highways
- Climate Change
- Ecology & Biodiversity
- Flood Risk
- Other Matters

Assessment:

Principle of Development

The proposed development is located within the open countryside and therefore falls within Tier 8 of the settlement hierarchy established by Policy S1 which is only supportive in principle of the following types of development:

Unless allowed by:

- a) policy in any of the levels 1-7 above; or*
- b) any other policy in the Local Plan (such as Policies S4, S5, S34, or S43) or a relevant policy in a neighbourhood plan, development will be regarded as being in the countryside and as such restricted to:*

- *that which is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services;*
- *delivery of infrastructure;*
- *renewable energy generation; and*
- *minerals or waste development in accordance with separate Minerals and Waste Local Development Documents.*

Part D of Policy S5 is only supportive in principle of the erection of new dwellings in the countryside when the following can be demonstrated:

- a) Details of the rural operation that will be supported by the dwelling;*
- b) The need for the dwelling;*
- c) The number of workers (full and part time) that will occupy the dwelling;*

- d) *The length of time the enterprise the dwelling will support has been established;*
- e) *The commercial viability of the associated rural enterprise through the submission of business accounts or a detailed business plan;*
- f) *The availability of other suitable accommodation on site or in the area; and*
- g) *Details of how the proposed size of the dwelling relates to the needs of the enterprise.*

Any such development will be subject to a restrictive occupancy condition.

The proposed development is for the erection of a single market dwelling and it is not considered that this would accord with any of the criteria outlined above. As such, it is considered that the proposed development would be in contrast to both Policies S1 and S5 of the CLLP. There is no disagreement between the Local Planning Authority and the applicant on this matter. The main consideration is therefore whether there are any material planning considerations which indicate that a departure from the Local Plan may be acceptable.

Fallback Position

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 require that planning applications are determined in accordance with the relevant policies in the development plan unless material considerations indicate otherwise. The main consideration is whether the relevant site-specific material considerations which will be assessed below outweigh the departure from the Policies S1 and S5.

The argument in favour of the proposed development hinges on whether there is a '*real prospect*' of a permitted development fallback position and whether this fallback position should be afforded sufficient weight to outweigh the conflict with Part D of Policy S5 that has been outlined above. *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314¹ is the most relevant piece of case law which discusses this matter. A real prospect does not have to be likely, a possibility is enough to justify a real prospect.

However, this is often argued as a blank cheque for granting planning permission in the face of policy conflict where a fallback position exists. Like any planning application, it should be determined in accordance, first and foremost with the Development Plan. In addition, a fallback position is not the only material consideration in an application; in all applications, the NPPF and Planning Practice Guidance (PPG) are also material planning considerations which should be afforded due weight depending upon the individual circumstances of an application. This matter can be clarified by citing an

¹ <https://www.midsussex.gov.uk/media/6320/cd62b-appendix-b-ewca-civ-1314-2017.pdf>

appeal decision at Roundabout Farm Roughton, Shropshire² which explicitly states that in order for significant weight to be afforded to a fallback position, there has to both be a real prospect of a fallback position and this fallback position has to be **equal to or more harmful** than the development being proposed. Therefore, the remainder of this section will establish whether a real prospect exists and whether this is sufficient to outweigh the policy conflict outlined above.

Does the fallback position exist?

The original decision to refuse planning permission (147272) raised significant doubt as to whether a real prospect of a fallback position existed. This primarily stemmed from it being highly uncertain as to whether the works went beyond construction works that can be deemed '*reasonably necessary*' to convert an agricultural building into a dwelling. It was concluded that (having regard for *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853) at the time of this submission, the proposed development would constitute a re-build or fresh build forming a new building, rather than a conversion of the existing building. This, alongside concerns relating to the design of the proposed development resulted in planning permission being refused.

However, a subsequent application under Schedule 2 Part 3 Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (147605) concluded that the construction works would not go beyond what is *reasonably necessary* to convert the existing agricultural building into a dwelling. This was due to the applicant confirming that the internal structure of the agricultural building would then be retained alongside existing foundation and block work.

With regard to original concern relating to the impact of the proposed development on the impact of the character and appearance of the area, the impact of the Class Q development (147605) was considered to be acceptable for two reasons. Firstly, the proposed curtilage of this development was considerably smaller (which is a requirement of Class Q) which significantly reduced the harm of the development on the character and appearance of the area. Secondly, it was concluded that the standard of design required by Policy S53 of the CLLP and Section 12 of the NPPF placed a greater burden on ensuring that development is well designed rather than just not being poorly designed. In contrast, Class Q merely places a generic requirement to assess the design and external appearance of a proposed dwelling which was considered to be a lower burden than the one which is set out in policy. For these two reasons, the impact of the proposed Class Q development on the character and appearance of the area was considered to be acceptable.

² <https://shropshire.gov.uk/committee-services/documents/s34512/Appeal%20decision%202022-01124-FUL.pdf>

Given that 147605 granted prior approval for a Class Q development which was not the case when 147272 was submitted, the assessment of this report must be based on the current planning history. Having regard for the Class Q fallback position, it is considered that a real prospect of a fallback position does now exist and were planning permission to be refused, this fallback position could be implemented..

The circumstances between this application and 147272 are therefore materially different and this alters the planning balance. Whether this real prospect of a fallback position is afforded significant weight depends on whether the Class Q position can be considered as being equally to or more harmful than the current planning application.

Planning Harm?

The original reasons for refusal on 147272 centred on the principle of development in terms of its conflict with Policies S1 and S5 and the harm of the proposed development on the character and appearance of the area (Policy S53). These remain the principle concerns with regard to this application and whether these harms are outweighed by the presence of a fallback position and the amendments to the current scheme compared with the original. The previous refusal is only highlighted as a reference point, the main focus of this section will be whether the Class Q fallback position established by 147605 is equal to, or more harmful than, the current proposal.

The current development has been demonstrated as being in conflict with Policies S1 and S5 of the CLLP. Although Class Q is not subject to consideration against Development Plan policies, it is considered that were the fallback position to be assessed against these policies (as was the case in 147272) the fallback position would clearly be in conflict with Policies S1 and S5 of the CLLP. Given that the current development is also in conflict with these policies, it is considered that both proposals are equally harmful purely in terms of their location within the Settlement Hierarchy established by Policy S1 and the fallback position allowing for the conversion of a agricultural building in the countryside with no architectural or historic merit (Policy S5).

The level of harm resulting from the current development on the character and appearance of the area relative to the fallback position afforded by Class Q is considered to be a finely balanced matter. The current scheme has a larger curtilage than the Class Q by a significant margin (being approximately 0.11 hectares in scale). In contrast, the curtilage under the Class Q development is restricted to an area the size of the building footprint plus the area needed to achieve access to the dwelling. It can be said that the large curtilage is more harmful than the fallback position but 0.11 hectares is notably smaller than the 0.14 hectares of the previously refused scheme (147272) so it is clear that an attempt has been made by the applicant to reduce this harm.

Furthermore, it is important to assess what the degree of harm is from a larger curtilage. Whilst the proposed development would be visible from public

vantage points to the north-east, the distance from the public highway is at least 300 metres with several hedgerows intervening within the landscape and belts of woodland restricting views in other directions. Whilst a larger residential curtilage within the open countryside can be considered as being more harmful in principle, the perception of this harm from public vantage points would be nearly impossible for the average person to experience or even ascertain and this is notwithstanding that large residential curtilage is commonplace within such remote locations where dwellings do occasionally exist. It is therefore considered that the difference in curtilage size in terms of the material harm to the character and appearance of the area is comparatively minimal with the currently scheme being marginally more harmful.

This would be sufficient to reduce the material weight given to the presence of a fallback position, but the remaining principle consideration is whether the overall design and external appearance is more harmful to the character and appearance of the area. The fallback position has a degree of similarity to the current scheme. The Class Q fallback is of a similar size and scale and retains an agricultural pastiche. That being said, the overall design of the fallback scheme retains the design features of an agricultural building with no architectural or historic merit and therefore the design can be considered neutral in terms of its overall quality. The current scheme whilst not exceptional in its design offers a more diverse and unique palette of materials that create both a well-designed contemporary dwelling through the use of zinc metal roofing and aluminium windows but retain the agricultural pastiche of the building in terms of the overall form, use of timber cladding and quasi-industrial appearance of the roof and first floor of the dwelling combined with the brickwork on the ground floor. This combination of contemporary residential and agricultural design should be afforded modest weight in favour of the proposal development and is considered to neutralise the additional harm from an extended curtilage. The presence of a double garage increases the built footprint on site but the height of this garage at just over four metres is clearly subservient to the proposed dwelling whilst also being screened to the north-east by the proposed dwelling. Overall, the marginally improved design is considered to counterbalance the minimal harm from a larger curtilage.

Therefore, it is considered the current scheme is at a minimum equally harmful to the scheme approved under Class Q (147605) but is considered to achieve a better quality of design. This will be summarised briefly in the visual amenity section of this report which should be read in conjunction with this section.

There is also one final consideration in favour of the current scheme which relates to the overall energy efficiency of the proposed development.

Energy Efficiency/Embodied Carbon

To elaborate more on this matter, another principle consideration is Policy S11 of the CLLP which outlines a presumption against demolition unless one of the following can be demonstrated:

- 1. the building proposed for demolition is in a state of such disrepair that it is not practical or viable to be repaired, refurbished, re-used, or re-purposed; or*
- 2. repairing, refurbishing, re-using, or re-purposing the building would likely result in similar or higher newly generated embodied carbon than if the building is demolished and a new building is constructed; or*
- 3. repairing, refurbishing, re-using, or re-purposing the building would create a building with such poor thermal efficiency that on a whole life cycle basis (i.e. embodied carbon and in-use carbon emissions) would mean a lower net carbon solution would arise from demolition and re-build; or*
- 4. demolition of the building and construction of a new building would, on an exceptional basis, deliver other significant public benefits that outweigh the carbon savings which would arise from the building being repaired, refurbished, re-used, or re-purposed.*

The total energy demand of the dwelling proposed is only 24 kwh/m²/yr significantly below the maximum total energy demand permitted by Policy S7 and is a third lower than the target figure of 35 kwh/m²/yr. This total energy demand would be met by the installation of 14 solar panels. This high standard of thermal efficiency and low overall energy demand is considered to exceed the requirements of Policy S7 and would accord with both criteria 2 and 4 of Policy S11 over the lifetime of the development through lower lifetime carbon emissions. The applicant has also proposed to install Air Source Heat Pumps (ASHPs) to meet the heating demand which is also below the target standard of 15-20 kwh/m²/yr being only 8.49 kwh/m²/yr. This is achieved through the dwelling having an air tightness of 2.0 m³/m²/yr which is slightly above the optimal passive house standard but still results in the dwelling being highly energy efficient and a low form factor of 2.2 which reduces the level of thermal bridging within the dwelling.

There is no mechanism for the Local Planning Authority to guarantee or enforce that the fallback scheme achieves the same standard of energy efficiency. A full planning permission also allows for conditions to be imposed completely restrict the use of piped natural gas or other fossil fuel systems such as diesel generators (the Energy Statement itself can be conditioned) which would negate the benefits of solar panels being on the fall-back scheme. The applicant has also provided the following supporting information:

The reference study period for whole life carbon is 60 years as set out in the RICS methodology. This allows for a significant carbon disparity between those dwellings permitted through the new CLLP (which need to be 'net zero') and those which must adhere to Building Regulations (which do not need to be 'net zero'). In this case this is further exacerbated by the difference between how the standards Building Regulations set for the performance of new dwellings, built from the

ground up, and those formed through a change of use (and conversion). Therefore, over the course of 60 years the net zero dwelling will contribute no CO₂ from its operational energy whereas a conversion, with no renewables, will contribute a significant amount of CO₂ depending upon the heating source. This is of course without consideration to the embodied carbon expended through the fabric of construction and lifetime of maintenance. However, as a starting point a total operational CO₂ for the conversion can be used to estimate a budget for construction for the new build.

There is a useful article by the Guardian which provided a very basic overview of how much CO₂ (80 tonnes) is used in building a 2-bedroom house. From this a rule of thumb of 1 tonne of CO₂ per m² of new build using traditional construction would not be unreasonable (i.e. assuming 80m² to comply with minimum space standards for a two storey 2-bedroom dwelling, costing 80 tonnes of CO₂).

<https://www.theguardian.com/environment/green-living-blog/2010/oct/14/carbon-footprint-house>

Turning to the comparison of the two schemes I can offer the following statement to demonstrate planning 'betterment'. This should avoid a heavy-handed approach for full whole life carbon assessment. In any event I would hope that this response to Policy S11 is seen as proportionate, given the minor nature of the application and taking into fact that the Hardwick scheme which is very similar, was more than twice the size and was not deemed necessary to provide an Embodied Carbon assessment.

For the Class Q our understanding is that the solar panels would be beyond the scope of Class Q. Whilst they were drawn on the elevations they are clearly labelled as not being part of the application. They would be a separate permitted development or planning matter outside of the scope of Class Q. Therefore, there can be no reliance in law that the solar panels could be insisted upon, it would be discretionary to the applicant and any further permission necessary for their installation. Nor can the Building Regulations insist upon any renewables due to the current rules associated with conversion as opposed to 'new builds' under Part L of the Building Regulations. Notwithstanding this the legal position for compliance under Part L would mean that the conversion does not have to meet any of the targets of the 'notional dwelling' and therefore it is a record of Energy Performance rather than anything target driven. There are some minor exceptions to this insofar that U values must meet Table 4.2 in Part L or where existing thermal elements are present Table 4.3. However, this performance gap is significant and barns that we have worked on have had a range recorded performance of EPC depending upon choices of fuel. Currently unlike new dwellings which have performance targets from CO₂ emissions a change of use gives the freedom to the owner to choose. Therefore, oil or tanked gas are not out of the question.

A good performance level for an average sized conversion (120-150m²) would be around 5 tonnes of CO₂ per annum produced by the running of the dwelling but cannot be insisted upon. With tanked oil or tanked gas I think this can easily be doubled to 10 tonnes of CO₂ per annum, even with high levels of insulation. I think this is fair baseline for performance for the Class Q. This would give a maximum budget of 600 tonnes of CO₂ for construction (60 years x 10 tonnes CO₂ per annum) of the new dwelling to still be a better option using Clause 2 from Policy S11.

In this case, and using the above established rule of thumb, the approx. 200m² new build would expend 200 tonnes of CO₂ for cradle to practical completion [A1-A5]. Even if a further 50% was allowed for in use/ maintenance/replacement etc [B1-B5] this would total around 300 tonnes of CO₂ for whole life carbon, as none would be need for operational energy i.e [B6]. This is significantly less than just the total operational carbon estimate [B6] above for the conversion. It should be further noted no inclusion for the embodied carbon for stages [A1-A5] conversion or in use [B1-B5] has been taken into account in reaching this conclusion which would further sway the argument.

Based upon the submitted information and the assessment outlined above, it is considered that the proposal would meet criteria 2 of Policy S11 as the construction of a highly energy efficient dwelling would result in a lower embodied carbon footprint over the lifespan of the development. The main carbon savings would come from the higher operational carbon emissions of the lifespan of the development so it can be said in this instance that refurbishment would indirectly result in a higher carbon output. This would also satisfy criteria 4 in the sense that the new-build would offer an exceptionally high level of energy efficiency through lower energy demand, zero carbon heating and renewable energy generated on-site. The use of zinc roofing and aluminium windows would also be a sustainable choice of resource as the lifespan of metal roofing can be double that of a standard roof and metal used in construction is relatively easily recycled.

For these reasons, it is considered that the proposed development would accord with Policies S6, S7 and S11 of the CLLP. Limited to modest weight should also be afforded in favour of the proposed development due to it achieving an average space heating demand and total energy demand below the optimal standard outlined within Policy S7.

Although the proposed development would be in contrast to Policy S1 and S5 of the CLLP, it is considered that there is a real prospect of a fallback position afforded by Schedule 2 Part 3 Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Having regard for the case law and appeal decision referenced above, it is considered that for the reasons explained in this report, the fallback scheme would be equally, if not marginally more harmful than the current scheme being proposed.

This is undoubtedly a finely balanced decision but it is considered that the standard of design and a high standard of thermal efficiency combined with the real prospect of a fallback position, outweigh the conflict with Policies S1 and S5 of the CLLP alongside some outstanding concerns over the curtilage of the scheme and increased footprint. The remainder of this report will assess the other relevant material planning considerations. The next section specifically will reiterate the design issues outlined above alongside some additional condition which serve to mitigate the proposed development.

Visual Amenity

Policy S53 of the CLLP requires that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place which demonstrates a sound understanding on their context. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they are well designed in relation to siting, height, scale, massing, and form. Important views into, out of and through a site should also be safeguarded.

The overall design of the scheme and the impact of the proposal on the character and appearance of the area was fully explored above, but to summarise, it is considered that the overall nature, scale and external appearance of the development achieves a very modest betterment than the fallback position. This is despite there being some concern over the size of the curtilage and the increased footprint.

Whilst the design in itself is considered to be acceptable on balance, granting full planning permission would offer a full suite of residential permitted development rights which could lead if fully utilised lead to an unacceptable harm to the character and appearance of the area via the use of extensions, alterations to the dwelling, outbuildings, unsympathetic boundary treatments and even additional floors. Therefore, it is considered that there is a clear justification for restrict all of Schedule 2 Part 1 of the Order (Development within the curtilage of a dwellinghouse), alongside Schedule 2 Part 2 Class A (gates, fences, walls etc.) which would otherwise permit boundary treatments up to two metres in height without planning permission.

No specific details have been provided with regard to an exact specification of external material and boundary treatments which will also be conditioned. The boundary treatments will be conditioned as part of a landscaping scheme as the development appears to illustrate a number of hedgerows. It is considered necessary to secure these details to provide both a biodiversity enhancement but also ensure that native species are also utilised to preserve the rural character and appearance of the immediate locality.

Subject to the conditions outlined above, it is considered that the proposed development is in contrast with Policy S53 of the CLLP and Section 12 of the NPPF.

Residential Amenity

Policy S53 of the CLLP requires that development proposals do not have an unacceptable impact on residential amenity. This includes considerations such as compatibility with neighbouring land uses, noise, vibration, odour, and the creation of safe environments amongst other things. Furthermore, paragraph 130 f) of the NPPF requires that development proposals provide a high standard of residential amenity for both existing and future users.

The proposed development would not have an unacceptable impact on residential amenity given its isolated location. In addition, the proposed development would also meet the requirements of the national technical space standards which are a material consideration when assessing residential development. It is also considered that the proposed development would afford a sufficient amount of residential curtilage.

As such, it is considered that the proposed development would accord with Policy S53 of the CLLP and paragraph 130 f) of the NPPF.

Highways

Policies S47, S48 and S49 collectively require that development proposals do not have an unacceptable impact on highway safety or a severe cumulative impact on the wider highway network. Policy S48 requires that development proposals should facilitate active travel. It also requires that first priority should be given to pedestrians, cyclists, and people with impaired mobility. Policy S49 of the CLLP sets out minimum parking standards that are required for residential and non-residential development within Central Lincolnshire.

Paragraph 92 of the NPPF supports development proposals that allow for the creation of healthy and safe places. This is reinforced by paragraph 110 of the NPPF which requires that development proposals provide safe and suitable access to all users. Paragraph 111 of the NPPF in turn states that development proposals can only be refused on highways grounds where there is an unacceptable impact on highway safety, or the wider cumulative impact would be severe.

The proposed development would see the introduction of a single dwelling and although the access is not considered to be optimal, it would currently have the potential to accommodate large agricultural vehicular movements. It is therefore considered that the use of the site as a dwelling is more preferable than large agricultural vehicles. The impact on highway safety and the wider cumulative impact of one dwelling is not considered to be unacceptable. No objection has been received from the Local Highway Authority and the proposed development would comply with the parking standards outlined within Policy S49.

An informative will be attached to the decision notice which has been included within the consultation response received from the Local Highway Authority.

In respect of the above, it is considered that the proposed development would accord with Policies S47 and S49 of the CLLP and paragraphs 92, 110 and 111 of the NPPF.

Ecology & Biodiversity

Policies S60 and S61 of the CLLP requires that development proposals do not have an unacceptable impact on ecology or biodiversity and should take opportunities to provide a net gain in biodiversity wherever possible. These requirements are also contained within paragraph 174 of the NPPF. Paragraph 180 states further that some harm to biodiversity is permitted but where there is significant harm, planning permission should be refused.

The proposed development is located 60 metres to the south-east of Gatecliff Wood which is classified as both a Local Wildlife Site and a Site of Special Scientific Interest. In addition, Hardy Gang Wood is located just over 200 metres to the north-east of the site which is designated as an area of ancient woodland meaning that it has existed since at least 1600. Although the site is located within a relatively close proximity to these natural features, it is not considered that there would any harm to these sites as the application relates to a change of use to an existing building. The applicant is not proposing to remove any existing trees or hedgerows. It has been stated in the application form that where appropriate new landscaping will be provided. It is therefore considered important to ensure that any species that are planted are appropriate (e.g. native species). Therefore, one condition will be attached to the decision notice requiring that a landscaping scheme should be submitted to and agreed in writing with the Local Planning Authority. This would also ensure that the boundary treatments proposed do not have an unacceptable impact on the character and appearance of the area.

The only aspect that requires any detailed consideration is the demolition of the existing building. In this instance, the Planning Practice Guidance is relevant and states the following:

Bats in buildings

Construction, demolition, extension or conversion proposals could affect a bat roost in a building or barn. You should ask for a survey where roosts are likely if the building or barn:

- *has little or no disturbance from artificial lighting;*
- *is close to woodland or water*
- *has uneven roof tiles and large roof timbers*
- *has cracks, crevices and small openings;*
- *has a roof that warms in the sun with a large roof space for flying;*
- *has hanging tiles or timber cladding on south-facing walls and has not been used for several years*

The applicant has confirmed that the building has been in consistent agricultural use for at least the last 25 years and therefore can be considered

as 'disturbed'. Despite the building being located within a relatively close proximity to two patches of woodland, the building remains in a relatively good structural condition with a contiguous built envelope that would make it difficult for bats or birds to enter the building. Furthermore, this is not a traditional agricultural barn with roof timbers, it has an industrial appearance being finished with grey brick and a corrugated roof (assumed to be asbestos).

In relation to development proposal that have the potential to impact wild birds, the following guidance from the PPG is relevant:

Wild birds

'You should also ask for a survey if a development proposal affects:

- natural habitats, such as wetland, woodland, scrub, meadow or moorland;
- mature gardens;
- trees that are more than 100 years old;
- trees that have holes, cracks and cavities;
- trees that are more than 1 metre around at chest height;
- buildings that could support nesting birds, such as agricultural buildings;
- cliff or rock faces;

The reference to agricultural buildings is noted. However, there are a number of considerations that need to be considered. Firstly, the building is not a barn, it is a portal framed, brick-built buildings with a more industrial character. Secondly, Table 1 in this section of the PPG that relates to ecological surveys more generally states that a survey should be requested where a building has features suitable for bats or traditional timber framed agricultural buildings.

It has been concluded above that the buildings are not considered to have potential to support bats or wild birds. The buildings are also not timber framed. Thirdly, as mentioning previously, the existing portal framed buildings are in a condition that makes it very unlikely that the buildings have any significant potential for nesting birds or bats. Although the building is approximately 40 years old, the applicant has confirmed that the proposed development has been used for the purposes of agriculture for at least the last 25-years so can be considered as being disturbed. It has also been noted above that although the building is not brand new in chronological age or appearance, it is apparent that the building retains a good structural condition which would prevent bats or birds entering. The building is not located in a mature garden and there are not trees that would be impacted by the proposed development.

As such, it is not considered that any ecological surveys are required in this instance. This is notwithstanding the fact that bats/wild birds are a protected species under the provisions of the Wildlife and Countryside Act 1981. This makes it a criminal offence to disturb, kill or other protected species. The

building could also be converted via the prior approval process without the need for any surveys due to the presence of a clear fallback position.

It is not considered to be reasonable or necessary to require the applicant to provide a quantitative BNG value as part of this application as the proposal relates to the erection of a single dwelling with a fallback position which is also exempt from delivering BNG.

It is therefore considered that the proposed development is in accordance with S60 and S61 of the CLLP and paragraph 174 of the NPPF subject to the landscaping condition outlined above.

Flood Risk

Policy S21 of the CLLP requires that development proposals do not have an unacceptable impact on flood risk and implement appropriate mitigation (such as the use of SuDS) wherever possible. Paragraphs 159 and 167 of the NPPF respectively require that development should be diverted away from areas at the highest risk of flooding and that all development proposals should not increase the risk of flooding elsewhere.

The proposed development is located within Flood Zone 1 which is at the lowest risk of flooding. It is proposed to utilise soakaways to address to accommodate any surface water drainage and a package treatment plant for foul sewage. Due to the proposed development being located within Flood Zone 1, both of these mitigation measures are considered to be acceptable in principle. No details have been provided in terms of the parking spaces and patio but there is nothing in principle to prevent these from being of a permeable design.

Notwithstanding this, the proposed development would not significantly increase the impermeable area of the site so permeable paving is not considered essential and the patio/parking spaces could be sufficiently mitigation by appropriately design soakaways.

Therefore, subject to the imposition of one condition requiring specific details of foul sewage and surface water drainage, including any relevant specifications and percolation tests shall be attached to the decision notice of this application.

Other Matters:

Contamination

The roof of the building is assumed to contain asbestos. However, there is no clear evidence to affirm or deny this conclusion. Due to the risk to human health posed by asbestos, it is considered reasonable to impose a standard condition relating to unidentified contamination. This would only require mitigation measures to be submitted to the Local Planning Authority in the event that contamination is identified. There is also separate legislative control

on asbestos that is required under the Control of Asbestos Regulations 2012. It is also proposed to fully remove the metal cladding on the walls and windows which would eliminate the risk of asbestos on site.

Subject to this condition, it is considered that the proposed development is in accordance with Policy S56 of the CLLP and paragraphs 183 and 184 of the NPPF.

Conclusion:

The proposal has been considered in light of relevant development plan policies namely S1: The Spatial Strategy and Settlement Hierarchy, S2: Level and Distribution of Growth, S5: Development in the Countryside, S6: Design Principles for Efficient Buildings, S7: Reducing Energy Consumption – Residential Development, S11: Embodied Carbon S12: Water Efficiency and Sustainable Water Management, S14: Renewable Energy, NS18; Electric Vehicle Charging, S20: Resilient and Adaptable Design, S21: Flood Risk and Water Resources, S47: Accessibility and Transport, S49: Parking Provision, S53: Design and Amenity, S56: Development on Land Affected by Contamination, 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. Relevant guidance in the NPPF has also been considered.

In light of the assessment outlined in this report, it is considered that the proposed development be in contrast with Policies S1 and S5 of the Central Lincolnshire Local Plan. However, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions should be determined in accordance with the Development Plan unless there are material considerations that indicate otherwise.

The site is subject to an extant prior approval permission (147605) afforded by Schedule 2 Part 3 Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Having regard for *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314, it is considered that there is a '*real prospect*' of a fallback position afforded by Class Q which is equal to, if not marginally more harmful than the scheme that is being proposed as part of this application. This material consideration is afforded significant weight in favour of the proposed development and in combination with the likely improvements in thermal efficiency is afforded modest weight in favour of the proposed development. These material considerations are considered to outweigh the harm associated with the proposal development that would result from the policy conflict outlined above.

It is acknowledged that this is a finely balanced decision, but in the absence of other reasons for refusal, it is considered that the proposed development is acceptable on its merits and it is recommended that planning permission is granted subject to conditions.

Recommendation - Grant permission with the following conditions subject to the Planning Committee delegating back to officers to issue a decision once the consultation period has concluded:

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

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

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

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

None.

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

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:
 - Proposed Plans and Elevations – J1948a-PL-22 P01;
 - Proposed Elevations – J1948a-PL-21 P01;
 - Proposed Plans – J1948a-PL-20 P01
 - Proposed Site Plan – J1948a-PL-02 P01

All plans received February 7th 2024.

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

Reason: To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework and Policy S53 of the Central Lincolnshire Local Plan.

3. No development above foundations level shall take place until a scheme of foul sewage and surface water drainage has been submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To prevent flooding and protect future residents to accord with the National Planning Policy Framework and Policy S21 of the Central Lincolnshire Local Plan.

4. The development hereby permitted shall be carried out in accordance with the details set out in the Amended Energy Statement received 7th February 2024 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of Policies S6 and S7 of the Central Lincolnshire Local Plan (2023).

5. Prior to occupation of the dwelling hereby permitted, a written verification statement shall be submitted to demonstrate that the approved scheme has been implemented in full, in accordance with the Amended Energy Statement received 7th February 2024 and approved in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in accordance with the approved details and in accordance with the provisions of Policies S6 and S7 of the Central Lincolnshire Local Plan.

6. If during the course of development, contamination not previously identified is found to be present on the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.

Reason: In order to safeguard human health in accordance with the National Planning Policy Framework and Policy S56 of the Central Lincolnshire Local Plan.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no domestic oil tanks or domestic gas tanks shall be placed within the curtilage of the dwelling(s) hereby approved without express planning permission from the Local Planning Authority.

Reason: In the interests of energy efficiency to accord with Policies S6 and S7 of the Central Lincolnshire Local Plan (Adopted 2023).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order), no development as may otherwise be permitted by virtue of the following:

- Schedule 2 Part 1 Classes A, AA, B, C, D, E, F, G and H of the Order shall be carried out within the curtilage of the dwelling permitted; and

➤ Schedule 2 Part 2 Class A.

Without the express planning permission of the Local Planning Authority.

Reason: To ensure that the development hereby permitted does not have an unacceptable impact on the character and appearance of the area in accordance with paragraph 130 f) of the National Planning and Policy Framework and Policy S53 of the Central Lincolnshire Local Plan.

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 their private and family life, their home, and their 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: Dan Galpin

Date: 21st May 2024

Signed: *D. Galpin*

Authorising Officer: Date:

Decision Level (tick as appropriate)

Delegated

Delegated via Members

Committee

