

Present:

Chairman: Councillor David Brown
Vice-Chairman: Councillor Sue Ransome

Councillors: Tom Ashton, Alison Austin, Peter Bedford, Michael Cooper, James Edwards, Jonathan Noble, Brian Rush, Paul Skinner, Yvonne Stevens and Stephen Woodliffe

Officers: Growth Manager, Legal Officer Planning, Senior Planning Officer, Senior Planning Officer, Planning Officer and Democratic Services Officer

33 APOLOGIES

Apologies for absence were tabled by Councillor Claire Rylott with Councillor Tom Ashton substituting. Apologies were also tabled for Councillor Stephen Raven.

34 MINUTES

With the agreement of the committee the Chairman signed the minutes of the last meeting.

35 DECLARATION OF INTERESTS

Standing declaration of interest were tabled in respect of all planning applications on the agenda for all members of the committee who were also:
Members of Lincolnshire County Council
Members of the South East Lincolnshire Local Plan
Representatives of the various Internal Drainage Boards.

Individual declarations of interest are recorded below:

Councillor Michael Cooper declared that as a member of the Black Sluice Drainage Board, which was located next to the site of planning application B 18 0299, he felt compromised and therefore he would absent from the meeting for the item. Councillor Cooper also declared that as the applicant for planning application B 18 0397 was known to him personally he would absent from that item.

Councillor Stephen Woodliffe declared that he had a clear conflict of interest in respect of planning application B 18 0298, due to his significant history in a variety of roles associated with Boston Grammar School which was subject to a potential Section 106 contribution within that application. He advised he would absent from the meeting.

Councillor Alison Austin declared that whilst a number of objectors in respect of planning application B 180 0298 were known to her, she had not discussed the application with any one of them.

Councillor Brian Rush declared that the applicant for planning application B B 18 0397 was known to him he felt able to fairly determine the application.

Councillor Peter Bedford stated that although he was a member of the Black Sluice Internal Drainage Board, he did not feel conflicted in determining planning application B 18 0299 and would remain in situ for the deliberation.

Councillor Thomas Ashton declared that although he was a member of the Black Sluice Internal Drainage Board, and having considered advise by the monitoring officer he did not feel compromised in any way and he felt able to determine planning application B 18 0299 with an open mind.

Councillor Paul Skinner confirmed that whilst he was a member of the Black Sluice Drainage Board he felt comfortable in determining planning application B 18 0299.

Councillor Sue Ransome declared that whilst is attendance at the previous meeting of Kirton Parish Council, she declared her position of vice chairman of the planning committee at the outset of the meeting, ahead of any business and noted she would take no part in any discussions made following the address by Mr McCrory in respect of planning application B 18 0346.

Councillor David Brown stated that he always absented himself from Wyberton Parish Council meetings when any planning application was discussed and he had not taken part in any discussion on planning applications B 18 0298 and B 18 0397 tabled on the agenda.

36 PUBLIC QUESTIONS

No public questions were tabled.

37 PLANNING APPLICATION B/18/0346

Outline application for residential development (up to 8 dwellings) with all matters reserved for later approval

**Land west of Millview, Donington Road, Kirton End, Boston, PE20 1NX
Mr Carl Bates.**

The Senior Planning Officer presented the report to the committee and advised an update following issue of the agenda.

One further representation had been submitted in objection to the application from KEROTD and prepared on behalf of a number of residents at Kirton End. Copies of the submission had been issued to all committee members ahead of the meeting and it was for members to place the appropriate weight on the letter in the determination of the application.

Representation was received in objection to the application by Mr McCrory which included:

The residents represented by KEROTD had sought to represent what was best for their community. The residents had been mocked as being emotional standing in the way of progress and delusional. They had entered into the process with a genuine belief in what they were doing.

Helping people to own their own home was admirable and was enshrined in a 'right to buy' policy adopted by several governments and had become subjected to a singular abused adjunct affordability. With no method to enforce that adjunct it had been waved around with immunity as a weapon in planning applications to beat down those who object and to conceal the profitability that drove the application process. The countries brown belt communities had been pummelled with many permanently scarred by housing developments. Agricultural output had been eroded and the working countryside permanently eviscerated. How did it re-invigorate settlements that had not asked for alien intrusion offering benefits to the community which would not be delivered? The adverse impact of the application outweighed its benefits. Ambition was a mixture of desire and determination excellent qualities applied correctly. Applied within a thin guise of greed they were dangerous and divisive and should not be allowed to challenge others of their statutory entitlement. KEROTD's definitive position was in five ways. Number one was the right to reasonableness The Wednesbury Test and the Third Limb. Number two its right to a duty of care, foreseeability, interest for the good of the community and material risk and vicarious liability. Three its right to enjoy one's own possessions unclean hands depravation of rights and process subversion. Number four right to privacy and limitations of public authority to interfere. Number five statement of intent affirmation of rights to judicial review and equity. Conclusion to approve the development was not a controlling measure it was a deprivatory measure which would deprive residents of their rights and permanently increase traffic and add road hazardous at Donington Road and Kirton End. It would further erode the working countryside. The proposal had no interest in the good of the community and was a bare knuckle for profit enterprise with a conniving edifice of political platitudes about home ownership, affordability and sustainability it had surreptitious plausibility and lacked any binding commitment to the platitudes rendering the application baseless. If the information put forward by KEROTD was rejected then then narrative would be clear in that ordinary residents would be second class citizens in their own dwellings. Land owners and property developers seeking to cash in could not be challenged with a reasonable chance of success. Boston Borough had become the new 'Old Sarum constituency'

Representation was received by the applicant's agent Mr Dwan which included:

The application culmination of extensive work by the project team following initial pre application meeting back in July with officers. Crucially the collaboration and statutory consultees established a position whereby the proposed scheme of development had been demonstrated to be entirely appropriate from a technical delivery perspective. As such the decision related solely to the principle of development in context of the tilted planning balance under para.11 of the NPPF and presumption in favour of sustainable development triggered by the current lack of 5 year supply. The report produced by the planning officer had been very balanced and on reading it the recommendation for refusal had been a surprise. Planning Policy could sometimes restrict the opportunity for common sense to prevail in decision making which was prevalent within the recommendation for this application. The applicants could not argue that the site was immediately outside the village envelopment, however, further to the west of the site was an established collection of mixed dwellings and commercial properties which meant that in reality the 8 lots proposed would constitute infill. Impact on the open characteristic of the area would be limited by established development on three and a quarter sides of the site. Limiting the impact from a visual perspective.

The only open aspect view was from the north with that element of the site already framed by existing farm buildings set in the context of a built form backdrop. The submission included a master plan to demonstrate the scheme of 8 plots could be achieved, it was only indicative and although adequate separation distances has been demonstrated for the plots facing the site, the applicant would have the opportunity to ensure that visual amenity of plots facing the site could be appropriately protected at reserved matters stage should the application be successful. Addressing precedents in the area Mr Dwan referenced a recent approval in Kirton End at 322a Wellington Road for a residential plot whereby the recognised perceived encroachment into the countryside was not dissimilar to the application. The revised NPPF recently published stated in para.74 and 88 that greater emphasis should be placed on the need to promote sustainable development in rural areas. A policy shift that neither the saved nor emerging local plan policy for the area had the benefited of being progressed against. The lack of statutory objection from county highways from both a safety and sustainable perspective, along with no objection from the local flood authority would suggest the scheme offered a clear example of the scheme to be supported from a rural development perspective which would support services in the nearby village of Kirton. The application had received limited public opposition reflecting the appropriateness of the development. 12 responses was low for such a type of application and notably two residents had supported the application citing the need to re-invigorate Kirton End. Comments of KEROTD had been acknowledged. In response to KERTOD's late query in respect of the historic public right of way potentially being affected the site, ordinance survey showed no current such right of way and trespass by a member of their group onto the applicants land to take photographs under the cover of darkness appeared to suggest that they were indeed aware that there was no public right of access in place. Members were urged to look favourably on the application.

It was moved by Councillor Tom Ashton and seconded by Councillor Paul Skinner that committee be minded to refuse the application in line with officer recommendation, subject to the proviso and reason contained therein;

Vote: In Favour 9. Against. 3. Abstention: 1

RESOLVED: That the application be refused in line with officer recommendation subject to the following proviso and reason.

Proviso:

To no adverse representations being received that raises additional issues which would warrant the reconsideration of the application. The time period for making representations expires on the 19th November 2018.

Reason:

The application site is located outside of the settlement boundary of Kirton End as defined in the Boston Borough Local Plan and within an area defined as 'countryside'. This development will extend the built up area of the village creating an awkward and alien encroachment within this flat, rural landscape. The development would also consolidate the surrounding urban environment with the existing residential and commercial development to the west and the resultant effect would substantially erode the character and appearance of the countryside and open rural landscape.

This scheme will therefore promote an unsustainable pattern of development in this area and any benefits the development may provide relating to the supply of housing in the area and local economic benefits would be significantly and demonstrably outweighed by its adverse effects. The application is therefore contrary to the objectives of Boston Borough Local Plan 1999 policies C01, G1 and G2, Policy 1 of the emerging South East Lincolnshire Local Plan 2011-2036 and the environmental dimension of sustainable development as contained within the National Planning Policy Framework (2018).

38 PLANNING APPLICATION B/18/0274

Erection of 2 semi-detached and 4 detached bungalows and detached garages and associated site works

Land rear of 58, 60 and 62 Willington Road, Kirton, Boston, PE20 1EW

Mr Roger Leighton, Roger Leighton Homes Ltd.

The Senior Planning Officer presented the report to the committee and referred then to section 5 of the report on page 47 members, advising that one further submission had been received. The occupier of 60 Willington Road Kirton had objected to the removal of his rear boundary railings and also cited concerns regarding access for emergency vehicles. Members were advised that an amended plan had been submitted which showed that the 2.4m high fence had changed and been set behind the existing railings.

Representation was received from the applicants agent Mr Wicks which included:

Stating the development was a mixture of 2 and 3 bedroom bungalows set in a private, secure location via a private drive way off Willington Road, Mr Wicks advised that whilst the majority of site was beyond the Kirton curtilage, most of it was included within the draft local plan and ironically the bit not included was the space required for the site access, which was the one part that was brownfield land. The application had been worked to an accurate Topo survey which showed that the site had plenty of area to plant trees and appropriate shrubs. The access was supported by County Highways and members were advised that although from a flood risk situation it was being lifted 500mm, they needed to bear in mind it needed to be lifted up 150mm to get to DPC which left a minor increase. Mr Wickes referenced similar sites namely Birch Close and Loveday Lane in Wyberton Old Village, both of which were of a similar character to the application and both of which had fitted seamlessly into the area. Kirton was a main service area and since the site was contained within the SHLAA and the draft local plan, significant weight needed to be applied to policy 1. The design details were linked and would produce a strong sense of place and create an attractive, welcoming and distinctive place to live and visit. The proposal made sufficient use of the site providing all bungalows with south and west facing gardens; there would be little overlooking due to the properties being the same size and members were advised that the size of the development was entirely appropriate to the target audience. Mr Wicks confirmed that a former client had already approached him in respect of purchasing one of the bungalows having seen the application on the Council website. The individual nature of design of the private properties would create a secure, characterful, closely knit courtyard development, aimed at the retired part of the community. The site was also only a short walk to the central facilities of Kirton.

The bungalows would have minimum impact of adjacent gardens, bird boxes would be provided and the removal of the garage on the edge of one of the gardens, would have a positive impact to that garden. There was a specific need for this style of development within the borough and the application complied with local plan policies G1 and H3 and therefore local plan policy CO1, it also met the objectives of the NPPF and SELLP.

During committee deliberation referencing the importance or not of the SELLP, the Legal Advisor Mr Parsons intervened in the proceedings directing committee members to paragraph 9.3 on page 53 of the report. He noted that it was incorrect to state that the SELLP had no weight and he reminded committee that the same advice had been given to committee previously.

It was moved by Councillor Yvonne Stevens and seconded by Councillor Alison Austin that the application be granted in line with officer recommendation subject to the amended conditions in line with the amended plan.

Vote: In Favour 7. Against. 3. Abstention: 2

RESOLVED: That the application be granted in line with officer recommendation subject to the following conditions and reasons which include the amendment to the conditions in respect of the amended plan.

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 51 of the Planning and Compulsory Purchase Act 2004.

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

Location plan ref 16-2327-P-12 rev A
Proposed site layout plan ref 16-2327-P-10 rev K
Plans and elevations – plots 1 and 2 ref 16-2327-P-01
New garage at 62 Willington Road ref 16-2327-P-09
Garage details plot 1 ref 16-2327-P-02
Garage details plots 2 and 3 ref 16-2327-P-04
Plans and elevations – plot 3 ref 16-2327-P-03
Plans and elevations- plot 4 ref 16-2327-P-05
Plans and elevations –plot 5 ref 16-2327-P-06
Plans and elevations- plot 6 ref 16-2327-P-07
Garage details – plots 4, 5 and 6 ref 16-2327-P-08
Landscape specification ref 16-2327-P-13

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

- 3 The 2.4m high fence as shown on Proposed site layout plan ref 16-2327-P-10 rev K shall be erected before any dwellings hereby approved on plots 1, 2 and 3 are occupied. The fence shall be retained in that form thereafter.

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

- 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 No development shall take place 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: No details of materials have been submitted, in the interests of the amenity of the area and to ensure that the new buildings are in keeping with the character of the area to accord with the objectives of Adopted Local Plan Policy G1.

- 6 Before the access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land between the highway boundary and the visibility splays indicated on drawing number 16-2327-P-10 rev K and thereafter the visibility splay shall be kept free of obstacles exceeding 0.6 metres in height.

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.

- 7 The development hereby approved shall not be occupied before a scheme has been submitted to and approved in writing by the Local Planning Authority for the construction of a 1.8 metre wide footway and new vehicular access to AWA Pumping Station, together with arrangements for the disposal of surface water run-off from the highway at the frontage of the site. The agreed works shall be fully implemented as approved before any of the dwellings are occupied, unless an alternative a phasing arrangement is agreed in writing with the Local Planning Authority.

Reason: To ensure safe access to the site and each dwelling, in the interests of residential amenity, convenience and safety and to accord with the objectives of Local Plan policy G1.

- 8 The development shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated July 2018, Version 1, compiled by RM Associates, including the following mitigation measures detailed within the FRA:

- Finished floor levels set no lower than 3.75m above Ordnance Datum
- Flood resilience measures as described in the Flood Risk Assessment

The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place.

Reason: To reduce the risk and impact of flooding on the development and future occupants and to accord with the objectives of Local Plan Policies G1 and H3.

- 9 No development shall take place above slab level until details of the measures to enhance the biodiversity of the site as a consequence of the development, together with the timescales for implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of providing biodiversity enhancement of the site and to accord with the objectives of Local Plan Policy G2 and the NPPF (2018).

- 10 No development shall commence above slab level until a surface 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 surface water strategy.

Reason: In the interests of satisfactory drainage and to accord with the objectives of Local Plan Policy G3.

- 11 Prior to the commencement of the development above ground level, a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. 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, in the interests of residential amenity and to accord with the objectives of Local Plan Policies G1 and G6.

- 12 The bin collection area as shown on plan 16-2327-P-10 rev K shall be made available for use before any of the dwellings hereby approved are occupied and shall be retained in that form thereafter.

Reason: To ensure the provision of a suitable area for the siting of refuse bins, in the interests of highway safety and residential amenity and to accord with the objectives of Local Plan policy G1.

- 13 Before the development is brought into use, the private driveway shall be provided with lighting in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The submitted details shall include the locations of the lighting, type, degree of illumination and future management.

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.

It is recorded that Councillor Michael Cooper absented from the meeting at this point in the proceedings.

39 PLANNING APPLICATION B/18/0299

**Installation of 10 wall-mounted wind turbines
Reflex Lables, Station Road Industrial Estate, Station Road, Swineahead,
Boston, PE20 3PW
Mr David Liversuch, Reflex Labels**

The Senior Planning Officer presented the report advising that there was no update information to the report tabled.

No public representation was received in respect of this item.

During committee deliberation the Legal Advisor Mr Parsons intervened in the proceedings, addressing comments made in concern of potential vibration from turbines generating excessive noise inside the building and potentially affecting workers on the site. Mr Parsons reminded Councillors that the planning decision should be determined on planning considerations and if legislation provided for other elements then it was not something to be considered. The subject was not a material planning consideration and should there be issues raised in respect of noise, they would not come back through the planning regime to look to correct it. He clarified that in terms of the noise in relation to the amenity it was, but on the building itself it was not.

It was moved by Councillor Paul Skinner and seconded by Councillor Jonathan Noble that the application be granted in line with officer recommendation and subject to the conditions and reasons therein.

Vote: In Favour 11. Against. 0. Abstention: 0.

RESOLVED: That the application be granted in line with officer recommendation 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 51 of the Planning and Compulsory Purchase Act 2004.

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

- Site location plan ref SLP
- Elevation plan ref 05/3 Rev D

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

3 The wind turbine's noise level shall not exceed a level of 35 dB(A) expressed as LA90 10 min at any existing dwelling outside of the curtilage of the approved site up to on-site wind speeds of 10m/s measured at a height of 10m in accordance with the guidance contained within the Department of Trade and Industry Report 'The Assessment and Rating of Noise from Wind Farms' (ETSU-R-97).

Reason: In the interests of residential amenity and to accord with saved Policies G1 and ED11 of the Adopted Plan.

4. Within 28 days from receipt of a written request from the Local Planning Authority following a reasonable complaint to it alleging noise disturbance at a dwelling, the landowner shall, at his expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbines at the complainant's property. The consultant shall submit a report to the Local Planning Authority within 2 months of the date of the letter which shall include measures necessary to remedy any breach of noise emissions set out in Condition 3. Those measures shall be carried out within 1 month of their approval in writing by the Local Planning Authority and thereafter retained.

Reason: In the interests of residential amenity and to accord with saved Policies G1 and ED11 of the Adopted Plan

5 Prior to operation of the wind turbines, noise testing shall be undertaken by an independent noise consultant to determine compliance with condition 3 above and thereafter a programme of noise monitoring shall be submitted to and agreed with the Local Planning Authority

Reason: In the interests of residential amenity and to accord with saved Policies G1 and ED11 of the Adopted Plan.

It is recorded that Councillor Michael Cooper re-joined the meeting at this point in the proceedings.

40 PLANNING APPLICATION B/18/0328

**Outline application with all matters (access, landscaping, layout, appearance and scale) reserved for later approval for the erection of up to 26 dwellings
Land adjacent to Magnolia Lodge, Benington Road, Butterwick, PE22
0EX
Mrs Jennifer Heath**

The Senior Planning Officer presented the report to committee confirming there were no updates to the report tabled. He did however stress that following comments in earlier determinations on the agenda in respect of settlement boundaries, that the site was shown outside the settlement boundary within the 1999 adopted plan.

It was however an allocation within the settlement boundary, within the re drawn local plan, which was being given weight.

No public representation was received in respect of this item.

It was moved by Councillor Alison Austin and by Councillor James Edwards that committee be minded to grant the application in line with officer recommendation, subject to the conditions and reasons therein, subject to the proviso therein in respect of the section 106 planning obligation and that authority be delegated to the Growth Manager to approve the application upon satisfactory completion of the planning obligation.

Vote: In Favour 9. Against 3. Abstention: 0.

RESOLVED: That the application be granted in line with officer recommendation, subject to the following conditions and proviso in respect of the section 106 planning obligation and that authority be delegated to the Growth Manager to approve the application upon satisfactory completion of the planning obligation.

- Any permission is not released until the applicants have entered into a section 106 planning obligation with the Council requiring the provision of 4 affordable housing units and a contribution of £67,965 for education towards the provision of four classrooms at Haven High Tollfield Campus
 - Authority is delegated to the Growth Manager to approve this application upon satisfactory completion of the planning obligation.
1. No development shall commence until details of the layout, appearance, landscaping, scale and access 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 51 of the Planning and Compulsory Purchase Act 2004.
 2. Application for approval of 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 51 of the Planning and Compulsory Purchase Act 2004.
 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 51 of the Planning and Compulsory Purchase Act 2004.

4. The development shall proceed fully in accordance with the submitted location plan ref: 1301-1_OP_LP01.

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

5. No development shall commence above ground level 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: To prevent environmental and amenity problems arising from flooding and to accord with the objectives of Local Plan policy G3.

6. A landscape management plan including management responsibilities and maintenance schedules of the public open space and equipment shall be submitted to the Local Planning Authority before the occupation of any dwelling. The management plan shall be carried out as approved.

Reason: To ensure the long term maintenance of the public open space in the interests of the amenity of residents and to accord with the objectives of Local Plan policy H4.

7. All landscape works shall be carried out in accordance with the approved details in accordance with timescales that shall be submitted to and agreed in writing by the Local Planning Authority before any development above ground level. 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 and H3.

8. No more than 26 dwellings shall be constructed on site.

Reason: To define this permission, in the interests of residential amenity and highway safety and to accord with the objectives of Local Plan policies G1, H3 and G6.

9. The layout of the site shall incorporate an area of public amenity open space/children's play area comprising not less than 7.5% of the gross site area which shall be laid out in a manner to be submitted to and agreed in writing by the Local Planning Authority. The submitted details shall include the type, number and location of the play equipment. The open space and equipment shall be made available for use in accordance with timescales which shall be agreed in writing by the the Local Planning Authority.

The public open space shall be retained and shall not at any time be incorporated within the curtilage of any dwelling.

Reason: To provide a satisfactory level of publicly available amenity open space within the development and to accord with Adopted Local Plan Policy H4.

10. 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, measures to control noise, fumes, vibration and dust during the development period 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.

11. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall:

(a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;

(b) Provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second per hectare;

(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 which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme 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: In accordance with the details of the application and to ensure for the satisfactory, sustainable drainage of the site, to ensure that surface water run-off from the development will not adversely affect, by reason of flooding, the safety amenity and convenience of the residents of this site and vicinity and to accord with Adopted Local Plan Policies G1 and G6. This is a pre-commencement condition as the drainage strategy is a fundamental part of the layout and the details need to be agreed prior to any form of development taking place.

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

Reason: To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property and to accord with Adopted Plan Policies G1 and G6.

13. Before the access is brought into use all obstructions exceeding 0.6 metres high shall be cleared from the land within the visibility splays to be illustrated on drawing and thereafter, the visibility splays shall be kept free of obstructions exceeding 0.6 metres in height.

Reason: So that drivers intending entering the highway at the access may have sufficient visibility of approaching traffic to judge if it is safe to complete the manoeuvre and to accord with Adopted Plan Policies G1 and G6

14. Before any dwelling is occupied, 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 to, and approved in writing by, the Local Planning Authority

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period and to accord with Adopted Plan Policies G1 and G6.

15. The development hereby permitted shall not be commenced until details of a comprehensive contaminated land investigation has been submitted to and approved by the Local Planning Authority (LPA) and until the scope of works approved therein have been implemented. The assessment shall include all of the following measures unless the LPA dispenses with any such requirements in writing:

a) A Phase 1 desk study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk study shall establish a 'conceptual model' of the site and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for the intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk study and a non-technical summary shall be submitted to the Local Planning Authority.

b) A site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle and takes into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the Local Planning Authority.

Reason: To ensure potential risks arising from previous site uses have been fully assessed and to accord with Policy G1 of the Adopted Plan

16. Where the risk assessment (see preceding condition) 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 Local Planning Authority (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 Local Planning Authority.

Reason: To ensure the proposed remediation plan is appropriate and to accord with Policy G1 of the Adopted Plan.

17. 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 with the local planning authority

Reason: To ensure site remediation is carried out to the agreed protocol and to accord with Policy G1 of the Adopted Plan.

18. Within two months of completion of remediation, two copies of a closure report shall be submitted to the Local Planning Authority (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 had been carried out to the required standards and to accord with Policy G1 of the Adopted Plan.

19. If during development, contamination not previously considered is identified, then the Local Planning Authority (LPA) shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with suspect contamination has been submitted to and agreed in writing with the Local Planning Authority.

Reason: To ensure all contamination within the site is dealt with and to accord with Policy G1 of the Adopted Plan.

It is recorded that Councillor Stephen Woodliffe absented from the meeting at this point in the proceedings.

41 PLANNING APPLICATION B/18/0298

**Outline planning application for residential development (up to 30 dwellings) with all other matters reserved
Land to rear of 1-9 Ralphs Lane, Wyberton, Boston, PE21 7AX
Mr W.B. Lake**

The Growth Manager presented the report initially directing Councillors attention to page 9 of the report and paragraph 7.9 which said that the SELLP was currently out for consultation in relation to modifications. To clarify the position, the consultation had closed in August and as such officers were now giving significant weight to a number of the policies within the local plan.

Representation was received from Mr Clark in support of the application which included:

Stating he was a director of Clark Group Construction Mr Clark stated that aside from building for local clients, the company also undertook their own residential developments for the open market and had done several to date within the local area. The development on Aaron Way Kirton having been a finalist in the Boston Brough Council Bulding Control Awards. Confirming he was speaking as a supporter for the application Mr Clark noted that his local company were always willing to work with the local planning authority in identifying favourable sites for development to meet the housing needs set out by Government. The application site was one which had received positive pre application advice from Boston Borough Council's planning department earlier in the year and that he felt was ideal for development due to being a largley infill piece of land, with excellent access to the public and in easy reach of all utilities to service the site. From a purchasers perspective the site was within 150m of a public bus stop and within easy reach of a variety of services and facilities within Wyberton including primary school, parish hall, public house and post office and food store. Should the application be approved the section.106 contribution for the development would a total of £171k split between 3 local schools including £68k to Wyberton Primary School. Furthermore construction of such a development would provide jobs and employment for the local economy.

Representation was received from Mr Forman the agent for the applicant which included:

Stating his company Guy Forman Architects was an award winning practice working in the residential, heritage and town planning sectors, Mr Forman advised that the application was the subject of a pre planning application enquiry to Boston Borough Council earlier in the year. He stated he was pleased to confirm that positive pre application advice had been received by the planning officers to the proposal. Whilst the site sat outside, but abutted the development boundary, on the basis that Boston Borough was unable to show a 5 year housing supply along with the new local plan not yet adopedted, Boston Borough Council's planning department had confirmed the site in question was favourable for development for circa. 30 dwellings. However, they did advised it would not be favourable once the new local plan had been adopted. Concious of not proceeding with the scheme should time not be on the applicants side, Boston Borough Council's Planning department confirmed in spring 2018 that the new local plan would not be adopted until late autumn, early winter at the earliest. Accordingly this provided the knoweldge to the client that there was sufficient time to prepare, submit and decide the application prior to the new local plan being adopted.

On that basis the client proceeded with the application and to date had spent over £29k on the application including the £7.500 planning fee along with surveys which had formed the application. The application was submitted at the beginning of July and positive comments were received from the planning case officer at the beginning of September. However the Development Manager then advised via email, that Policy 1 Spatial Strategy of the new Local Plan would be implemented from the 28 August 2018 for current planning applications, even though the new Local Plan had not been adopted. The result of this was the planning case officer having no choice but to recommend the application be refused. The implementation of Policy 1 was contrary to what the applicants had been advised at pre application stage. Since that time the applicant and agent had met with the planning case officer and Development Manager to discuss how the situation had arisen. The applicant was very grateful for the planning officers for requesting the application be decided by committee. Following on from that situation, Members were asked not to overlook why the site was seen as most favourable for residential development by Boston Borough Council's Planning department, earlier in the year. The site had the feel of an infill site with 60% of the site perimeter already abutted to the build up areas of Wyberton. Of the 18 properties which abutted the application site only 4 had objected to the proposal. The Parish Council had not commented on the proposals and there had been no negative comment from any of the consultees with Lincolnshire Highways and the Environment Agency being satisfied. In conclusion Mr Forman noted the officers comments within the report which stated that the proposal showed a very good site layout and the proposed relationship with the existing dwellings was acceptable.

Representation was received from the Ward Member Councillor Richard Austin which included:

Stating he largely agreed with the officer report Councillor Austin highlighted one issue he felt committee needed to be aware of. London Road which ran past the site was a very busy fast road which caused great concern amongst the local community. The concern grew to such an extent that about 6 months before this application was known, a petition was raised by 400 people that there should be a pedestrian crossing put in place to allow safe crossing of the road. The proposed development would add to the footfall with the need to cross the road for buses and facilities. The petition had been submitted to Lincolnshire County Council who were carrying out a traffic assessment on the site prior to deciding if there would be a criteria for a level crossing. In the event that it was proved and the criteria met, then there would be a need for developers contributions before such a pedestrian crossing would be agreed, Should the application be agreed then members should request that a contribution be built into the conditions.

The Growth Manager intervened during initial deliberation of this item in response to member concerns in respect of the advice provided by officers during the pre-application stage and the change to that advice on the introduction of Policy 1 Spatial Strategy. Mrs Hughes confirmed that the situation had been unfortunate in that pre application advice had been given by officers in March 2018, at which time the adopted plan had the weight attached along with the position of the Council's five year land supply, in that a lot of developments were receiving favourable decision because of that situation.

Since then a change of National Policy in terms of the NPPF 2018 that had influenced some Council decisions, along with consultations for the modifications to the SELLP which concluded in August at which time we received Legal Advice that in accordance with the NPPF, where there had not been significant objections to a particular policy and in general conformity with the local plan, that the Council would then be attaching significant weight with those policies. Council advised all applicants and agents shortly afterwards to appraise them of the position. Regretably the application in question had fallen between the old policies and the new policies. As a Council officers can only consider the policies that are in place at the time of decision making.

Following further concerns questioning Mrs Hughes response, Mr Parsons the Legal Officer stated that unfortunately it was a situation whereby it was for the applicant to take their own advice. Pre application advice was given soundly on the position at the time it was given. It was updated as soon as the SELLP had that relevant position to put weight upon it. It was not for the Council to say that, having said something initially they therefore had to stay with that: it was nothing that carried weight through to determination stage. It was incredibly unfortunate but it was for the applicant to seek to see and judge the risk of when the SELLP was going to get final consultation and take their advice upon it. It was unfortunate but with any change in planning policy there has to be a line and often that line had to be strict. Mr Parsons concluded by stating that the application had to be brought to committee to allow members to judge it against the planning regime and the local plan in place now which had weight, for committee to determine it on that basis as against the application simply being refused. 10 months ago at that point in time the Council did not have its 5 year supply nor had the SELLP gone through final consultation: at that point it would have had a greater chance of success because of that criteria in place then. That criteria had now changed and the application had to be judged on its merits against the plan and policy in line with process.

Following strong concerns raised by a member about the strength of the local plan in its current process and what procedures were in place for it to deliver the 5 year supply of housing, Mrs Hughes responded stating that whilst she did not have figures she could advise that the Government had recently produced figures in terms of our need and the policy team were reviewing that in the context of the plan. Furthermore Mrs Hughes noted that the number that was in the report was less than what the Council had looked to be delivering.

It was moved by Councillor James Edwards and seconded by Councillor Paul Skinner that committee refuse the application in line with officer recommendation for the reasons given therein with the additional reason requesting provision of a complete section 106,

Vote: In Favour. 9 Against 1. Abstention: 1.

RESOLVED: That the application be refused in line with officer recommendation for the following reasons:

1. The proposed development, by virtue of the location outside of the defined village boundary together with the addition of 30 dwellings when compared to the existing character of the area would result in an urbanising effect which would have significant and demonstrable harm to its rural setting.

The proposal is therefore contrary to Boston Borough Local Plan Policies C01 and G1, South East Lincolnshire Local Plan 2011-2036 Policy 1 and the National Planning Policy Framework 2018, paragraphs 78 and 79 which seek to resist new dwellings unless the harm is outweighed by the benefits. The proposal, due to its location is also considered to fail to meet the aims of sustainable development as defined in paragraph 8 and 9 of the National Planning Policy Framework 2018 by introducing built form outside of development limits.

Refused Drawing Numbers: 261-PLN-E-00 Site Location Plan (1/2)
261-PLN-P-01 Master Plan (2/2)

2. Whilst the applicant has indicated willingness to enter into a Section 106 Planning obligation, a completed obligation what has not been received to deliver affordable housing, based on 16.6% provision of overall housing provision and educational contribution of £171.042. The proposal therefore fails to provide the necessary infrastructure required as a result of the development and fails to meet the aims of the sustainable development, contrary to the National Planning Policy Framework 2018

It is recorded that Councillor Stephen Woodliffe re-joined the meeting at this part in the proceeding and further recorded that Councillor Michael Cooper absented from the meeting.

42 PLANNING APPLICATION B/18/0397

Change of use of an existing detached dwelling house (Class C3) to form a hotel (Class C1). Incease the height of the previously approved side extension (B/17/0140) by 1m.

**The Firs West End Road Wyberton Boston PE21 7LL
Mr A Arundell**

The Growth Manager presented the report to the committee providing updates following issue of the report she confirmed that an objection had been received as follows: from Laburnum House West End Road “we wish to object to the proposed application we have already been impacted by light pollution from the car park which has been made in the adjacent field ready for the proposed hotel. We had to install a black-out blind in our daughters’ room due to the lights being on all night. The adjacent field which the car park is being built in had always been water logged in the winter and this last winter was standing in water for quite a few months. We have also had to rely on a septic tank to deal with sewage and waste water as this part of west end road does not have mains sewage. This can be an issue in winter when the land is water logged”.

The Growth Manager then referred members to the heading flood risk and drainage para.7.30 in the report she noted that it stated the property was connected to Anglian Water main sewage pipe in West End Road.

Representation was received from the applicant Mr Arundell which included:

Stating he wished to recognise the concerns of the local residents Mr Arundell confirmed he had read the letters received and summarised the objections as no demand for a hotel, unsuitable location and visual impact, increased traffic and noise, drainage and flooding and privacy and loss of property value. Addressing the points Mr Arundell noted that there was significant need for another hotel in Boston as searches for accommodation on the website substantiated. Hotels encouraged tourism and boosted the local economy allowing guests to stay in Boston: the local businesses also benefitted as guests visited the town. Referencing concerns about visual impact members were advised that the windows on the side of the extension which faced the neighbours were lower and the fence from the new plan was 1.8 metres. Guests would be unable to look out onto neighbours gardens. Noting the impact of traffic and noise Mr Arundell stated his guests would complain if there was noise and you could also be subject to bad reviews on social media bookings sites. The car park was built away from the hotel in the middle of the field and there would be trees for screening around the cars. With a potential additional 20 cars it would not generate excessive traffic on what it a busy road. Addressing issue of flooding members were advised that the field did have old land drains in it but new drains were being fitted. There was a dyke down the side of the field which piped through to a large culvert at the top allowing easy drainage of the water. Mr Arundell confirmed he was connected to main drains and Anglian Water had objected to the application. The loss of property value was not a planning consideration however the Quay Side Hotel was next to residential property off London Road and Mr Arundell having spoken to a local valuer stated he considered housing priced had not been impacted by the hotel.

It was moved by Councillor Brian Rush and seconded by Councillor Jonathan Noble that committee grant the application in line with officer recommendation, subject to the conditions and reasons therein plus an additional condition in respect of light pollution and an additional condition to restrict the use of the property to a hotel only.

Vote: In Favour. 12 Against 0. Abstention: 0.

RESOLVED: That committee grant the application in line with officer recommendation subject to the following reasons and 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 51 of the Planning and Compulsory Purchase Act 2004.

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

- Ref: 17-2384-P-03 - Location plan scale 1/1250 (1/4)
- Ref: 17-2384-P-01 Rev. E - Block Plan, floor plans, elevations and sections ref B/3130-02 Rev A (2b/4)
- Ref: 17-2384-P-04 - Landscaping Specification (3/4)

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 permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment by RM Associates dated (September 2018) and the following mitigation measures detailed within the Flood Risk Assessment:

- The finished floor level of the building raised to no less than 500mm above existing ground level.
- Demountable defences to a height of 600mm to cover all ground floor doors.

The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to accord with the objectives of Local Plan Policy H3 and the objectives of the National Planning Policy Framework 2018.

4 Before the development is bought into us, any external lighting to be provided to facilitate the development shall be submitted to and agreed in writing by the Local Planning Authority. Any lighting subsequently installed shall be in accordance with the approved details and shall be retained as such.

Reason: To ensure the amenity of adjoining residents and the locality of the area is protected in accordance with Policy G1 of the Boston Borough Local Plan 1999

5 Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking or re-enacting these orders) this permission shall only permit the use of the development as a C1 Hotel and for no other uses within that use class or as permitted within the above legislation.

Reason: To enable the Local Planning Authority to fully consider the effects to development normally permitted by these Orders in the interest of protecting the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

It is recorded that Councillor Michael Cooper returned to the meeting at this point in the proceedings.

43 DELEGATED DECISION LIST

Committee noted the delegated decision list.

The Meeting ended at 2.00 pm