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	Boston Borough Council Chief Executive PHIL DRURY MCIAT, ACIOB	Municipal Buildings Boston Lincolnshire PE21 8QR Tel: Tel 01205 314227 Fax: DX: 26823 - BOSTON
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My ref: PE/KR/Planning 07/02/17

Please ask for: Karen Rist, Democratic Services Officer (Direct number Tel 01205 314227)

Monday, 30 January 2017

NOTICE OF MEETING OF THE PLANNING COMMITTEE

Dear Councillor

You are invited to attend a meeting of the Planning Committee

on Tuesday, 7 February 2017 at 2.00 pm

in the Committee Room, Municipal Buildings, West Street, Boston, PE21 8QR



PHIL DRURY
Chief Executive

Chairman: Councillor Alison Austin

Vice Chair: Councillor Colin Brotherton

Councillors: David Brown, Michael Cooper, Anton Dani, Maureen Dennis, Jonathan Noble, Sue Ransome, Brian Rush, Claire Rylott, Paul Skinner, Yvonne Stevens and Stephen Woodliffe

Note(s) for Members of the Committee:

In order to vote on a planning application committee Members must be present for the entire presentation and discussion on the item.

When an official site visit is undertaken which forms part of the decision making at Committee, only Members who have attended the site visit and received full representation will be able to debate and decide the application.

Members of the public are welcome to attend the committee meeting as observers except during the consideration of exempt or confidential items.

THIS MEETING WILL BE RECORDED (SOUND ONLY)

AGENDA

PART I - PRELIMINARIES

A APOLOGIES

To receive apologies for absence and notification of substitutes (*if any*).

B DECLARATION OF INTERESTS

To receive declarations of interests in respect of any item on the agenda.

C MINUTES

1 - 12

To sign and confirm the minutes of the last meeting.

D PUBLIC QUESTIONS

To answer any written questions received from members of the public no later than 5 p.m. two clear working days prior to the meeting.

PART II - AGENDA ITEMS

1 PLANNING APPLICATION B 16 0457

13 - 26

Application for the approval of reserved matters for the construction of 26 dwellings including access, appearance, layout, landscaping and sale following the grant of outline permission for residential development ref B 15 0456 plus the discharge of conditions 4 (affordable housing), 5 (biodiversity), 8 (surface water drainage) and 10 (highway improvement works) attached to B 15 0456.

Land adjacent to London Road / Drainside South Kirton Boston Lincolnshire

Richard Reed (Builders) Ltd

2 PLANNING APPLICATION B 16 0385

27 - 36

Erection of wardens accommodation (mobile home unit).

Meadowvale Touring Park Five House Lane Wyberton Boston

Mr B Adams

3 PLANNING APPLICATION B 16 0360

37 - 54

Construction of 17 affordable dwellings (previously 25 affordable dwellings) plus associated infrastructure.

Land at Riverside Boston Lincolnshire

Mrs Rebecca Archer Chestnut Homes Ltd

- 4 PLANNING APPLICATION B 16 0106** 55 - 76
Construction of 86 dwellings plus roads, public open space and associated works.

Land north of Puritan Way Boston Lincolnshire

Mr M Gosling, Mrs M Leggate and Mrs R Wicks
- 5 REPORT ON APPEAL DECISIONS** 77 - 88
A report by the Development Control Manager in respect of:

Planning application B 16 0206 – 15 Mentmore Gardens Boston

Enforcement Notice PENF/0191/15 – 50 Brothertoft Road Boston
- 6 DELEGATED DECISION LIST 19 12 16 TO 13 01 17** 89 - 96
The Delegated Decision List for the period 19 12 16 to 17 01 17

Note: A planning decision comes into effect only when the decision notice and associated documents are despatched by the Local Planning Authority and not when the Committee makes its decision.

Notes:

The Human Rights Act 1998

It is implicit in these reports that the recommendations to and the consideration by Committee will take into account the Council's obligations arising out of the Human Rights Act and the rights conferred by Articles 6,8,14 and Article 1 of the First Protocol of the European Convention on Human Rights (ECHR). These are the rights to a fair hearing, respect for family and private life, the prohibition against discrimination and the peaceful enjoyment of possessions, respectively. The ECHR allows many to be overridden if there is a sufficiently compelling public interest.

In simple terms the Act requires a person's interest be balanced against the interests of the community. This is something that is part of the planning system and that balancing is a significant part of the consideration of issues identified to Committee by officer reports. Provided that those issues are taken into account, the Convention will be satisfied.

The person to contact about the agenda and documents for this meeting is Karen Rist, Democratic Services Officer, Municipal Buildings, Boston, Lincolnshire, PE21 8QR, Tel 01205 314227, e-mail: karen.rist@boston.gov.uk.

Council Members who are not able to attend the meeting should notify Karen Rist, Democratic Services Officer as soon as possible giving the name of the Council Member (*if any*) who will be attending the meeting as their substitute.

Alternative Versions

Should you wish to have the agenda or report in an alternative format such as larger text, Braille or a specific language, please contact Democratic Services on direct dial (01205) 314226

Emergency Procedures

In the event of a fire alarm sounding all attendees are asked to leave the building via the nearest emergency exit and make their way to the Fire Assembly Point located in the car park at the rear of the Municipal Buildings.

PLANNING COMMITTEE

10 JANUARY 2017

Present:

Chairman: Councillor Alison Austin
Vice-Chairman: Councillor Colin Brotherton

Councillors: David Brown, Michael Cooper, Maureen Dennis,
Jonathan Noble, Sue Ransome, Brian Rush, Claire Rylott,
Paul Skinner and Stephen Woodliffe

Officers: Development Control Manager, Monitoring Officer, Senior
Planning Officer and Democratic Services Officer

69 APOLOGIES

Apologies for absence were received from Councillors Anton Dani and Yvonne Stevens. No substitute members.

70 MINUTES

The Chairman signed the minutes of the meeting held on the 6 December 2016 as a correct record with the agreement of the committee.

71 DECLARATION OF INTERESTS

The clerk confirmed that lobbying forms had been submitted in respect of planning application B 16 0380 from Councillors Alison Austin, Colin Brotherton, David Brown, Michael Cooper, Maureen Dennis, Jonathan Noble. Sue Ransome, Brian Rush, Paul Skinner and Stephen Woodliffe.

Councillors Alison Austin, David Brown and Colin Brotherton further declared that they were members of the Joint Local Plan.

Councillor Paul Skinner declared that he was chartered through the Institute of Agricultural Engineers.

Councillor Claire Rylott declared that she would abstain from B 16 03803 and speak in her role as Ward Member on the item.

It is noted that at the end of the meeting Councillor Brian Rush asked it be recorded that one of the speakers on item B 16 0380 was known to him and that Councillor Paul Skinner asked it be recorded that in his previous role as a County Councillor a speaker on item B 16 0380 had been known to him.

72 PUBLIC QUESTIONS

No public questions

73 PLANNING APPLICATION B 16 0380

It is recorded that Councillor Claire Rylott absented herself from the committee for the following item and took no part in the deliberation or decision making on the application.

Outline Planning Permission

Outline application for the erection of up to 215 dwellings with all matters (scale, layout, landscaping and appearance) except access reserved with public open space and drainage infrastructure.

Land north of Middlegate Road (West) Frampton Boston

Larkfleet Ltd T/A Allison Homes

The Development Control Manager presented the report and advised the following update information to the report tabled: he confirmed that submissions presented by members of the public received following publication of the agenda had been circularised to members for their reference in advance of the meeting.

Committee were advised that the 1st point on the officer recommendation for refusal would therefore be that committee receive and take into consideration during their deliberations, the hard copy and e copy petitions submitted in objection to the application.

Additional information had been submitted out of time for issuing to members which included a letter from No.40 Middlegate Road that included a log of works undertaken by Anglian Water.

Further update information provided noted the objection of Kirton Parish Council to the application: they cited they felt the application would be detrimental to residents of Middlegate Road; would stretch the facilities and local services in Kirton and would create highway safety issues due to the substantial increase in vehicle activity from the development.

Finally the Parish has referenced existing drainage problems in the area and stated it felt the development would further exacerbate those problems.

Committee were advised that whilst not confirmed, indications were that trial archaeological trenching had or would commence on the site: members were reminded that the findings of this would not bear any influence should committee refuse the application and would only be influential on any approval and the nature of any conditions.

Natural England had initially objected to the application but had now withdrawn their objection stating that the mitigation report confirmed no significant adverse effects subject to the mitigation. The withdrawal of the objection was conditional upon the provision of the compensatory foraging site to be provided for pink footed geese. The extents of this additional land and of the changes to the shape and extent of the northern boundary were displayed.

Committee were reminded that due to the unresolved objection by the Environment Agency it did not have the power to grant the application at this time: should committee be mindful to grant then the decision would need to be submitted to the Secretary of State who would either call it in or return it to the Council.

Referencing the emerging SELL Plan which members were advised was at an advanced stage but not formerly part of the development plan, the Development Control Manager stressed that prematurity was not being recommended as a reason for refuse.

Representation was received in objection to the application which included:

Acknowledging that many areas of objections had already been recorded within the report following the significant representation sent in direct from residents, the objector reiterated concern in respect of foul water; access to the site and safety concerns. Members were asked to recognise that the existing problems of flooding would only increase should the development be permitted: flooding had occurred twice in the last year causing significant problems with effluent and contamination on both occasions.

Safety concerns at the proposed access points were a major concern due to the estimated amount of additional vehicle movements which would occur daily along Middlegate Road: danger for not only drivers but for pedestrians as well. The road was already heavily used both accessing Lighton Avenue and the estate adjoining but also as a short cut from the main A16 to London Road and into Kirton.

Committee were asked to recognise that the development could cause coalescence between Kirton and Frampton and onto Wyberton. Members were also asked to recognise that no.34 Middlegate Drive had for over 25 years mown the green track nearby which could possibly be a case for ownership under descriptive rights. Furthermore, no. 36 Middlegate Drive already had private access to their property: a right of way being a presumption and not a right.

Concluding, the objector referenced the loss of agricultural land and natural habitat, stating that existing alternative sites were available within the locality which would be preferable and more suitable to such a development. Committee were asked to refuse the application.

Representation was received in support of the application which included:

Speaking as a representative of the land owners, the supporter asked that initially one global point be recognised in that people cannot live in planning permissions since it did not necessarily mean that all permissions would be built.

Committee were asked to agree that it was hard enough to find major house builders in the Boston area and that when an experienced and essentially local developer did want to develop a site of this size, then their interest and application should not be viewed lightly: Boston could not afford to lose such opportunities or discourage such development which would provide not only quality and affordable housing, but would create employment as well.

The applicant's interest in the site had solely come about following the Council identifying it as a sustainable site in its local plan back in 2016. It was this that had given the applicant the reassurance to seek to develop the officially identified site.

Other sites identified and marketed had not been targeted by any builders, whilst permission given to others had not been followed up and the sites remained undeveloped. The preferred Elgro site was under the ownership of three different parties and had no developer behind it: in addition permission had been passed on the Case Tractors site but nothing had been built. Committee were advised that the developer was agreeable to all matters being reserved and that this application site was far more likely to be developed.

Members were asked to recognise how difficult it was to secure such a sized site within the Borough that would deliver such a quality development and was deliverable by an experienced local developer.

Representation was received from the agent on behalf of the applicant which included:

The application was a sustainable development offering a wide range of housing types and sizes providing a much needed boost to the Council's existing housing supply. It also offered 20% affordable housing which was higher than the current 15% in the interim policy along with a significant amount of open green space.

In addition the local community would benefit from section 106. contributions in respect of education and health and the development would provide jobs for a period of up to five years resulting in new spending power in the community,

Members were also asked to remember that Kirton was ranked second only to Boston to accommodate development and to note that the NPPF required that the application should be determined on a tilted balance of paragraph 14 of the NPPF: that the scheme be approved unless any adverse impact identified outweighed the benefits.

Deliverability was a key constraint to house building in Lincolnshire and the applicant was willing to accept a condition for reserved matters submission within 12 months: in practice houses could be delivered onto the site with 12 / 18 months.

No significant technical issues had been raised in respect of highways, drainage, ecology, noise nor heritage or air quality. The benefits of development would encompass three strands of sustainable development economic / social and environmental

Noting the recommended reason for refusal based on landscape – members were asked to note that the SHLAA identified that in principle the development was acceptable: the applicant had not taken the master plan lightly and it was based on low density with the ability to deliver a green network through the scheme. The treatment of the northern boundary with the tree belt increased in size and shape, would offer an appropriate new settlement boundary. The applicant was confident that in time the scheme would be assimilated into the landscape without any significant harm.

Referencing the second reason for refusal in respect of the officer opinion that the applicant had failed the sequential flood test, committee were advised that whilst site KIR037 on London Road in Kirton was identified as a preferred site, the actual level on the applicants' site was just 65mm lower. Both sites were in flood zone 3 and in practice the difference was marginal. The application site was sequentially preferable to 4 sites identified in Boston which were rated in a higher flood zone.

Representation was received from Frampton Parish Council which included:

The vice chairman confirmed that the Parish Council had voted unanimously against the application.

Frampton was a village of 1000 residents and 500 dwellings and the development if granted would increase the population by 50%. Frampton should not be expected to take this significant share, 43%, of Kirton's allocation for new homes: it was totally unacceptable and out of proportion to the parish. Frampton has already been subject to 20 new homes since 2011 which was more appropriate.

Furthermore the Parish was extremely concerned that should the application be granted then coalescence between Frampton with Wyberton and Kirton would arise in the future.

Supporting the concerns of the residents of Middlegate Road, the Parish agreed that the significant number of increased vehicle movements which would arise from the development, would impact on the safety of both pedestrians and drivers both along Middlegate Road and exiting and accessing it from the A16 and London Road.

Planning applications had been refused previously along Middlegate Road due to flooding concerns and the road had collapsed regularly and been closed to traffic on a number of occasions. The impact of a potential additional 400 vehicles using it daily would only worsen the existing problems.

140 homes had been built on a rise at the Windmill Development as would be the 215 proposed in this application. Run-off from Middlegate Road would run through the middle of both sites resulting in increased flooding which could result in more road closures and disruption to a great many more residents.

Other sites within Kirton had already been granted planning permission, some on brownfield sites which were preferable to using grade 1 agricultural land as on this application. Those sites had also been subjected to lower flood rating in sequential testing.

Frampton parish is in a rural setting and should this development be granted it would split the village into two: the rural village as it is currently would cease to be and once the development had been built then nothing else could be done.

Representation was received from the Ward Member which included:

Confirming that Frampton was a picturesque village full of character properties in a very sought after location, committee were advised that the Parish was laid over a thin strip of land with just over 400 houses and the 2016 electoral roll noted 1024 residents. The village relied on Kirton for its amenities having none of its own and as such was indeed an unsustainable village which could not be considered suitable for the proposed development.

The amenities in Kirton were already stretched with problems arising in both accessing health care and doctors appointments, together with the local schools being at maximum capacity.

Middlegate Road was a tree lined lane with Tree Preservation Orders being in place on many of the trees. In order to provide the entrance to the site significant damage to existing trees would be caused.

The road sat between the A16 and London Road and was frequently used as a short cut. A significant amount of agricultural, large freight and domestic vehicles already used the road daily: the additional number of vehicle movements the development would create would seriously compromise safety both along the road and also exiting and accessing it from both the A16 and London Road.

Whilst highways had noted that 2 new bus stops needed to be provided along Middlegate Road to reduce the use of cars, lifestyles had changed and in the majority of households both parents worked and most ran two cars. Children did not always go to the nearest schools which were in walking distance as parents had options and children needed to be taken by car. Whilst ideally public transport would be used to reduce car movements, practically it was often not possible to do so.

The sewers along Middlegate Road had collapsed, water had bubbled up through manhole covers and residents had been subject to contamination and foul water on more than one occasion. The road had been closed off for repairs due to collapsing under the existing volume of traffic causing inconvenience to residents: the indicative increase in traffic should the development be granted would only serve to increase problems.

A resident in the vicinity of the site was a member of the Lincolnshire BAT Group and had advised that a bat roost was sited on the north western edge of site. As such a full Bat survey should be carried out prior to any decision being made. Members were also asked to recognise the significance of Frampton Marsh located near to the site which was promoted for its abundance of wildlife.

The application site had been considered previously earlier in the plan with alternative sites being considered more suitable. Some of those had included brown field sites which were far preferable to using grade 1 agricultural land.

During a consultation event in July 2016 the site had been continually referred to as Middlegate West Kirton not Middlegate West Frampton. Committee were ask to recognise the site sat in Frampton Parish and granting of the application would significantly impact on the existing village, breaking the village in two. Furthermore, if granted there was a real danger that Kirton, Frampton and Wyberton would coalesce and the A16 would become one long corridor of development into Boston.

It was moved by Councillor Jonathan Noble that the application be refused as per officer recommendation subject to the addition of refusal also in line with policies CO1, G3 and G6. The motion was not seconded.

It was moved by Councillor Paul Skinner and seconded by Councillor Michael Cooper that the application be refused as per officer recommendation subject to the addition of refusal also in line with Policy CO1.

Vote: 10 if favour. 0. against. 0. abstention.

RESOLVED:

1. That the committee have received and taken into consideration the submitted petitions in objection to the application.
2. That the committee refuse the application in line with office recommendation and reasons and subject to the addition of refusal also in line with Policy CO1

Reasons for Refusal:

1. The development of the application site would constitute a significant incursion into open countryside which would detract from the open fen character and landscape of this open agricultural land to the north of Kirton where the settlement development limits are clearly constrained by the extent of Middlegate Road. The impact of development would be exacerbated by the arbitrary nature of the northern site boundary which is not influenced by and has no respect for the existing open landscape. The mitigating indicative landscape and planting proposals including a raised bund to the A16 boundary would appear alien and uncharacteristic such as to further emphasise this impact upon the open countryside, contrary to saved Local Plan Policies CO1, G1 and G2.

2. The application has failed to satisfy the flood risk Sequential Test as set out in para. 101 of the National Planning Policy Framework, its technical guidance and the Planning Practice Guidance. The evidence from the emerging South East Lincolnshire Local Plan and taking account of the unresolved objection from the Environment Agency is that up to date information indicates that there is a sequentially preferable site within the development limits of Kirton which is at a lower risk of flooding. The local planning authority considers that the benefits of the development of this site - which can be in a sustainable location - are outweighed by the higher level of risk that would be encountered on this site compared to the identified sequentially preferable site.

It is recorded that Councillor Claire Rylott rejoined the meeting at this point in the proceedings.

74 PLANNING APPLICATION B 16 0389

Outline Planning Permission

Outline application for the erection of one detached dwelling and one detached garage including access with matters relating to appearance, landscaping, layout and scale reserved for later approval.

Land adjacent to Glenhirst Station Road Swineshead Boston

Mr and Mrs N C Bell

The Development Control Manager presented the report and advised that no updates to the report published within the agenda had been received.

Representation was received from the agent on behalf of the applicant:

Committee were reminded that the application was a straightforward outline application and would provide a small contribution to the borough's housing shortage in a sustainable community. Referring to the size of the development the committee were asked to recognise that the footprint of the existing glasshouse house, that would be demolished to enable the build, was significantly larger than the proposed new dwelling. The private gardens on the site would remain unchanged and concerns of loss of the Old Cobblers Shop and Anderson Shelter were unfounded as neither would need to be demolished to allow the development to take place. There would be no overlooking onto neighbouring property which would be dealt with at reserved stage. Referring to concerns raised in objection due to flooding were acknowledged, but the committee were advised that whilst flooding had occurred previously it had been due to highway water and not water from the application site: the reduction in the size of the building on the site would reduce any rapid run-off.

It was moved by Councillor Jonathan Noble and seconded by Councillor Michael Cooper that the application be granted as per officer recommendation with an additional condition permitting just one new dwelling only on the site.

Vote: 11 if favour. 0. against. 0. abstention.

RESOLVED: That the application be granted as per officer recommendation and subject to the following conditions and reasons:

1. No development shall commence until details of appearance, layout, landscaping and scale of the development (hereafter referred to as the “reserved matters”) have been submitted to and approved by the local planning authority.
Reason: This is an outline application only and such details must be approved before development commences in order to comply with the objectives of Local Plan policies G1 and H3 and required to be imposed pursuant to Section 92 of the Town & Country Planning Act 1990.
2. Application for approval of all reserved matters shall be made to the local planning authority not later than the expiration of three years from the date of this permission.
Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.
4. The development hereby permitted shall be carried out in accordance with the following approved plans –
 - OS Location Plan 15048 RL (1/4)
 - Block Plan 15048 RL 02 (2/4)
 - Site Plan (Proposed) 15048 RL 04c (3a/4) and
 - Flood Risk Assessment Version 1 September 2016, received by the LPA on 21 September 2016.**Reason:** To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.
5. Prior to the commencement of the development, details of the existing and proposed site levels together with details of floor levels and construction and surface water details relating to the treatment of the transitional area between raised levels on site and existing ground levels off site shall be submitted to and approved by the Local Planning Authority, and the development shall be built in accordance with the approved scheme.
Reason: In the interest of residential amenity and to accord with Adopted Local Plan Policies G1 and G3.
6. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA), undertaken by RM Associates (Version 1 September 2016, received by the LPA on 21 September 2016), and the following mitigation measures detailed within the FRA:
 - Finished floor levels shall be set no lower than 2.8m ODN.
 - Flood resilience and resistance measures shall be incorporated into the proposed development as stated in the FRA.
 - Fixable mountings to allow demountable defences shall be installed on all ground floor door openings to a height of 600mm above finished floor level.**Reason:** To reduce the risk and impact of flooding on the proposed development and future occupants in accordance with Policies G3 and G4 of the Local Plan.

7. Prior to the clearance of the site for development, the site shall be surveyed for the presence of protected species and if present a scheme of mitigation shall be submitted to and approved by the Local Planning Authority and the development shall be undertaken in accordance with the scheme of mitigation.
Reason: In the interest of protected species and to accord with the Wildlife and Countryside Act and Adopted Local Plan Policy G2.
- 8 This permission is for the benefit of one dwelling only.
Reason: In accordance with the details of the application and for the avoidance of doubt that this consent relates to a single dwelling only.

75 PLANNING APPLICATION B 16 0353

Listed Building Consent

External alterations to remove a soil pipe. Internal alterations, including the removal of walls and fabric and the installation of walls and fabric to facilitate the change of use of the first and second floors from officers (B1 use) to 8 dwellings (C3 use).

36-39 Market Place Boston PDE21 6NH

MES Commercial Ltd

The Senior Planning Officer presented the report and confirmed that there were no updates to the report tabled within the agenda

It was moved by Councillor David Brown and seconded by Councillor Alison Austin that the application be granted as per officer recommendation and subject to the conditions therein.

Vote: 11 if favour. 0. against. 0. abstention.

RESOLVED: That the application be granted as per officer recommendation and subject to the following conditions and reasons:

1. The works must be begun not later than the expiration of three years from the date of this permission.
Reason: Required to be imposed pursuant to Section 18 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.
2. The development hereby permitted shall be carried out in strict accordance with the application received 19 September 2016 and in accordance with the associated plans referenced:
 - Ref: J1626(08)01 'Site Location Plan' (1/9)
 - Ref: J1626(08)04 Rev A 'Existing Floor Plans – Fabric to be Removed' (4A/9)
 - Ref: J1626(08)06 Rev A 'Proposed Floor Plans and Roof Plan' (6A/9)
 - Ref: J1626(08)07 'Proposed Elevations' (7/9)
 - Ref: J1626(08)08 Rev A 'Proposed Sections' (8A/9)
 - Ref: J1626(08)09 'Proposed Service Strategy' (9/9)

And with the details received by email on 24 November 2016 at 15.55.

Reason: To ensure the development is undertaken in accordance with the approved details, in the interest of residential amenity and to comply with saved Policy G1 of the Adopted Plan.

3. Prior to the commencement of the use of any of the residential units hereby approved the following details shall be submitted to and approved by the Local Planning Authority;
- (i) Details are to be provided at not less than 1:10 of any new doors that are being introduced to show frames, architraves and mouldings;
 - (ii) Should any of the existing doors require upgrading for fire resistance purposes, details of the system to be used shall be submitted for approval prior to installation;
 - (iii) The ironmongery to be used on new doors and any changes to fittings on existing doors shall be fully specified and submitted for approval prior to their installation.

The development shall proceed fully in accordance with the approved details.

Reason: To preserve the character, appearance and integrity of the listed building in accordance with the intentions of the National Planning Policy Framework (2012).

76 PLANNING APPLICATION B 16 0382

It is noted that Councillor Maureen Dennis left the meeting during the following application and as such took no part in the deliberation or decision making.

Full Planning Permission

Change of use of first and second floor from offices (Class B1) to 8 No. dwellings (Class C3)

36-39 Market Place Boston PDE21 6NH

MES Commercial Ltd

The Senior Planning presented the report and confirmed that there were no updates to the report tabled within the agenda

It was moved by Councillor Jonathan Noble and seconded by Councillor David Brown that the application be granted as per officer recommendation and subject to the conditions therein with an additional condition relating to the procedure for the presentation of rubbish bins.

Vote: 10 if favour. 0. against. 0. abstention.

RESOLVED: That the application be granted as per officer recommendation and subject to the following conditions and reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- Reason:** Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in strict accordance with the application received 19 September 2016 and in accordance with the associated plans referenced:

- Ref: J1626(08)01 'Site Location Plan' (1/9)
- Ref: J1626(08)04 Rev A 'Existing Floor Plans – Fabric to be Removed' (4A/9)
- Ref: J1626(08)06 Rev A 'Proposed Floor Plans and Roof Plan' (6A/9)
- Ref: J1626(08)07 'Proposed Elevations' (7/9)
- Ref: J1626(08)08 Rev A 'Proposed Sections' (8A/9)
- Ref: J1626(08)09 'Proposed Service Strategy' (9/9)

And with the details received by email on 24 November 2016 at 15.55.

Reason: To ensure the development is undertaken in accordance with the approved details, in the interest of residential amenity and to comply with saved Policy G1 of the Adopted Plan.

3 Refuse and recycling bins to serve this development shall be stored at the rear of the property as shown on drawing no' J1626(08)06 Rev A and shall be presented at the building's frontage on collection days only.

Reason: In the interests of protecting the residential and visual amenities of residents and the character or appearance of the Conservation Area and to accord with the objectives of Local Plan Policies H8 and G1.

77 DELEGATED DECISION LIST

Committee noted the decision list for the period 21.11.16 to 16.12.16

The Meeting ended at 4.00 pm

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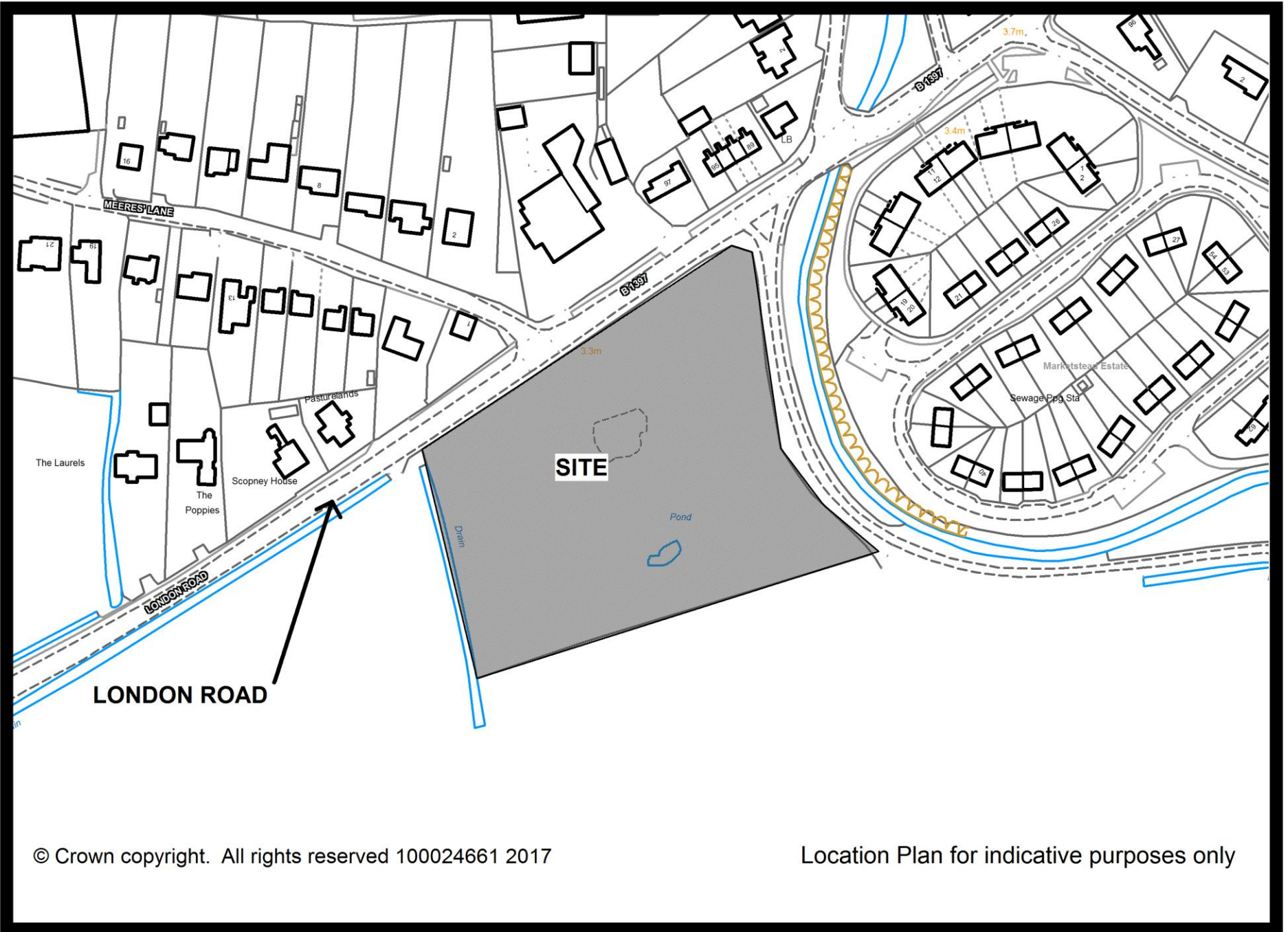
PLANNING APPLICATION B 16 0457

Application for the approval of reserved matters for the construction of 26 dwellings including access, appearance, layout, landscaping and scale following the grant of outline planning permission for residential development ref B/15/0456 plus the discharge of conditions 4 (affordable housing), 5 (biodiversity), 8 (surface water drainage) and 10 (highway improvement works) attached to B/15/0456

Land adjacent to London Road/Drainside South Kirton Boston

Applicant:

Richard Reed (Builders)



Planning Committee – 7th February 2017

Reference No: B/16/0457

Expiry Date: 28-Feb-2017

Application Type: Approval of Reserved Matters

Proposal: Application for the approval of reserved matters for the construction of 26 dwellings including access, appearance, layout, landscaping and scale following the grant of outline planning permission for residential development ref B/15/0456 plus the discharge of conditions 5 (biodiversity), 9 (fire hydrant) and 10 (highway improvement works) attached to B/15/0456 and partial discharge of condition 4 (affordable housing)

Site: Land adjacent to London Road/Drainside South, Kirton, Boston, Lincolnshire, PE20 1JH

Applicant: Richard Reed (Builders) Ltd

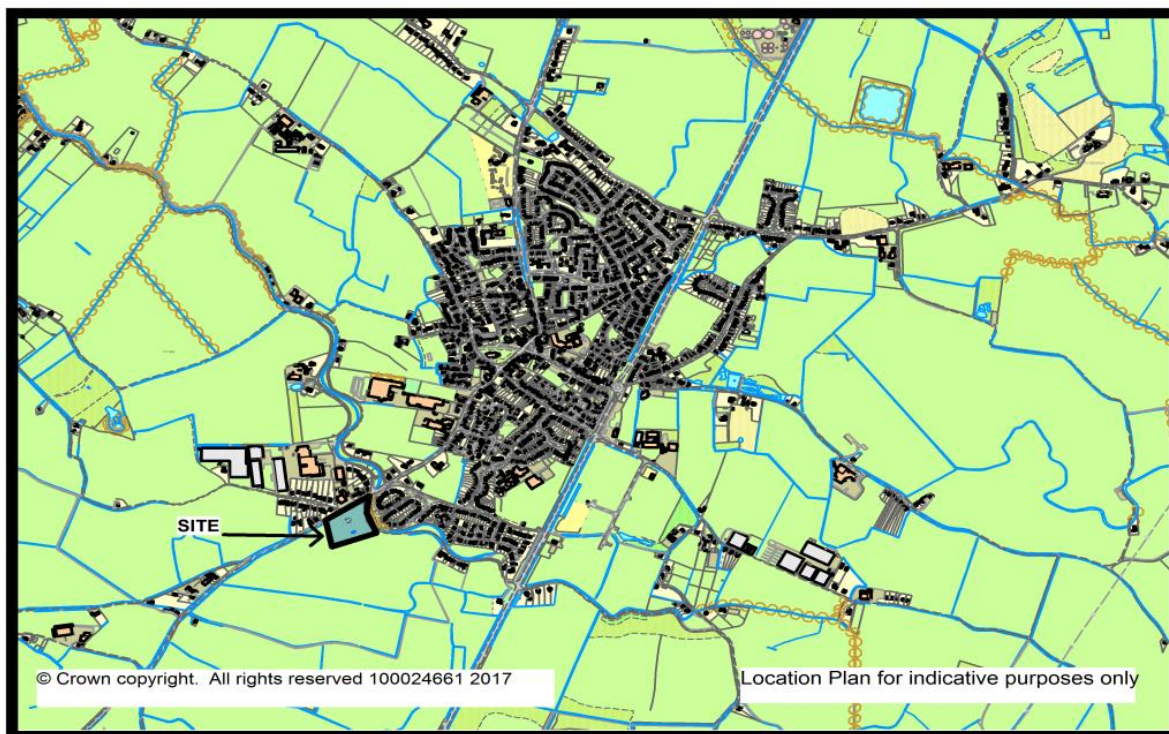
Ward: Kirton & Frampton

Parish: Kirton Parish Council

Case Officer: Trevor Thompson

Third Party Reps: None

Recommendation: GRANT



1.0 Reason for Report

- 1.1 This application for the approval of reserved matters has been presented to the Planning Committee following the resolution of Committee, at the grant of outline permission that the reserved matters when submitted would come to Committee.

2.0 Application Site and Proposal

- 2.1 The application site is located within countryside at the edge of Kirton and covers 1.6 hectares (4.18 acres). The site is uncultivated land and includes a number of large mature trees, some of which are protected by a Tree Preservation Order. The north- eastern boundary of the site fronts onto Drainside South and the north- western boundary of the site fronts onto London Road. There are residential properties within the immediate proximity of the site to the east at Marketstead Estate and to the north- west, opposite the site along London Road and Meeres Lane.
- 2.2 This is an application for the approval of reserved matters required by Condition 1 of the outline approval for the construction of 26 dwellings including access, appearance, layout, landscaping and scale following the grant of outline planning permission for upto 45 units on this site in May last year. Thus the principle of development has been secured and this application is to consider the reserved matters (and details).
- 2.3 The proposed development consists of 22 detached two storey market dwellings and 4 semi detached two storey affordable units. The issue relating to the number of the affordable housing units is discussed in section 7 of this report.
- 2.4 It is also proposed to construct an estate road with cul-de sacs and private drives to serve this development along with a new vehicular access onto London Road. There would be road improvement works to the existing triangular central island at the London Road/ Drainside South junction and to the existing footway along the south eastern side of London Road. These works, as required by condition, are in order to provide an appropriate and accessible link between the site and the existing footpath network.
- 2.5 This application also includes details relating to biodiversity, fire hydrant and highway improvement works in order to discharge the requirements of conditions 5, 9 and 10 attached to the outline permission granted last year and the partial discharge of condition 4 (affordable housing). These 'reserved details' conditions are included as part of a reserved matters application.
- 2.6 Condition 11 attached to the outline permission limited the development to no more than 45 dwellings.

3.0 Relevant History

- 3.1 Outline planning permission was granted in June 2015 subject to 13 conditions for the erection of 16 dwellings and garages and associated works on this site. That application included access with matters relating to scale, landscaping, layout and appearance reserved for later approval. (ref B/14/0282). This permission remains extant.

3.2 In June 2016, outline planning permission was granted for the erection of up to 45 dwellings on this site with all matters reserved subject to 11 conditions (ref B/15/0456). This is the permission from which the reserved matters application follows.

4.0 Relevant Policy

Boston Borough Adopted Local Plan

4.1 This reserved matters application is to discharge conditions imposed on the outline and thus the principle of development is not for consideration. S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.2 The saved Local Plan Policies of relevance to this application for reserved matters are as follows:

- Policy G1 – Amenity
- Policy G2 – Wildlife and Landscape Resources
- Policy G3 – Surface and Foul Water Disposal
- Policy G4 – Safeguarding the Water Environment
- Policy G6 – Vehicular and Pedestrian Access
- Policy T2 – Roads and Footpaths in New Developments

Housing policies

- Policy H3 – Quality of Housing Developments
- Policy H4 – Open Space on Housing Estates

5.0 Representations

5.1 No letters of representation have been received.

6.0 Consultations

6.1 Kirton Parish Council has no objections.

6.2 The Environment Agency has no objections subject to the requirements of existing condition 7 attached to the outline permission.

6.3 NHS England has written to say that it will not be requesting contributions or commenting on the application.

6.4 The County Highway Authority has no objections subject to conditions.

6.5 Lincolnshire County Council Strategic Development Officer has written to say he has no comments.

6.6 Natural England has written to say it has no comments.

6.7 Local Housing Authority has raised objection relating to the level of affordable housing contributions. This matter is discussed in detail below.

6.8 Black Sluice Internal Drainage Board has no objections.

6.9 Lincolnshire Fire and Rescue (LFR) has raised on the grounds of inadequate water supplies. (Note: An amended plan has been submitted which shows the location of a fire hydrant at the entrance to the estate. LFR has been re-consulted on this amendment).

7.0 Planning Issues and Discussions

7.1 The principle of residential development on this site has been established by the extant outline planning permissions that have been granted on this site last year and in 2015. As indicated above the outline permission granted last year, was for the erection of **up to** 45 dwellings on this site. This application for the approval of reserved matters is for the erection of **26** dwellings. Planning legislation allows a developer to submit an application for the approval of reserved matters for a scheme which is less than the number of dwellings identified at outline stage but not for a scheme which is more than this number. In such a case, a fresh full application would be required.

7.2 The applicant says that the decision to reduce the number of dwellings was influenced by the concerns expressed by the Planning Committee over the increase in numbers of dwellings on the site compared to the original scheme when determining the outline application last year.

7.3 The main considerations in the determination of this application are:

- Density
- Vehicular and Pedestrian access
- Impact on protected trees
- Flood risk and surface water drainage
- Biodiversity
- Design and layout
- Affordable housing
- Impact on residential amenity

Density

7.4 The application site area is 1.6 hectares and the reserved matters are for 26 dwellings. This represents a density of around 16 dwellings per hectare (dph). The 'parent' outline planning permission is for 45 dwellings which equated to around 28 dwellings per hectare. The outline application granted in 2015 was for 16 dwellings (i.e. around 10 dph.) The density surrounding the site varies from about 8dph to the north-west and between 21-23 dph to the north east.

7.5 It is considered that the proposed reduced density at 16 dph at this edge of village location is now much more acceptable than 28dph as previously approved at outline stage and better reflects the settlement pattern of the area.

Vehicular and Pedestrian access

7.6 It is proposed to construct a new vehicular access off London Road to serve this development with an internal pedestrian footpath along the north-western boundary connecting onto Drainside South, close to the nearest footway along London Road. This footpath will run through the proposed public open space from the estate road. It is not intended to provide a footpath along the London Road frontage since this may have an adverse impact on protected trees along this frontage. The proposed access onto London Road will be about 45m from the junction of Drainside South.

- 7.7 An adoptable estate road would lead into the site with turning areas and private drives leading off the estate road. Condition 10 attached to the outline permission requires road improvement works to provide a satisfactory pedestrian access from the site to the existing footpath along London Road leading into the village. It is intended to re-surface and provide a footway crossing over the 'island' at the junction of London Road and Drainside South and improve/extend the footway connection at the southern end of the London Road frontage. These works will accord with LCC highway specifications and will be secured through a legal agreement with the County Council. Condition 10 requires such works to be completed prior to the occupation of any dwelling on site. Recommended Condition 8 below requires such works to be carried out in accordance with approved plan ref plan 8881-122.
- 7.8 The County Highways Authority has no objections subject to conditions.

Impact on protected trees

- 7.9 The layout of the site has been influenced in part by the protected trees which lie within and along the frontage of the site and their root protection areas. The outline application was accompanied by a tree report which indicated that a number of trees had recently been felled at the request of the Highway Authority because they were considered to be a danger to road safety and recommended that a further 6 trees should be felled because the trees were in poor health.
- 7.10 No trees are to be felled to facilitate the proposed access onto London Road and no more trees are to be felled than envisaged at outline stage as a result of this development. Conditions recommended (2 and 3 below) are designed to protect these trees during construction works and in the future following occupation.

Flood risk and surface water drainage

- 7.11 Condition 8 attached to the outline permission requires the submission for approval of a surface water drainage scheme and Condition 7 restricts finished floor levels to no lower than 3.2m AOD.
- 7.12 Surface water from the development is to be discharged into a watercourse to the east via a sustainable drainage scheme. It is intended to install permeable pavements and a surface water pond within the public open space that will provide on-site attenuation. Soil investigation of the site indicates that the soakaway potential is very limited.
- 7.13 It is intended that drainage systems, including the SuDs features are to be adopted and maintained by Anglian Water and the main road by Lincolnshire County Council. The private areas of permeable pavements are to be maintained in perpetuity by a private management company set up by the developer and owned by the residents.
- 7.14 The Local Lead Flood Authority has no objections.

Biodiversity

- 7.15 Condition 5 attached to the outline permission requires the submission for approval of details of measures to enhance the biodiversity of the site as a consequence of the development together with a timescale for implementation. The applicant says that since this is a greenfield site, there will be an inevitable loss of existing habitat by virtue of the introduction of a built environment. However the applicant also points out that flora and fauna would be enhanced through the provision of gardens areas, a drainage pond (i.e. surface water attenuation pond) and that the majority of the existing mature trees will be retained.
- 7.16 The applicant also intends to provide seven bird boxes and four bat boxes which are to be fitted on some of the dwellings which form part of this scheme. It is recommended that Condition 5 be discharged.

Design and layout

- 7.17 The scheme is for 22 detached dwelling houses and two pairs of semi detached houses site plus an area of public open space which is to be located at the north eastern corner of the site. Additional areas of open, informal amenity areas will also be provided along the north-western (London Road) and western boundaries. The density of this development is relatively low at around 16dph and this scheme will not appear cramped, over-developed or out of character with this edge of village location. However, it is essential that the boundaries of the site are extensively landscaped with hedging and additional tree planting in order to soften the transmission of a rural environment to a semi -urban area.
- 7.18 The public open space in total will cover about 0.15 hectares. Commentary to Local Plan Policy H4 requires 7.5% of a housing site to be dedicated to the provision of an equipped public open space. The proposed open space equates to around 9.5% of the site area and therefore meets policy requirements. The proposed play area will be located near the entrance of the estate and will be overlooked by the occupiers of the proposed dwellings located adjacent to this area.
- 7.19 The layout is essentially organic, characterised by a range of dwelling types and designs many of which with large, spacious garden areas with good separation distances between each dwelling house. The development will be of high quality and will provide a sense of individual identity when compared with the surrounding housing area which will assimilate well within this edge of settlement location.

Affordable housing

- 7.20 The principal issue is whether the level of 4 affordable houses (i.e. 15%) of a development now consisting of the reduced number of 26 dwellings (down from 45) is acceptable given the planning history of the site, policy implications and the matters set out by the applicant detailed below.

- 7.21 The outline permission granted last year was for up to 45 dwellings and Condition 4 attached to that permission requires 13 (i.e. 28.8%) of the then 45 dwellings to be affordable units. Four out of twenty-six are now proposed.
- 7.22 At the time the outline application was first submitted this Council's position on affordable housing as contained within the 2006 Interim Affordable Housing Policy was to seek 30%. However Members may recall that at the meeting held on the 26th April 2016 (i.e. the same meeting where the outline was originally considered), it was resolved to reduce the level of affordable housing on major housing sites to a minimum of 15%, in accordance with current evidence base behind the SELLP Consultation Draft. Legal advice at that time confirmed that the 2006 Interim Affordable Housing Policy was out of date.
- 7.23 Members also agreed that this new resolution took effect for all new applications received after the 26th April 2016 and for any applications already received, the contribution remained at 30%. It was also agreed that the minimum level of 15% was an interim measure until a final version of the emerging SELLP may be afforded significant weight.
- 7.24 Whilst the outline application was submitted before the decision was made to reduce the level of affordable units, this reserved matters application has been submitted after this resolution was made.
- 7.25 Clearly the provision of 13 affordable homes to accord with Condition 4 on a development now consisting of 26 units would far exceed (50%) the required percentage of affordable housing provision set by this condition. In order to provide 30% of affordable homes on a 26 dwelling development, the applicant would need to provide 8 dwellings.
- 7.26 The applicant says that in view of the Planning Committee's concerns over the increased numbers on site last year, he has decided to reduce the number of dwellings to a point between the original consent for 16 dwellings (B/14/0282 June 2015) and the subsequent approval of 45 dwelling (B/15/0456 May 2016). The applicant also says that the requirements to raise the site for flood risk purposes adds to the construction costs as does the design of the surface water scheme due to poor percolation results. The applicant adds that increasing the amount of affordable housing beyond that now required (15%) should be balanced against the issues surrounding the site.
- 7.27 The Local Housing Authority however objects to this application because the applicant now proposes only 4 affordable units without any supporting viability information for the reduction in the level of affordable housing contribution from 13 units (i.e. 28.8%). That Authority adds that even with a reduction in the proposed number of units and change in approach to a minimum of 15%, it is not an adequate reduction that can be supported without a viability assessment to identify the viable affordable housing contribution. The LHA also say that there is a high need in Kirton for 1 and 2 bed properties and some demand for 2 and 3 bedroom properties. The proposed 4 affordable units are 2 x 2 bed properties and 2 x 3 bed properties. The LHA considers that the proposed units do not meet the affordable need identified.

- 7.28 This application initially included the discharge of Condition 4 relating to affordable housing but this element of the application has been amended so that now the application seeks the 'partial' discharge of the condition; that is as part of the reserved matters the location and hence number of affordables are being identified, but not the full mechanism for delivery and securing in perpetuity. This is because the necessary information relating to delivery of the affordable housing units, tenure, occupancy criteria etc has not been submitted. Any approval of these reserved matters will implicitly agree the numbers but the outstanding issues would need to be the subject of a further application to discharge the condition.
- 7.29 Clearly each application needs to be judged on its own merits and there have been recent cases where this Council has agreed reduced levels of affordable housing contributions of less than 30% which sometimes has been the result of other contributions such as health and education. Such decisions have been made to accord with the Government's drive for authorities to take a more pragmatic and proportionate approach towards viability, especially where the affordable housing requirement may be holding back development.
- 7.30 In this case, given the planning history of this site and that this development meets the minimum requirement of 15% affordable housing; it is considered that that this reduced level of affordable housing should be supported. Any insistence on increasing this level of contribution may inhibit the construction of this relatively low density scheme and may force the developer to re-consider a development of a much higher density.
- 7.31 The applicant has however been requested to provide some further clarification to his comment that the flood mitigation requirements have added to construction costs and an update on what has been received will be given to Committee, together with the Housing Authority's response.

Impact on residential amenity

- 7.32 There are residential properties within the proximity of the site but all are separated from the site either by London Road or by Drainside South and an open watercourse. It is unlikely that the siting or design of the proposed dwellings on this site will affect the amenity of the neighbours in terms of loss of privacy or overlooking but some of the residents along Drainside South and London Road may experience some noise from additional traffic along this road that may be generated by this development.
- 7.33 This application is for a relatively low density scheme and the design and layout of the scheme will provide a high quality residential area for the future residents of this estate. It is considered that this development accords with the requirements of Local Plan Policies G1 (amenity) and H3 (quality of housing schemes).

8.0 Summary and Conclusion

- 8.1 The principle of residential development on this site has been established by the extant outline planning permissions granted in 2015 and 2016. This is an application for approval of reserved matters under the 2016 consent.

- 8.2 The designs of the dwellings, drainage, density, layout and access to the site, both pedestrian and vehicular, are all satisfactory. Surface water drainage discussions are continuing so that condition discharge has been removed from the submission.
- 8.3 The development will not harm any protected trees and no further protected trees will need to be felled to facilitate this development.
- 8.4 The residential amenities of the occupiers of the neighbouring occupiers will not be substantially harmed by this development
- 8.5 In terms of affordable housing, the issue to consider is whether a level of 15% affordable housing units is acceptable given the merits of the application having regard to issues including the site's planning history, the lack of plan policy, condition 4 attached to the outline approval and that the applicant has reduced the numbers on site with approval from 45 down to 26 in order to seek to find satisfaction from the planning authority.
- 8.6 It is considered that the level of affordable housing at 15% is acceptable in this instance for approval of these reserved matters; the full requirements of Condition 4 attached to outline permission B/15/0456 remain to be fully addressed.

9.0 Recommendation

- 9.1 It is recommended that Committee grants the approval of reserved matters subject to the conditions set out below and approves the discharge of conditions 5, 9 and 10 of outline permission B/15/0457
1. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
- Location Plan ref 1170-02-LP01 (1/16)
 - Sketch proposed house type 1 ref 1170-2-SK-01 Rev B (2/16)
 - Sketch proposed house type 2 ref 1170-2-SK-02 Rev C (3/16)
 - Sketch proposed house type 4 ref 1170-2-SK-04 Rev C (4/16)
 - Sketch proposed house type 6 ref 1170-2-SK-06 Rev C (5/16)
 - Sketch proposed house type 7 ref 1170-2-SK-07 Rev B (6/16)
 - Sketch proposed house type 8 ref 1170-2-SK-08 Rev A (7/16)
 - Sketch proposed house type 9 ref 1170-2-SK-09 Rev A (8/16)
 - Sketch proposed house type 10 ref 1170-2-SK-10 Rev A (9/16)
 - Sketch proposed house type 11 ref 1170-2-SK-11 Rev A (10/16)
 - Sketch proposed garage (single and double) ref 1170-2-SK-12 (11/16)
 - Proposed site layout ref 1170-02-SL01 Rev I (12/16)
 - Drainage strategy plan ref 8881-107-1 (13/16)
 - Road and footway improvement works ref 8881-122 (14/16)
 - Drainage areas ref 8881-109 (15/16)
 - Site layout ref 8881-101 Rev A (16/16)
 - Brick and tile specification
 - Proposed landscaping and boundary treatment plan ref 1170-02-SL02 rev A.

Reason: To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.

2. The trees subject to the Kirton, Sutterton and Algarkirk Tree Preservation Order No 1 shall be protected during construction work by chestnut pale fencing or similar fencing 1.5 metres in height erected around the tree(s) at a distance from the trunk(s) equal to the spread of the crown(s) of the tree(s) or in accordance with the root protection areas as shown on plan no. ref 1170-02-SL01 Rev I. The fence shall be retained until all construction works have been completed. Within the protected area no alteration to the ground level shall take place, no additional water shall be allowed to flow in, no vehicles shall be allowed to pass, no materials shall be stored, no waste tipped, no fires lit, no pruning of branches shall take place, no services shall be routed without the written permission of the local planning authority.

Reason: To protect the trees during construction work and to accord with the objectives of the NPPF (2012)
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any amendment or successor), no extensions or outbuildings shall be built underneath the canopies of the trees on this site subject to the Kirton, Sutterton and Algarkirk Tree Preservation Order No 1 without the prior approval of the Local Planning Authority

Reason: To protect the health and stability of the protected trees and to accord with the objectives of the NPPF (2012)
4. All landscape works shall be carried out in accordance with the approved details within 6 months of the date of the first occupation of any building or completion of development whichever is the sooner. Any trees, plants, grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the first available planting season with others of similar size species or quality.

Reason: In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily. The condition accords with Adopted Local Plan Policy G1
5. Prior to the commencement of the development hereby permitted, a Construction Management Plan shall be submitted to the local planning authority for approval. The Construction Management Plan will prescribe how the construction of the site will be phased, where site accommodation and welfare facilities will be placed, hours of working, where site vehicles and the vehicles of site personnel will be parked and where materials will be delivered and stored within the site. Construction of the permitted development shall be undertaken in accordance with the approved Construction Management Plan.

Reason: In the interests of the safety and free passage of the public and to accord with the objectives of Local Plan policies G1 and G6. This is a pre-commencement condition due to the fact that the management of plant, site equipment etc needs to be agreed prior to the commencement of any development to ensure that neighbour's amenity and safety are respected

6. The proposed area of public open space in the north east corner of the site as shown on approved plan 1170-02-SL01 Rev I shall be laid out in a manner to be submitted to and agreed in writing by the Local Planning Authority and shall be made available for use before the 13th dwelling constructed on the application site is first occupied.
- Reason:** To provide a satisfactory level of publicly available amenity open space within the development and to accord with Adopted Local Plan Policy H4.
7. A landscape management plan including management responsibilities and maintenance schedules of the public open space and play equipment if applicable shall be submitted to the local planning authority before the occupation of any dwelling. The landscape maintenance plan shall be carried out as approved thereafter.
- Reason:** To ensure the long term maintenance of the public open space and play equipment, in the interests of the amenity of residents and to accord with the objectives of Local Plan policy H4.
8. Prior to the occupation of any dwelling hereby permitted, the footway improvement works on the south side of London Road, shown indicatively on the submitted drawing numbered 8881-122 dated Nov. 2016, shall be completed in accordance with those details.
- Reason:** In the interests of providing safe and adequate means of pedestrian access to the permitted development and to accord with the objectives of Local Plan policy G6.
9. Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses.
- The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.
- Reason:** To ensure safe access to the site and each dwelling/building in the interests of residential amenity, convenience and safety and to accord with the objectives of Local Plan policy G6.
10. No dwellings shall be commenced before the first 60 metres of estate road from its junction with the public highway, including visibility splays has been completed to binder course level.
- Reason:** In the interests of safety of the users of the public highway and the safety of the users of the site and to enable site vehicles and material delivery vehicles to wait clear of the carriageway of London Road and to accord with the objectives of Local Plan policy G6.

11. Before any dwelling is commenced, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and to accord with the objectives of Local Plan policy G6.

12. Before any dwelling is commenced a scheme to provide play equipment shall be submitted and approved in writing by the Local Planning Authority. The scheme as may be approved shall be implemented before occupation of the 13th dwelling on the site.

Reason: In the interests of the amenity and well being of the occupants of the development and to accord with the objectives of Local Plan Policy H3.

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

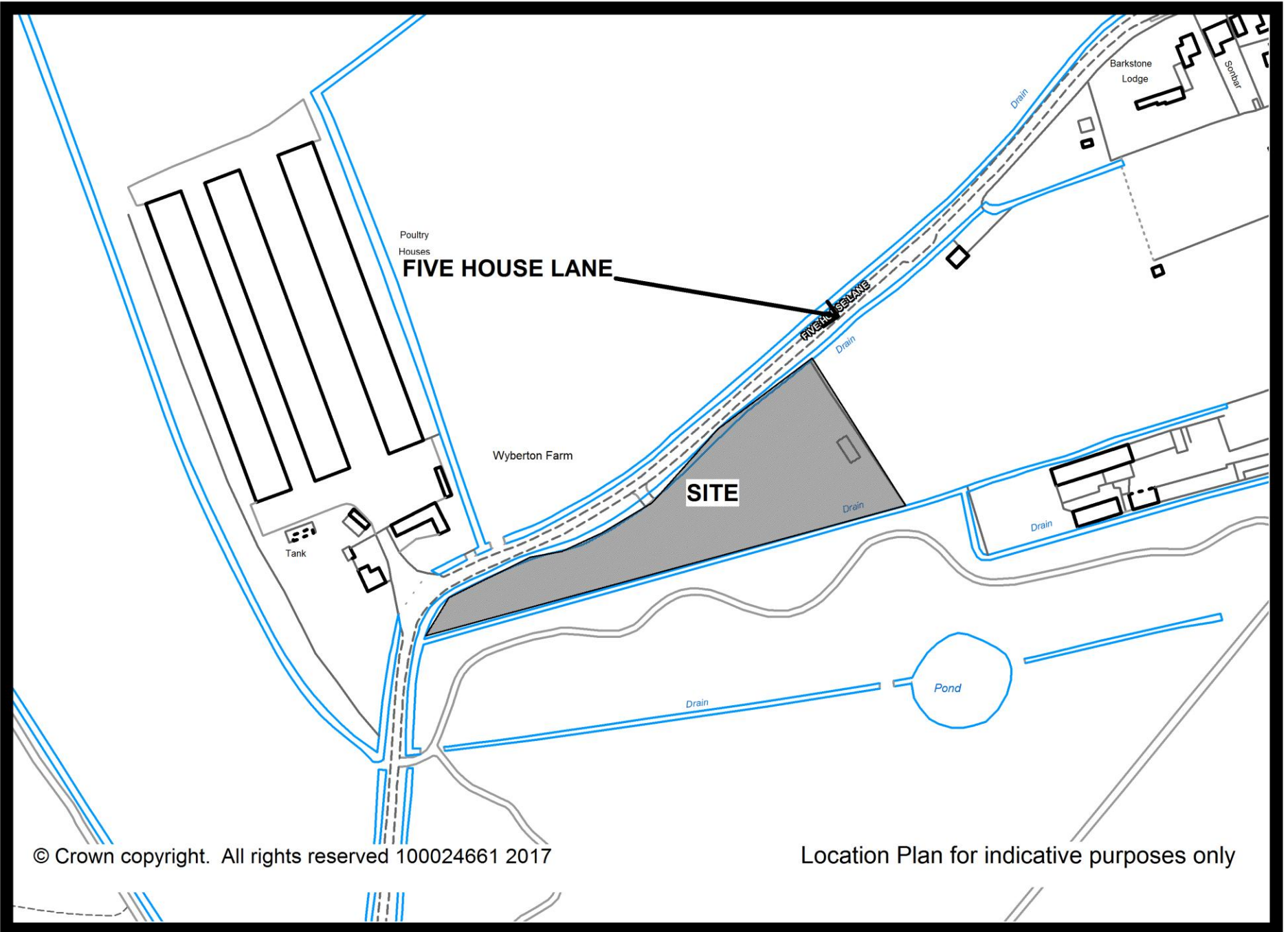
Paul Edwards
Development Control Manager

PLANNING APPLICATION B 16 0385

Erection of wardens accommodation
(mobile home unit)

Meadowvale Touring Park Five House Lane Wyberton
Boston

Applicant:
Mr B Adams



BOSTON BOROUGH COUNCIL

Planning Committee – 7 February 2017

Reference No: B/16/0385

Expiry Date: 12-Dec-2016

Application Type: Full Planning Permission
Proposal: Siting of wardens accommodation (mobile home unit)
Site: Meadowvale Touring Park, Five House Lane, Wyberton, Boston, Lincs, PE21 7JA

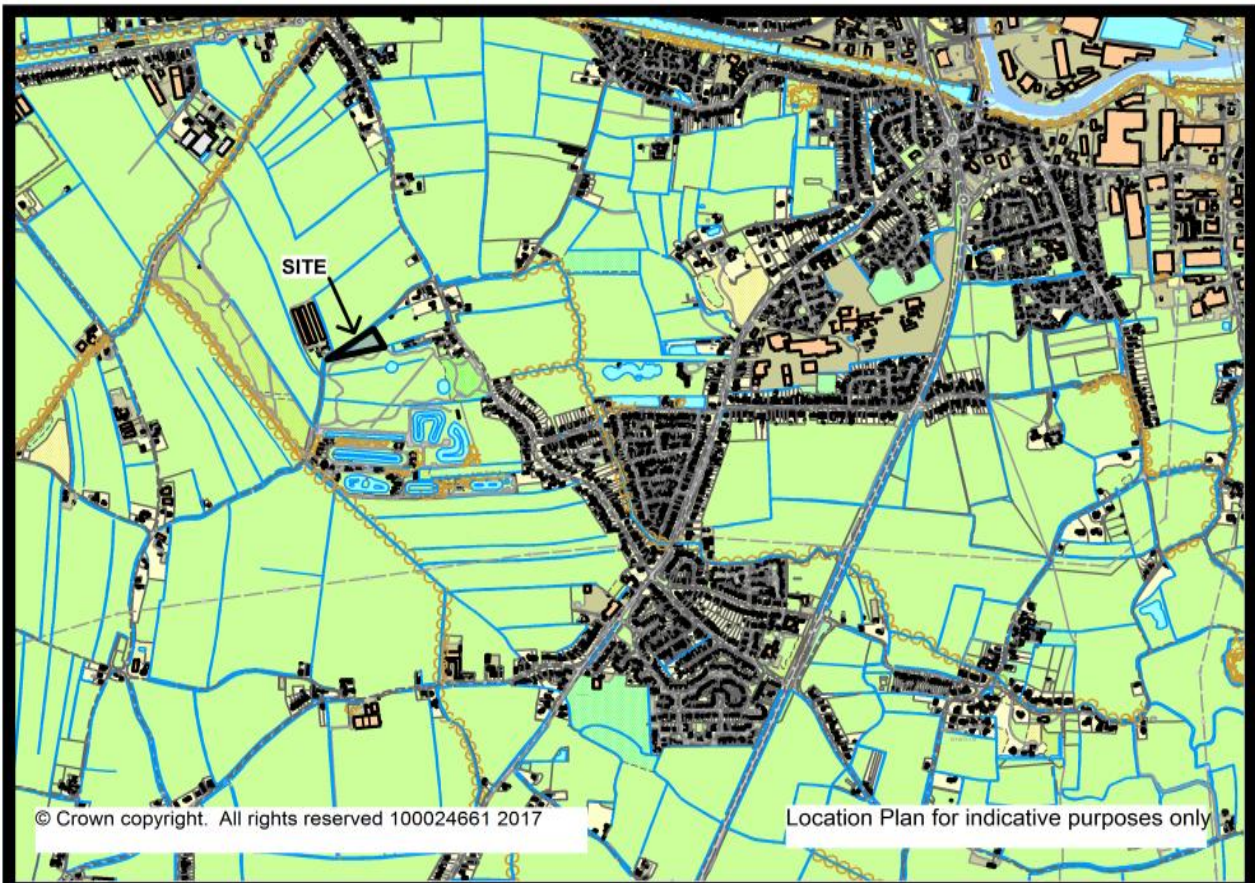
Applicant: Mr B Adams

Ward: Wyberton
Parish: Wyberton Parish Council

Case Officer: Trevor Thompson

Third Party Reps: 2

Recommendation: GRANT



1.0 Reason for Report

- 1.1 This application has been presented to the Planning Committee at the request of Councillor R Austin. Whilst Councillor R Austin is in favour of this application he has requested that it should be presented to this Committee because he considers that there is 'significant concern in the neighbourhood'. He adds that 'complete transparency is important in this case'.

2.0 Application Site and Proposal

- 2.1 The application site is located within countryside on the southern side of Five House Lane, Wyberton. It consists of an approved touring caravan site consisting of up to 26 pitches (known as Meadowvale Touring Park) which is currently being developed. Access to the site is off Five House Lane and there are two passing places along this part of the highway which were installed to accord with a planning condition attached to a previous approval (see below). There is extensive landscaping along parts of the boundaries of the site which provides some screening from nearby residential properties and other land users.
- 2.2 There is a poultry farm (and associated house) on the opposite side of the road and residential properties to the north east near the junction of West End Road and Five House Lane, about 150m away from the site. A country park lies to the south and Westwood Lakes which includes fishing lakes and accommodation lies further to the south.
- 2.3 This application is for the permanent siting of a warden's accommodation (i.e. a mobile unit) to serve the touring caravan site. The mobile unit will be 15m long by 6m wide (90sqm) and will be sited along the southern boundary of the site. It will provide 2 bedrooms. Given flood risk requirements the unit needs to be raised above ground level and secured to the ground using adequate means such as chains or ground anchors. This means that the overall height of the unit will be 4.2m from existing ground level.

3.0 Relevant History

- 3.1 In July 2005 planning permission was granted for the change of use from agricultural land for the siting of 26 touring caravans subject to 8 conditions including condition 6 which restricted caravans to be sited for no more than 28 days in a 3 month period and that no static caravan should be placed on the site. In addition, conditions were attached which required parts of the existing landscaping along the front and rear boundaries to be retained at a height of no less than 3m and the provision of passing bays along Five House Lane (Ref; B/05/0334). Conditions were also attached which required the submission of a comprehensive landscaping scheme and its future management. Such details have been submitted by the applicant and have been approved by this Council.
- 3.2 In 2006, an application for planning permission for the construction of 2 toilet block/shower blocks and change of use of existing store/kitchen to provide wardens accommodation was refused on the grounds that the development involved the creation of a new residential unit in the countryside which was considered to be contrary to countryside protection policies. (Ref; B/06/0422)

- 3.3 At the subsequent appeal the Inspector gave a split decision, granting approval for the construction of a toilet blocks and refused the part of the application for the conversion of the store/kitchen into a dwelling/wardens accommodation. This appeal is discussed below. The construction of the passing bays has saved the permission but it has not yet been used for the siting of any touring caravans.
- 3.4 This current application differs from the appeal application in two ways. Firstly it involves the siting of a mobile unit instead of converting the existing store next to the eastern boundary and secondly the proposed accommodation will be much closer to the entrance to the site (i.e. opposite) for better surveillance rather than 26m away to the east.

Other relevant applications relating to similar forms of accommodation on other countryside sites

- 3.5 B/15/0448 – Erection of a caretakers residence (being a revision to the existing approval for a caretakers residence granted in August 2012) (B/12/0204) at Westwood Lakes, Five House Lane, Wyberton. This site is about 200m to the south of the current application site, separated by a country park. The proposed 6.8m high, brick built three bedroomed accommodation includes staff living room, dining, kitchen, offices at ground floor and 3 bedrooms with living and kitchen etc at first floor with additional accommodation within the loft space. Overall the residential accommodation (including the ‘flood safety loft room’) amounts to 250sqm. Permission was granted subject to conditions which tied the accommodation to Westwood Lakes and which required occupation to cease should Westwood Lakes be no longer used for recreation/ tourism purposes.
- 3.6 B/15/0509 – Erection of a site managers accommodation at First Steps Training Centre, Far Drove, Hubbert’s Bridge. This application was for a two bed log cabin some 6.6m wide by 15.6m long and was required to manage the facility especially during times the centre was not open. Permission was granted subject to a condition which linked the occupation to the First Steps Training Agency.

4.0 Relevant Policy

Boston Borough Adopted Local Plan

- 4.1 The development plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 4.2 The land is within countryside as defined in the Local Plan
- 4.3 The saved Local Plan Policies of relevance to this application are as follows:
- Policy G1 – Amenity
 - Policy G2 – Landscape Resources
 - Policy G3 – Surface and foul water disposal
 - Policy G6 – Vehicular and Pedestrian Access
 - Policy H3 – Quality of Housing Development
 - Policy CO1 – Development in the Countryside

- 4.4 Planning Inspectors at appeal have questioned the conformity of Policy CO1 with the NPPF and given that this Council does not have a 5 year supply, this Council now considers this policy cannot attract full weight in the determination of such applications. Such applications are now assessed more generally in relation to the objectives of Boston Borough Local Plan Policy G1 which relates to the character of an area and impact on amenity. Consequently the fact that the proposed development would essentially be within countryside may not by itself make it unacceptable in principle.
- 4.5 There are therefore no specific Local Plan policies which support a caretaker's accommodation in this countryside location. However the applicant has submitted details which may support the case that the wardens' accommodation is essential here and this matter is discussed below along with how this application compares with wardens accommodation at other sites within countryside locations.

National Planning Policy Framework

- 4.6 In terms of new residential development in the countryside paragraph 55 of the NPPF states, of relevance here (in part):

'Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should...'

5.0 Representations

- 5.1 As a result of publicity 2 representations have been received from the owners/occupiers of the following properties:

- Westwood Lakes, Five House Lane, Wyberton
- No address given.

- 5.2 The concerns can be summarised as follows:

- Traffic generation and the ability of the country lane to accommodate extra traffic with limited passing places.
- Road surface/tarmac company is currently being run from the site and people are already staying in touring vans – road is not suitable for industrial uses.
- There are no footpaths and road is not wide enough.
- Noise disturbance.
- Development will disturb developing wildlife habitat.
- Concerns that the wardens accommodation will be for full time occupancy given site has license of 28 days at any one time.

6.0 Consultations

- 6.1 Wyberton Parish Council has not commented.
- 6.2 The County Highways Authority/LLFA has no objections.
- 6.3 Environmental Protection has no objections but points out that the applicant needs to apply for a site license under the provisions of the Caravan Sites and Control of Development Act 1960 with regard to the touring caravan site operation. Also confirms that the accommodation is not a caravan by virtue of the Caravan Site Act 1968.
- 6.4 The Environment Agency has no objections subject to 2 conditions.
- 6.5 The Black Sluice Internal Drainage Board recommends that a surface water scheme is submitted for approval to the LPA.

7.0 Planning Issues and Discussions

- 7.1 The proposed mobile home will be about 4m from the site's southern boundary shared with the country park and will be 15m long by 6m wide (90sqm). Overall the design of the mobile unit resembles a bungalow rather than a conventional mobile home and will be clad in cream coloured walls with pitched roof covered by 'metro' tile in slate grey.
- 7.2 The applicant advises that running and organising a site of this size requires 'on site skilled management, time and effort, and that given arrivals of the touring caravans may be during the late evenings the need for an on-site manager becomes 'imperative'. The applicant adds that it is important to be able to attend to visitors 'around the clock' and that given the site can accommodate 26 caravans means that in a 'worse-case' scenario, an incoming influx of visitors could cause queuing. There is therefore a need for a warden to oversee entry and exit of the touring caravans and the free flow of traffic in/out of the site and along the lane.
- 7.3 The applicant also considers that a warden is needed on site in the interests of the health and safety of the visitors, to ensure facilities including the maintenance of the sewage treatment plant, toilet and shower blocks and waste bin collection/delivery are all properly managed.
- 7.4 There were initial concerns expressed by neighbours before the application was submitted that this site was intended to be used as a 'travellers site'. The applicant states that this is not the case and will be used like any other touring caravan site. Indeed the applicant attended a meeting at the Parish Council to try to reassure the Parish Council and local residents that it would not be used as a travellers site and this may be one of the reasons why the application has not attracted formal 'objections'. It may also be argued that it is far better to have a warden on site to manage and control the site and look after the visitors than a site which does not have such controls. Any permanent use of the site can be the subject of investigation and enforcement if it is expedient.

- 7.5 The part of the previous appeal decision relating to the warden's accommodation was dismissed. The Inspector made reference to the (now cancelled PPS7) and the need to meet the financial and functional tests contained within this guidance. Although the applicant claimed at that time that it was essential to have a trained warden on site, no evidence had been submitted which substantiated this claim or why such duties listed could not have been carried out by an on-site warden living elsewhere. The Inspector concluded that there was no justification to allow the conversion in the light of local and national planning policies.
- 7.6 Since the appeal decision referred to above, there has been a fundamental change in national planning policy. The NPPF provides guidance on residential development in the countryside and whilst para 55 of the NPPF says that local planning authorities should avoid new homes in the countryside unless there are special circumstances such as an essential need for a rural worker to live permanently at or near their place of work, there is no longer a need to meet the functional and financial tests laid out within the former PPS.
- 7.7 It is considered that given the reasons put forward by the applicant for warden's accommodation in this location and that similar applications have since been approved elsewhere in the district (i.e. at Westwood Lakes), there is no reason to refuse this application on the grounds of insufficient need as was the case previously. However given that the use of the caravan site has not yet commenced it would be prudent to impose a condition (i.e. Condition 5 recommended below) which ensures that the warden's accommodation is not sited or occupied until the use approved in 2005 becomes fully operational. It should be noted that there is no national planning guidance which requires warden accommodation to be provided on touring caravan sites over a certain number of pitches. Each application will therefore need to be assessed on its merits.
- 7.8 The size of the warden's accommodation will be about 90 sq m. In comparison the floor area of the caretaker's residence at Westwood Lakes is about 250 sq m and the accommodation at First Steps Training Agency is 102s sq m. Thus it is not considered that the proposed wardens accommodation is too large compared to the functional requirements of the caravan site.

8.0 Summary and Conclusion

- 8.1 The touring caravan site in this location is an approved use from the extant permission granted in 2005 and thus is not a matter before the Committee.
- 8.2 This application is for the siting of a mobile unit to become warden's accommodation to serve the caravan site and the main issue is whether the applicant's reasons for the wardens accommodation as detailed above are considered as 'an essential need' given the objectives of para 55 of the NPPF. It is considered that it is far better to have a warden on site for security, to manage and control the site, look after the visitors and to ensure that neighbouring residents are not harmed by any activities that may be conducted on the site than a site which does not have such controls. Condition 4 below ensures that the occupation of the mobile unit is by a warden of Meadowvale Touring Park and that occupation shall cease and the accommodation removed should Meadowvale Touring Park be no longer used for recreation/tourist purposes.

8.3 Furthermore, given the height, design and location of the proposed mobile unit coupled with the existing landscaping which is to be retained and enhanced around the perimeter of the site, it is unlikely that the amenity of nearby residential occupiers, nearby land users or the character of the countryside will be substantially harmed by this development.

9.0 **Recommendation: GRANT**

It is recommended that Committee grant this application subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location plan 1: 2500 (1/3)
 - General site plan ref 1368-960-7a (2/3)
 - Internal layout plan ref 1368-960307-14 (3/3)
 - Photographs 1 and 2 showing external appearance of the mobile unit**Reason:** To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.
3. The development hereby approved shall be carried out in accordance with the recommendations contained within the submitted Flood Risk Assessment and shall include the following measures:
 - The mobile home shall be secured to the ground using an adequate mechanism such as chains and /or ground anchors before occupation and shall be retained in that form thereafter.
 - The finished floor level of the mobile home shall be set no lower than 5.0m AOD.**Reason:** To define this permission and to reduce the risk of flooding to the proposed development and future occupiers. This condition accords with the requirements of the NPPF (2012).

4. The residential accommodation shall only be occupied by the warden of Meadowvale Touring Park for the purposes of the essential managerial presence in accordance with the details of the application and occupation shall cease and the accommodation removed from the site within 2 months of Meadowvale Touring Park no longer being used for recreational/tourism purposes.

Reason: In accordance with the details of the application, to prevent unrestricted residential development in the countryside and to accord with the objectives of the NPPF (2012).

5. The mobile unit shall not be brought onto the site and occupied until the caravan site known as Meadowvale Touring Park is used and operational as a recreational/tourist facility.

Reason: The works associated with the touring caravan site have not yet been completed and the recreational/tourism use has not yet commenced. This condition has been imposed to ensure that the warden's accommodation is located on the site only when there is a genuine managerial need for a warden to be on site. This condition accords with the objectives of the NPPF (2012)

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

Paul Edwards
Development Control Manager

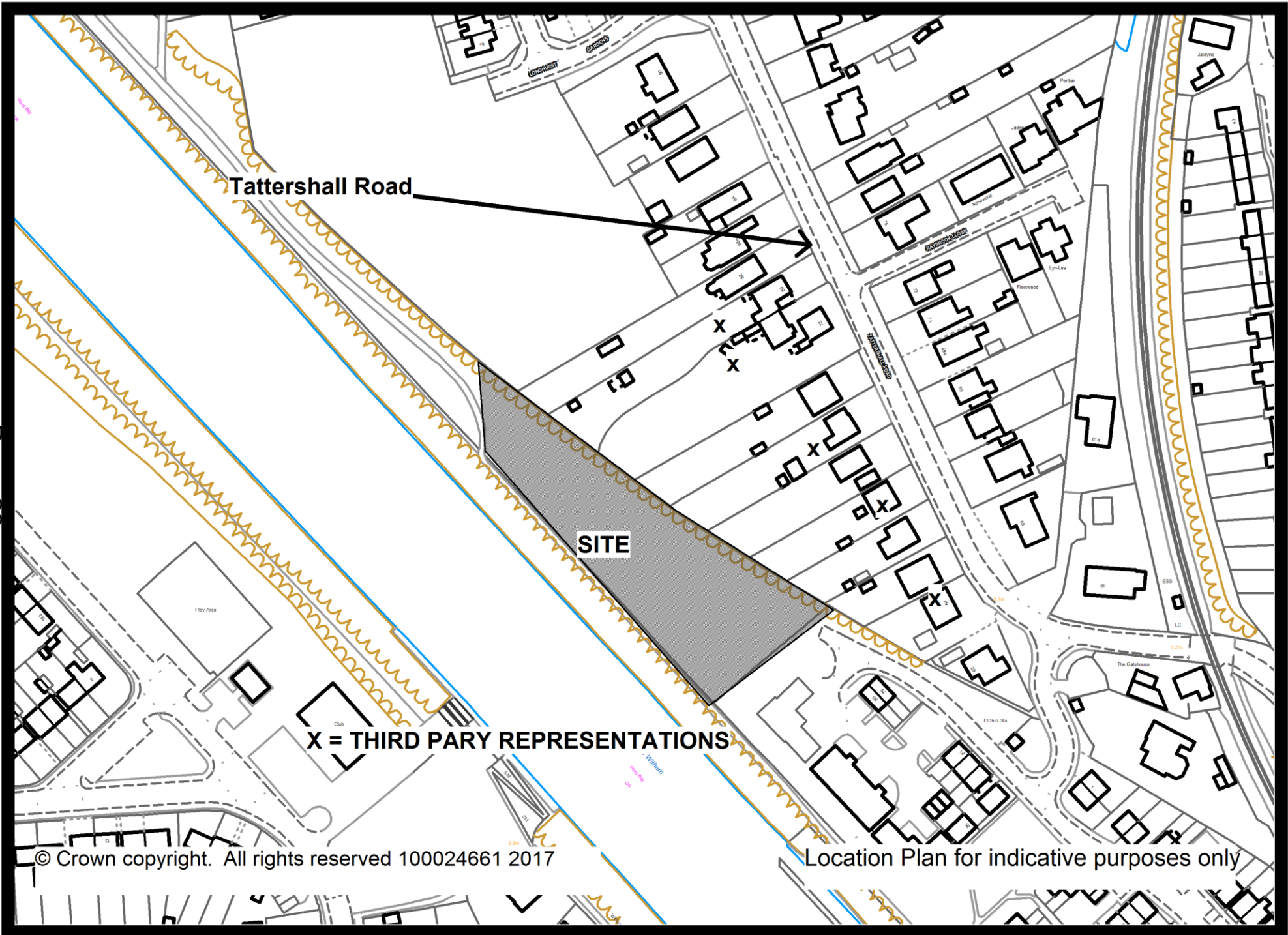
PLANNING APPLICATION B 16 0360

Construction of 17 affordable dwellings
(previously 25 affordable dwellings)
plus associated infrastructure.

Land at Riverside Boston Lincolnshire

Applicant:

Mrs Rebecca Archer Chestnut Homes Ltd



Tattershall Road

SITE

X = THIRD PARY REPRESENTATIONS

BOSTON BOROUGH COUNCIL

Planning Committee – 7th February 2017

Reference No: B/16/0360

Expiry Date: 09-Dec-2016 (Extension of time agreed until 11 February)

Application Type: Full Planning Permission
Proposal: Construction of 17no. affordable dwellings (previously 25 affordable dwellings) and associated infrastructure

Site: Land at Riverside, Boston

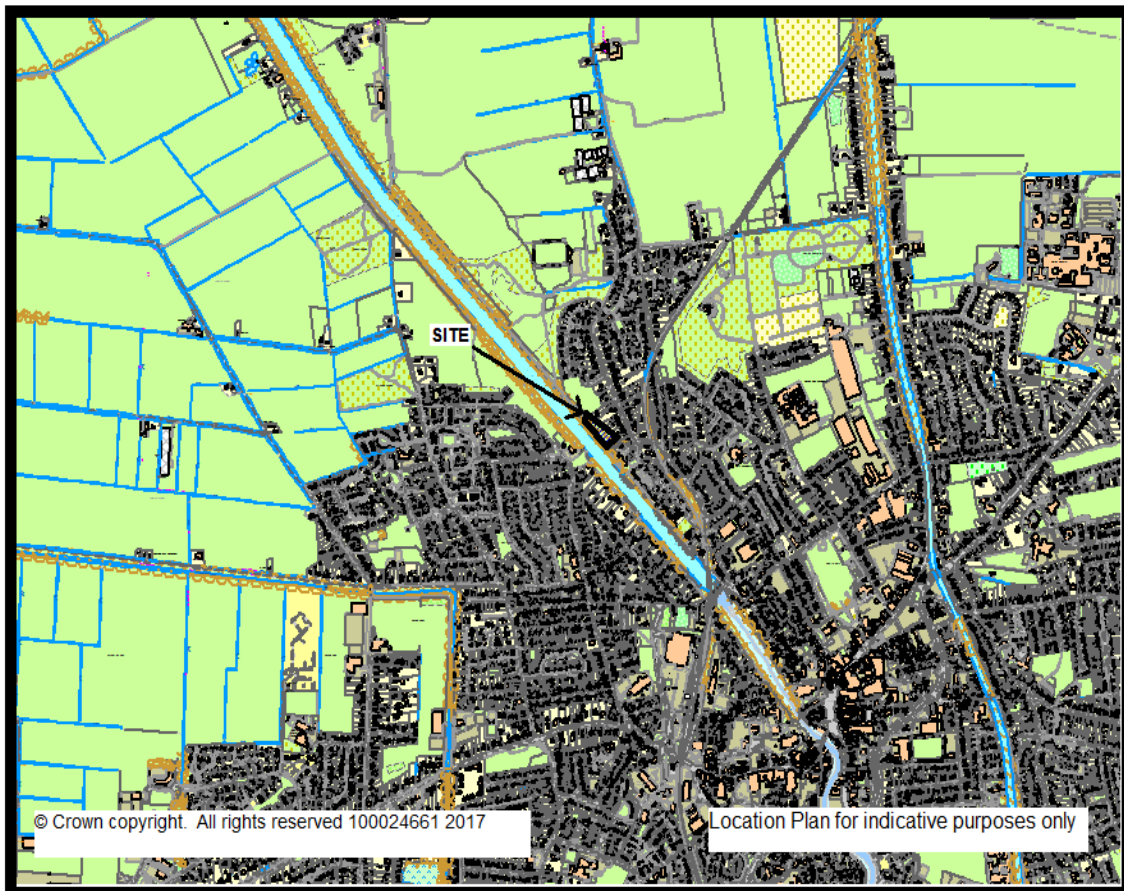
Applicant: Mrs Rebecca Archer, Chestnut Homes Ltd

Ward: Witham
Parish: Boston Town Area Committee

Case Officer: Trevor Thompson

Third Party Reps: 7

Recommendation: DELEGATE TO GRANT



1.0 Reason for Report

- 1.1 This application has been presented to the Planning Committee because letters of objection have been received from neighbours and because the site occupies a very prominent position along the River Witham, close to the Boston Conservation Area.

2.0 Application Site and Proposal

- 2.1 The application site is roughly triangular shaped and is located within the built up area of the town as identified within Inset Map 28 of the Boston Borough Local Plan. The site area is around 0.41 hectares and is partly used as a construction compound which serves the adjacent housing estate. The remaining part of the site is overgrown shrub land and unused. There is a 6m easement required for maintenance along the river frontage which has influenced the layout of the site.
- 2.2 The site is in a prominent position along the River Witham, outside of the Boston Conservation Area. It is bordered by a public footpath which runs alongside the river linking Boston to Anton's Gowt. There are residential properties to the rear of the site which front onto Tattershall Road, consisting of both bungalows and houses. Many of these properties have considerable rear garden areas which separate the site from these bungalows and houses. To the south east of the site lies the applicant's existing riverside development consisting of 140 dwellings which includes a variety of residential accommodation and house styles.
- 2.3 This application is for full planning permission for the erection of 17 affordable dwellings. Originally the application was for 25 affordable dwellings but the application has since been amended following concerns expressed by neighbours. The proposed development is now all two storeys and consists of 12 one bed apartments and 5 x 2 bed dwellings. The 5 x 2 bed units will form part of a terraced block. Vehicular access to the site will be off an existing spine road which serves the adjacent development (road name 'Riverside') which in turn junctions with Tattershall Road and Witham Town. It is proposed to provide a new road within the site with a turning facility to serve this development plus an external parking area. It is also proposed to provide 22 car spaces to serve the proposed seventeen units. The completed dwellings will be owned and managed by Boston Mayflower, a local Registered Provider.
- 2.4 The site is former railway land and is held under a long leasehold title. Due to this, the applicants say that it is not possible to deliver open market housing on this land due to the historic covenants surrounding this former use which affects the ability to gain mortgage approval. A sale to a Registered Provider provides a solution to this problem and helps to deliver affordable housing, in particular affordable rented accommodation.

3.0 Relevant History

- 3.1 There have been no recent planning applications on this site. The only applications which are relevant to this application are those which relate to the adjacent Riverside development which is still under construction. This site has a complex planning history- the most recent application to increase the number of dwellings on this estate from 113 to 140 was granted in 2014 (ref B/14/0283).

4.0 Planning Legislation

- 4.1 The site lies close to the Boston Conservation Area and there are listed buildings on the opposite side of the river.
- 4.2 Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty on Local Planning Authorities when considering to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
- 4.3 In addition, section 72 of the Act places a general duty on a Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

5.0 Relevant Policy

Boston Borough Adopted Local Plan

- 5.1 The development plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise. The application site is not allocated in the Local Plan for any specific purpose.
- 5.2 The saved Local Plan Policies of relevance to this application are as follows:
- Policy G1 – Amenity
 - Policy G2 – Wildlife and Landscape
 - Policy G3 – Surface and Foul Water Disposal
 - Policy G4 – Safeguarding the Water Environment
 - Policy G6 – Vehicular and Pedestrian Access
 - Policy T2 – Roads and Footpaths in New Developments
 - Policy R5 – Witham Way Footpath and Nature Reserve
 - Policy C7 – Development of Sites Adjacent to the River Witham
 - Policy C17 – Sites of Local Nature Conservation Interest

Housing policies

- Policy H2 – Windfall Housing Development
- Policy H3 – Quality of Housing Developments
- Policy H4 – Open Space on Housing Estates

National Planning Policy Framework

- 5.3 Committee will be aware of the NPPF guidance in respect of housing applications being considered in the context of the presumption in favour of sustainable development. In addition, it goes on to state that policies for the supply of housing “should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites”. In the absence of a five year supply in the Borough the presumption in favour of sustainable (housing) development applies.

- 5.4 Para 109 (Conserving and enhancing the natural environment) indicates that the planning system should contribute to and enhance the natural and local environment by ‘... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity...’
- 5.5 Para 131 of the Framework states: ‘In determining planning applications, Local Planning Authorities should take into account:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation.
 - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality.
 - The desirability of new development making a positive contribution to local character and distinctiveness’.
- 5.6 Para 132 states: ‘When considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset’s conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.’

6.0 Representations

- 6.1 As a result of publicity seven letters of representation had been received from the occupiers of the following properties relating to the scheme as originally submitted for 25 dwellings:
- 74 Tattershall Road, Boston
 - 80 Tattershall Road, Boston (x2)
 - The Hollies, 78 Tattershall Road, Boston
 - 70 Tattershall Road, Boston
 - 59 Riverside, Boston
 - 73 Riverside, Boston
- 6.2 The neighbours’ objections are summarised on the following grounds:
- Impact on amenity/loss of privacy/noise disturbance/ overlooking/ visual impact – concerns over 12m high four storey block near bungalows causing overshadowing etc. Development should be reduced in size, buildings re-orientated.
 - Design not in character with rural area/ riverside walkway. Impact on the countryside.
 - Concerns regarding height of proposed dwellings especially given flood risk requirements in relation to existing properties.
 - Noise and disruption generated by piling and general noise and exhaust pollution of a building site.
 - Loss of wildlife habitat, trees and wildlife including foxes, deer, badgers and various birds. Loss of part of designated wildlife site.

- Traffic generation, impact on highway safety and ability of local network to cope. Junction at Tattershall Road/Sluice Bridge is already overloaded given proximity with the railway and many recent housing developments in area.
- Concerns about the two existing access points that currently serve Riverside which will also serve the proposed development; one access is via Witham Town which is on a bend and under a low railway bridge whilst the other is off Tattershall Road, near a bend and railway crossing.
- Concerns about flood risk and sewage disposal – the ability of the sewage network to accommodate proposed development.
- Housing mix not balanced, social housing out of character with an area of owner/occupied homes – too many high density flats in area. Creation of a mono pitched tenure estate, contrary to policy. Publicity of application fails to differentiate between social and affordable housing.
- Concerns relating to anti social behaviour.
- Existing public open space not adequate.
- Concerns over future boundary treatment shared with Tattershall Road properties. Need to plant mature trees as part of landscaping scheme.
- Development not in accordance with Local Policy and is not sustainable
- The Council's Strategic Housing Land Availability Assessment (SHLAA) concluded that the site is 'undeliverable'.
- Application should be refused on the grounds of prematurity and prejudice the process of the emerging Plan.
- Impact on the Conservation Area – no heritage statement submitted.

6.3 The neighbours have been re-notified of the amended plans and at the time of writing this report no further letters of representation had been received. The date for making further representations expired on the 2nd February 2017. Any further representations from the neighbouring residents will be reported verbally at the meeting. The representations from neighbours relating to the scheme as originally submitted have not been withdrawn and remain a material consideration.

7.0 Consultations

7.1 Comments received from the following bodies relating to the scheme as originally submitted and the amended plans (if received) are detailed as follows:

7.2 The Lincolnshire Wildlife Trust objects on the grounds that the development will result in the permanent loss of part of a Local Wildlife Site and that the measures proposed are not sufficient to compensate for this loss.

7.3 The County Highways Authority has no objections subject to two conditions.

7.4 The Environment Agency has no objections subject to one condition.

7.5 Environmental Protection has no objections relating to the amended scheme subject to land contamination conditions.

7.6 The Local Housing Authority supports this application.

7.7 Lincolnshire County Council Strategic- Planning and Major Developments Manager has replied and does not request an education contribution.

- 7.8 The Witham Fourth District Internal Drainage Board has no objections.
- 7.9 The Lincolnshire Police Crime Prevention Design Advisor has no objections but has made comment and suggestions with regard to the proposed layout and design.
- 7.10 The Network Rail Infrastructure Manager has no objections subject to conditions.
- 7.11 The Canal and River Trust has no objections subject to conditions.
- 7.12 Anglian Water Services has no objections subject to conditions relating to a foul water strategy and a surface water strategy.
- 7.13 These bodies have been re-consulted on the amended plans and any further comments will be reported verbally at the meeting. The date for making further comments expires on the 10th February 2017.

8.0 Planning Issues and Discussion

- 8.1 The main planning issues in the determination of the application are:
- Principle of development
 - Prematurity and the weight to be given to the South East Lincolnshire Local Plan (SELLP)
 - Impact on the Local Wildlife Site and biodiversity
 - Impact on highway safety
 - Impact on residential amenity
 - Design, impact on the Conservation Area and the setting of the listed buildings.
 - Density

Principle of development

- 8.2 The site is located within a sustainable location, on the edge of a large housing estate which is currently under construction and within the built up area of the town. Thus the principle of new housing in this location can be acceptable.

Prematurity and the weight to be given to the SELLP

- 8.3 One neighbour considers that the application should be refused on the grounds of prematurity because, in the neighbour's opinion, it would prejudice the process of the emerging plan and would result in an unacceptable and irreplaceable loss of a site of established local importance for biodiversity. The impact this development may have on the Local Wildlife Site is discussed below.

8.4 However, the NPPG does provide some advice on prematurity; it states:

‘... arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the framework and any other material considerations into account. Such circumstances are likely but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan making process by pre-determining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process’.

8.5 In this instance, the South East Lincolnshire Local Plan has not been submitted for examination and it therefore has no or very limited weight in the determination of planning applications. On this basis, it is considered that it is unlikely that this application can be refused on the grounds of prematurity.

Impact on the Local Wildlife Site and biodiversity

8.6 The site is not designated for any purpose within the current Local Plan but forms part of an area identified within the draft SELLP as a Local Wildlife Site (LWS) which starts from the site and follows the river bank to the lock gate at Anton’s Gowt. This is known as ‘Witham Way, Anton’s Gowt to Boston’ Local Wildlife Site which was originally designated by the Greater Lincolnshire Nature Partnership in 2009 and reselected in 2013. Such sites are termed ‘Local Sites’ as they are determined locally for their nature conservation value and essentially ‘fill the gap’ between other statutory designations. However they do not have a statutory designation and are not protected by law in the same way as, for example, Sites of Special Scientific Interest (SSSI). However the fact that a site forms part of a LWS is a material consideration.

8.7 The Lincolnshire Wildlife Trust (LWT) objects to the application and considers that the application will result in a net loss in biodiversity contrary to the NPPF and Policy G2 of the current Local Plan. LWT adds that the site does have biodiversity value, particularly in association with the habitat corridor provided by the River Witham and that the suggested provision of bird boxes and tree planting does not compensate for the loss of this habitat.

- 8.8 The applicant has objected to the LWS allocation in the SELLP consultation in January 2016, seeking a change to the boundary, concluding that the site should be removed from the LWS due to lack of evidence demonstrating that the site meets the citation for designation or adds appropriate value. The site is essentially made up of trees and overgrown shrub land and a small part of this land is currently been used by the developer as a works compound to serve the existing estate as works progress. The application site has been classified as 'undevelopable' within the draft SHLAA due to 'adverse environmental impact'.
- 8.9 The application has been amended since submission and is now for a lower density development which includes two buildings as opposed to four buildings. As a result the proposed landscaped area to the northern extent of the site and the strip of land behind the rear garden areas of properties along Tattershall Road have been enlarged compared to the original scheme. The applicant considers that the development of the site will provide a variety of native species and those of known value for wildlife. In addition it is proposed to install 6 bird boxes within the site to provide valuable nesting opportunities for bird species.
- 8.10 It may be argued that, since the site is a LWS coupled with the proposed landscaping and mitigation measures, this proposal does not comply with para 109 of the NPPF which seeks to minimise impacts on biodiversity and providing net gains in biodiversity where possible.
- 8.11 However the loss of about 4% of the LWS which consists essentially of tree/shrub land must be balanced against the need to provide affordable homes within the town and whilst the mitigation measures that have been put forward are limited and perhaps do not provide a 'net gains' in biodiversity it is not considered that this is a sufficient reason to refuse the application. However it is recommended that should permission be granted, a condition is imposed which requires further enhancements to biodiversity within the site.

Impact on highway safety

- 8.12 It is proposed to construct an extension to the existing estate road that serves 'Riverside' which junctions onto both Tattershall Road and Witham Town. The extended road will be about 55m in length and includes a turning head and footpath. This estate road will also serve a parking court consisting of 22 car spaces to serve the proposed 17 dwellings, including visitor parking. The public footpath which runs alongside the river will also provide pedestrian and cycle links to the town centre. The County Highways Authority had no objections to the original scheme subject to conditions though is yet to comment on the amended plans.

Impact on residential amenity

- 8.13 There are bungalows and houses to the rear of the application site which front onto Tattershall Road. Most of these properties have long rear gardens which adjoin the application site. The boundary between these neighbouring properties and the application site is mostly made up of hedging and fencing though there is extensive landscaping within the application site and alongside this boundary consisting of mature trees and shrubs. However part of this landscaped area within the site, essentially behind 80 Tattershall Road, has recently been cleared and is open land. The application site includes the former railway embankment which is about 2m higher than the level of the neighbours rear gardens.

- 8.14 The proposed development originally consisted of one 3 storey apartment block and three 2 storey terraced blocks. However, as indicated above the scheme has been amended and it is now for two, two storey buildings. The amended layout also includes a landscaped buffer of varying width along the rear boundary shared with the neighbours along Tattershall Road to respond to the concerns expressed by the neighbours although no detailed landscaping scheme has yet been submitted. The car parking areas and road layout have also been amended so that there are now no car spaces close to the boundary shared with the neighbouring occupiers. The applicant suggests that a comprehensive landscaping scheme along this boundary can be agreed as part of a landscaping condition.
- 8.15 Objections to this application as originally submitted are essentially on the grounds of overlooking, outlook and loss of privacy. At the time of writing this report, no further letters of representation have been received from neighbours relating to the amended plans so it is assumed that the original objections from the neighbours still stand and are a material consideration.
- 8.16 The design and siting of the proposed dwellings, the raising of land levels and given that the height of the site is already above the level of the neighbours' rear fencing will collectively result in a development which will substantially change the outlook from the neighbours' rear garden areas and the representations originally received from the neighbours are therefore understandable. However the distance between the existing properties along Tattershall Road and the proposed dwellings will be significant, between 54 m and 75m which is far greater than the 22m 'rule of thumb' which this authority has commonly applied in similar situations. A 1.8m high fence will also be provided along the rear gardens of the proposed terraced block to provide privacy for both existing and future residents.
- 8.17 As indicated at previous meetings, there are no locally adopted standards relating to minimum distances between the rear elevations of existing and proposed properties or in relation to overlooking of rear garden areas. However, the 22m 'rule of thumb' assumes two storey properties on level land. This proposal is for two storey development on land which is significantly higher than neighbours' land which will add to the physical presence of these buildings and this must be taken into account when assessing this application and these distances.
- 8.18 Given these distances, any window- window direct overlooking generated by this development will not be substantial in my view though the proposed first floor windows on the rear elevation of the proposed dwellings may still allow some overlooking over neighbours gardens to take place. The potential for such overlooking will however be reduced to some extent by the existing (and proposed) landscaping along this boundary and within the 'landscaped buffer zone'.
- 8.19 Local Plan Policy H3 seeks to provide good quality housing schemes and a 'pleasant' environment for residents whilst Local Plan Policy G1 resists developments that would cause substantial harm (my underlining) to the amenities of the area or neighbouring properties. It is considered that although this development will be clearly visible when viewed from the neighbours' properties and there may be some overlooking between existing and future occupiers, the distances between existing and proposed properties coupled with the extensive landscaping along the shared boundary leads to the conclusion that this development will not substantially harm residential amenity sufficient to warrant refusal of this application.

Effects upon the Conservation Area and the setting of the listed buildings

- 8.20 The site is located at the edge of the Boston Conservation Area, along a prominent riverside frontage. There are listed buildings on the opposite side of the river but this development is unlikely to affect their setting. The application is accompanied by a Heritage Statement setting out the potential impacts that this development may have on heritage assets.
- 8.21 The design and scale of the development has taken influence from the character and built form of the riverside frontage development to the south east which this authority has noted as being exemplary in its design and contribution to the river frontage.
- 8.22 The application is accompanied by a Heritage Statement which concludes that the development will not cause any adverse impact on the setting of the listed buildings on the opposite side of the river and that there will be no adverse impact on the Boston Conservation Area. Your officers concur with this.

Density

- 8.23 The density of the proposed development as originally submitted was approximately 61 dwellings per hectare. (dph) which is about the same density as the existing estate to the south east. The density of the properties along Tattershall Road to the rear of the site is around 12 dph. The amended scheme for 17 dwellings has resulted in a reduction of the density to around 41dph.
- 8.24 Local Plan Policy allows new housing developments where the 'resultant dwellings and curtilage(s) are of a size and character which reflect the current density of development in the area'.
- 8.25 In this instance, whilst the density may be a little high in relation to properties along Tattershall Road, it is now significantly less than the density of the development to the south east. It is therefore considered that proposed density is acceptable.

9.0 Summary and Conclusion

- 9.1 The proposed scheme seeks the delivery of 17 affordable dwellings within a sustainable location and within an urban environment. The proposed scheme may be considered as a natural expansion of the existing 'Riverside' development and that the design of the scheme will add quality to this river frontage location and reflects the scale, proportions and the architectural themes of the adjacent estate.

9.2 There are three key issues in the determination of this application.

- Firstly, the impact on biodiversity given the site is a Local Wildlife Site but without a Plan allocation and thus it may be argued that the development fails to adequately compensate for habitat loss and is contrary to the NPPF.
- Secondly, the impact the development will have on the amenities of neighbouring residents given the design, location and height of the dwellings and that it is intended to build on land which is significantly higher than the neighbours' rear gardens.
- Thirdly, whether the development will preserve the setting of the listed buildings or enhance the character or appearance of a conservation area.

9.3 It is considered that there is no harm to the Conservation Area or the setting of listed buildings, in that the 'conservation tests' are satisfied and, in locational terms the site is in a sustainable location.

9.4 The development of the site, which retains more of the wildlife site than originally submitted, will still result in a loss to wildlife habitat though this should be balanced against the provision of 17 affordable units and that this site reflects a small part of the Local Wildlife site as a whole. Furthermore, this development of a site where no buildings currently exist will substantially change the outlook from the rear garden area of the neighbouring properties. However, it is not considered that the impact on the neighbours' amenity would be so severe as to warrant refusal of this application.

10.0 **Recommendation**

10.1 That the Planning Committee resolve that they are Minded to Approve this application subject to conditions and authority is delegated to the Development Control Manager to grant after the expiration of the extra consultation period (10 February 2017), unless new matters not already addressed are raised.

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site layout ref RWB/01 Rev D (1b/8)
- Location Plan ref RWB/02 (2/8)
- Plots 1-5 Floor plans ref RWB/21 (4/8)
- Plots 1-5 elevations ref RWB/22 (5/8)
- Plots 6-17 elevations ref RWB/24 (6/8)
- Plots 6-17 Floor layouts ref RWB/23 (7/8)
- Wall and fencing details- detail 6 Rev I (8/8)

Reason: To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.

3. All of the dwellings hereby approved shall be provided as affordable housing as defined in the National Planning Policy Framework (including all relevant updates and amendments).
Reason: In accordance with the details of the application in order to ensure the provision of affordable housing and for it to remain so in perpetuity to accord with the applicants' stated intentions.
4. Where the risk assessment identifies any unacceptable risk or risks, a detailed remediation strategy to deal with land contamination and/or pollution of controlled waters affecting the site shall be submitted and approved by the LPA. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the LPA.
Reason: To ensure the proposed remediation plan is appropriate and to accord with Local Plan Policy G1.
5. Remediation of the site shall be carried out in accordance with the approved remediation strategy (see preceding condition). No deviation shall be made from this scheme without the express written agreement of the LPA.
Reason: To ensure site remediation is carried out to the agreed protocol and to accord with Local Plan Policy G1.
6. On completion of remediation, two copies of a closure report shall be submitted to the LPA. The report shall provide validation and certification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report.
Reason: To provide verification that the required remediation has been carried out to the required standards and to accord with Local Plan Policy G1.
7. If, during development, contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the LPA.
Reason: To ensure all contamination within the site is dealt with and to accord with Local Plan Policy G1.
8. No development shall be commenced above ground level until details of the materials proposed to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
Reason: To ensure that the new buildings are in keeping with the character of the area and to accord with Adopted Local Plan Policies G1 and H3.

9. Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses.

The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.

Reason: To ensure safe access to the site and each dwelling, in the interests of residential amenity, convenience and safety and to accord with the objectives of Local Plan policy G6

10. No development shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to 5 litres per second;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: to ensure residents of the permitted development and adjacent properties are not adversely affected, by reason of flooding, by the construction of the permitted development and to accord with the objectives of Local Plan policy G3.

11. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (Revision P1 dated 17th June 2016) and in particular the following mitigation measures detailed within the FRA:
- Finished floor levels shall be set no lower than 4.8m AOD
 - The dwellings shall be a minimum of two storey
 - Flood resistant and resilient construction measures shall be incorporated throughout the development as stated within the FRA

The mitigation measures shall be fully implemented prior to occupation.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to accord with the NPPF (2012).

12. In addition to the recommendations contained within the submitted extended phase 1 habitat survey and Japanese Knotweed Survey report, before any dwellings are constructed above slab levels details of additional measures to enhance biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the design, location and timing of habitat enhancement as may be approved and such works shall be carried out as approved before occupation of the dwellings or in accordance with the timing arrangements contained within the scheme.

Reason: In the interests of the enhancement of biodiversity and to accord with the objectives of the NPPF.

13. Prior to the first occupation of any dwellings, details of the design and appearance of the demountable bollards to be installed in the locations shown on plan RWB/01 Rev D shall be submitted to and approved in writing by the Local Planning Authority together with a timetable for their installation. The bollards shall be installed in accordance with the approved details and timetable and shall be retained thereafter.

Reason: In the interests of minimising the risk of vehicles entering the adjacent River Witham and adversely affecting the waterway infrastructure or the safety of waterway users. This condition accords with the NPPF (2012).

14. Prior to the first occupation of any dwellings, a detailed external lighting scheme showing the type of lighting appliances to be used, their location, degree of illumination height and management shall be submitted to and approved in writing by the Local Planning Authority. All external lighting shall be installed before any occupation in accordance with the approved details and shall be retained thereafter.

Reason: In the interests of crime prevention and in order to minimise any adverse impacts arising from unnecessary glare or light spillage on local wildlife and the character of the area. This condition accords with the objectives of Local Plan policies G1 and G10.

15. No dwellings on plots 1-5 shall be occupied until the new 1.8m high fence along the rear boundaries of these dwellings as shown on plan RWB/01 rev D has been erected. The 1.8m high fence shall remain in place and retained in that form thereafter.

Reason: In the interests of residential amenity and to accord with the objectives of Local Plan policy G1.

16. No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

Reason: In the interests of satisfactory drainage and to accord with the objectives of Local Plan policy G3 and the NPPF (2012).

17. No development shall take place until full details of hard and soft landscaping works have been submitted to and approved in writing by the local planning authority, these works shall be carried out entirely in accordance with the approved details. The scheme shall include

- a) boundary treatment
- b) hard surface materials
- c) minor structures
- d) planting schedules (species, sizes densities)
- e) existing trees to be retained/removed

Reason: This is a pre-commencement condition because the landscaping scheme, in terms of biodiversity enhancement and to protect residential amenity is essential to the delivery of a quality and acceptable scheme. This condition is also in the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily. The condition accords with Adopted Local Plan Policy G1 and H3.

18. All landscape works shall be carried out in accordance with the approved details within 6 months of the date of the first occupation of any building or completion of development whichever is the sooner. Any trees, plants, grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the first available planting season with others of similar size species.

Reason: In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily. The condition accords with Adopted Local Plan Policies G1 and H3.

19. A landscape management plan including management responsibilities and maintenance schedules, including the area reserved as a wildlife habitat as shown the submitted layout plan shall be submitted to the local planning authority before the occupation of any dwelling. The landscape maintenance plan shall be carried out as approved thereafter.

Reason: To ensure the long term maintenance of the public open space and play equipment, in the interests of the amenity of residents and to accord with the objectives of Local Plan policies H3 and G1.

20. The area reserved for wildlife habitat located at the north western end of the site and along the rear boundary of the site shared with properties which front onto Tattershall Road Boston shall be retained as a wildlife habitat and shall not be used as a public open space or incorporated within an garden areas which form part of this development.

Reason: In the interests of biodiversity and to accord with the objectives of the NPPF (2012).

21. Notwithstanding the submitted details, before any dwelling is built above slab level measures to enhance biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved.

Reason: In the interests of biodiversity and to accord with the objectives of the NPPF (2012).

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

Paul Edwards
Development Control Manager

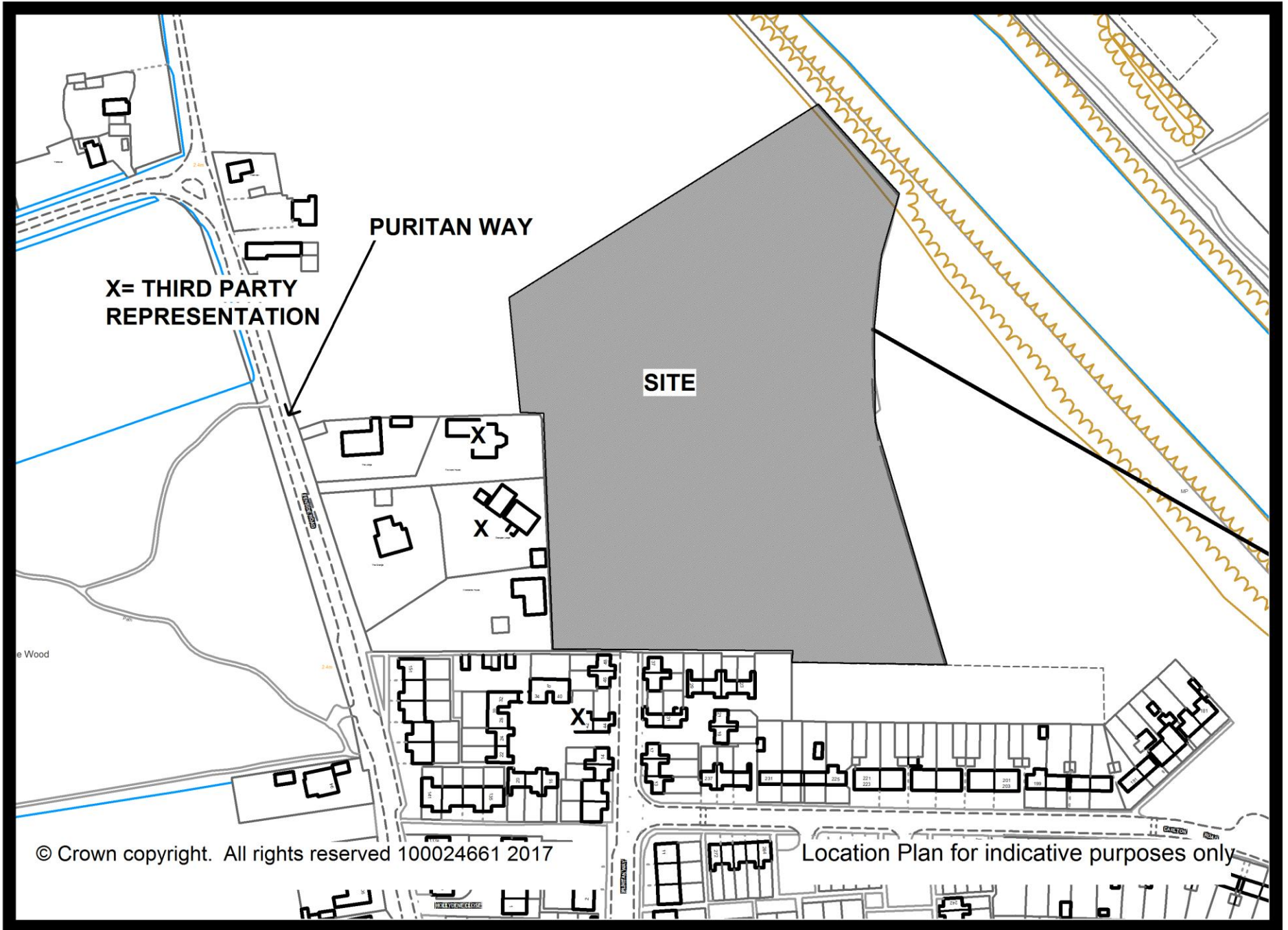
PLANNING APPLICATION B 16 0106

Construction of 86 dwellings plus roads, public open space and associated works.

Land north of Puritan Way Boston Lincolnshire

Applicant:

Mr M Gosling, Mrs M Leggate and Mrs R Wicks



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Location Plan for indicative purposes only

BOSTON BOROUGH COUNCIL

Planning Committee – 7th February 2017

Reference No: B/16/0106

Expiry Date: 09-Jun-2016 (extension of time agreed until 1 April 2017)

Application Type: Full Planning Permission
Proposal: Construction of 86 affordable dwellings (formerly 87 dwellings)
plus roads, public open space and associated works

Site: Land north of Puritan Way, Boston, Lincolnshire

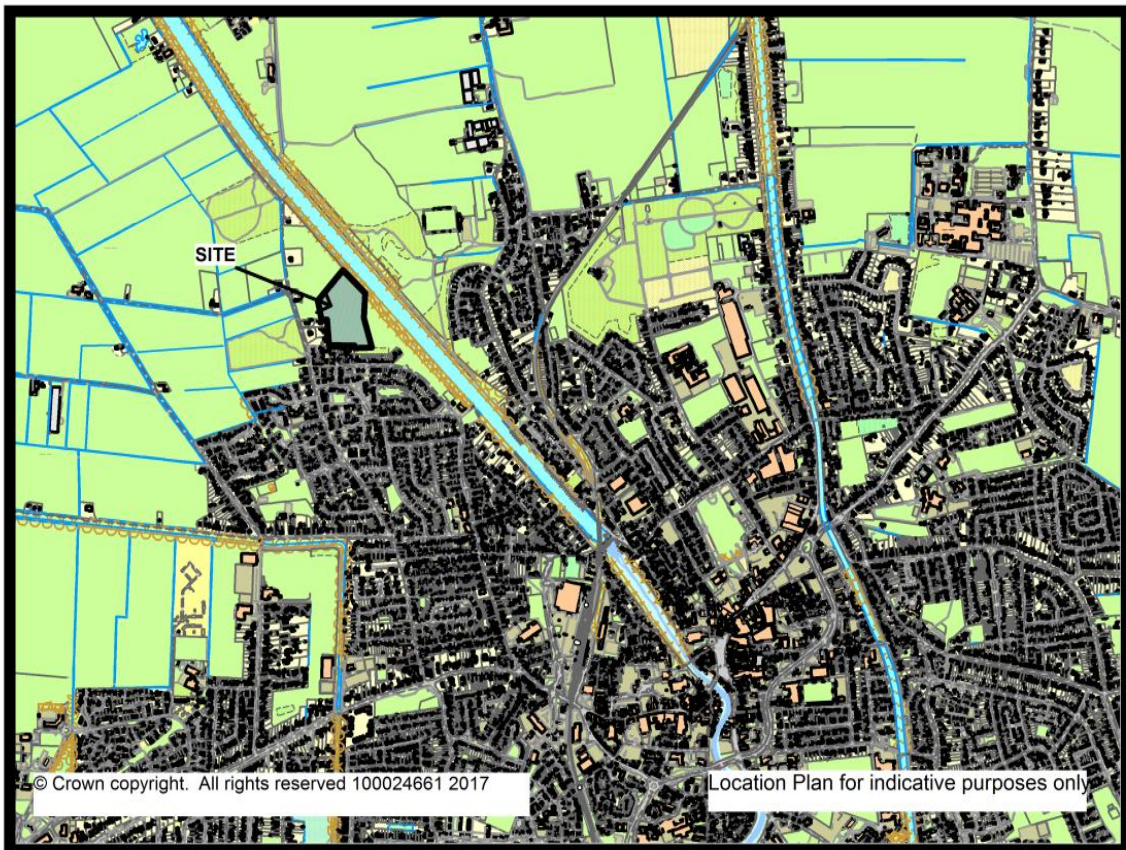
Applicant: Mr M Gosling, Mrs M Leggate and Mrs R Wicks

Ward: Fenside
Parish: Boston Town Area Committee

Case Officer: Trevor Thompson

Third Party Reps: 8

Recommendation: DELEGATE TO GRANT



1.0 Reason for Report

- 1.1 This application has been presented to the Planning Committee because this proposal is for a large housing scheme on the edge of the built up area of the town and objections have been received from neighbouring residents. The proposed development is also a departure from the Development Plan and is recommended for approval. It is therefore considered that the Planning Committee determine the application.

2.0 Application Site and Proposal

- 2.1 The application site covers about 2.20 hectares of land which is currently in agricultural use. It lies to the north of Puritan Way and within Flood Zone 3a High Probability as detailed on the Environment Agency's Flood Zone Maps. To the west of the site lies a small group of large detached dwelling houses with access off Fenside Road. To the south of the site lies a large housing estate which is partly/wholly within the ownership of Boston Mayflower Housing Association. A footpath linking Puritan Way to Fenside Road runs along part of the site's southern boundary. The site extends in part up to the bank of the River Witham to the east.
- 2.2 This application is for full planning permission for 86 affordable dwellings (formerly 87 dwellings) plus roads, public open space and associated works. Vehicular access to the site will be off the existing estate road, Puritan Way, which junctions with Shaw Road, about 125m to the south. The proposed layout of the site has been designed to accommodate future housing developments in the adjacent fields beyond the application site.
- 2.3 The proposed housing mix consists of two and three storey dwellings and apartments both semi detached and terraced properties. It is proposed to raise existing ground levels by about 1m to meet flood risk requirements.
- 2.4 This scheme has been subject to a number of amendments since original submission.

3.0 Relevant History

- 3.1 In March 2013, planning permission was granted for the development of an inland waterways marina including the construction of a new marina basin, new facilities building, offices, shops, brokerage, chandlery, restaurant, workshop, boatyard/lift, new footbridge/river gates, parking, landscaping and access off Fenside Road, Boston. (B/12/0245). This permission has now expired. The current application site covers part of the site area subject of B/12/0245.

4.0 Relevant Policy

Boston Borough Adopted Local Plan

- 4.1 The development plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 4.2 The site is not specifically allocated within the development plan and lies within countryside, at the edge of the settlement boundary in an area where new development is strictly controlled unless the proposed development is supported by other Plan policies. There are no specific policies which support this application and therefore this development is not in accordance with the Development Plan.
- 4.3 The saved Local Plan Policies of relevance to this application are as follows:
- Policy G1 – Amenity
 - Policy G2 – Wildlife and Landscape Resources
 - Policy G3 – Surface Water Disposal
 - Policy G4 – Safeguarding the Water Environment
 - Policy G6 – Vehicular and Pedestrian Access
 - Policy C01 – Development in the Countryside
 - Policy H2 – Windfall Housing Sites
 - Policy H3 – Quality of Housing Development
 - Policy H4 – Open Space in Housing Estates
 - Policy C7 – Development of sites adjacent to the River Witham
 - Policy T2 – Roads and Footpaths in New Developments

National Planning Policy Framework

- 4.4 Committee will be aware of the NPPF guidance in respect of housing applications being considered in the context of the presumption in favour of sustainable development. In addition, it goes on to state that policies for the supply of housing “should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites”. In the absence of a five year supply in the Borough the presumption in favour of sustainable (housing) development applies.

Departure from the development plan

- 4.5 The application has been publicised as a departure from the development plan in accordance with the regulations since it does not have any allocation or policies in the adopted Boston Borough Local Plan (1999) which would appear to support it. A ministerial Direction requires a planning authority to consult the Secretary of State before granting planning permission for certain categories of development (Direction in the former Circular 2/2009). This gives the Minister the opportunity to ‘call in’ for his own determination.

- 4.6 Although this application is in a countryside location and is not allocated for any specific purpose within the development plan, the size of the development is not large enough to require referral to the Secretary of State. It is concluded that provided the application has been publicised correctly (as a departure) there is no further requirement to refer it to the Minister if you are proposing to approve the application. The requirement for referral does not apply in the event that if you wish to refuse it.

5.0 Representations

- 5.1 Neighbouring residents were notified of the application as originally submitted and on the various amendments that have been made to this scheme. As a result of this publicity 5 letters of representations were received from the occupiers of:

- 42 Puritan Way, Boston (x2)
- Xx Puritan Way, Boston
- Georgian Lodge, Fenside Road, Boston
- Foxwood House, Fenside Road, Boston

- 5.2 In addition, 2 letters have been submitted from Sills and Betteridge Solicitors who act on behalf of the occupiers of the following properties:

- Foxwood House, Fenside Road
- Georgian Lodge, Fenside Road
- Woodlands, Fenside Road
- The Grange, Fenside Road
- The Lodge, Fenside Road

- 5.3 The objections and comments can be summarised as follows;

- Impact on visual outlook and visual amenity, noise disturbance and disruption to peace and quiet, loss of privacy, overlooking, and amenity. Part of POS should be located at the entrance to the site along the western boundary to provide a 'buffer'.
- Proposed entrance will not be able to cope with additional traffic, access road not suitable, insufficient road along Puritan Way width due to on street parking. Lincs Design Guide refers to 200 dwellings as the maximum number off a cul-de-sac yet this is likely to be exceeded.
- Plans show only one car space per dwelling leading to cars parked on the road causing obstruction, delays and unsightliness
- Concerns about large vehicles and emergency vehicles being unable to gain access to the site
- Access to the site: Fenside Road, Shaw Road, Carlton Road/Puritan Way are residential areas with speed bumps. Concerns over childrens' safety caused by increased traffic generation and roads are unsuitable for heavy construction vehicles. Surrounding road network will not cope with additional traffic.

- Lincolnshire Highways consider in the draft SELLP that Puritan Way can only support another 65 dwellings.
- Current parking along Puritan Way is insufficient
- Impact on local services and infrastructure
- Impact on dentists, doctors, local schools given that the development could well exceed 200 dwellings
- Impact on countryside and character of area. Social housing will affect character of exclusive properties in select area of town
- Flood risk and third party flooding. The submitted FRA is inadequate since it contains no analysis of the risk from localised bank failure. No explanation why the EA has changed its view from 2002 and 2012 when it was considered that the greatest risk to the site was from the failure of localised flood defences. Plans are unclear as to the extent the proposed floors and do not accord with the DAS and should be re-drawn.
- An application was submitted in 2007 for housing which was refused on the grounds of flood risk following objections from the Environment Agency. Nothing has changed. (officer note: there is no record of any previous planning application for housing on this site in 2007)
- Concerns over density, layout and future developments including proposed dwellings becoming HMOs and social disorder problems often associated with this form of development
- Impact on trees, wildlife and wildlife habitat including a bat colony. An ecological assessment is required.
- Site consists of prime agricultural land which should not be lost to housing development. Previous approval for marina should not be taken as a precedent which included significant employment and flood defence benefits
- Need for an archaeological assessment
- Concerns whether the development accords with national or local planning policies.
- Development is not sustainable in terms of education provision given local schools are full and over-subscribed.

Officer comment: LCC Strategic Development Officer initially requested that the applicant provides an education contribution of £518,844. However following discussions between the applicant and LCC Strategic Development Officer, this figure has now been reduced to £100,000.

5.4 Following the submission of a further set of amended plans in January, the neighbouring residents were re-notified and one letter of objection/concern has been received from the new occupiers of Foxwood House. The neighbours are concerned about:

- Third party flooding
- Traffic congestion and road safety
- Pressure on the Pilgrim Hospital and local schools
- Impact on wildlife and protected/endangered species

Note: Following the submission of this letter, the Lincs Wildlife Trust has been consulted and a verbal update will be given on any replies received

5.5 The date for making further representations expires on the 7th February 2017. Any further representations from the neighbouring residents will be reported verbally at the meeting. The representations from neighbours relating to the scheme as originally submitted have not been withdrawn and remain a material consideration.

6.0 Consultations

6.1 The County Highways Authority has no objections subject to 3 conditions.

6.2 Black Sluice Internal Drainage Board has no objections.

6.3 The Local Housing Authority supports the application subject to a legal agreement relating to the delivery of affordable housing.

6.4 Environmental Protection has no comments.

6.5 Lincolnshire Police Crime Prevention Design Advisor has made comment with regard to the layout and design of this scheme.

6.6 NHS England has written to say that it will not be requesting contributions or commenting on this application.

6.7 Heritage Trust of Lincolnshire has no objections subject to one condition.

6.8 Anglian Water Services has no objections subject to one condition relating to the disposal of foul water.

6.9 The Environment Agency has no objections subject to 2 conditions.

6.10 Lincolnshire County Council Strategic Development Officer considers that this development will have a direct impact on local schools and has requested that the applicant provides an education contribution of £100,000.

6.12 The Canals and River Trust (CRT) has not yet responded. The date for CRT making representations expires on the 13th February 2017.

7.0 Planning Issues and Discussions

7.1 The main planning considerations in the determination of this application will be:

- Principle of development and the 5 year land supply
- Impact on highway safety
- Design, layout and density
- Affordable housing
- Loss of agricultural land
- Flood risk and third party flooding
- Developers contributions and impact on local schools
- Impact on the character of the countryside
- Sustainability
- Impact on residential amenity.

Principle of development and the 5 year land supply

7.2 The site lies within countryside at the edge of the built up area of the town where Local Plan policy C01 would resist new residential development unless the development is supported by other Local Plan policies. As indicated above, the Borough does not have a five year housing land supply and therefore the presumption in favour of sustainable developments as contained within the Framework replaces the housing supply policies in the development plan.

7.3 Balanced against this presumption in favour, i.e. that in principle the land at the present time would make a significant contribution towards meeting the five year supply and affordable housing must be, amongst other things, the countryside location of the site, the potential impact on local infrastructure, residential amenity, highway safety, character of the area and loss of agricultural land. These are issues discussed below but the lack of the five year land supply and the NPPF's presumption in favour effectively means that that the principle of sustainable residential development is acceptable in this location unless the adverse impacts of doing so would cause 'significant and demonstrable harm' (Framework para 14).

Impact on highway safety

7.4 Vehicular access to the site will be off Puritan Way and it is intended to provide 162 car spaces to serve 86 dwellings. The car spaces will either be alongside the side of the proposed houses or will be hidden within rear car courtyard areas to avoid a car dominated environment. The proposed estate roads will be adopted and the layout has been designed to enable future housing schemes to the east and the north of the site. The main spine road terminates at the north-western end of the site via a semi circular road pattern around part of the proposed public open space. The long term plan is to extend this road to form a full circle (roundabout) around the proposed enlarged play equipped area of public open space. Concerns have been expressed by neighbouring residents about the ability of the surrounding highway network to accommodate this and future development.

- 7.5 The NPPF (para 32) indicates that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'. There is no substantive evidence that this application will cause severe impact arising from this development and the County Highways Authority has no objections subject to conditions. A Construction Management Plan is however recommended to cover hours of working, where the site compound is, where deliveries are taken and their times, where contractors vehicles park, wheel washing facilities and disposal of waste in the interests of both highway safety and residential amenity.

Design, layout and density

- 7.6 The density would be 39 dwellings per hectare (dph). The density of the estate to the south of the site is around 40 dph. If the detached dwellings off Fenside Road are included in this assessment, the surrounding density reduces to around 28 dph. On this basis, it is considered that the proposed density of the site is acceptable.
- 7.7 As indicated above, the layout of the scheme, including the road pattern has been designed to take into account potential future housing development on land to the north, south and east of the site. However, no application has been made to develop the adjacent sites and any permission for this current application does not guarantee any approval of any subsequent application for housing development. Nor is there any guarantee that any future application would ever be submitted.
- 7.8 In order to avoid a scheme which appears 'partly complete' the layout of the scheme has now been amended to ensure that if developed in isolation, it will result in a good quality housing scheme. This amendment includes the planting of hedges around most of the site's boundary which abuts agricultural land including across the proposed spur roads designed to serve future development in order to physically terminate these points of access and to provide a sense of place and enclosure for future residents.
- 7.9 The proposed layout includes a semi circular open play area at the northern end of the site enveloped in part by an arterial road which will form part of a 'village green' and will form the main focal point when entering this new estate. This equipped area covers about 7.5% of the site area which accords with the commentary Local Plan Policy H4. The layout plan also shows that this semi circular open space may be enlarged in the future to form a full circle to provide a 'central parkland' which may serve any future housing development on the adjoining fields.
- 7.10 The design of the proposed apartments and houses are contemporary and will be built of red multi bricks and a variety of cladding with Eternit slates or similar. It is considered that the design of the proposed dwellings is acceptable subject to a condition requiring the submission for approval of the materials to be used in this scheme.

Affordable Housing

- 7.11 Originally it was intended to deliver 30% of the proposed dwelling units to be affordable but it is now intended to deliver all of the proposed 86 dwellings as affordable units. The delivery of the affordable dwellings will be secured through a s.106 planning obligation. The Local Housing Authority supports the application.

Loss of agricultural land

- 7.12 The application site covers 2.2 hectares of agricultural land. The DEFRA database that the Council has access to indicates that the majority of the site is grade 2. Paragraph 112 of the NPPF advises that poorer quality land should be used in preference to the best and most versatile agricultural land.
- 7.13 Members may recall that upon dismissing the planning appeal at Wainfleet Road/ Sibsey Road, Boston, the Planning Inspector concluded that the loss of high quality land was regarded as a significant adverse effect of that proposal and found no evidence to demonstrate the level of development could not be accommodated without the loss of 3.75 hectares of grade 1 agricultural land.
- 7.14 Officer opinion is that it is clearly inevitable that high quality agricultural land will always be under pressure for development when much of the land surrounding Boston is high quality agricultural land, there are no remaining housing allocations in the Local Plan and that there is not a five year land supply (para 32). Thus, it is not considered that the loss of 2.2 hectares of grade 2 land will pose as a major constraint to this development. Policy G9 of the Local Plan which resists development on best and most versatile agricultural land is not a saved policy.

Flood Risk and third party flooding

- 7.16 Part of the existing land levels within the site are to be raised and the finished floor levels of the dwellings will be generally 1m above existing average ground levels. A new on site adopted surface water drainage system is to be constructed which will accept surface water runoff from the adopted carriageway, residential properties and external hard surface areas. The piped network will discharge to a retention basin and with a flow channel/ swale running around the edge that will transport water to a downstream piped network. The surface water will eventually discharge into the River Witham.
- 7.17 The Environment Agency, the Internal Drainage Board and the Local Lead Flood Authority have no objections subject to conditions. A condition is recommended which requires the submission of details including a section plan showing the treatment of the transitional area between the raised ground levels along the western boundary of the site and existing ground levels of the neighbours gardens in order to maintain residential amenity and to avoid third party flooding.

Developer contributions and the impact on local schools

- 7.18 Where a relevant determination is made which results in planning permission being granted for development, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- 7.19 Lincolnshire County Council considers that this development will have an impact on local schools and initially requested a financial contribution of £518,844 to mitigate this impact. However following discussions between the applicant and the LCC, the requested contribution has been reduced to £100,000. The funding would be spent on secondary education and will be put towards a '1FE extension of Boston Haven High Academy via additional 3 classroom extensions and ancillary facilities'.

Impact on the character of the countryside

- 7.20 The characteristics of the site may be defined as flat open agricultural land which forms part of a large field bordered in part to the west and south by residential development. The proposed housing development will have a significant impact on the flat open countryside of the surrounding landscape and will represent a significant change to this edge of town location. However, this impact will be only local and will not represent a significant change to the character of the surrounding environment in the wider context. Indeed it may be argued that this development represents a natural expansion of the existing housing estate and is in character to its surroundings.
- 7.21 Local Plan Policy C01 seeks to resist developments within a countryside location unless supported by other Local Plan policies. However more recently Planning Inspectors at appeal have questioned the conformity of this policy with the NPPF and given that this Council does not have a 5 year supply. The Policy is still a part of the development plan but it cannot attract the same weight as a Framework compliant policy. Such applications are now assessed more generally in relation to Local Plan Policy G1 which resists development that would substantially harm the character of the area. Consequently the fact that a development site may be within countryside does not by itself make it unacceptable in principle. However policy CO1 is still a material consideration because it forms part of the development plan.
- 7.22 Parts of the site's boundary will abut open agricultural land and does not follow any urban or natural feature. Consequently, the proposed development may form a 'hard sharp edge' to the area which may appear alien and overemphasise the encroachment of this development into countryside. As indicated above, although the submitted layout plan shows 'possible future development' beyond the northern, southern and eastern boundaries of the site, there is no guarantee this will occur or if an application were to be submitted, would be approved. The resultant affect of this development will appear 'incomplete' and may cause harm to the countryside. The amended plan which shows additional hedging along these boundaries will 'round off' the development and help soften the transition between urban and countryside.
- 7.23 On balance, it is considered that this application does not contravene the objectives of Policy C01 or G1.

Sustainability

- 7.24 The NPPF indicates that for the purpose of the planning system is to contribute to the achievement of sustainable development, with sustainable development having three roles, social, economic and environmental.
- 7.25 It is considered that this development accords with the three dimensions of sustainable development as contained within the NPPF. In social terms, the development will provide a substantial contribution towards the supply of housing in the area. In economic terms, the proposal will provide significant employment, albeit temporary and will also help support local services and contribute to the social life in the area.
- 7.26 In environmental terms, it is considered that although an open area of agricultural land at the edge of settlement will be lost and that the character of the area would substantially change as a result of this development, the overall scheme is of good quality and that the character of this unprotected area will not be substantially harmed subject to a good quality landscape scheme along the site's boundaries. The future occupiers of the dwellings would not necessarily be dependent on the use of the motor car and would more likely use public transport, cycling or would walk to local facilities to access local facilities. As such the development will be sustainable in environmental terms.

Impact on residential amenity

- 7.27 There are residential properties within the immediate vicinity of the site along Puritan Way, Carlton Road and Fenside Road. This application includes the erection of two storey dwellings along the western side of the new estate road which will back onto the rear garden areas serving Woodlands House, Georgian Lodge and Foxwood House and along the rear /side gardens of properties along Puritan Way.
- 7.28 A number of neighbours as detailed above have raised objections to this application regarding, amongst other things, impact on residential amenity in terms of overlooking and loss of privacy. Part of the existing land levels within the site are to be raised and the finished floor levels of the dwellings will be generally 1m above existing average ground levels. Consequently this has likely added to the concerns expressed regarding overlooking.
- 7.29 Following the submission of these objections, the application has been subject to extensive discussions with the applicant regarding the siting and design of the proposed dwellings, in particular at the entrance to the estate and the relationship with these adjacent properties which lie close to the site's western and southern boundaries.
- 7.30 In particular, the neighbouring property known as Woodlands House forms part of this small group of large detached properties off Fenside Road and lies closest to the site's western boundary (i.e. about 2m away). The other properties which form part of this cluster are at varying distances and angles to the site's western boundary.

- 7.31 Woodlands House incorporates first floor bedroom windows which directly overlook the site and ground floor windows behind a close boarded boundary fence. The proposed dwelling on plot 3 will be about 16m from the rear elevation of Woodland House and the proposed dwelling on plot 4 will be 19m away. All of these proposed houses along the western boundary of the site include first floor bedroom windows on their rear elevations.
- 7.32 There are no locally adopted standards relating to minimum distances between the rear elevations or windows of existing and proposed properties or in relation to overlooking of rear garden areas. Normally a distance of 22m between the respective rear elevations of two storey properties is considered acceptable and this distance is often used as a yardstick by many Local Authorities but this 'rule of thumb' assumes two storey properties on level land and where one dwelling is directly behind another.
- 7.33 The siting of the proposed dwellings on plots 3 and 4 are not now directly behind the rear elevation of Woodland House so the '22m' yardstick cannot be directly applied in this instance, especially given raised land levels. The amended layout plan has been designed specifically to avoid direct window –window overlooking between these properties and the gap between the proposed dwellings on plots 3 and 4 is now 20m specifically in order to improve the outlook and open views from the bedroom windows of Woodland House.
- 7.34 Given raised floor levels, it is also intended to erect high fencing along the rear gardens/patio areas of plots 2 and 3 to maintain residential amenity and along other boundaries of the site. Although there may be some overlooking between properties it is not considered that residential amenity of the occupiers of Woodland House, in particular will be substantially harmed. However, as indicated above, a condition is recommended which requires the submission of details for approval, which includes section plans and shows the respective finished ground levels of both the site and the neighbouring properties and the proposed boundary treatments in order to maintain residential amenity.
- 7.35 The relationship between the proposed houses and the other two detached neighbouring properties close to the western boundary of the site ie Georgian Lodge and Foxwood House is acceptable. Georgian Lodge is set at an angle to the western boundary whilst Foxwood House is approximately 14m away from this boundary. The rear gardens of the proposed houses on these plots along the western boundary vary between 14-16m and the distances between the rear elevations of the respective existing and proposed houses vary between 18.5m and about 28m. The rear elevation of Georgian Lodge will overlook a car parking area. Given these distances and the orientation between the existing and proposed houses, residential amenity of the occupiers of these properties will not be substantially harmed by this development.

- 7.36 Furthermore it should be noted that the northern part of Puritan Way terminates at the southern boundary application site. This road does not include a turning/reversing head at this point. Unlike the development at Monarchs Road at Sutterton (appeal application ref B/14/0176) where the developers gave no indication to neighbours about the potential of further housing development within the adjacent field, the design of this estate road (ie with no turning head) may have provided neighbours with some indication that there was every likelihood that this road would one day be extended to serve future housing development.
- 7.37 Local Plan policy H3 seeks to provide good quality housing schemes and a 'pleasant' environment for residents whilst Local Plan policy G1 resists developments that would cause substantial harm to the amenities of the area or neighbouring properties. Para 17 of the NPPF indicates that planning should always seek high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.38 The concerns expressed by the neighbouring occupiers are understandable and the physical presence of new housing on an open field where no buildings exists at present will be a substantial change to outlook and will have an impact on visual amenity. It is considered that although this development will have moderate impact on residential amenity of the surrounding occupants, this impact will not be substantial to warrant refusal.

8.0 Summary and Conclusion

- 8.1 Although the application site is within countryside at the edge of the built up part of the town, it is in a sustainable location within easy and accessible walking distance to facilities within the town centre. It may therefore be argued that this development forms a logical and natural extension to the existing housing estate to the south.
- 8.2 The application has been the subject of a number of amendments in an effort to overcome some of the concerns expressed by neighbouring occupiers. It is considered that the recent amendments made to the siting/design of the proposed dwellings at the entrance to the estate in particular will not now substantially affect the amenity of the neighbours within the immediate vicinity. Nor is it considered that the development as a whole will substantially harm the residential amenity of the neighbours within the wider context.
- 8.3 The development will represent a significant change to the open characteristics of the surrounding area though the same arguments that the development of this site would harm the character of the countryside were made at the time the application for the proposed marina on 7.24 hectares of land was approved in 2013. This application is for a different development on a much smaller site. In an effort to provide a more organic and less formal edge to the site's boundaries and to minimise impact on the countryside, it is proposed to provide extensive hedging around the perimeter of the site. It should however be noted that parts of this landscaping scheme may not be necessary or may be removed in the event that further housing site is approved in the future on the adjacent land.

- 8.4 In terms of highway safety, although this development will gain access off one single existing estate road and will generate additional traffic on this estate and along the surrounding highway network, there is no substantive evidence that this application will cause severe impact arising from this development. The County Highways Authority has no objections subject to conditions.
- 8.5 Accordingly it is considered that this development is sustainable development whereby any limited harm would not significantly and demonstrably outweigh the benefits. It is therefore recommended that this application be supported.

9.0 Recommendation

9.1 That the Planning Committee resolve that they are Minded to Approve this application subject to conditions and:

- a) any permission is not released until the applicants have entered into a section 106 planning obligation with the Council relating to a financial contribution for education of £100,000 and all of the dwellings being affordable units in line with the proposals, and
- b) No objections are received from the Canals and River Trust as a result of additional publicity
- c) authority is delegated to the Development Control Manager to approve this application upon satisfactory completion of the planning obligation. If the obligation is not concluded within six months of instructions, the application will be returned to Committee.

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Proposed site plan ref 14/2221-02 rev F (2c/27)
- House type proposals – plots 2 and 3 ref 14/2221-27 rev A (3b/27)
- House type proposals- plots 4-6 ref 14/2221-04 (4/27)
- House proposals – plots 7-8 ref 14/2221-05 (5/27)
- House type plots 9-12, 43-46, 80-83 ref 14/2221-06 (6/27)
- Proposals plots 13-14 and 57-58 ref 14/2221-07 rev A (7a/27)
- House type proposals- plots 15-17 ref 14/2221-08 rev A (8a/27)
- House type proposals- plots 18-21 ref 14/2221-09 (9/27)
- Proposals: plots 22-24, 64-66, 72-74 ref 14/2221/10 rev A (10a/27)
- House type proposals –plots 25-29 ref 14/2221-11 (11/27)
- House type proposals- plots 30-32 ref 14/2221-12 rev A (12a/27)
- House type proposals- plots 33-35 ref 14/2221-13 (13/27)
- Proposals –plots 36-40 ref 14/2221-14 rev A (14a/27)
- House proposals- plots 41- 42 ref 14/2221-15 (15/27)

- Proposals –plots 47-48, 55-56 ref 14/2221-16 (16/27)
- Proposals - plots 49-50, 53-54 ref 14/2221-17 (17/27)
- House type proposals -plots 51-52 ref 14/2221-18 (18/27)
- House type proposals - plots 67-68 ref 14/2221-19 rev A (19a/27)
- House type proposals – plots 69-71 ref 14/2221-20 rev A (20a/27)
- House type proposals – plots 75-77 ref 14/2221-21 rev A (21a/27)
- House type proposals- plots 78-79 ref 14/2221-22 (22/27)
- House type proposals- plots 84-85 ref 14/2221-23 rev A (23a/27)
- House proposals- plots 86-87 ref 14/2221-24 Rev A (24A/27)
- Public open space-play equipment ref 14/2221-POS (25/27)
- Proposals plots 62 – 63 ref 14/2221-26 (26/27)
- Proposals –plots 59-61 ref 14/2221-25 (27/27)

Reason: To ensure the development is undertaken in accordance with the approved details and to accord with Adopted Local Plan Policy G1.

3. No development shall take place within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

Reason: This is a pre-commencement condition in order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site before construction work begins and to accord with the objectives of the NPPF (20120

4. No development shall commence above slab level on the dwellings hereby approved until details of all external facing materials proposed to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the new buildings are in keeping with the character of the area and to accord with saved Local Plan Policies G1 and H3.

5. The first property shall not be occupied until full details of hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. The details shall include :

- i. hard surfacing materials
- ii. minor structures/ planters
- iii. planting schedules (species, sizes, planting densities, maintenance proposals)

Reason: In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily in accordance with saved Local Plan Policies G1, G2 and H3.

6. The approved hard and soft landscaping works shall be implemented in full In accordance with timescales to be submitted to and approved in writing by the Local Planning Authority before
Reason: In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily in accordance with saved Local Plan Policies G1, G2 and H3.
7. The proposed area of equipped public open space in the northern part of the site as shown on plan Proposed site plan ref 14/2221-02 rev F (2c/27)) shall be laid out in a manner to be submitted to and agreed in writing by the Local Planning Authority and shall be made available for use before the 40th dwelling constructed on the application site is first occupied.
Reason: To provide a satisfactory level of publicly available amenity open space within the development and to accord with Adopted Local Plan Policy H4.
8. A landscape management plan including management responsibilities and maintenance schedules of the public open space and play equipment shall be submitted to the local planning authority before the occupation of any dwelling. The landscape maintenance plan shall be carried out as approved thereafter.
Reason: To ensure the long term maintenance of the public open space and play equipment, in the interests of the amenity of residents and to accord with the objectives of Local Plan policy H4.
9. Before occupation of any of the dwellings hereby approved, the external parking areas shall be provided with lighting in accordance with details, including the maintenance of the lighting, to be submitted to and agreed in writing by the Local Planning Authority.
Reason: To provide adequate lighting of the private driveway in the interest of crime prevention and community safety and in accordance with Adopted Local Plan Policy H3.
14. Prior to the commencement of the development hereby permitted, a Construction Management Plan shall be submitted to the local planning authority for approval. The Construction Management Plan will prescribe how the construction of the site will be phased, hours of working, where site accommodation and welfare facilities will be placed, where site vehicles and the vehicles of site personnel will be parked and where materials will be delivered and stored within the site. Construction of the permitted development shall be undertaken in accordance with the approved Construction Management Plan.
Reason: In the interests of the safety and free passage of the public and to accord with the objectives of Local Plan policies G1 and G6. This is a pre-commencement condition due to the fact that the management of plant, site equipment etc needs to be agreed prior to the commencement of any development to ensure that neighbour's amenity and safety are respected.

15. Notwithstanding the submitted details, before any development is commenced above slab level details of a wall and fencing scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of when the walls and fencing are erected, their height, design, materials and position in relation to finished ground levels of the site following development and the ground levels of the neighbouring properties to the west. The scheme shall be carried out as approved.
- Reason:** In the interests of the visual amenities of the area and to accord with Policy G1 of the Adopted Local Plan.
16. Prior to the commencement of the development, details relating to the treatment of the transitional area between the proposed raised land levels along the western boundary of the site and existing ground levels of the neighbouring land and to include site sections shall be submitted to and approved by the Local Planning Authority, and the development shall be built in accordance with the approved scheme. The details shall also include the boundary treatment and the means to ensure that surface water from this raised land does not cause flooding onto neighbouring land.
- Reason:** No such details have been submitted, in the interests of satisfactory drainage and residential amenity and to accord with the objectives of Local Plan policies G1 and G3.
17. No development shall commence until a foul water strategy has been submitted and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.
- Reason:** This is a pre-commencement condition to ensure that there is satisfactory drainage provision to serve the proposed development. This condition accords with the objectives of Local Plan policy G3.
18. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (RM Associates version 2 dated April 2016) and in particular the following mitigation measures as detailed within the FRA:
- Finished floor levels of the dwellings shall be set no lower than 3.5m AOD
 - Flood resistant and resilient measures shall be incorporated throughout the development as stated
- The mitigation measures shall be fully implemented prior to occupation.
- Reason:** To reduce the risk of flooding to the proposed development and any future occupants and to accord with the objectives of the NPPF (2012).
19. The ground floor of plots 59, 60, 61, 62 and 63 shall be available for garaging, utility, w/c and storage only and at no time shall it be used for any other purpose.
- Reason:** To define this permission and to reduce the impacts of flooding on the development and future occupants and to accord with the objectives of the NPPF (2012).

20. Before each dwelling is occupied the roads and /or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the public expense, less the carriageway and footway surface courses.

The carriageway and footway surface courses shall be completed within 3 months from the date upon which the erection is commenced of the penultimate dwelling.

Reason: To ensure safe access to the site and each dwelling/building in the interests of residential amenity, convenience and safety and to accord with the objectives of Local Plan policy G6.

21. No dwellings shall be commenced before the first 50 metres of estate road from its junction with the public highway, as shown on drawing number 14/2221-02 Rev. F has been completed.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and to enable calling vehicles to wait clear of the carriageway of Puritan Way. This condition accords with the objectives of Local Plan policy G3 and the NPPF (2012).

22. No development shall take place until a detailed surface water drainage scheme for the site, based on an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to a rate to be agreed with the surface water receiving body;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

Reason: To ensure that there is satisfactory drainage provision to serve the proposed development and is necessary to ensure residents of the permitted development, adjacent properties and adjacent land are not adversely affected, by reason of flooding, by the construction of the permitted development. This condition accords with the objectives of the NPPF (2012).

23. The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: To ensure that there is satisfactory drainage provision to serve the proposed development and is necessary to ensure residents of the permitted development, adjacent properties and adjacent land are not adversely affected, by reason of flooding, by the construction of the permitted development. This condition accords with the objectives of the NPPF (2012).

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

Paul Edwards
Development Control Manager

SN EA informative dated 8th August 2016.

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REPORT TO:	Planning Committee
DATE:	7 February 2017
SUBJECT:	Receipt of Appeal Decisions
PORTFOLIO HOLDER:	Councillor Peter Bedford
REPORT AUTHOR:	Development Control Manager
EXEMPT REPORT?	No

SUMMARY

The purpose of this report is to advise members of the receipt of two appeal decisions in respect of:

15 Mentmore Gardens, Boston and
50 Brothertoft Road, Boston

Both appeals were dismissed. The second one was an appeal against an Enforcement Notice which was dismissed and the requirements of the Notice, subject to corrections, were upheld.

The two decision letters are attached to this report.

RECOMMENDATION

The Committee are asked to note this report and the comments arising from it.

REASONS FOR RECOMMENDATION

To address a Service Delivery Action Plan point for 2016/17.

1.0 INTRODUCTION

- 1.1 It is established practice that all appeal decisions are reported to Planning Committee as part of performance monitoring and to consider if any particular decisions raise issues which might influence practice or future decision making.

- 1.2 All applicants have a right of appeal against the decision of the planning authority, over a refusal, an approval with conditions (if the conditions are unacceptable to the applicant) and in cases of 'non-determination' where the authority has not issued a decision within the prescribed 8 or 13-week period without an agreed 'extension of time'. This right of appeal applies to all categories and types of applications – including Enforcement and other Notices where there are defined categories or grounds of appeal which any appellant has to follow.

2.0 APPEAL DECISIONS SINCE DECEMBER 2016

15 Mentmore Gardens, Boston

- 2.1 This application for a garage extension and including a lifting of the ridge height for first floor accommodation was refused by Committee, contrary to officer recommendation, at the August 2016 meeting. The single reason for refusal given related to the increase in footprint and the proximity to and impact upon the amenities of neighbours contrary to Policy G1 (B/16/0206).
- 2.2 At paragraph 2 of the Inspector's decision an additional issue was introduced by the Inspector as part of their ability to bring their own experience to a decision. This is since an Inspector is not bound to look only at an authority's reason(s) for refusal.
- 2.3 The Inspector then proceeded to dismiss the appeal on that single ground (para 5), and did not agree that there would be any effects upon the living conditions of neighbours (para 10). Although judgements of character are often subjective, the Inspector concluded that the structure would be wholly at odds with the character of the streetscene.
- 2.4 Members will be aware of the Application for a Certificate of Lawfulness for a garage extension (B/17/0003) at this property which is currently under consideration and any necessary update on the progress of determination of that application will be reported to Committee verbally.

50 Brothertoft Road, Boston

- 2.5 These appeals were against an Enforcement Notice issued in April 2016 which alleged the use of the caravan stationed in the curtilage of No.50 for purposes not ancillary to the main dwelling house, i.e. as a separate and independent dwelling unit.
- 2.6 Appeals against an Enforcement Notice must follow prescribed grounds; there is the ground (a) appeal....'that planning permission should be granted'; and the others are technical legal grounds. Unless an appellant appeals ground (a), the planning merits of allowing it to remain are not considered.
- 2.7 Paragraph 1 of the attached decision is the Inspector correcting the Notice. It is not the act of stationing the caravan – as a building operation - that would need permission, but the use of the land. The Inspector explains this at paras 3-5.
- 2.8 The appellants only appealed on ground (c)....'that there has not been a breach of planning control'. The Inspector's assessment of this ground takes up the rest of the decision letter. It is not an assessment of the planning merits of whether or not it should receive permission – since ground (a) has not been appealed, it is a legal exercise to establish if there has been a breach of control or not. The test is 'on the balance of probability' and at paras 15 and 16 the Inspector concludes that the appeals should not succeed.

2.9 The appellants now have two months from the date of the Inspector's decision to comply with the Notice – i.e. by 12 February 2017.

3.0 CONCLUSION

3.1 These decisions put performance on appeals for 2016/17 to 30% - out of ten; three have gone against the Council (exceeds our target of 20%, 1 in 5). To date this year there have been three costs applications against the Council, one has been successful (Pincushion costs, reported to Committee in September 2016).

3.2 By way of assistance, the Brothertoft Rd decision is a good example of where the planning merits do not come into the decision. It was a matter of 'on the balance of probability' based upon the evidence. A similar example would be the current application for a Certificate of Lawful Development at 15 Mentmore Gardens following the unsuccessful appeal. That application for the certificate can only be assessed on the matter of law -whether or not the proposals are permitted development.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

ANY OTHER IMPLICATIONS

None

CONSULTATION

Portfolio Holder: Councillor Peter Bedford

APPENDICES

Planning appeal decisions in respect of:

15 Mentmore Gardens and 50 Brothertoft Rd

BACKGROUND PAPERS

Background papers used in the production of this report are listed below: -

Document title	Where the document can be viewed
Application and appeal files: 15 Mentmore Gardens, Boston Ref: B/16/0206	Development Control
50 Brothertoft Road, Boston Ref: Penf 0191/15	

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Appeal Decision

Site visit made on 3 November 2016

by **R W Allen B.Sc PGDip MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 November 2016

Appeal Ref: APP/Z2505/D/16/3158757

15 Mentmore Gardens, Boston, Lincolnshire PE21 7TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Clive Dingwall against the decision of Boston Borough Council.
 - The application Ref B/16/0206, dated 26 May 2016, was refused by notice dated 23 August 2016.
 - The development proposed is raise the roof height and add on a rear extension to existing garage, two side windows (approx. 1.2sq.m), one in each gable, two personal doors and inspection pit in new floor.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. As the Council's decision notice cites only one ground of refusal, that being the effect on living conditions of occupiers of surrounding residential properties, I requested comments from both parties on the matter of the size and scale of the proposed enlarged garage building and its effect on the character and appearance of the area, which I have some concerns with. I have taken both their responses into consideration. Because of this, I am satisfied that neither main party would be caused any injustice by me taking this matter into account as a main issue in my determination of this appeal.

Main Issues

3. The main issues therefore are:
 - The effect of the proposed development on the character and appearance of the area having specific regard to its size and scale; and
 - The effect of the proposed development on the living conditions of surrounding residential properties.

Reasons

Character and appearance

4. The appeal building is a detached garage positioned between the appellant's property and No.16 Mentmore Gardens (No.16). The current garage is wider than other garages in the street scene. However its depth and roof height are broadly similar to other neighbouring garages, such that it does not appear

- incongruous in its current form. It thus remains a subservient building to the host dwelling consistent with the general character of the street scene.
5. The proposed extended garage before me would fundamentally alter this relationship. It would result in an uncharacteristically large and rather dominating building which would no longer appear subservient to the host and neighbouring dwellings. Contrary to the appellant's assertion, I find it would consume a considerable portion of the plot such that the curtilage would be dominated by built form, and would erode much of the remaining rear garden. As a result, the plot would notably depart from the surrounding and established layout. While the majority of the extension would occur at the rear, the resultant size and scale of the garage would nonetheless be unavoidably apparent. For these reasons, the enlarged garage would be wholly at odds with the character of the street scene which comprises dwellings accompanied by moderately sized garages. This I find would be significantly harmful in its effects.
 6. I note the appellant is a car enthusiast and that he requires additional garage space for maintenance and repair of his vehicles, and that he has gone to some lengths to amend the scheme for it to be considered acceptable by the Council. However, I am not persuaded that the personal circumstances of the appellant are sufficient to outweigh the considerable harm to the character of the area that I have identified. I have also noted the enlarged garage to No 18 Mentmore Gardens and others referenced by the appellant. However none are of a size which is anywhere near comparable to the appeal scheme, and I draw little comparison with them.
 7. I therefore find that the proposed development would conflict with relevant parts of saved policy G1 of the Boston Borough Local Plan 1999 (Local Plan). This states that planning permission will only be granted for development which will not substantially harm the general character of an area because of its scale or appearance.

Living conditions

8. The existing garage and No.16 are positioned within close proximity of one another either side of the common boundary. However, as the garage is set further forward, and there are no flank windows in the neighbouring property facing the appeal site, no current harm is caused to the living conditions of the occupiers of the neighbouring property.
9. The extended garage and enlarged roof would, in my judgement, not worsen this effect. The extended garage would extend level with the rear wall of No.16 and would not obstruct or obscure the occupiers' enjoyment of their conservatory. The positioning of the side window in the upper floor hobby room area would not be capable of overlooking the neighbouring garden. Having regard to the orientation of the property and the daily path of the sun, I am satisfied that the proposed extension including the increase in roof height would not have any significant effect on overshadowing.
10. I am therefore satisfied that the proposed development would not have any significant effects on the living conditions of the occupiers of No.16. It would also be sufficiently distant from No.14 Mentmore Gardens and other properties not to have any significant harm to the living conditions of the occupiers of these properties.

11. I therefore find no conflict with relevant parts of Local Plan saved policy G1. This states that planning permission will only be granted for development which will not substantially harm the amenities of other nearby residents.

Other Matters

12. The occupiers of No.16 have raised concerns regarding the likely business use of the garage, particularly in relation to noise nuisance and the requirement of an inspection pit. The Council is satisfied that the use of the garage would continue to be used incidental to the enjoyment of the dwelling, and that it can control both noise nuisance and any change use that may occur. I have no evidence before me to disagree with the Council or form an alternative view.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

R Allen

INSPECTOR

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Appeal Decisions

Site visit made on 11 October 2016

by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 December 2016

APPEAL A: Appeal Ref: APP/Z2505/C/16/3146686

APPEAL B: Appeal Ref: APP/Z2505/C/16/3146687

50 Brothertoft Road, Boston PE21 8HN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Peter Greenhalgh (APPEAL A) and Mrs Dawn Greenhalgh (APPEAL B) against an enforcement notice issued by Boston Borough Council.
 - The Council's reference is Penf0191/15.
 - The notice was issued on 01 April 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission the unauthorised stationing of a static caravan on the land to provide residential accommodation.
 - The requirements of the notice are: i) Remove from the land the caravan that is stationed to the front of the property; and ii) Remove from the land the associated decking surrounding the caravan.
 - The period for compliance with the requirements is two months after the Notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
-

Decisions in relation to Appeal A and Appeal B

1. The enforcement notice is corrected:
 - i) By the deletion of the words "the unauthorised stationing of a static caravan on the land to provide residential accommodation" following the words "Without planning permission" at section 3 of the notice and the substitution of the words "the material change of use of land from use as a single dwellinghouse to use as a single dwellinghouse and a caravan site for the stationing of a single caravan for residential purposes"; and
 - ii) By the deletion of the words "four years" from the first sentence of section 4 and the substitution of the words "ten years".

Subject to those corrections the appeals are dismissed and the enforcement notice is upheld.

Procedural Matters

2. Two appellants were named on the appeal form; Mr Peter Greenhalgh and Mrs Dawn Greenhalgh. Although the grounds of appeal are identical it is common practice for the Planning Inspectorate to assign a separate reference number to each appellant. Thus, I have referred to the appeals as Appeal A and Appeal B, as set out above.
-

3. The description on the application form refers to the 'unauthorised stationing of a static caravan on the land to provide residential accommodation'. The Council do not dispute that the unit falls within the definition of a caravan, as defined by the Caravan Sites and Control of Development Act 1960. Having viewed the caravan on site I concur with that assessment. Consequently, the unit does not constitute a building as defined by s336 of the Town and Country Planning Act 1990 (the Act) and the 'siting' of the caravan does not amount to an act of operational development that would require planning permission, of itself.
4. Rather, having regard to the information before me, the main issue between the parties is whether a material change of use has occurred from use as a dwellinghouse, with its associated garden, to a use as a dwellinghouse and a caravan site. In other words, whether the caravan is used as an independent unit of residential accommodation or whether the use is incidental to the enjoyment of the dwellinghouse. Consequently, it appears to me that the alleged breach would be more accurately described as, '*Without planning permission, the material change of use of land from use as a single dwellinghouse to use as a single dwellinghouse and a caravan site for the stationing of a single caravan for residential purposes*'. I have corrected the description of the alleged breach accordingly. Given that the respective statements address the issue of whether a material change of use has occurred I am satisfied that no party will be prejudiced by my decision to do so.
5. Moreover, having regard to the time limits for taking enforcement action, as prescribed by s171B of the Act, the relevant period would be ten years as opposed to four; the four year period only applies where there has been a breach consisting of the change of use of any 'building' to a use as a single dwellinghouse. Given that the caravan is not a building that time limit does not apply and the ten year period under s171B(3) is relevant. I have corrected the notice accordingly and am satisfied that no party will be prejudiced because no ground (d) appeal has been submitted and immunity from enforcement action as a result of the passage of time is not a matter that has been raised.

The Appeals on Ground (c)

6. When making an appeal on legal grounds, including ground (c), the burden of proof, on the balance of probability, rests with an appellant. If there is no evidence to contradict or make the appellant's version of events less than probable and his evidence alone is sufficiently precise and unambiguous, the appeal should be allowed.
7. In this case, the caravan is situated in the front garden of No. 50 Brothertoft Road, a sizeable detached dwelling within a predominantly residential area of Boston. By virtue of its design, the caravan provides all of the facilities required for day to day living with a fully equipped kitchen, living room, bedroom and bathroom. The waste water is connected to the main drains and the caravan has its own gas supply, connected to refillable canisters. Water and electricity are connected to the supply of the dwelling by virtue of a standard caravan 'hook up' lead and a hosepipe. Thus, a full range of services are available within the unit.
8. At the time of my site visit, the appellant noted that the shower within the caravan did not function properly. It is not clear how long it has been out of order but, regardless of that point, hot and cold running water is available such

- that it would be possible for any occupants to wash and ensure satisfactory personal hygiene. As such, the current condition of the shower does not alter my conclusion that the caravan provides all of the facilities that would be required for independent living.
9. As noted, the water and electricity are connected to the adjacent dwelling but, to my mind, the fact that the caravan relies upon those connections does not dictate that it has been occupied for a purpose that is incidental to the dwelling. It would remain perfectly feasible for the caravan to be occupied independently of any activity in the adjacent dwelling, or for an arrangement to be reached regarding utility bills for the use of electricity and water.
 10. Whilst there is a degree of reliance on the connections running from the house, the arrangement would not prevent anyone residing in the caravan from leading an independent existence from those residing within the adjacent dwelling. In other words, there would be no need to share living or sleeping accommodation, meals can be prepared in the caravan and facilities for personal hygiene are available.
 11. The appellants maintain that Mrs Greenhalgh has been living in the caravan for a temporary period to avoid dust and fumes relating to renovation works that were being undertaken in the house. If that was the case, the erection of the timber decking appears to be rather elaborate for a temporary use covering such a short space of time. Further, I note that the house is relatively modern and no details of any renovation work have been provided. An application for a certificate of lawful use relating to the caravan, dated 23 December 2015, indicated that the use began on 16 June 2015. There is nothing to suggest that Mrs Greenhalgh has ceased to live in the unit since that time. Thus, by the time the enforcement notice was served in March 2016, it would appear she had occupied the unit for approximately 8 months. I visited the site in October 2016 and all the signs were that the unit remained occupied, taking account of the furniture, appliances, pots and pans and foodstuffs in the kitchen, coats and shoes by the entrance, and clothes within wardrobes in the bedroom. The bed was fully made up.
 12. Consequently, it appears that the caravan has been occupied for a period well in excess of 12 months. In the absence of any details relating to the refurbishment of the adjacent dwelling, that does not support the assertion that the use is of a temporary nature. Moreover, the fact that the unit appears to be used to provide living space, cooking facilities and sleeping accommodation indicate that the residential use is taking place largely independently of any activity in the house. In addition to what I witnessed at my accompanied site visit the Council's enforcement officer found a lady preparing a meal at an unannounced site visit, with the table set for four people.
 13. I have noted that no washing machine is available within the caravan and the appellants' statement that Mrs Greenhalgh uses the facilities in the dwelling for that purpose. However, that alone does not suggest that the use is incidental to the residential use of No. 50 Brothertoft Road. Clothes and personal belongings were evident throughout the unit at the time of my visit and the living room, kitchen, bathroom and bedroom were clearly in use.
 14. Furthermore, a degree of separation from the garden of the dwelling has been provided by the timber deck that has been erected around the caravan. Whilst

there is no physical impediment to movement between the garden and the deck, the raised platform has clearly been erected in association with the use of the caravan and, in a visual and functional sense, it provides an external recreation area that appears to be associated with the caravan as opposed to the dwelling.

15. Therefore, it appears to me that the caravan has been occupied as a separate unit of residential accommodation largely independently of the adjacent dwelling. Given the range of services and facilities that are available and appear to have been used I cannot conclude that the use of the unit is incidental to the residential use at No. 50 Brothertoft Road, notwithstanding the lack of a washing machine or the fact that electricity and water are supplied from connections at the dwelling. Moreover, given the length of time that the unit has been occupied, and the lack of evidence that has been presented regarding renovations to the dwelling, I find the assertions regarding the temporary nature of any occupation less than convincing.
16. On the balance of probability I conclude that the caravan has been used as an independent unit of residential accommodation. Accordingly, there has been a material change of use from use as a single dwellinghouse to use as a single dwellinghouse and a caravan site for the stationing of a caravan for residential purposes. It follows that the appeals on ground (c) should not succeed and I shall uphold the notice, as corrected.

Chris Preston

INSPECTOR

BOSTON BOROUGH COUNCIL

DELEGATED DECISION LIST FOR PERIOD

19 December 2016 TO 13 January 2017 - FOR NOTING

SUBJECT: PLANNING APPLICATIONS AND RELATED MATTERS

REPORT BY: DEVELOPMENT CONTROL MANAGER

Proposal: Application under s96A for a non material amendment to approval B/15/0445 (Amalgamation of retail warehouse units into one (1.638sqm gross), minor front extension and erection of an internal mezzanine floor (1.361sqm))

Location: Units 1A and 1B , Alban Retail Park, Grantham Road, Boston, Lincolnshire, PE21 7NN

Applicant: XLB Property

Decision: Approved Non-material Amendments **Decision Date:** 05-Jan-2017

Reason for refusal (if applicable):

Parish: Boston Town Area Committee
Wyberton Parish Council

Application Number: B/15/0445/NMA **Case Officer:** Trevor Thompson

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Proposal: Application under s.96A for a non-material amendment to approval B/16/0249 (proposed two storey and single storey side extensions_ to replace window with entrance door and render whole property

Location: Rose Cottage, Tattershall Road, Boston, Lincolnshire, PE21 9LR

Applicant: Mr & Mrs Julian Vines

Decision: Approved Non-material Amendments **Decision Date:** 06-Jan-2017

Reason for refusal (if applicable):

Parish: Boston Town Area Committee

Application Number: B/16/0249/NMA **Case Officer:** Stuart Thomsett

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Proposal: Change of use to plant storage and repair workshop with ancillary offices to include construction of replacement building to accommodate repair workshop with ancillary office
Location: Store adjacent to Thurlby Motors, Main Road, Butterwick, Boston, Lincolnshire, PE22 0JN

Applicant: Mr S Conroy Conroy Group Plant Hire Limited

Decision: GRANT **Decision Date:** 04-Jan-2017

Reason for refusal (if applicable):

Parish: Butterwick Parish Council

Application Number: B/16/0258 **Case Officer:** Polly Harris Gorf

Proposal: Application under S73a for the variation of condition 13 (affordable housing provision) on planning approval B/12/0171 (outline application for residential development) to reduce the current level from 30% to 19.8% (21 units)

Location: Land off Ashton Hall Drive, Boston, Lincolnshire, PE21 7BF

Applicant: Broadgate Homes Ltd

Decision: GRANT **Decision Date:** 09-Jan-2017

Reason for refusal (if applicable):

Parish: Boston Town Area Committee

Application Number: B/16/0372 **Case Officer:** Paul Edwards

Proposal: Application under S.73A to develop land without compliance with conditions previously attached to planning permission B/14/0434 to allow approximate no.20 caravans to be occupied by seasonal agricultural workers

Location: Old Leake Caravan and Leisure Park, Shaw Lane, Old Leake, BOSTON, PE22 9LQ

Applicant: Mr & Mrs A White

Decision: WITHDRAWN APPLICATION **Decision Date:** 03-Jan-2017

Reason for refusal (if applicable):

Parish: Old Leake Parish Council

Application Number: B/16/0401 **Case Officer:** Polly Harris Gorf

Proposal: Application under S.73A to develop land without compliance with conditions previously attached to planning permission B/15/0017 to allow approximate no.20 caravans to be occupied by seasonal agricultural workers

Location: Old Leake Caravan and Leisure Park, Shaw Lane, Old Leake, BOSTON, PE22 9LQ

Applicant: Mr & Mrs A White

Decision: WITHDRAWN APPLICATION **Decision Date:** 03-Jan-2017

Reason for refusal (if applicable):

Parish: Old Leake Parish Council

Application Number: B/16/0402 **Case Officer:** Polly Harris Gorf

Proposal: Outline application with all matters reserved for no3. dwellings
Location: Land to the east of 26-34, Boston Road, Kirton, Boston, Lincolnshire, PE20 1DS

Applicant: Mr Richard Simpson

Decision: GRANT **Decision Date:** 19-Dec-2016

Reason for refusal (if applicable):

Parish: Kirton Parish Council

Application Number: B/16/0407 **Case Officer:** John Taylor

Proposal: Construction of 1no. agricultural building to provide 6no. pig holding pens and storage of agricultural machinery, 1no. agricultural building to provide a store for straw, hay and feed plus hardstanding area to serve proposed free range pig business

Location: Land North of The Lockwood, Cut End Road, Fishtoft, Boston, Lincolnshire, PE21 0SN

Applicant: Mr Paul Oakton

Decision: GRANT **Decision Date:** 20-Dec-2016

Reason for refusal (if applicable):

Parish: Fishtoft Parish Council

Application Number: B/16/0414 **Case Officer:** Stuart Thomsett

Proposal: Single storey extension to barn conversion to provide garage and annexe
Location: The Barn, Station Road, Sutterton, Boston, Lincolnshire, PE20 2JX

Applicant: Mr & Mrs Holmes

Decision: GRANT **Decision Date:** 05-Jan-2017

Reason for refusal (if applicable):

Parish: Sutterton Parish Council

Application Number: B/16/0415 **Case Officer:** John Taylor

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Proposal: Creation of 10 touring caravan pitches to existing park
Location: Walnut Lake Holiday Park, Main Road, Algarkirk, Boston, Lincolnshire, PE20 2LQ

Applicant: Mr Anthony Potts

Decision: GRANT **Decision Date:** 11-Jan-2017

Reason for refusal (if applicable):

Parish: Algarkirk Parish Council

Application Number: B/16/0416 **Case Officer:** Polly Harris Gorf

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Proposal: Demolition of single storey garage and construction of a single storey side extension
Location: Thorlton House, Donington Road, Bicker, Boston, Lincolnshire, PE20 3EF

Applicant: Mr & Mrs Clive Haffenden

Decision: GRANT **Decision Date:** 20-Dec-2016

Reason for refusal (if applicable):

Parish: Bicker Parish Council

Application Number: B/16/0437 **Case Officer:** Stuart Thomsett

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Proposal: Application under s.96a for a non material amendment to approval B/16/0437 (Demolition of single storey garage and construction of a single storey side extension) to make amendments to the width of the extension

Location: Thorlton House, Donington Road, Bicker, Boston, Lincolnshire, PE20 3EF

Applicant: Mr & Mrs Clive Haffenden

Decision: Approved Non-material Amendments **Decision Date:** 12-Jan-2017

Reason for refusal (if applicable):

Parish: Bicker Parish Council

Application Number: B/16/0437/NMA **Case Officer:** Stuart Thomsett

Proposal: Erection of outbuilding within the rear garden of the property
Location: 3, Gauntlet Villas, Gauntlet Road, Bicker, Boston, Lincolnshire, PE20 3AX

Applicant: Mr Wall

Decision: WITHDRAWN APPLICATION **Decision Date:**

Reason for refusal (if applicable):

Parish: Bicker Parish Council

Application Number: B/16/0441 **Case Officer:** Stuart Thomsett

Proposal: Outline application for the erection of three dwellings including access with matters relating to appearance, landscaping, layout and scale reserved for later approval

Location: Land to the east of Church Road, Freiston, Boston, PE22 0NT

Applicant: Mr R Fleet

Decision: REFUSE **Decision Date:** 09-Jan-2017

Reason for refusal (if applicable):

The application site is within an unsustainable countryside location, outside the defined settlement limits of Freiston and Haltoft End in an area where the NPPF (2012) indicates that, inter alia, new isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. No such evidence has been submitted with this application. The special circumstances set out at paragraph 55 of the National Planning Policy Framework (2012) to justify new dwellings in the countryside have therefore not been met.

The development would result in filling in of a gap between existing properties, giving the

appearance of consolidating a group of existing buildings along Church Road which would create a suburban appearance to the locality and will have a substantial adverse impact on the countryside and the surrounding environment.

The approval of this application would set a precedent for the submission of similar 'infill' countryside sites both along Church Road and elsewhere within the district which this Council would find difficult to resist; the resultant effect would undermine the character of the countryside and further erode countryside protection policies. The application is therefore contrary to the objectives of Local Plan policy G1 and the sustainability objectives of the National Planning Policy Framework (2012).

Parish: Freiston Parish Council

Application Number: B/16/0447 **Case Officer:** Trevor Thompson

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Proposal: Outline application for the erection of one single storey dwelling with attached double garage including access with appearance, landscaping, layout and scale reserved for later approval

Location: Land off Hessle Court, Boston, PE21 8AJ

Applicant: Mr & Mrs R Tebbs

Decision: WITHDRAWN APPLICATION **Decision Date:** 04-Jan-2017

Reason for refusal (if applicable):

Parish: Boston Town Area Committee

Application Number: B/16/0448 **Case Officer:** Trevor Thompson

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Proposal: Part demolition of existing store building and construction of a new single-storey building. Also construction of a new fenced exercise area and making good of existing hard landscape areas around new facility

Location: NORTH SEA CAMP, Croppers Lane, Freiston, Boston, Lincolnshire, PE22 0QX

Applicant: David Holman, Ministry of Justice

Decision: GRANT **Decision Date:** 09-Jan-2017

Reason for refusal (if applicable):

Parish: Fishtoft Parish Council
Freiston Parish Council

Application Number: B/16/0449 **Case Officer:** Stuart Thomsett

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Proposal: Application for a lawful development certificate (existing use) to seek confirmation that the continued occupation of 'Invicta' Blackjack Road, Swineshead not in accordance with conditions 3 attached to permission B19/0668/89 and condition 6 attached to permission B19/0983/89 is lawful

Location: Invicta, Blackjack Road, Swineshead, BOSTON, Lincolnshire, PE20 3HG

Applicant: Mr John Mason

Decision: GRANT **Decision Date:** 12-Jan-2017

Reason for refusal (if applicable):

Parish: Swineshead Parish Council

Application Number: B/16/0455 **Case Officer:** Trevor Thompson

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Proposal: Application for works to a tree covered by Tree Preservation Order Sutterton No.2:-

Location: T1 Sycamore - crown reduce by max 4m
13 Churchgate, Sutterton, Boston, Lincolnshire, PE20 2NS

Applicant: Mrs Sophie Mcevoy

Decision: GRANT **Decision Date:** 09-Jan-2017

Reason for refusal (if applicable):

Parish: Sutterton Parish Council

Application Number: B/16/0470 **Case Officer:** Stuart Thomsett

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Proposal: Amended plans To vary condition 2 of planning permission B/16/0203 (Approved Documents and plans) to reduce the stack height from 60m to 44m, relocate ash storage tanks within the site and amendments to the air cooled condenser building (minor material amendments)

Location: Land at Riverside Industrial Estate, Marsh Lane, Boston, Lincolnshire, PE21 7TN

Applicant: Lincolnshire County Council

Decision: NO OBJECTIONS **Decision Date:** 05-Jan-2017

Reason for refusal (if applicable):

Parish: Boston Town Area Committee

Application Number: B/16/0471 **Case Officer:** Polly Harris Gorf

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