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Boston Borough Council
Joint Chief Executive
Rob Barlow

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My ref: PE/KR/Planning

Please ask for: Karen Rist, Democratic Services Officer (Direct number Tel 01205 314226)

Monday, 21 June 2021

NOTICE OF MEETING OF THE PLANNING COMMITTEE

Dear Councillor

You are invited to attend a meeting of the Planning Committee

on Tuesday, 29 June 2021 at 10.00 am

in the Boston Guildhall

A handwritten signature in black ink, appearing to read 'Rob Barlow'.

ROB BARLOW
Joint Chief Executive

Chairman: Councillor Tom Ashton

Vice Chair: Councillor Alison Austin

Councillors: Peter Bedford, David Brown, Katie Chalmers, Deborah Evans, Paul Goodale, Jonathan Noble, Paul Skinner, Yvonne Stevens, Chelcei Trafford, Peter Watson and Judy Welbourn

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 may be subject to being recorded.

A G E N D A

PART I - PRELIMINARIES

A APOLOGIES

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

B MINUTES

1 - 18

To sign and confirm the minutes of the last meeting.

C DECLARATION OF INTERESTS

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

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 – for this meeting the deadline is 5 p.m. on Thursday 24th July 2021.

PART II - AGENDA ITEMS

1 PLANNING APPLICATION B 21 0158

19 - 28

Proposed horse walker for up to four horses.

Holly Cottage, Drainside North Kirton Boston PE20 1PE

Mr Thomas Strickland

2 APPEALS REPORT

29 - 38

A report by the Assistant Director – Planning.

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 314226, 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.

This meeting will be broadcast live on YouTube

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PLANNING COMMITTEE

27 APRIL 2021

Present:

Chairman: Councillor Tom Ashton

Vice-Chairman: Councillor Alison Austin

Councillors: Peter Bedford, David Brown, Paul Goodale, Jonathan Noble, Frank Pickett, Brian Rush, Paul Skinner, Yvonne Stevens, Peter Watson and Judy Welbourn

Officers: Assistant Director - Planning, Planner, Legal Advisor, Legal Services Lincolnshire and Democratic Services Officer

95 APOLOGIES

Apologies were tabled for Councillor Chelcei Trafford. No substitute member.

96 MINUTES

The committee agreed the minutes of the previous planning committee meeting held on the 9 March 2021

97 DECLARATION OF INTERESTS

Standing declarations of interest were tabled within the minutes for all members of the committee who were also:

Members of Lincolnshire County Council

Members of the South East Lincolnshire Joint Strategic Planning Committee

Representatives of the Internal Drainage Boards.

Referencing planning application B 21 0091 the following three committee members re-affirmed their position as a representative of the Black Sluice Internal Drainage Board, each stating individually that their position did not prejudice their determination of the application which they would do with an open mind: Councillors Tom Ashton, Peter Bedford and Frank Pickett.

98 PUBLIC QUESTIONS

No public questions

99 PLANNING APPLICATION B 21 0091

Proposed change of use of existing agricultural building to residential dwelling

Red House Farm, Langrick Road, Brothertoft, Boston, PE20 3SW

H Robinson & Son, C/O Origin Design Studio

The Planning Officer presented the report to the committee with an overview of the application and a number of supporting slides providing additional information in respect of the location, together with floor plans identifying increased sizing and elevations of the proposed dwelling along with indicative plans of the build materials.

Addressing the key issues for the recommendation to refuse the application, the Planning Officer referred members to Policy 23 of the South East Lincolnshire Local Plan and demonstrated how the proposals had failed to meet the requirements of said policy. The application had failed to establish whether the building was structurally sound and capable of conversion without needing significant extension, alteration and rebuilding. There was no justification for the building's retention, as it did not contribute to the character of the landscape nor was there any architectural merit in relation to the history of the area. The building was not listed and a significant part of the roof was missing.

The siting, scale and materials proposed would detract from the character and appearance of the existing area. The building would double in size with the internal floor space increasing by 4 times.

Therefore the result would be an over-intensive, prominent, and unsympathetic form of development that was contrary to the established spatial and visual characteristics of the area and failed to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan.

Furthermore insufficient information had been provided to demonstrate how the sequential and exceptions tests relating to Flood Risk had been passed, as whilst the proposal was for the conversion of a building, the principle of the conversion had been proven to be unacceptable, with only part of the exception test having been satisfied. The proposal, therefore, failed to accord with Policy 2 (part 7), Policy 4 (part 1), and Policy 31 (part 2) of the South East Lincolnshire Local Plan (2011-2036) and Section 14 'Meeting the challenge of climate change, flooding and coastal change' of the National Planning Policy Framework (2019).

Representation was received by the applicant Mr Robinson which included:

Mr Robinson confirmed he had been resident at the application site for many years, his family had farmed at Brothertoft for 100 years and he and his wife wished to continue to live on the site.

He had been a Parish Councillor and a member of the Black Sluice Drainage Board for a long time demonstrating that he had actively served the local community.

The main reason for submitting the application was to provide suitable accommodation for carers for his wife who, following serious illness, required 24-hour live-in carers. The application, which Mr Robinson stressed was for three bedrooms and not four, included a bedroom for such support carers. The existing footprint was clearly defined and whilst some barns had been subject to damage, on a previous visit to the planning department Mr Robinson had been led to believe that planning on the site would not be a problem. The cladding on the north side had been suggested to reflect the original construction; however, if members felt an alternative was required then a compromise was agreeable. The family were environmentally-conscious providing a green oasis with grassland and numerous trees and hedgerows having been planted over the years. Parking was not

issue and electric charging points could be installed if required, together with ground aired heating if committee preferred. Furthermore, Mr Robinson confirmed that if required a separate access road could be installed, although there had been no objections from LCC Highways to the application. The neighbouring property was owned by the family but was tenanted and the tenants had no issues with the application. The Parish Council also had voiced no opposition to the application.

At this point in the proceedings the Chairman invited questions to Mr Robinson from committee members. One member asked if ground source heating was something that would be agreeable and Mr Robinson confirmed it could be easily incorporated on site and was something they would be willing to incorporate into the building.

Committee deliberation followed which included:

A member stated that they had to consider the application on planning reasons only and not on personal issues as sympathetic as he was to Mr Robinson. Stating he was in agreement with older buildings being bought back into use he felt that application was too large a building and out of keeping with the area. At this point Councillor Brian Rush moved the officer recommendation to refuse the application.

A member referenced the land registry map and the original layout of the site which identified it as larger than the application proposed. Referencing the NPPF he said he felt the development would improve the area and referencing back land development stated that most of that was new build and not on historic built sites. The cladding proposed was however not acceptable and brick would be more appropriate. At this point Councillor Jonathon Noble moved that the application be granted, contrary to officer recommendation. The Chairman officially seconded the recommendation.

Further comments in favour of the application were tabled including support of the design, the ground source heating and that the design was sympathetic to the area and would compliment it. The soundness of the structure was questionable but was outweighed by the positive contribution it would make to the area. Should the building be demolished it would leave a very stark lone dwelling. Referencing previous planning decisions on similar applications, a member noted precedents had already been set, identifying such applications which had been granted over the previous years. The member stated many had been in a far worse structural condition to begin with, than the one on the application. There was general agreement by members that historical farms and their buildings needed to be protected and the countryside preserved. Members questioned the comments within the report of agricultural need, stating that had not been a consideration on the historic applications referenced previously.

Points of information were made:

The Assistance Director – Planning noted that he understood that there were examples elsewhere which had been consented at differing times through the old plan and prior approval route and members needed to consider each application on its own merits. Should members be satisfied that Policy 23 had been met then the application could be considered as an open market residential property.

The Planning Officer further advised that the only reason the agricultural need was raised was because part of the covering application from the agent had said that it was

- J1751-PL-03 Rev P02 – Proposed Floor Plan;
- J1751-PL-04 Rev P02 – Proposed Elevations 1 of 3;
- J1751-PL-05 Rev P03 – Proposed Elevations 2 of 3;
- J1751-PL-06 Rev P03 – Proposed Elevations 3 of 3;
- J1751-PL-07 Rev P01 – Proposed Site Plan.

Reason: To ensure the development is undertaken in accordance with the approved details, in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2011-2036) and with the intentions of the National Planning Policy Framework (2019).

3. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated A02- February 2021, reference number J1751 Red House Barn by Origin Design Studio Ltd and the following mitigation measures detailed within the FRA:

- Finished floor levels to be set no lower than 3.05m above Ordnance Datum (AOD);
- Flood resilience measures to be incorporated into the proposed development as stated to a minimum of 300mm above finished floor level.

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

Reason: To reduce the risk of flooding to the proposed development and future occupants, in addition to providing the appropriate level of protection in accordance with the National Planning Policy Framework and Policies 2 and 4 of the South East Lincolnshire Plan (2011-2036).

4. The water consumption of the dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and Policy 31 of the South East Lincolnshire Local Plan (2011-2036).

The person carrying out the work must inform the Building Control Body that this duty applies.

A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling

Reason: To protect the quality and quantity of water resources available to the district. This condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan (2011-2036).

5. No development shall take place above ground level until details regarding the inclusion of the enhancement measures as outlined in the approved Ecology and

Protected Species Survey (Inspired Ecology Ltd, October 2020) have been submitted to and approved by the Local Planning Authority. The measures shall include:

- New hedgerows to be planted are to comprise native species;
- New trees and shrubs planted on the site are to comprise native locally appropriate species. Species that provide pollen, nectar and fruit should form part of the landscaping where possible in order to provide a food source for common birds;
- The grassed areas on the site are to be seeded with appropriate wildflower mixes;
- Specification, location and number of a bat roosting unit;
- Specification, location and number of bird boxes;
- Timetable for implementation of the above measures.

The approved works shall be carried out in accordance with the approved details.

Reason: In the interests of the natural environment in accordance with Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

6. The precautionary measures outlined in the approved Ecology and Protected Species Survey Inspired Ecology Ltd, October 2020) in regards to bats, birds, badgers and other ground mammals shall be followed at all times during the construction of the approved development.

Reason: In the interests of the natural environment in accordance with Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

7. If development has not commenced within 12 months of the date of this permission, prior to the commencement of development the building(s) shall be re-surveyed for the presence of protected species and if present, a scheme of mitigation shall be submitted to the Local Planning Authority for approval in writing. 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 1981 (as amended), the National Planning Policy Framework 2019 and Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

8. No development shall take place above ground level until a landscape management plan including management responsibilities and maintenance schedules has been submitted to and approved by the Local Planning Authority. The landscape management plan shall then be implemented within 1 month of its approval and followed as approved thereafter.

Reason: In the interests of visual amenity and in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan 2011-2036.

9. No development shall take place above ground level until details regarding the provision of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- The number of charging points;
- Location of charging points;
- Specification of charging points;
- Timetable for the implementation of the above measures.

The development shall then be carried out in strict accordance with the approved details.

Reason: In the interests of promoting sustainable transport in accordance with Section 9 of the National Planning Policy Framework 2019 and Policy 31 of the South East Lincolnshire Local Plan (2011-2036).

10. Notwithstanding the details shown on the approved plans, no development shall take place until details of the materials proposed to be used for the external walls and roof 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 building is in keeping with the character of the area in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

11. Prior to the commencement of development, final details of measures that aim to reduce pollution and promote renewable and low carbon energy and details relating to the timing of their implementation, shall be submitted to and approved in writing with the Local Planning Authority.

The development shall be constructed in accordance with the approved measures.

Reason: To help reduce pollution and promote renewable and low carbon energy in new development schemes and to accord with Policies 2, 3, 30 and 31 of the South East Lincolnshire Local Plan 2011-2036 and to accord with the intentions of the National Planning Policy Framework (2019).

12. The development hereby permitted shall not be commenced until details of a comprehensive contaminated land investigation has been submitted to and approved in writing by the Local Planning Authority 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 I 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 intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). A full desk top study and a non-technical summary shall be submitted in writing 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 take into account the site's existing status and proposed new use. A copy of the site investigation and findings shall be submitted in writing to the Local Planning Authority.

Reason: To ensure potential risks arising from previous site uses have been fully assessed and in accordance with Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

13. 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 to and approved in writing by the Local Planning Authority. 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 in accordance with Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

14. 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.

Reason: To ensure site remediation is carried out to the agreed protocol in accordance with Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

15. On completion of remediation, a copy of a closure report shall be submitted to the Local Planning Authority for approval in writing. 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 in accordance with Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

16. If, during development, contamination not previously considered is identified, then the Local Planning Authority 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 Local Planning Authority.

Reason: To ensure all contamination within the site is dealt with in accordance with Policy 30 of the South East Lincolnshire Local Plan (2011-2036).

Committee adjourned for a comfort break at this point in the proceedings with reconvention of the meeting at 1140. All persons in attendance prior to the adjournment, in attendance on reconvention of the meeting.

100 PLANNING APPLICATION B 16 0380 CD1

Condition Discharge

Application for approval of conditions 11 (foul water), 12 (surface water), 14 (finished floor level), 16 (acoustic bund details), 17 (construction management plan) and 18 (geographical survey) attached to planning permission B/16/0380 (Outline application for the erection of up to 215 dwellings with all matters (scale, layout, landscaping, appearance) except access reserved with public open space and drainage infrastructure)

Land at Middlegate Road, Frampton, Boston, PE20 1BX

Larkfleet Homes

Presenting the report the Assistant Director – Planning confirmed that it was tabled as when resolving to grant reserved matters in November 2018, committee members had requested that the drainage conditions be tabled back through committee once the final solutions had been defined.

For clarity of their determination, members were advised that the overall compliance for the site was in two parts with the first relating to conditions attached to the outline application whilst the second related to matters attached to the reserve matters which were subject to a separate discharge request detailed in the report.

Each request sought to cover a number of conditions but it was only the conditions relating to drainage, which were subject to the planning committee's determination. Condition 11 foul water and condition 12 surface water were the only two for consideration and both had been attached to the outline consent that had been agreed by the Inspector on appeal.

Members were reminded that in respect of drainage, the planning committee was not a statutory undertaker and the level of detail required was different to that considered by the statutory authority.

The applicant needed to achieve compliance with overlapping technical and legislative requirements with the statutory bodies who took a far more granular view of the proposal. Should committee agree the application today, but the statutory bodies find it non-compliant thereafter, then the applicant would be required to return to committee with any changes required.

A visual presentation followed identifying the key points on the site for collection and distribution of both types of drainage. The swales would run alongside a number of the main internal routes on the eastern and southern boundaries. The attenuation ponds would be located at the centre of the site, to the east of the main access and would bind the existing watercourse and hold c4300m³. They would be connected to a wider surface water system which would act as a holding point for the water, with the outfall from them being restricted by hydro-brakes. Perimeter land drains with a 300mm diameter to ensure a robust spare flow capacity, were also proposed along the southern and western boundaries and would be shared with properties on Middlegate Road and seek to capture excess run-off from those proposed properties.

No public representation was received in respect of this item.

Committee deliberation followed which included:

Concerns were raised in respect of ongoing drainage issues and members voiced their agreement that whilst they appreciated the proposals would not resolve existing issues, they were in agreement that they must not exacerbate them.

A member sought clarification in respect of the design of the headwalls for the outfalls asking if they related to foul or surface water and, which if not produced to an acceptable standard, they would not be progressed. The Assistant Director-Planning confirmed it referred to surface water and that unless they were to an agreed standard, they would not progress.

Further concern noted that the site was on running silt and although granted by the Secretary of State on appeal, moving forward applicants did need to be aware that schemes were adequate and stable.

In conclusion, the Chairman commended the detailed and technical report. He stated that the committee was very mindful of local concerns and ongoing issues and he noted that he was reassured with the drainage proposed for outside issues and satisfied that the conditions set out would not exacerbate existing issues. He further stated that in the absence of any technical report to counter the report, it would be difficult to refuse and he felt supported by the additional reassurance that the statutory bodies would finalise their decisions with due diligence.

It was moved by Councillor Paul Skinner and seconded by Councillor Tom Aston that committee agree that Condition 11 and Condition 12 were acceptable in line with officer recommendation and delegate authorisation to the Assistant Director – Planning to issue the final sign-off of the conditions.

Vote: For 8. Against 4. Abstention 0.

RESOLVED: That committee agree condition 11 and condition 12 to be acceptable in line with officer recommendation, in line with the reasons noted below and agree a delegation of authorisation to the Assistant Director – Planning, to issue the final sign-off of the conditions, subject to any minor amendments that may be required:

In light of the aforementioned report, Officers recommended to Members that the details provided in respect of conditions 11 & 12 relating to foul and surface water drainage were acceptable.

Members were therefore requested to endorse the view and conclusion of the Officers so that they might respond to the matters accordingly within the formal response to the discharge of condition request that had been made. The recommendation being that the details for conditions 11 and 12 be agreed.

Members were also asked to delegate authorisation to the AD – Planning, to issue the final sign-off, of the conditions, subject to any minor amendments required.

101 PLANNING APPLICATION B 19 0040

Residential development consisting of 139 dwellings, including associated roads, public open space and drainage infrastructure

Land off London Road, Kirton, Boston, PE20 1JE

Ashwood Homes

Agent: Mrs Natalie Wallinger, NKW Design Ltd

Prior to presentation of the report members were advised of an error on page 58 of the report under 5.7. Scenario 4 should read an education contribution of £88,000 and not the £430,531 as within the paper.

The Assistant Director – Planning presented the report and confirmed it was tabled to committee due to the scale of the development and the specific issues raised in respect of the changes presented regarding the affordable housing allocation and section 106 education contribution, against those granted within the initial application which committee had granted in September 2019.

The applicant had identified the need for a viability assessment to address an issue and it was their right to come back to committee to look to address the viability they had identified.

A visual overview of the previous scheme which committee had deemed acceptable identified phase 1 of the scheme already developed and phase 3 and phase 4. The timeline approved in 2019 had been subject to a legal agreement. The impact of Covid had resulted in a variety of raised costs, including abnormal costs for pumping on the site and increased slab levels. All costs had been based on accurate findings of the original scheme. The developers came forward in 2020 with a full viability report on an open book basis, looking at cost and profit, and the section 106 contributions. The independently assessed viability assessment had found the original scheme not viable. Thereafter ongoing negotiations had taken place and whilst not all matters had been agreed, the final offer was tabled before committee to see if it was agreeable.

The Council's own viability consultant had identified four scenarios and scenario 2 was the one the applicants had put forward. It provided 9 affordable houses with the split agreed with the housing manager to meet the Council's needs. The education contribution would remain the same as first agreed. The applicants had a proven track record across the wider borough and phase 1 of this development had been completed. Should permission be granted amendments would be made to condition 1 of the original conditions to commence within 2 years with condition 2 also requiring an amendment to include the new layout and amended affordable allocation.

No public representation was received in respect of this application.

Committee deliberation followed which included:

It is recorded that Councillor Brian Rush sought a point of legal advice at this time in the meeting. Councillor Rush advised that he was a co-owner with his wife of a hair salon in Kirton and asked if he needed to declare a pecuniary interest in the item.

The Legal Officer advised that he did not need to do so but ultimately it was Councillor Rush's decision.

Councillor Rush stated he would not declare an interest but that would remain and listen to the debate but take no part and would not vote

There was a preference by a number of members to see the actual development completed with recognition that a half-built derelict site would not be acceptable. There was agreement that affordable housing was required within the borough and a comment noted that over the 3 phases a 14% allocation would be provided which was contrary to the 20% identified within the Local Plan. Concerns further noted the reduction in the affordable allocation with reference to previous developers reducing their original allocations.

The Borough was in dire need of affordable housing for the rental market and it did not need £250k houses which local people could not afford.

Concern was also noted that the site had never been subjected to flooding although a member stated they felt the additional costs identified were for the increased height on the site from the road as required by the Environment Agency.

Stating that the original application had been granted in 2019 a member voiced concern that he felt it very strange that the developer would not have undertaken thorough ground testing in respect of the foundation and flood risk at that point, to see what was involved.

Concern noted that the education contribution would come from taxes via Lincolnshire County Council and a preference for increased affordable housing was more beneficial than the education contribution.

During the above deliberation, Councillor Alison Austin moved to grant the application in line with officer recommendation: Councillor Paul Skinner seconded the motion.

Councillor Jonathon Noble moved that scenario 4 be the preferred option. He stated that with the developer having agreed the 4 scenarios within the assessment, scenario 4 provided an alternative with increased affordable provision. Councillor Paul Goodale seconded the motion.

A point of information was tabled:

The Assistant Director – Planning reaffirmed to members the Council's own viability assessor identified the 4 scenarios, not the applicant. As such, if committee agreed scenario 4 then a delegation would be required for himself and the Chairman to allow further negotiations to take place with the developer, who still had the right to refuse to take forward scenario 4.

A further point of information advised that grants were available to developers for properties that were not subject to a section 106 agreement to enable them to provide increased affordable housing within a development, as had happened in the recent Heron Park development.

Summarising, the Chairman noted his sympathy with members and their comments in respect of the reduction in the affordable units. He stated however, he had to be guided by the independent assessment done for the planning authority. The committee could

not compel a developer to bring a site forward. If a developer found it not to be commercially viable, they could take their business elsewhere.

It was moved by Councillor Alison Austin and seconded by Councillor Paul Skinner that the committee grant the application in line with officer recommendation, subject to the completion of a section 106 agreement in relation to educational contributions and affordable housing allocation, subject to the amendments to conditions 1 and 2 of the original report and subject to further conditions and reasons:

Vote: For 6. Against: 3. Abstention: 2.

RESOLVED: That committee grant the application in line with officer recommendation, subject to the completion of the section 106 agreement in respect of education contributions and affordable housing allocation, subject to amendments to condition 1 and condition 2 below and subject to the remaining conditions and reasons:

1 The development hereby permitted shall be begun before the expiration of two 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:

- Ref: 1197/LP/SP – ‘Location Plan - Southern Phase’
- Ref: 90A-PL-01 Rev E – ‘Planning Layout - Southern Phase’
- Ref: 90A-HOL-001 – ‘Design Sheet - Holland’
- Ref: 90A-DEE-01 – ‘Design Sheet - Dee’
- Ref: 90A-EDN-001 – ‘Design Sheet - Eden’
- Ref: 90A AV-001 – ‘Design Sheet - Avon’
- Ref: 90A-CLY-001 – ‘Design Sheet - Clyde’
- Ref: 90A-SPAR-01 – ‘Design Sheet - Sparta’
- Ref: 90A-CORO-001 – ‘Design Sheet - Coronation’
- Ref: 90A-CORO-002 – ‘Design Sheet - Coronation’
- Ref: 90A-LCK-001 – ‘Design Sheet - Lock’
- Ref: 90A-MER-001 – ‘Design Sheet - Mere’
- Ref: 90A-MER-002 – ‘Design Sheet - Mere’
- Ref: 90A-NENE-001 – ‘Design Sheet - Nene’
- Ref: 90A-BAL-001 – ‘Design Sheet - Balmoral’
- Ref: 90A-BAL-002 – ‘Design Sheet - Balmoral’
- Ref: 90A-RIBB-001 – ‘Design Sheet - Ribble’
- Ref: 90A-HUM-001 – ‘Design Sheet - Humber’
- Ref: 90A-HUM-002 – ‘Design Sheet - Humber’
- Ref: 90A-A516-001 – ‘Design Sheet - A516’
- Ref: 90A-A516-002 – ‘Design Sheet - A516’
- Ref: 90A-A732-001 – ‘Design Sheet - A732’
- Ref: 90A-A902-001 – ‘Design Sheet - A902’
- Ref: 90A-A1336-001 – ‘Design Sheet - A1336’
- Ref: 1197/LA1 Rev A – ‘Landscape Proposals - Sheet 1 of 11’

- Ref: 1197/LA1 Rev A – ‘Landscape Proposals - Sheet 2 of 11’
- Ref: 1197/LA1 Rev A – ‘Landscape Proposals - Sheet 3 of 11’
- Ref: 1197/LA1 Rev A – ‘Landscape Proposals - Sheet 4 of 11’
- Ref: 1197/LA1 Rev B – ‘Landscape Proposals - Sheet 5 of 11’
- Ref: 1197/LA1 Rev B – ‘Landscape Proposals - Sheet 7 of 11’
- Ref: 90A-SG-01 – ‘Design Sheet - Single Garage’
- Ref: 90A-DG-01 – ‘Design Sheet - Double Garage’
- Ref: 90A-DSG-01 – ‘Design Sheet - Double Shared Garage’
- Ref: 90A-TSG-01 – ‘design Sheet - Triple Shared Garage’

And read in conjunction with the various recommendations of the supporting documents which accompany the application unless varied by other conditions attached to and forming part of this decision.

Reason: To ensure that the development is carried out in accordance with approved plans in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

3. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated August 2018, referenced MA11011-FRA-R01 by Millward, including the following mitigation measures detailed within the FRA:

- Finished floor levels to be set no lower than 500mm above existing ground level
- All dwellings to have at least two storeys

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 Policies 2, 3, 4 and 31 of the South East Lincolnshire Local Plan (2011-2036) and the intentions of the National Planning Policy Framework (2019).

4. Prior to the construction of any building above damp proof course, a detailed scheme for drainage and water infrastructure shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include:

- a scheme for the provision of mains foul sewage infrastructure on and off site
- details of connection point(s) and discharge rate(s)

Prior to the occupation of any dwelling within any phase of the development, the drainage and water infrastructure measures relating to that phase and dwelling must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding and to accord with Policies 2, 3, 4 and 31 of the South East Lincolnshire Local Plan (2011-2036) and the intention of the National Planning Policy Framework (2019)

5. The water consumption of each dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan, 2019).

The person carrying out the work must inform the Building Control Body that this duty applies.

A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.

Reason: To protect the quality and quantity of water resources available to the district. This condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan (2011-0236).

6. 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, these details are required 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 Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) and the intentions of the National Planning Policy Framework (2019).

7. All landscape works relating to each completed part of the development shall be carried out in accordance with the approved details within 6 months of the completion of that part of the development. 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 to ensure an effective landscaping scheme is delivered, including planting of trees, and to ensure that the approved scheme is implemented satisfactorily, in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

8. Prior to the commencement of any part of the development above slab level, details shall be submitted to and approved by the Local Planning Authority for the provision of three (3) fire hydrants or other acceptable alternative along with a timetable for their installation relative to the phasing of the development. The fire hydrants (or other acceptable alternative) shall be installed at the relevant point of development in accordance with the agreed timetable.

Reason: To enable the protection and maintenance of the development and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

9. No development shall take place until the applicant has secured a programme of archaeological work, which shall include trial trenching, 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: In order to ensure that satisfactory arrangements have been made for the investigation, retrieval and recording of any possible archaeological remains on the site and to accord with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan (2011-2036) and the intentions of the National Planning Policy Framework (2019).

10. The development hereby approved shall be carried out in accordance with the recommendations contained within the submitted Phase I Ecology Survey prepared by Hillier Ecology Limited.

Reason: To ensure that protected species and their habitats are protected and to provide enhancements to biodiversity in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan (2011-2036).

11. Prior to the commencement of development above slab level, final details of measures that aim to reduce pollution and promote renewable and low carbon energy (including measures such as facilities for EV car charging) and details relating to the timing of their implementation, shall be submitted to and approved in writing with the Local Planning Authority. The development shall be constructed in accordance with the approved measures.

Reason: To help reduce pollution and promote renewable and low carbon energy in new development schemes and to accord with Policies 2, 3, 30 and 31 of the South East Lincolnshire Local Plan (2011-2036) and to accord with the intentions of the National Planning Policy Framework (2019).

12. Before each dwelling is occupied, the roads and 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 Public Highway, 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 that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development and that the roads and footways are completed within a reasonable period following completion of the dwellings. This condition accords with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

13. No dwelling shall be commenced before the first 60 metres of estate road from its junction with the public highway, including visibility splays, have been completed to Binder Course level.

Reason: To ensure construction and delivery vehicles, and the vehicles of site personnel may be parked and/or unloaded off the existing highway, in the interests of highway safety and the amenity of neighbouring residents and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

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 at dissimilar, interim construction levels. This condition accords with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

15. There shall be no vehicular access to the permitted development from Woodside Road. Effective measures, both physical and contractual, shall be incorporated into the development to prevent any such access being formed at any time.

Reason: Woodside Road is unsuitable, in terms of its carriageway width and construction standard and the absence of footways, to be able to accommodate additional vehicle movements from a residential development of the scale hereby permitted. This condition accords with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

16. 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 Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).

The Meeting ended at 1.20 pm

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PLANNING APPLICATION B/21/0158

Planning Application:

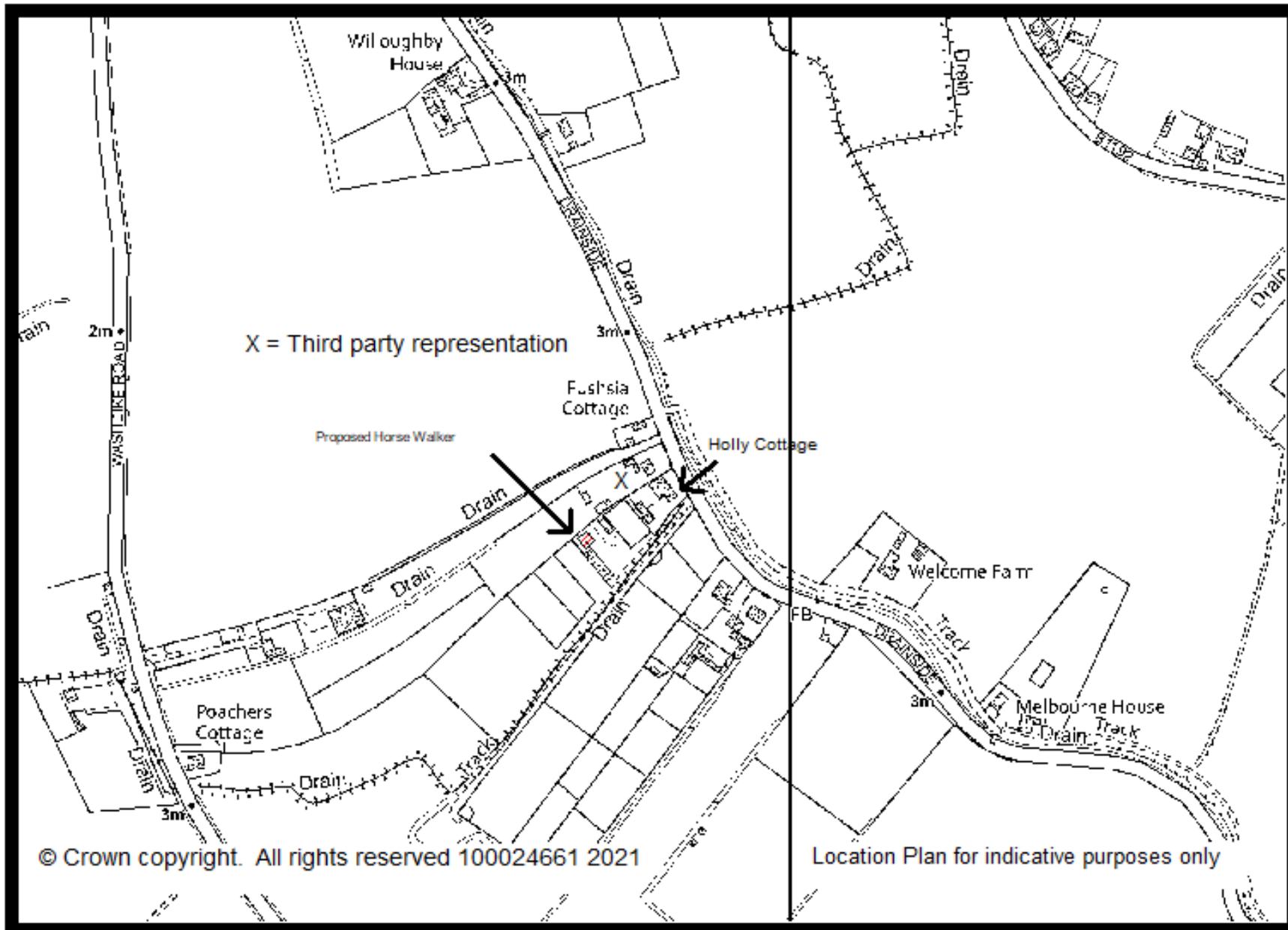
Proposed horse walker for up to four horses

Location:

Holly Cottage, Drainside North, Kirton, Boston PE20 1PE

Applicant:

Mr Thomas Strickland



BOSTON BOROUGH COUNCIL

Planning Committee - Planning Committee 29th June 2021

Reference No: B/21/0158

Expiry Date: 07-Jun-2021
Extension of Time: 2nd July 2021

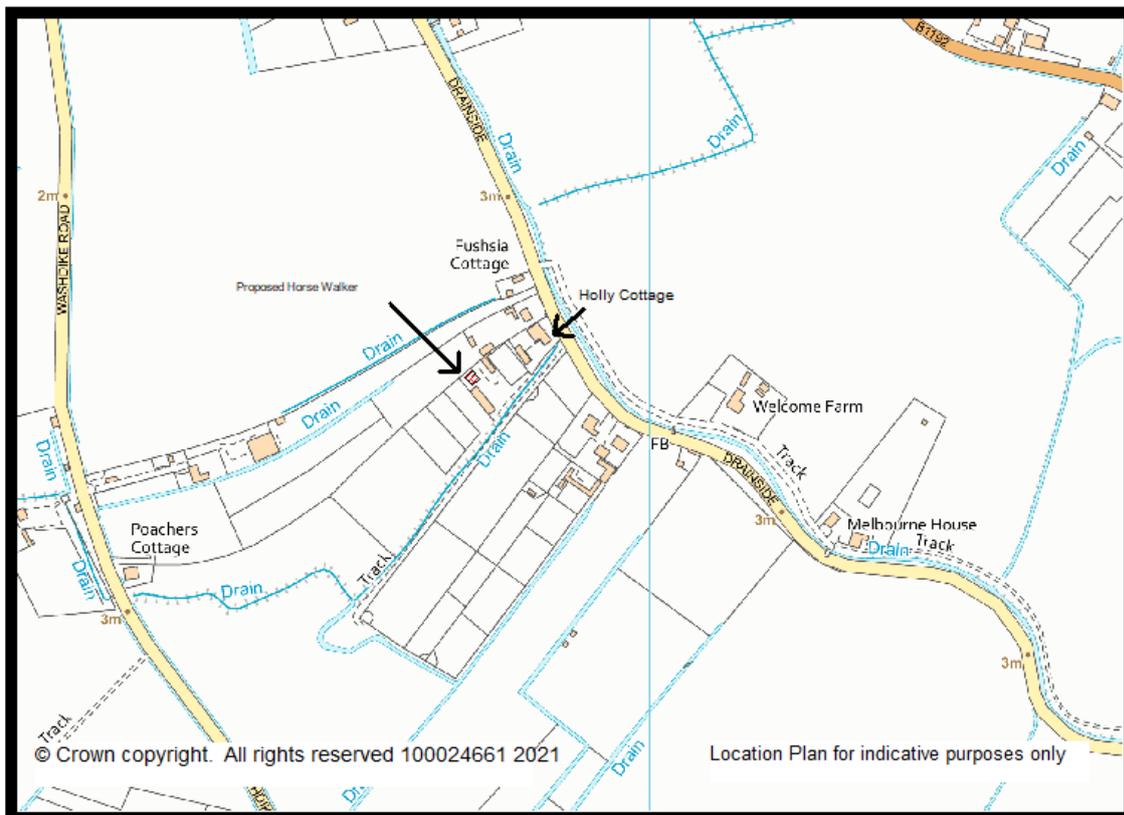
Application Type: Full Planning Permission
Proposal: Proposed horse walker for up to four horses
Site: Holly Cottage, Drainside North, Kirton, Boston PE20 1PE

Applicant: Mr Thomas Strickland

Ward: Kirton & Frampton Parish: Kirton Parish Council

Case Officer: Simon Eldred Third Party Reps: 1 received

Recommendation: GRANT



1.0 Reason for Report

- 1.1 This item has been called in for consideration by the Planning Committee by Councillors Nigel Welton and Peter Watson, who indicate that owing to the planning history associated with this site and ongoing issues, this application should be determined by the Planning Committee in the interests of openness and transparency.

2.0 Application Site and Proposal

- 2.1 The application site has an area of approximately 0.01 hectares, and consists of a hard-core/gravel-surfaced area of land, part of which contains a shipping container and part of which is used for the open storage of materials and machinery. It has:
- a 3m-high deciduous hedge to its north;
 - shipping containers and a large, open-fronted storage building to its south;
 - a paddock to its west; and
 - a gravel-surfaced area (containing a horse-box at the time of the site visit) and a large barn/stable building to its east.
- 2.2 It is part of a much larger property which consists of (from east to west) a two-storey dwelling, a one-and-a-half storey garage block, an equestrian ménage, stable/storage buildings, and extensive paddocks. With the exception of the residential parts, the majority of the property is devoted to equestrian uses. The surrounding area is strongly rural in character, although there are four other dwellings within approximately 200m. Much of the surrounding land (including much of that immediately to the north and south) is used for the keeping of horses.
- 2.3 It is proposed to erect a four-horse Claydon horse-walker - a circular structure consisting of inner and outer mesh fences containing a rubber-surfaced walkway on which horses will walk, encouraged by four revolving 'pusher' arms extending from a central motor unit. The horse-walker will have a diameter of approximately 10m, the fences will stand approximately 1.7m in height, and the structure will be unroofed and unlit. The application indicates this is to be used in connection with the domestic use of the site.

3.0 Relevant History

- 3.1 In 2001, full planning permission (B/01/0169) was granted for the construction of a domestic storage barn.
- 3.2 In 2017, full planning permission (B/17/0251) was granted for the creation of a storage building for hay and grass cutting equipment.
- 3.3 In 2019, full planning permission (B/19/0129) was granted for a timber barn to use as a stable for private use.
- 3.4 Members should be aware that has been recent Enforcement activity in connection with the site, however, at this time, no breaches have been identified and no formal action has been taken.

4.0 Relevant Policy

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.

South East Lincolnshire Local Plan 2011-2036

The following Policies are considered to be the most relevant to this proposal:

- Policy 1: Spatial Strategy;
- Policy 2: Development Management;
- Policy 3: Design of New Development; and
- Policy 4: Approach to Flood Risk.

National Planning Policy Framework

- Section 2: Achieving sustainable development;
- Section 4: Decision-making;
- Section 12: Achieving well-designed places; and
- Section 14: Meeting the challenge of climate change, flooding and coastal change.

5.0 Representations

- 5.1 As a result of publicity, an objection was received from the occupant of a neighbouring dwelling (Spittal Farm). The objection can be summarised as follows:

- a horse-walker is unnecessary for private, domestic-scale equestrian use;
- surface water from the impermeable parts of the horse-walker will flow onto their land, increasing the risk of flooding. The application contains little (and contradictory) information concerning the disposal of surface water, with the application form indicating that a soakaway will be used, whilst the Flood Risk Assessment suggests that water will disperse into the surrounding ground surface;
- noise from the horse-walker's motor and the horses' feet will create a nuisance to nearby dwellings;
- given the proximity of the proposed horse-walker to their boundary, the horse-walker has the potential to unsettle their horses as they graze in their nearby paddocks or are being walked past;
- they also express concerns re.:
 - during what hours the horse-walker will be used; and
 - whether the horse-walker will be lit.

6.0 Consultations

- 6.1 Kirton Parish Council indicates that it has no objections.

7.0 Planning Issues and Discussions

- 7.1 The key planning issues in the determination of this application are:
- matters of principle;
 - impacts on the character and appearance of the area;

- impacts on neighbours' amenity;
- flood risk; and
- other matters.

Principle

- 7.2 Policy 1 of the Local Plan identifies that, in the Countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.
- 7.3 It is considered that the addition of a horse-walker to a property which already contains an equestrian ménage, 4 stable/storage buildings, and extensive paddocks meets these requirements of Policy 1.
- 7.4 The objector questions the need for a horse-walker if the equestrian use at the property is of a private, domestic-scale. Whilst it is not the Local Planning Authority's role to consider whether a proposed development of this sort is 'needed', the principle of whether the equestrian use is of a scale or nature that could be considered commercial was considered as part of the assessment of an earlier planning application, B/19/0129. That assessment concluded that *"there appears to be no evidence to suggest that any current horse related activities being carried out at the site are commercial in nature."* That assessment was made as recently as August 2019, and there is no evidence to suggest that matters have changed significantly since that date. Nonetheless, that previous planning permission was granted subject to a condition to require the barn/stable to be used for domestic purposes only, and the use of such a condition is considered to be equally appropriate for this proposal.

Character and appearance of the area

- 7.5 Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area.
- 7.6 The horse-walker is proposed to be located approximately 95m from any public vantage point, and in a location where it will have:
- a 3m-high deciduous hedge to its north;
 - shipping containers and a large, open-fronted storage building to its south; and
 - a large barn/stable building to its east.
- 7.7 Given the modest size of the horse-walker and the above surroundings, it is considered that the horse-walker will not be visible from any public vantage point. No lighting is proposed, and it is considered that the appearance of the horse-walker will be entirely in keeping with that of its surroundings, where equestrian uses, buildings and structures predominate. All of which are of a scale which is considered to be commensurate with the domestic use of the site, and would not be considered to be unusual within a countryside setting such as this.

7.8 In all, it is considered that the proposal: will be in keeping with the established local character; will not have adverse impacts upon the character and appearance of the area; and meets these requirements of Policy 2.

Neighbours' amenity

7.9 Policies 2 and 3 of the Local Plan require the amenity of neighbouring land users to be protected.

7.10 The objector argues that noise from the horse-walker's motor and the horses' feet will create a nuisance to nearby dwellings.

7.11 There are four dwellings in the surrounding area, but all are a substantial distance from the location of the proposed horse-walker:

- Fuschia Cottage is approximately 100m to the north-east, with a 3m-high deciduous hedge and stable buildings in the intervening space;
- Spittal Farm is approximately 75m to the north-east, with two large barn/stable buildings in the intervening space;
- Tenacre is approximately 115m to the south-east, with two 3m hedges in the intervening space; and
- Woodrey is approximately 150m to the south-east, with two 3m-high hedges and Tenacre in the intervening space.

7.12 Given the modest size of the proposed structure, the nature of the proposed use, the above separation distances, and the intervening hedges and buildings, it is considered that the horse-walker will have no adverse impacts on these nearby dwellings in terms of over-shadowing, loss of light, harm to outlook, or overlooking/loss of privacy.

7.13 Given that a horse-walker's motor must operate in great proximity to horses, it is designed to generate only modest noise levels, and the rubber-surfaced walkway will minimise noise from the horses' feet. Given these factors and taking into account the separation distances and the intervening hedges and buildings, it is considered that the proposal will not have adverse impacts on nearby dwellings in terms of noise generation. It is also noted that the horse-walker will be located in proximity of the paddock associated with the neighbouring Spittal Farm as opposed to a core part of its residential amenity space or the dwelling itself and thus, an objection on amenity grounds is not considered to be sustainable.

7.14 In all, it is considered that the proposal will not harm neighbours' amenity and that it therefore meets the requirements of Policies 2 and 3.

Flood risk

7.15 Policy 4 of the Local Plan seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere.

7.16 The application is accompanied by a Flood Risk Assessment which indicates that *"the structure does not contain a roof. Water will be dispersed evenly across the site. Slight elevation from the anti-slip permeable rubber matting*

used. Creating a capable layer of water holding. Excess water run-off falls onto surrounding hardstanding. With the added benefit of being near to a hedge, providing water absorption.” In contrast, the application form indicates that surface water will be disposed of to a soakaway.

7.17 Given:

- that the application form indicates that the horse-walker will have an impermeable concrete base;
- the proximity of the horse-walker to the property to its north; and
- the lack of clarity with regard to proposed surface water disposal methods, it is considered that the proposal has the potential to increase flood risk to the neighbouring property. In these circumstances, it is considered necessary to impose a condition to require the submission of scheme for the provision and implementation of surface water drainage.

7.18 Subject to the above condition, it is considered that the proposal meets the requirements of Policy 4.

Other matters

7.19 The objector argues that, given the proximity of the proposed horse-walker to their boundary, the horse-walker has the potential to unsettle their horses as they graze in their nearby paddocks or are being walked past. It is considered that the intervening 3m-high hedge will ensure that views of the horse-walker will be obscured. Whilst the hedge is deciduous, and will therefore provide a less effective screen in the winter months, it is nonetheless considered that its thickness will ensure that views will still be substantially curtailed. Given that a horse-walker's motor must operate in great proximity to horses, it is designed to generate only modest noise levels, and the rubber-surfaced walkway will minimise noise from the horses' feet. Thus, it is considered unlikely that noise will be generated that might unsettle the neighbouring horses.

7.20 The objector express concerns about whether the horse-walker will be lit. The drawings and photographs illustrating the proposal show no lighting.

7.21 The objector expresses concerns about the operating hours for the use of the horse-walker, and it would be an option for a condition limiting operating hours to be imposed. However, given that no adverse impacts upon neighbouring land users have been identified, it is considered that such a condition is unnecessary.

8.0 Summary and Conclusion

8.1 The proposal:

- will have no unacceptably adverse impacts on the character and appearance of the area;
- will have no unacceptably adverse impacts on neighbours' amenity;
- subject to a condition, is acceptable in flood risk terms; and
- meets the requirements of the relevant Policies of the South East Lincolnshire Local Plan 2011-2036.

9.0 **Recommendation**

9.1 It is recommended that Committee GRANTS Planning Permission, subject to the following conditions and reasons:-

1. The development hereby permitted shall be begun before the expiration of four 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 strict accordance with the application received 01-Apr-2021 and in accordance with the associated plans and documents referenced:

- Location Plan;
- Block Plan;
- Photo image of horse-walker; and
- Photo-image of single pusher.

Reason: To ensure that the development is undertaken in accordance with the approved details, and to comply with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan 2011-2036.

3. The horse-walker hereby approved shall be used for domestic purposes only that are considered incidental to the enjoyment of the occupiers of the dwelling known as Holly Cottage, and no commercial activity shall take place from the site.

Reason: The horse-walker hereby approved has been assessed as being for domestic purposes only and the impact of running any commercial venture from this site has not been assessed. The approved development accords with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan 2011-2036 and the intentions of the NPPF (2019).

4. Prior to the commencement of any development, a scheme for the provision and implementation of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The works/scheme shall be constructed and completed in accordance with the approved plans.

Reason: To prevent the increased risk of flooding in accordance with Policies 2 and 4 of the South East Lincolnshire Local Plan 2011-2036.



AGENDA ITEM NO:

REPORT TO:	Planning Committee
DATE:	29 th June 2021
SUBJECT:	Receipt of Appeal Decisions
PORTFOLIO HOLDER:	Councillor Nigel Welton
REPORT AUTHOR:	Mike Gildersleeves – Assistant Director – Planning
EXEMPT REPORT?	No

SUMMARY

The purpose of this report is to advise members of the receipt of appeal decisions received since the previous report.

RECOMMENDATION

The Committee are asked to note this report and the decisions attached.

REASONS FOR RECOMMENDATION

To provide an update on Appeal performance/outcomes.

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'. The 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 an appellant has to follow.

2.0 APPEAL DECISIONS

Location	Reed Point, Spalding Road, Sutterton, Boston, PE20 2EP
Reference	B/18/0530
Proposal	Erection of 9 industrial units
Delegated Committee	/ Delegated
Appeal Decision	Dismissed
Appeal Date	09-Dec-2020

This application was refused under Delegated Powers in May 2019, shortly after the adoption of the Local Plan. It was refused on 3 grounds:

1. Impact on the character of the area
2. Lack of demonstrable need for the development
3. Lack of evidence relating to the need for employment in this location.

The main policies referred to were 1 and 7.

The Appeal was held via an Informal Hearing which was held virtually by the Planning Inspectorate. The Inspector distilled the 3 reasons above in to 2 principal issues:

- a) Whether the site is a suitable location for the proposal, having regard to local and national planning policies; and,
- b) The effect of the proposal on the character and appearance of the area.

On location, the inspector noted the countryside location of the site, and recognized the relationship between policies 1 and 7. The Inspector was not persuaded that a focus on employment sites in Sutterton only was appropriate (as the Appellants asserted), identifying that there was inadequate demonstration that other better located sites do not exist.

Noting the nature of the development, and the proposal as 'starter units' the inspector concluded that this would not be in a suitable location, based upon conflicts with policies 1 and 7.

With regard to character, the Inspector found the development would diminish the contribution the site makes to the character of the area and that harm to the area would result. As such, this compounded the failings in relation to policies 1 and 7.

The inspector noted the jobs that would be created, but found in the planning balance that no material considerations would outweigh the clear conflict with the development plan. The Appeal was dismissed.

Location	Tall Trees, Waste Green Lane, Algarkirk, Boston, PE20 2AP
Reference	B/20/0040
Proposal	Change of use from a paddock to land used for the repair of refrigerated units
Delegated Committee	/ N/A
Appeal Decision	Notice Quashed
Appeal Date	06-Apr-2021

This related to an Appeal against an Enforcement Notice relating to the use of the land – ie without planning permission the use of the land for repair of refrigerated trailers and siting of a storage container. The notice was issued 2 days following a change in the Use Classes Order which introduced a new Class E.

In addition to the structure of the notice, and the alleged breach, one of the key considerations related to the planning merits and whether or not permission should be granted. The main basis for this assessment related to amenity impacts and the impact on the character of the area.

The Inspector gave some consideration to the planning merits, and identified some areas of potential concern in relation to noise. However, this was primarily to establish the nature of the use. The Inspector concluded that the use was not B1 (contrary to the Council and Appellants views) and thus as a result of the regulation changes, did not fall in Class E. The Inspector declined to amend the notice, choosing to quash the decision instead.

The Inspector does note that the Council may wish to issue a corrected notice. Members will note this is a technical decision relating to the construction of the notice, and whilst disappointing, it does not prevent the Council issuing a revised notice. Members awareness, a revised application has since been made seeking planning permission for the use. This will be considered on its own merits.

Location	Land adjacent, The Rookery, Rookery Road, Bicker, Boston, PE20 3DB
Reference	B/20/0076
Proposal	Erection of dwelling
Delegated Committee	/ Delegated
Appeal Decision	Dismissed
Appeal Date	04-Feb-2021

Following refusal under Delegated Powers, this application for a single dwelling proceeded to Appeal. The Inspector identified the main issues as being the effect on a non-designated heritage asset, the impact on the character and appearance of the area, and the impact on the neighbouring dwelling.

The proposal was to be located within the grounds of “The Rookery” which the Council identified as a non-designated asset. The Inspector agreed, with its significance being derived from its age, form and space around, concluding that the development would cause harm to the setting of the asset. The Inspector noted the weight applied to the Conservation Officer comments during the determination and was persuaded that the Council had properly evidenced its case. The inspector found conflict with policies 2, 3 and 29.

The Inspector also found the proposal would impact on the street scene, due to the loss of space between existing dwellings and the dwelling would be discordant in the street, again, being contrary to policies 2 and 3.

Finally the Inspector found conflict with policy 2 in respect of the loss of living conditions and amenity for the host property.

The Inspector dismissed the appeal on all grounds.

Location	10A , 10B, 10C and 10D, Field Street, Boston, PE21 6TR
Reference	B/20/0074
Proposal	Change of use of 4No HMOs (Class 4) 3-6 occupants to 4No large HMOs (more than 6 occupants).
Delegated Committee	/ Delegated
Appeal Decision	Dismissed
Appeal Date	04-Feb-2021

Permission was sought to change the use of a building from a smaller, to a larger HMO. This was refused by the Council due to concerns regarding the quality of the accommodation and the living conditions for current and future residents.

The Inspector found deficiencies in room sizes (when set against the Nationally Described Space Standards – NDSS); finding the removal of the communal lounge to facilitate more accommodation would be detrimental to the amenity of the existing residents in the existing accommodation; that the outdoor space and garden would be inadequate and unlikely to be used; and that due to the size of the gardens in combination with the relationships with other dwellings amenity issues would likely result as a consequence of noise and disturbance.

The inspector agreed with the Council that these failings combined would result in the development being contrary to policies 2 and 21, and the Appeal was dismissed.

Location	Buildings at Boston Road, Swineshead
Reference	B/20/0082
Proposal	Prior Notification for the proposed change of use an Agricultural Barn to Residential
Delegated Committee	/ Delegated
Appeal Decision	Dismissed
Appeal Date	17-Mar-2021

This case surrounded a Prior Notification made under Class Q (Agricultural to Residential).

The main issue was whether the proposal was compliant with the Class Q legislation, in particular the focus was on whether or not the works proposed were “reasonably necessary” as part of a conversion under this class.

The inspector noted the content of the structural report which recognized deficiencies with the building without the need for significant works. The installation of a new foundation and floor was noted, and was required due to the insufficient nature of the existing building. The inspector considered this to be a new structural element.

The inspector concluded the works went well beyond “conversion” and what was reasonably necessary. Therefore the proposals fell outside of the limits of the legislation. Thus prior approval was not permitted.

Location	Land north of Millstone, Donington Road, Kirton End, PE20 1NX
Reference	B/20/0080
Proposal	Outline application with all matters reserved for residential development of up to 9 dwellings
Delegated Committee /	Delegated
Appeal Decision	Dismissed
Appeal Date	18-Dec-2020

This application sought permission for 9 dwellings in outline form. It was refused under Delegated Powers. Members will recall a nearby Appeal ((APP/H1840/W/17/3180996)) which was Allowed in 2019 which the Appellants considered was material, and significant to this application.

The Inspector recognised the character of the site and its relationship with the countryside beyond, finding the proposals would have an urbanising effect, in a way that would be relatively unsustainable and contrary to the Spatial Strategy (Policy 1). The Inspector considered the previous Appeal decision, but noted this transcended the introduction of the new Local Plan and that the Council could demonstrate a 5YHLS.

The Inspector found the benefits of the proposal (including 2 units of affordable housing) would not outweigh the harm to the character of the area, and the conflicts with policies 1 and 2. For these reasons, the Appeal was dismissed.

Location	15, Pilleys Lane, Boston, PE21 9RA
Reference	B/20/0262
Proposal	Proposed two storey side and rear extensions and alterations
Delegated Committee /	Delegated
Appeal Decision	Allowed
Appeal Date	03-Mar-2021

This was a householder appeal, relating to an extension to an existing building. The main issues being the impact on amenities of number 13 Pilleys Lane.

The inspector considered the relationships and impacts in detail, including highlighting the use of rooms and proximities. The inspector found some impacts could be mitigated through conditions relating to obscure glazing, and that the resultant impacts of the development would not be detrimental in terms of loss of light or outlook.

The Inspector allowed the appeal, subject to conditions.

Location	Land to the rear of Crest House, Coles Lane, Swineshead, Boston, PE20 3NS
Reference	B/20/0281
Proposal	Outline application for the erection of one single storey dwelling
Delegated Committee /	Delegated
Appeal Decision	Dismissed
Appeal Date	21-March-21

This application sought permission for a dwelling, it was in outline with all matters reserved. It was refused under Delegated Powers.

On living conditions, the inspector agreed with the Council that the dwelling would have an adverse impact on neighbouring properties due to the combination of proximity, surface material for the new access and vehicle movements, and the visual intrusion of the new driveway.

Turning to character and appearance, the Inspector noted nearby development including that on the adjacent land. The subdivision of the plot was noted, but overall it was not considered that the scheme would be harmful to the character and appearance of the area given the mix of styles and spatial arrangements found locally.

Concluding a lengthy planning balance, the Inspector found that the harm to living conditions, in particular those of Crest House, would be contrary to the development plan, and that there were insufficient benefits arising to outweigh this harm.

Location	Land adjacent Laconia, Church Road, Freiston, Boston
Reference	B/20/0147
Proposal	Erection of four bedroom dwelling with detached garage, including boundary fence
Delegated Committee /	Delegated
Appeal Decision	Dismissed
Appeal Date	14-May-2021

This application was for a dwelling and was refused under delegated powers. Officers refused the application due to its location (within countryside), the failure to pass sequential and exceptions tests, and the effect on a nearby listed building.

The Inspector accepted that the proposals would conflict with policy 1 and 11, in terms of location and there were insufficient benefits to outweigh this. The 5YHLS was noted.

On flood risk, the site was within Flood Zone 3, and that in the event of a breach of defenses the site could be at risk of flooding and serious harm for future residents. The Inspector gave weight to the 2017 Strategic Flood Risk Assessment and the plan objectives set out in policy 4, concluding that the site didn't pass the Sequential Test. As such, conflict with policy 4 was found.

Turning to the impact on the nearby Grade 2 Georgian House, the inspector did not agree with the Councils view, and found no harm on the significance or setting of the asset. The proposal was however dismissed on the earlier 2 grounds.

3.0 COMMENTS ON DECISIONS FROM ASSISTANT DIRECTOR – PLANNING

- 3.1 Whilst this is a lengthy update in terms of the number of decisions being reported, it is pleasing to note that 7 decisions went in the Councils favour – in all of those cases the Council was able to fully demonstrate and evidence its position, and it was pleasing to note that Local Plan policy was performing well (in particular policies 1, 2 and 3).
- 3.2 It was disappointing that the Enforcement Notice was quashed, although the reasons are understood, both Officers and the Appellant consider the Inspector could have amended the notice or made a different determination. A revised application is before the Council for consideration.
- 3.3 The Appeal that was Allowed was a householder Appeal, and having reviewed the decision, it still generates mixed views internally and is considered to be finely balanced. However, it does provide useful guidance in terms of the assessment of harm in respect of householder proposals including significant extensions.
- 3.7 Overall, our Appeal performance remains good and is better than national target over the rolling 2 year period. This is a good indicator of the quality of decision taking. This is also considered to be reflective of the current position with the adopted local plan, which will have an effect in terms of guiding development and reducing the Councils exposure to speculative applications.

4.0 PERFORMANCE

- 4.1 The Council has received 10 decisions from 1st March 2020 to 30th November 2020, of which 2 were allowed and 8 were dismissed. We have also had 2 dismissed costs claims.
- 4.2 The Ministry of Housing, Communities and Local Government (MHCLG) monitors authorities in relation to the number of major and non-major applications overturned (i.e. allowed) at appeal. The threshold is for fewer than 20% of all major applications determined overturned at appeal over a rolling two-year period (i.e. the total number of major decisions divided by the total number overturned). For authorities who exceed this target, they will be classed as 'poorly performing' and applications for major developments may be made by developers directly to the Planning Inspectorate. MHCLG also monitor the threshold for quality of decisions for non-major applications, the threshold for which is 10%. Like the major threshold, this is the total number of non-major applications overturned at appeal compared to the total number of non-major decisions made.
- 4.3 The following tables set out the Councils position in relation to the rolling two-year period:

2 year - Appeals performance - Majors			2 year - Appeals performance - Non-Major	
Total number of decisions	40		Total number of decisions	723
Total number of Appeals	2		Total number of Appeals	26 (inc. 2no. Prior approvals)
Dismissed	2		Dismissed	18
Allowed	0		Allowed	8
Withdrawn	0		Withdrawn	0
% indicator (majors allowed / total number of decisions)	0%		% indicator (non-majors allowed / total number of decisions)	1.11%

4.4 Given the aforementioned performance, the Council is therefore significantly within government's target and not at risk of being classed as poorly performing.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

ANY OTHER IMPLICATIONS

None

CONSULTATION

None undertaken

BACKGROUND PAPERS

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

Document title
Appeal decision –

Planning References:

- B/18/0530
- B/20/0040
- B/20/0074
- B/20/0076
- B/20/0080

Where the document can be viewed

All application documents are available via the Councils website using the relevant details.

- | | |
|---|--|
| <ul style="list-style-type: none">• B/20/0082• B/20/0147• B/20/0262• B/20/0281 | |
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