

## **OFFICERS REPORT**

**PLANNING APPLICATION NO:** WL/2024/00420

**PROPOSAL:** Planning application for the construction of a specialist 65-bedroom dementia care home (Use Class C2) together with associated car and cycle parking, structural landscaping and amenity space provision being variation of conditions 3 & 6 of planning permission 145433 granted 10 February 2023 to allow shorter footpath link to serve the approved care home.

### **LOCATION:**

Land to the North of 40 Lodge Lane  
Nettleham  
Lincoln  
LN2 2RS

**WARD:** Nettleham

**WARD MEMBER(S):** Cllr F J Brown and Cllr J S Bennett

**APPLICANT NAME:** Mr David Hicks

**TARGET DECISION DATE:** 21st August 2024 (Extension agreed until 13th September 2024)

**CASE OFFICER:** Ian Elliott

**Recommended Decision:** Grant Permission plus conditions

### **Planning Committee:**

This application has been referred to the Planning Committee following objections from the Nettleham Parish Council, the Local Highways Authority and residents on highway and pedestrian safety grounds.

### **Site Description and Proposal:**

The application site is located at the southern boundary of Nettleham. It is situated on Lodge Lane, about 4 km north-east of Lincoln. The site is approximately 0.7ha in size. It contains a number of trees along the boundaries. It is not within a Conservation Area and there are no listed buildings nearby. To the north, the site neighbours the residential area of Weldon Drive. This area comprises mainly two storey residential buildings. To the West the site is bounded by another line of trees. Beyond this is the main fields of the Lincoln Rugby Club. The access to Lincoln Rugby Club lies south of no. 40 Lodge Lane. The East is bounded by Lodge Lane and a wide green verge along the road. There is currently no footpath connecting Nettleham with the Rugby Club to the south of no 40 Lodge Lane. The site drops in levels from West to East by around 1m.

The application seeks permission to vary conditions to enable the removal of a section of previously approved pedestrian footpath, following the grant of planning permission for the construction of a specialist 65-bedroom dementia care home (Use Class C2) together with associated car and cycle parking, structural landscaping and amenity space provision in 2023.

The amendment would remove 220 metres of previously proposed pedestrian footpath which would have connected the vehicle access of the approved development in 145433 to the vehicle access of the Nettleham Rugby Club to the south-east. A new pedestrian footpath, connecting the site to the north would be retained.

### **Relevant Planning History:**

145433 - Planning application for the construction of a specialist 65-bedroom dementia care home (Use Class C2) together with associated car and cycle parking, structural landscaping and amenity space provision - 10/02/23 - Granted time limit plus conditions

137531 – Planning application for proposed development of 7 dwellings. Refused 31/05/18. Appeal dismissed.

132116 – Outline planning application for the erection of 10 residential dwellings with access and layout to be considered. Refused 24/04/15. Appeal dismissed.

130890 – Planning application for residential development of 26 dwellings. Refused 30/04/14

### **Other relevant Planning History:**

Land off Lodge Lane, Nettleham:

This site shares the north/north west boundary of the application site.

132063 - Outline planning application for erection of up to 40no. dwellings and commercial development to include Class B1-Offices and D1-Non- residential institutions-access to be considered and not reserved for subsequent applications - 29/05/15 - Refused - Appeal Allowed 17/12/15 (APP/N2535/W/15/3129061)

135896 - Application for approval of reserved matters for erection of up to 40no dwellings following outline planning permission 132063 granted at appeal 17 December 2015 - 12/05/17 - Granted time limit plus conditions

Approved site plan:



137381 - Application for removal of condition 10 of planning permission 132063 granted on appeal 17 December 2015-re: footpath - 25/05/18 - Granted time limit plus conditions.

Condition 10:

*"No development shall take place before a scheme has been agreed in writing by the local planning authority for the construction of a 1.8m wide footway across the whole frontage of the site. The agreed works shall be fully implemented before first occupation of any of the buildings on the site hereby approved"*

Conclusion of officer report stated:

*"In light of this assessment and evidence submitted it is considered that the imposed footpath condition is not necessary to make the development acceptable in planning terms as the site is already connected to the village by two other footpaths and there is no public infrastructure directly to the south of the site and so is not a reasonable requirement which therefore fails the "6 tests" and so the condition can be removed".*

In summary this application to remove a footpath condition was assessed against the six planning tests and concluded that it was not necessary or reasonable (The six condition tests are outlined later in this report).

### **Representations:**

#### Nettleham Parish Council: Objections

Nettleham Parish Council has the following "material considerations" and comments to make on the proposal:

Nettleham Parish Council objects to the requested amendment and refers you to the Parish Council's response to the original application dated 20/10/2022. In our previous response, we emphasised the importance of formalising the provision of the footpath within a s106 agreement.

The rationale behind the Parish Council's objection is:

1. Safety for Pedestrians: A formalised footpath would allow safe access to the site for pedestrians, which is particularly important given the high traffic and lack of lighting on Lodge Lane. This footpath would not only serve the residents of the proposed Care Home but also benefit the wider community by connecting to the Rugby Club and a much-used bridleway. This would significantly reduce the risk of pedestrians having to walk along the busy and unlit Lodge Lane.
2. Benefits to Care Home Residents: The future residents of the Care Home would greatly benefit from the footpath. It would provide an additional route for walking with family members and/or staff, thereby promoting gentle exercise, which is proven to be beneficial for people with dementia. The Alzheimer's Association highlights that "During a walk, a person with dementia may leave the home." While required safety standards would be in place, having a footpath would arguably increase safety if a resident were to wander onto Lodge Lane.

In summary, the Parish Council believes that the inclusion of a formalised footpath is crucial for the safety and well being of both the Care Home residents and the broader community. We urge that this amendment be refused

#### Local residents: Objections received from:

36 Lodge Lane, Nettleham  
4 Squires Place, Nettleham  
26 Baker Drive, Nettleham  
7 Poachers Meadow, Nettleham

#### Highway Safety

- Lodge Lane is a dangerous road with no lighting. Cars regularly speed on the lane reaching speeds in excess of 100mph. Making this section of the Lane safer is paramount and the removal of this section of the proposed footpath should not be allowed.
- Since Lincoln Rugby Club moved to the site, it has become a real asset to the village. Apart from the numerous rugby teams, the club house hosts fitness classes and many social events. However, getting to the club house on foot is fraught with danger because the road is dangerous. Hence, villagers tend to use cars to get there, which increases traffic and pollution. Providing a footpath would enable villagers, including residents of the care home, to take advantage of the facilities at the Rugby Club without using cars. Apart from the health benefits of walking, this would also reduce traffic and pollution in the vicinity of the care home.
- Removing the requirement for the developer to build a section of the footpath increases the risk to pedestrians walking from the bridleway and rugby club. Since the opening of the eastern bypass Nettleham has seen a large increase in traffic cutting through the village via Lodge Lane (due to congestion on the bypass). Many of these vehicles are travelling far in the excess of the speed limit and this poses a serious risk to pedestrians if they are forced to walk in the road. I would urge that this application is refused.
- Lodge Lane is a very busy road and the village has seen an increase in traffic since the eastern by pass has opened. A footpath to link the village to the Footpath and Rugby club is essential for the safety of pedestrians. I personally know of one person who has been clipped by a car. With councils trying to promote the benefits of exercise this would go directly against this if you allow the change to go through. Therefore i ask you to not allow this change in planning conditions to happen for the safety and well being of the residents of Nettleham.
- The inclusion of this footpath was to appease local resident concerns relating to the application. It comes as no surprise the applicant is now applying to save the cost of installing this section of footpath, however this request/application should be resisted. Lodge Lane is a dangerous road with no lighting. Cars regularly speed on the lane reaching speeds in excess of 100mph. Making this section of the Lane safer is paramount and the removal of this section of the proposed footpath should not be allowed.

#### LCC Highways and Lead Local Flood Authority: Objections

It is the Highway Authorities recommendation that the application to amend the length of the footway provided as part of the planning permission granted for the specialist 65-bedroom dementia care home is refused. The originally shown footway provision, submitted as part of the application at the time, was assessed, agreed and approved as part of the permission granted. Removing part of the pedestrian connectivity to the development is a fundamental change to the proposal. Proposed developments are required to provide safe access for all, in line with NPPF guidance, including to adjacent development where appropriate. The rugby club serves as a community asset, with function rooms for hire and events outside its primary function as a rugby club. It is therefore considered by the highway authority that pedestrian trips are likely between the two developments, and due to the proximity of the proposed care home, the absence of a footway link to the rugby club will pose a highway safety issue.

#### Environment Agency: Comment

We did not recommend the conditions referred to on application 145433 and therefore we have no comments to make on this application (WL/2024/00420).

#### Anglian Water: Comment

Thank you for your consultation. Having reviewed the development, there is no connection to the Anglian Water sewers, we therefore have no comments.

#### **Relevant Planning Policies and Legislation:**

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2023), the Lincolnshire Minerals and Waste Local Plan (adopted June 2016) and the Nettleham Neighbourhood Plan (Made 3rd March 2016).

#### Development Plan

- **Central Lincolnshire Local Plan 2023**

Relevant policies of the CLLP include:

S1 The Spatial Strategy and Settlement Hierarchy

S21 Flood Risk and Water Resources

S23 Meeting Accommodation Needs

S47 Accessibility and Transport

S53 Design and Amenity

S57 The Historic Environment

S61 Biodiversity Opportunity and Delivering Measurable Net Gains

S66 Trees, Woodland and Hedgerows

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

- **Nettleham Neighbourhood Plan (NP)**

Relevant policies of the NP include:

D-1 Access

D-2 Pedestrian and Cycle Access

D-6 Design of New Development

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

- **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/directory-record/61697/minerals-and-waste-local-plan-core-strategy-and-development-management-policies>

#### 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 Governments 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 December 2023.. Paragraph 225 states:

*However, existing 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 Guidan**

<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>

### **Nettleham Neighbourhood Plan Review**

Nettleham Neighbourhood Plan Review has reached the referendum stage. The examination of the plan review was carried out by an independent examiner in early 2024. Subject to a series of recommended modifications (Regulation 18 and 19) set out in their report the examiner concluded that the examination of the Nettleham Neighbourhood Plan Review had been successful, and the plan should proceed to referendum.

Nettleham Parish Council and West Lindsey District Council have agreed that the examiners recommended modifications be accepted and included in the Neighbourhood Plan Review for it to proceed to a public referendum. The referendum is to be held in the parish of Nettleham on 26th September 2024.

National planning guidance advises that where a Decision Statement has been made detailing the intention to send a neighbourhood plan to referendum, such as for the Nettleham Neighbourhood Plan Review, that plan can be given significant weight in planning decision-making, so far as the plan is material to the application.

The most relevant policies are considered to be:

Policy D3 – Water Resources, Quality and Flood Risk

Policy D4 – Design of New Development and Parish Design Code Principles

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

### **Main Considerations:**

This application is made under Section 73 of the Town & Country Planning Act 1990, in order to develop land not in compliance with conditions previously attached.

In accordance with planning law (Section 73(2)), “consider only the question of the conditions subject to which planning permission should be granted.” It is not a re-visitation or reassessment of the original decision to grant planning permission.

In this respect therefore, this application considers only the implications of the removal of the proposed footpath, and is not a reconsideration of the decision to grant planning permission to the care home and associated development.

- Principle of the Development
- Assessment in planning permission 145433
- Footpath Removal
  - Necessary*
  - Relevant to Planning*
  - Relevant to the development to be permitted*
  - Enforceable*
  - Precise*
  - Reasonable in all other aspects*
  - Concluding Statement*
- Landscape Character
- Assessment of condition 1, 2, 4, 5 and 7-13 of planning permission 145433

### **Assessment:**

Principle of the Development:

The principle of the development has already been established and benefits from full planning permission 145433 dated 10th February 2023. The permission requires development to commence within 3 years.

The previous full application was considered against the policies of the now revoked and superseded Central Lincolnshire Local Plan 2012-2036. On 13<sup>th</sup> April 2023 the Central Lincolnshire Local Plan 2023 and its policies was adopted and is the development plan that this application will be determined against.

This section 73 planning application has been submitted to amend the plans (condition 3 and 6) as described earlier in the report.

Condition 3:

*"The development hereby permitted shall not be occupied before a 1.8m metre wide footway, to connect the development to the existing footway network and the Lincoln Rugby Club, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway."*

*Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property."*

Condition 6:

*"With the exception of the detail matters referred by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings:*

*2124/PA/03*

*2124/PA/04*

*2124/PA/10*

*2124/PA/20*

*2124/PA/30*

*2124/PA/40*

*2124/PA/50*

*2124/PA/51*

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

*Reason: To ensure the development proceeds in accordance with the approved plans."*

The application has included a letter from the planning hub dated 22nd May 2024. The letter sets out that *"the request for the provision of such an elongated footpath is not 'necessary', 'relevant to the development permitted' or 'reasonable' as it currently stands"*.

In summary the letter provides the following justification for this opinion:

- There is no tangible link between the care home and the rugby club
- It would be unfair of the Highways Authority to ask the developer to provide the footpath link to the rugby club when a footpath was not sought when the rugby club development was considered.
- There was no request for the footpath by the Highways Authority at pre-application.
- There is no real justification put forward for the footpath to link the care home to the rugby club.

To conclude the the letter states "*it is not essential in order to facilitate the development, is not a requirement in order to make the development safe and accessible and is not, therefore, considered to be 'necessary', 'relevant to the development permitted' or 'reasonable' under the 'tests' set out in paragraph 56 of the NPPF.*"

### Footpath Removal

The proposed amendment to remove a section of the footpath has been objected to by the Nettleham Parish Council, the Local Highways Authority at Lincolnshire County Council and local residents based on highway safety grounds, the health of the residents of the proposed care home and that the section of the footpath was fundamental to the acceptability of the development.

Paragraph 3 (Reference ID: 21a-003-20190723) of the Use of Planning Conditions (<https://www.gov.uk/guidance/use-of-planning-conditions>) of the NPPG states that:

*"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.*

*These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply."*

– Circular 11/95: Use of conditions in planning permission (<https://www.gov.uk/government/publications/the-use-of-conditions-in-planning-permissions-circular-11-1995>) provides additional guidance on the accurate use of planning conditions.

The reason for condition 3, as stated on the decision notice is as follows:

– *Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property.*

– However, the applicant, whilst acknowledging that connection to the north is "necessary", now questions whether it is "necessary" for the development to connect to the Rugby Club to the south.

– It is therefore important that this report completes a thorough assessment of the six conditions test of the NPPF/NPPG for condition 3, in particular if it is necessary, relevant to the development to be permitted and reasonable. This is not required for condition 6 which lists the approved plan and is a standard condition which meets the six conditions test. The contents of condition 6 will be formed by the outcome of the condition 3 assessment below:

*Necessary:*

Paragraph 15 of circular 11/95 states that:



*"In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification."*

The proposed specialist 65-bedroom dementia care home approved on the edge of the settlement had no existing public footpath provision to the north/north west to Nettleham or to the south/south east away from Nettleham. The frontage of the site is grass verge which extends all the way to the pedestrian footpath which terminates to the south/south east of Lodge Lane and north/north west of Weldon Drive.

The approved development included the introduction of a pedestrian footpath:

- to the north/north west to connect the approved development to the existing footpath to the west side of Lodge Lane which terminates to the north of Weldon Drive (modern residential development) **and**
- to the south/south east to connect the development to the vehicle access to Nettleham Rugby Club.

Given the use of the development having safe pedestrian access to the settlement is a fundamental material planning consideration for the occupants, employees and visitors and is not for consideration in this application. The applicant agrees that this section is "necessary".

It is the proposed footpath (approximately 220 metres in length) going south to the Lincoln Rugby Club which is proposed to be removed from the condition. It is acknowledged that the provision of a pedestrian footpath to the Lincoln Rugby Club would provide some benefit to the occupants of Nettleham and to the occupants of the care home, however it needs to be determined whether this is necessary to make the development acceptable.

The road verge currently does not have a footpath and lighting. If residents of the care home did wish to visit the Rugby Club to the south by foot, it is acknowledged that it would not be safe and pedestrian accessibility would be compromised. However, it is questionable as to the extent that there would be demand for users of the proposed care home to visit the rugby club to the south.

The applicant argues:

*"However, there is no way that the care home development in this location will result in either its residents, or its staff members, needing to walk from the care home to the rugby club, or that users of the rugby club would want to walk from there to the care home, as these uses are not aligned, nor do they feed-off each other in terms of pedestrian movements."*

Having reviewed the transport assessment and travel plan that were submitted with the original application, it is clear that walking is encouraged. However, it has a clear focus on ensuring accessibility to services in the village - it doesn't identify a specific need to access the rugby club to the south, or set out any expected trip generation.

In view of limited evidence of a clear link and desire line between the two sites, it is considered that the pedestrian footpath would be desirable and improve pedestrian safety - however, it is not considered necessary for the proposed care home

It is considered that the proposed development would not have been refused if the pedestrian footpath to the Nettleham Rugby Club had not been included in the development. There is additionally no special or precise justification to expect the developer of the care home to go to the expense of providing the footpath to the Rugby Club, in addition to the proposed footpath which would connect to facilities and services within the settlement of

Nettleham. It is therefore considered that the pedestrian footpath to the Nettleham Rugby Club is not considered as necessary to make the development acceptable.

*Relevant to Planning:*

Highway safety and pedestrian access are matters considered relevant to planning.

Local policy S47 of the CLLP, policy D-2 Pedestrian and Cycle Access of the Nettleham Neighbourhood Plan and Policy D1 Parking Standards for New Residential Development of the Nettleham Neighbourhood Plan Review include criteria on pedestrian access.

These policies include the following criteria:

- S47      b) Minimise additional travel demand through the use of measures such as travel planning, safe and convenient public transport, car clubs, walking and cycling links and integration with existing infrastructure;
  
- D-2      c) Address existing physical impediments to safe and easy pedestrian and cycle access; and  
            d) Safeguard any wider strategic opportunities for cycling and walking facilities in the immediate locality.
  
- D1        1. Where appropriate, all development proposals will need to demonstrate that they can provide suitable access, clear visibility, and pedestrian safety to and from the site.

These three policies set out that developments must demonstrate suitable pedestrian safety to and from the development applied for.

*Relevant to the Development to be Permitted:*

As stated above, whilst desirable for the future occupants, there is no evidence within the transport statement and Travel plan that there is a clear and sufficient access demand for pedestrian connectivity between users of the proposed care home and the Rugby Club.

It is considered that the desire to connect the Rugby club to the settlement of Nettleham with pedestrian access exceeds the requirements of the proposed care home alone.

It is therefore considered that the pedestrian footpath to the Nettleham Rugby Club is not considered as relevant to the development to be permitted.

*Enforceable:*

It is considered that the condition has been worded suitably enough to be enforceable.

*Precise:*

It is considered that the wording of the condition is precise.

*Reasonable in all other respects:*

The condition requires the installation of a circa 220m pedestrian footpath at the expense of the care home developer.

In the view that pedestrian connection to the rugby club to the south is not necessary for the care home to be acceptable in planning terms, it is considered that this is not reasonable.

As stated in the necessary section above it is considered that providing a pedestrian footpath north to Nettleham itself would be the only reasonable responsibility of the developer to allow safe access to the site from the application site.

It is therefore considered that the pedestrian footpath to the Lincoln Rugby Club is no longer considered as reasonable.

*Concluding Statement:*

Following the assessment of the six conditions test it is considered that the proposed pedestrian footpath to connect to the Lincoln Rugby Club in condition 3 of planning permission is considered as not necessary, not relevant to the development to be permitted and would be unreasonable. Condition 3 would therefore not meet the six conditions test and is recommended to be amended to:

*"The development hereby permitted must not be occupied before a 1.8m metre wide footway, to connect the development to the existing footway network which terminates to the west of Lodge Lane, Nettleham, has been provided in accordance with details that must first have been submitted to, and approved in writing by, the Local Planning Authority. The works must also include appropriate arrangements for the management of surface water run-off from the highway. The footway scheme must be fully completed in strict accordance with the approved details.*

*Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property to accord with the National Planning Policy Framework and local policy S21 Flood Risk and Water Resources and S47 Accessibility and Transport of the Central Lincolnshire Local Plan 2023 and D-1 and D-2 of the Nettleham Neighbourhood Plan and Policy D3 of the Nettleham Neighbourhood Plan Review."*

Subsequently it is considered that condition 6 can be amended to reflect the new plan(s) submitted in the application.

Landscape Character

As you travel south/south east along Lodge Lane away from the settlement the character of Lodge Lane changes from an Urban character to a much more greener open countryside character with hedging, trees and grass verges dominating either side of the road. The introduction of hard landscaping in the form of a pedestrian footpath is not ideal in this location so only needs to be installed where it is absolutely necessary to serve the care home development with access into the settlement where all the day to day community facilities and shops are situated.

The lengthening of the pedestrian footpath an approximate further 220 metres tot the south/south east would further harm the pleasant green open countryside character of Lodge Lane. The removal of the requirement to construct a footpath to the Lincoln Rugby Club would therefore have an enhancing impact on the character and appearance along Lodge Lane.

Assessment of condition 1, 2, 4, 5 and 7-13 of planning permission 145433

As a Section 73 application will create a new permission in itself a review of all the remaining conditions originally imposed on planning permission 145433 needs to be reviewed.

Condition 1 – Time Limit

This condition is still relevant and necessary but needs to be altered to state that the development must commence by the end of 10<sup>th</sup> February 2026, to reflect the original grant of permission (time conditions cannot be extended through a s73 application)..

Condition 2 – Construction Management Plan

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 4 - Surface Water

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 5 – Surface Water (Highway)

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 7 – Materials

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 8 – Ecology

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 9 – Landscaping

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 10 – Screening

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 11 – Boundary Treatments

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 12 – Travel Plan

This condition is considered to still be relevant and necessary therefore should still be retained.

Condition 13 – Planting

This condition is considered to still be relevant and necessary therefore should still be retained.

**Other Considerations:**

Response to Objections

**Pedestrian Safety:**

A number of objections have been received from residents and objection from the Highways Authority in relation to the safety of this section of Lodge Lane which is used for exercising and visitors to the Rugby Club. The existing footpath terminates to the north of the vehicular access of 38 Lodge Lane but would be extended to the care home if the development was to be completed. It would be at these current and potential future points where walking further south/south east becomes unsafe alongside a highway where it is initially a 30mph speed limit and then a 60mph speed limit.

It is acknowledged that there is a benefit in providing pedestrian footpath connection between the settlement of Nettleham and the Rugby Club. However, this application considers only those matters pertaining to the proposed development of the care home itself.

This is an existing situation that is not considered to be greatly exacerbated by the proposed care home (which would still extend the pedestrian footpath further south than it does currently). The use of this area for continuing to walk on is the responsibility and at the risk of the individual person(s).

**Health Benefit to the Occupiers of the Proposed Care Home:**

The proposed care home would be connected to Nettleham's existing pedestrian footpath infrastructure which would provide exercise to the occupants without the need for the pedestrian footpath to Lincoln Rugby Club. The walk travelling towards Nettleham would also be far safer for the occupants of the care home as it directs people towards a 30mph speed limit area instead of along a road which a continued speed limit of 60mph.

Having reviewed the transport assessment and travel plan that were submitted with the original application, it is clear that walking is encouraged. However, it has a clear focus on ensuring accessibility to services in the village - it doesn't identify a specific need to access the rugby club to the south, or set out any expected trip generation.

**Conclusion and reason for decision:**

The proposed development has been assessed against policies S1 The Spatial Strategy and Settlement Hierarchy, S21 Flood Risk and Water Resources, S23 Meeting Accommodation Needs, S47 Accessibility and Transport, S53 Design and Amenity, S57 The Historic Environment, S61 Biodiversity Opportunity and Delivering Measurable Net Gains and S66 Trees, Woodland and Hedgerows of the Central Lincolnshire Local Plan 2023, Policy D-1 Access, D-2 Pedestrian and Cycle Access and D-6 Design of New Development of the Nettleham Neighbourhood Plan and policy D3 Water Resources, Quality and Flood Risk and policy D4 Design of New Development and Parish Design Code Principles of the Nettleham Neighbourhood Plan Review.

Furthermore, consideration has been given to guidance contained within the National Planning Policy Framework, National Planning Practice Guidance, National Design Guide and the National Design Code, as well as all other material considerations and representations received.

In light of this assessment and evidence submitted it is considered that the requirement to provide a section of pedestrian footpath to connect to Lincoln Rugby Club in condition 3 of planning permission 145433 does not meet with the "six tests" on the grounds that it is not necessary, not relevant to the development being permitted and is unreasonable to expect the developer to install given they are providing pedestrian footpath provision to connect to the nearest terminating footpath on the edge of Nettleham.

Whilst providing pedestrian connection to the rugby club from the settlement of Nettleham is desirable, this requirement does not arise as a result of the proposed care home development.

The proposed footpath in question would be likely to place an unreasonable cost on the developer when it is not relevant or necessary to enable the development to be granted permission. Therefore the wording of condition 3 of 145433 to include the pedestrian footpath connection to Lincoln Rugby Club is not considered to meet the six conditions tests and should be amended to only require a footpath to connect the proposed care home development to the settlement of Nettleham. The removal of the section of the pedestrian footpath would additionally retain the green landscape open countryside character of Lodge Lane. Therefore amendments to condition 3 and condition 6 are acceptable.

## **Recommended Conditions:**

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

1. The development hereby permitted must be begun before the end of the 10th February 2026.

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 shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the routing and management of construction traffic;
- (ii) the parking of vehicles of site operatives and visitors;
- (iii) loading and unloading of plant and materials;
- (iv) storage of plant and materials used in constructing the development;
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (vi) wheel cleaning facilities;
- (vii) measures to control the emission of dust and dirt during construction;
- (viii) details of noise reduction measures;
- (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- (x) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
- (xi) Measures for the protection of any existing trees and hedgerows;

Reason: In the interests of amenity to accord with the National Planning Policy Framework, policy S47 of the Central Lincolnshire Local Plan 2023 and D-1 of the Nettleham Neighbourhood Plan.

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

3. The development hereby permitted must not be occupied before a 1.8m metre wide footway, to connect the development to the existing footway network which terminates to the west of Lodge Lane, Nettleham, has been provided in accordance with details that must first have been submitted to, and approved in writing by, the Local Planning Authority. The works must also include appropriate arrangements for the management of surface water run-off from the highway. The footway scheme must be fully completed in strict accordance with the approved details.

Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property to accord with the National Planning Policy Framework and local policy S21 Flood Risk and Water Resources and S47 Accessibility and Transport of the Central Lincolnshire Local Plan 2023 and D-1 and D-2 of the Nettleham Neighbourhood Plan and Policy D3 of the Nettleham Neighbourhood Plan Review.

4. The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority. The scheme shall:

- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide flood exceedance routing for storm event greater than 1 in 100 year;
- 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;
- provide attenuation details and discharge rates which shall be restricted to 1.3 litres per second;
- provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- 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.

No part of the development 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 the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the permitted development to accord with the National Planning Policy Framework, policy S21 of the Central Lincolnshire Local Plan 2023 and D3 of the Nettleham Neighbourhood Plan Review.

5. No part of the development hereby permitted shall be occupied before the works to improve the public highway by means of the provision of a surface water drainage improvement scheme for Lodge Lane have been certified complete by the Local Planning Authority.

Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the permitted development to accord with the National Planning Policy Framework, policy S21 of the Central Lincolnshire Local Plan 2023 and D3 of the Nettleham Neighbourhood Plan Review.

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

Approved in Planning Permission 145433:

- 2124/PS/05 dated August 2022 - Boundary Treatments Plan
- 2124/PA/10 dated August 2022 - Ground Floor Plan
- 2124/PA/20 dated August 2022 - First Floor Plan
- 2124/PA/30 dated August 2022 - Second Floor Plan
- 2124/PA/40 dated August 2022 - Roof Plan
- 2124/PA/50 dated July 2022 - Elevation Plans
- 2124/PA/51 dated August 2022 - Elevation Plans

Approved in application WL/2024/0420:

- 002 Rev 3A dated 20th May 2024 - Site Plan

The works shall be in accordance with the details shown on the approved unless otherwise agreed in writing by the Local Planning Authority, the materials for the development shall be carried out in accordance with the details on plan 2124/PA/50.

Reason: To ensure the use of appropriate materials in the interests of visual and residential amenity to accord with the National Planning Policy Framework, local policy S53 of the Central Lincolnshire Local Plan 2023, policy D-6 of the Nettleham Neighbourhood Plan and D4 of the Design of New Development and Parish Design Code Principles.

7. Unless otherwise agreed in writing by the Local Planning Authority, the materials for the development shall be carried out in accordance with the details on plan 2124/PA/50.

Reason: To ensure the use of appropriate materials in the interests of visual and residential amenity to accord with the National Planning Policy Framework and local policy LP26 of the Central Lincolnshire Local Plan and policy D-6 of the Nettleham Neighbourhood Plan.

8. The development shall be carried out in strict accordance with the recommendations and mitigation measures contained within the Ecological Impact Assessment ref 402.064279.00001 Version No.1 dated August 2022.

Reason: To safeguard wildlife in the interests of nature conservation to accord with the National Planning Policy Framework and local policy S60 of the Central Lincolnshire Local Plan 2023.

9. Prior to occupation, the landscaping for the development shall be completed in accordance with the details (excluding the footpaths to the front of the site) submitted on plans 102C dated 30th August 2022 and 103.

Reason: In the interests of amenity to accord with the National Planning Policy Framework, local policy S53 of the Central Lincolnshire Local Plan 2023, policy D-6 of the Nettleham Neighbourhood Plan and policy D4 of the Nettleham Neighbourhood Plan Review.

10. Unless otherwise agreed in writing by the Local Planning Authority, the screening of the balconies shall be in accordance with the details submitted on plans 2124/PA/20 dated August 2022 and 2124/PA/30 dated August 2022 and retained in perpetuity.

Reason: In the interests of amenity to accord with the National Planning Policy Framework, local policy S53 of the Central Lincolnshire Local Plan 2023, policy D-6 of the Nettleham Neighbourhood Plan and policy D4 of the Nettleham Neighbourhood Plan Review.

11. Unless otherwise agreed in writing by the Local Planning Authority, the boundary treatments shall be carried out in accordance with the details shown on plan 2124/PA/05 dated August 2023 and retained as such thereafter.

Reason: In the interests of amenity to accord with the National Planning Policy Framework, local policy S53 of the Central Lincolnshire Local Plan 2023, policy D-6 of the Nettleham Neighbourhood Plan and policy D4 of the Nettleham Neighbourhood Plan Review.

12. The development shall be implemented in accordance with the Workplace Travel Plan ref: 402.064279.00001 Version No. Final V2 dated October 2022.



Reason: In order to maximise the sustainability of the development to accord with the National Planning Policy Framework and local policy S47 of the Central Lincolnshire Local Plan 2023.

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

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome, in the interests of the visual amenities of the locality to accord with the National Planning Policy Framework, local policy S53 of the Central Lincolnshire Local Plan 2023, policy D-6 of the Nettleham Neighbourhood Plan and policy D4 of the Nettleham Neighbourhood Plan Review.

**Decision Level: Planning Committee**

**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 applicants and/or objectors 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