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Monday, 15 August 2022

NOTICE OF MEETING OF THE PLANNING COMMITTEE

Dear Councillor

You are invited to attend a meeting of the Planning Committee

on Tuesday, 23 August 2022 at 10.00 am

in the Committee Room Municipal Buildings West Street Boston.

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, Frank Pickett, Paul Skinner, Yvonne Stevens, 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.

AGENDA

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 18 August 2022

PART II - AGENDA ITEMS

1 PLANNING APPLICATION B 22 0103

19 - 30

Erection of one pair of semi-detached single storey dwellings including associated site works & alteration & improvements to the existing vehicular access following demolition of existing double garage

Land to rear of Fern House, Spalding Road, Sutterton, Boston,
PE20 2ET

Mr Gary Stray

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

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PLANNING COMMITTEE

26 JULY 2022

Present:

Chairman: Councillor Tom Ashton
Vice-Chairman: Councillor Alison Austin

Councillors: Peter Bedford, Katie Chalmers, Paul Goodale,
Jonathan Noble, Frank Pickett, Yvonne Stevens,
Peter Watson and Judy Welbourn

Officers: Assistant Director - Planning and Strategic Infrastructure,
Legal Advisor, Legal Services Lincolnshire, Deputy
Development Manager, Senior Planner and Democratic
Services Officer

126 APOLOGIES

Apologies for absence were tabled by Councillors David Brown, Deborah Evans and Paul Skinner. No substitutes presented.

127 MINUTES

The Chairman signed the minutes of the previous meeting held on the 19 May 2022

128 DECLARATION OF INTERESTS

Standing declarations of interest are tabled for the following members of the planning committee in their respective roles:

Members of Lincolnshire County Council Councillors Tom Ashton and Alison Austin.

Members of the South East Lincolnshire Joint Strategic Planning Committee Councillors Tom Ashton and Peter Bedford

Representatives of the Internal Drainage Boards Councillors Tom Ashton, and Peter Bedford.

Councillor Peter Watson declared that whilst he was the Chairman Kirton Parish Council he had taken no part in any deliberations in respect of Planning Application B 22 0157 / B 0 15 when it had been raised at the Parish Council and would consider the application on the evidence and reporting before him at the meeting.

129 PUBLIC QUESTIONS

No public questions were tabled.

130 PLANNING APPLICATION B/22/0222

**Full Planning Permission - Change of use from former Class E use
to an Adult Gaming Centre (Sui Generis)
14 – 16 Strait Bargate, Boston PE21 6LW
Merkur Slots UK Ltd**

The Senior Planner presented the report to committee advising that the application had been called-in for committee determination by Councillor Neill Hastie.

Prior to presenting the report the senior Planner provided committee with updates to the report tabled within the agenda.

An operational management plan has been submitted detailing how the premises will be managed with regards to entry and dispersal of customers where required, security, and crime and disorder. There was an error in paragraph 5.1 of the tabled report, regarding the number of comments received which should have read 61 at the time of the report.

An additional representation had been received following issue of the agenda, taking the total received to 62. These comments broadly align with those summarised within the agenda. Concluding the update, members were advised that it was felt that the additional comments did not alter the assessment or recommendation of the proposal as presented in the agenda and no additional conditions had been proposed.

The application site remained vacant and was situated on the corner of Strait Bargate and New Street within the town centre and Boston Conservation Area, and was also within the primary shopping area and part of the primary shopping frontage. The application related to the ground floor of the building only, accessed through a door at the centre of the property. A first and second floor are accessed via a separate entrance on New Lane. The site has been vacant since December 2016 when it was last occupied by Clarks. The proposal sought to change the use of the ground floor to a sui generis use to provide an adult gaming centre. An adult gaming centre bring a licensed premise for those aged 18 and over that contained fruit machines and other similar style gaming machines. The licensing requirement limited the total number of category B machines in any one premises to up to 20% of the total number of machines. The machines had a maximum stake of £2 and a max pay out of £500. The remaining machines must be category C (with a maximum stake of £1 and maximum £100 pay out) or D (typically low stake fruit machine style, coin pushers, or crane grabs). The application included no operational development, however, a separate application for advert consent for associated signage has been submitted and was also before members to assess.

Addressing the history of the site, the Senior Planner confirmed that application B 17 0381 for a change of use from a shop (Class A1) to a coffee shop comprising A1 and A 3 uses had been approached on the 7 November 2019 but not implemented. Application B 17 0390 to remove the lantern light and in-fill the roof via timber joist and single ply roof system and install a section of flat roof over the light well and also replace three windows to the first floor with double glazed, u-PVC framed window units had been approved on the 6 December 2-17 and application B 22 0229 for advertising consent for 2no illuminated fascia signs and 1no externally illuminated projecting sign was pending determination.

A number of public representation had been received from addresses across the Borough and surrounding parishes with a low level of comments received from addresses outside of the county. Committee were advised not all comments were a material planning consideration with repetition of comments made across the representation including, concerns noted at the suitability of the use with reference to the number of existing similar businesses, potential loss of the prominent site would undermine the retail function within the town and the negative impact on the environment and local amenity of the centre of Boston in relation to the enjoyment of residents and tourists.

Representations also voiced concern on the historic environment of the town centre, noting no heritage assessment had been submitted with the application and the existing site had structural and decorative features which were an example of an era and any ground floor frontage displace needed to be in keeping with that era.

A number of representations also raised concerns in respect of the health of wellbeing of the towns' residents, due to the site encouraging gambling which could result in crime and debt. Further effects could result in increased acts of anti-social behaviour and outcomes of debt and gambling could affect the publics' wellbeing leading to poor mental health and suicide.

Representation was received in objection by Mrs Taylor which included:

Advising that they were a member of a recently formed group of women raised to object to 24 hour gambling establishments, the objector confirmed they had intended to present on planning reasons but instead believed due process had not been carried out as it appeared there had been no statutory consultation with the Police which the objector stated was the statutory process and as such, no response from the police was available within the report. Furthermore, the objector stated that not all the public submissions had been received due to an IT issue with the planning portal accepting public comments and as such, they felt the application to be illegal and questioned how many other applications had been determined incorrectly during that period when the Planning Portal had not been accepting representations.

Representation was received from Mr Rogers, the agent for Merkur Ltd which included: Stating that the Police were involved in the licensing process for the site and they were not a statutory consultee in planning, Mr Rogers confirmed that the application adhered to both local and national policy requirements and would provide job creation, increased footfall within the town and would see replace a long standing vacant premise unit to contribute to the economy. Addressing the nature of the business, members were asked to recognise the importance of the business not offering fixed odd betting terminals which were provided within other establishments. Average stakes were 30p / 40p and customers were those with spare change who enjoyed their pastime. There was a misconception of AGC's which the owners recognised needed further public relations media to dispel a number of myths surrounding them. They were strictly controlled, there was no alcohol licence on the site and the business operated to Policy 25. The gaming appealed to individuals and not groups and Merkur had never had a licence revoked. There had been no evidence of any increase in anti-social behaviour resulting from the business, if there had been it would have been highlighted by the Police and the licence would not have been granted. There was a clear market demand for such a business and the existing site which was in a derelict condition, required investment which Merkur would provide.

At this point in the proceedings the Chairman invited committee members to question the representatives. It is noted that Mrs Taylor left the meeting on conclusion of her representation and was not available to take any questions.

In response to questions tabled Mr Rogers' confirmed that Merkur staff were fully trained to recognise any customer exhibiting habitual tendencies of use of the site; that the staff were not required to achieve set targets on public spending and that he was unsure of who the owner of the building was, stating they had served notice but he did not know on whom. Issues raised in respect of the frontage of the site, Mr Rogers' confirmed they would be addressed in the subsequent application.

Before opening the meeting to committee deliberation the Chairman invited the Assistant Director – Planning and Strategic Infrastructure (Lead Officer for the committee) to respond to accusations tabled during the objectors representation for clarity of fact.

The Assistant Director reiterated the comment of Mr Rogers that the Police were not a statutory consultee for planning with their role being within the initial Licensing application, and in respect of the ownership of the site, confirmed that the Certificate B served on the owner of the site did not identify them as the Council. The owner had been adequately served and there was nothing to preclude a decision being made.

Addressing issues raised by Mrs Taylor the Assistant Director stressed that all statutory consultees had been contacted in respect of the application and the weekly planning lists that were issued to a wide membership of various groups, included the police, who would have responded had they wished to comment. However, they were not a statutory consultee. There had been an I.T issue and the Council had responded accordingly and all applications determined during that period had been checked thoroughly to ensure they were correct.

The Council went above and beyond in respect of all its statutory publishing requirements. The application notice went live 8 weeks previously when the consultation process began, well beyond the 28 days statutory requirement. The additional information provided at the start of the officers' presentation confirmed that all comments were captured up until the evening before the planning committee meeting. There was nothing to prejudice the Council's ability to make a decision on the application. All planning applications were determined on planning merits and not on the volume of feeling within community and the report did include an extensive breadth of comments receive.

Significant committee deliberation followed which included the following foremost comments:

Whilst not in favour of the application there was recognition of the officer recommendation and the need for actual planning reasons to refuse contrary, should committee wish to do so.

Concerns were agreed on the impact on the character of the area and the impact on the primary shopping frontage. There were existing similar establishments within close proximity along with numerous betting shops providing gaming facilities. Members noted strongly their opposition at the town becoming a gambling destination which was not what they wished nor foresaw, as being the way forward for the future of the town. The site would not encourage visitors nor increase footfall for the existing retailers within the shopping frontage area. The vitality of viability of the town would also be negatively impacted.

Strong concerns were further raised in respect of the impact on the health and wellbeing of residents by encouraging gambling and the associated known effects of addiction, loss of finances and effects on mental wellbeing. The area was already low wage and high deprivation which was just the area such establishments thrived within. The town already had a high density of betting shops.

The application contravened a number of Local Plan, NPPF and Town and County policies.

The strength and volume of local opposition tabled in respect of the application did indeed, need to be taken into consideration.

It is recorded that during debate members were made aware of a similar application within the same local plan, in Spalding, which had been refused on similar grounds, which had been appealed and the Inspector had allowed the appeal. Members were advised that they needed to take this into consideration with it being within the same local plan and with such similar objections.

The Legal Officer advised members that whilst she agreed a comment made that each planning application would be determined on its own merits, committee did need to give weight to the appeal decision and how it had been interpreted within the local plan. Addressing further comments made by a member who had commented on what they felt to be restrictions within planning and licensing regulations, preventing them from fighting passionately for the residents who elected them, the Legal Officer stressed that planning committee members represented the Borough of Boston, not just their own ward, and should any member wish to speak passionately on any item, they had the option to step down from any meeting and address the meeting in such a manner.

On drawing the deliberations to a conclusion the Assistant Director – Planning and strategic Infrastructure recognised that the majority of members felt unable to support the application and as such sought initial clarity on the reasons and also requested a delegation for himself and the Legal Officer be agreed, to enable the final decision to be formulated encapsulating planning reasons. The general reasons cited included being contrary to policies 2,26, and 32 of the Local Plan and contrary to the NPPF and also to the statutory duty set out in S72 of the Town and County Planning Act.

It was moved by Councillor Jonathan Noble and seconded by Councillor Katie Chalmers that a delegation be agreed to the Assistant Director – Planning and Strategic Infrastructure and the Legal Officer to formulate the final reasons to formally refuse the application, based on the reasons raised by committee.

Vote: 8 In Favour. 2 against. Abstentions: 0

RESOLVED:

That Committee agreed to delegate authority for the determination of this application to the Assistant Director – Planning and the Legal Officer to formulate the final decision notice to refuse the application on the grounds identified.

131 PLANNING APPLICATION B/22/0223

Advertisement consent for 2no illuminated fascia signs and 1no externally illuminated projecting sign.

to an Adult Gaming Centre (Sui Generis)

14 – 16 Strait Bargate, Boston PE21 6LW

Merkur Slots UK Ltd

The Senior Planner presented the report to committee the proposal sought advertisement consent for two fascia signs, stretching the length of the frontage from New Street around to Strait Bargate. The Fascia signs included external illumination over the 'Merkur Slots' lettering. A further projecting sign was proposed at the northern end of the Strait Bargate frontage that would be internally illuminated.

Heritage Lincolnshire had voiced concerns at the proposal stating that the signage and potential impact on the active frontage will result in a generic and defensive character that would have a negative impact on the building and the wider conservation area and as such, the recommendation sought a delegation to officers to enable further deliberations with the applicant, to address the concerns by Heritage Lincolnshire.

The Assistant Director – Planning and Strategic Infrastructure advised committee that their decision on the previous application had no bearing on the application as it needed to be determined on its own merits and reminded members that such recommendations were normally taken under delegated powers.

It was moved by Councillor Jonathon Noble and seconded by Councillor Yvonne Stevens that the outcomes of the officer discussion to formulate an agreeable outcome be returned to committee for final determination.

Vote: In favour 2. Against 8. Abstentions 0.

It was moved by Councillor Peter Watson and seconded by Councillor Katie Chalmers that committee agree the officer recommendation to delegate authority for determination following negotiations to address issues raised by Heritage Lincolnshire.

Vote: In Favour: 8. Against 2. Abstentions 0.

RESOLVED:

That Committee delegate authority for the determination of this application to the Assistant Director – Planning for determination following continued negotiations on the design in regards to its impact on the Conservation Area.

It is recorded at this point in the meeting ahead of moving to the following application, Councillor Judy Welbourn declared that following comments made in the first application of personal knowledge of the impacts of gaming on health and wellbeing, that she would determine the following application with an open mind based on the information received.

132 PLANNING APPLICATION B/22/0240

**Change of use from a former payday loan shop (Sui Generis) to an Adult Gaming Centre (AGC) (Sui Generis)
9 High Street, Boston PE21 8SH
Chongie Entertainment Ltd**

The Senior Planner presented the application advising updates received following issue of the agenda.

A letter has been submitted from the marketing agent, confirming the site became vacant in October 2021 and that no offers for Class E or other uses were received in that time. The marketing agent also identifies a number of other vacant units within the vicinity. The planning agent has also provided some commentary on matters discussed in the agenda. Firstly, the existing use of the site, the agent provides extracts from the previous occupants (Cash Converters) website that indicates the business primary use is as a pawnbrokers that would be a sui generis pay day loan shop.

The second matter raised was the crossover with licensing and planning regimes, which stated that they were separate functions and this matter had been verified by the appeal

statements provided in support of the application. In addition the agent confirms that the license has now been granted by Boston Borough Council. Three additional representations were received, taking the total to 41. These raised the following new issues that the site is within view of St Botolphs, one of the England's 'Great Churches' and with good views of the historic town centre

Presenting the report the Senior Planner advised that application had been referred to committee due to the level of public comment received and due to the similar nature of the proposal (B/22/0222), also before Members which raise similar considerations.

The application site was 9 High Street, a large ground floor unit that fronted onto High Street but with a frontage display running the length of the shop along the pedestrianised Emery Lane. The site is in the town centre and Boston Conservation Area as defined on Map 1 of the Local Plan. The site is also in Flood Zone 3. The building was currently vacant and was last in use in August 2021 as a pay day loan shop and existing signage identifies the unit was last occupied by Cash Converters. The proposal sought to change the use to a different sui generis use to provide an Adult Gaming Centre. This would have a 'shop floor' on the ground floor with upper floors used for back of house and storage purposes. An Adult Gaming Centre was a licensed premises for those aged 18 and over that contained fruit machines and other similar style gaming machines. The licensing requirement limited the total number of category B machines in any one premises to up to 20% of the total number of machines. These machines have a maximum stake of £2 and a max pay out of £500. The remaining machines must be category C (with a maximum stake of £1 and maximum £100 pay out) or D (typically low stake fruit machine style, coin pushers, or crane grabs)

Committee were advised that whilst a number of objections had been received, not all comments were a material planning consideration with repetition of comments across the representation including, concerns noted at the suitability of the use with reference to the number of existing similar businesses, potential loss of the prominent site would undermine the retail function within the town and the negative impact on the environment and local amenity of the centre of Boston in relation to the enjoyment of residents and tourists. Representations voiced concern on the historic environment of the town centre, noting no heritage assessment had been submitted with the application and the existing site had structural and decorative features which were an example of an era and any ground floor frontage displace needed to be in keeping with that era. A number of representations also raised concerns in respect of the health of wellbeing of the towns' residents, due to the site encouraging gambling which could result in crime and debt. Further effects could result in increased acts of anti-social behaviour and outcomes of debt and gambling could affect the publics' wellbeing leading to poor mental health and suicide.

Representation was received from Mr Rush in objection to the application which included:

Referencing the comments made in objection to the first planning application the objector noted his disappointment at the lack of consultation on the application questioning if officers had done enough to inform the public. Referencing the decision made in respect of the first application and the similar factors the objector felt it unnecessary to go any further and stated he hoped committee would apply the same level of concerns. He further stated that both applications be investigated to ascertain their validity.

Representation was received from Ms. Webster the agent for Chongie Entertainment Ltd which included:

No objections had been received from any of the statutory consultees, the site was not in a prime shopping area the application was only for a change of use. The application complied with local polices, it was not a retail unit previously and the unit had been empty for over a year. The customers for such a business were predominantly shift workers and only over 18 year olds were allowed. The applicants were experienced professionals and existing stores all ran under a strict management plan. The overwhelming objections were licensing matters and not planning related matters, all of which would have been considered during the licencing application process which had been granted. Any future change of the shop frontage would be submitted under a future application.

No questions were tabled to either of the speakers by committee members.

Prior to moving into committee deliberation the Chairman invited the Assistant Director – Planning and Strategic Infrastructure (Lead Officer for the committee) to respond to any comments made during the pubic representation.

The Assistant Director stated that he had addressed all concerns in respect of the consultation process within his comments under the first application and advised that they were as relevant to this application. There was no reason for the application not to be determined. Whilst there were similarities to the two applications there were nuanced difference that needed to be taken into consideration. Whilst consistency of application and policy was important, it was possible to have two similar applications with differing outcomes provided the policies were applied in the correct manner and the material differences were clearly recognised.

Committee deliberation followed which included the following foremost comments:

Supporting comments noted that there were differences to consider. The site was not in a prime shopping area nor in the heart of the town. The area was not a sensitive location due to the nature of the surrounding buildings and there would be no loss of retail space or vitality to the area. Whilst Emery Lane did create significant footfall, it was passing footfall and not a dwelling place. It was however in very poor condition with an existing mix of businesses from grooming establishments to food outlets, and any new business would hopefully improve the area.

Objecting comments noted that the area had deteriorated significantly over the previous 15 years, from what had once been a prime shopping area of the town to a deprived and run down area. The site had more historic buildings within its proximity than the site of the first application with both the White Hart and the refurbished old bank alongside, and with views of the stump and also just across the river, the Guildhall, Fydell House and Shodfriars Hall. Emery Lane was one of the gateways into and out of the town and the venue would have a negative impact on tourism. Health and Wellbeing again needed to be considered with depravation prevalent within the area of the site which would itself encourage use by the poorest members of society who could least afford it.

Members further questioned the frontage of the business requesting potential conditions or comments to the operators, for it to be in keeping with and more sympathetic to, the surrounding businesses.

The Assistant Director – Planning and Strategic Infrastructure reminded members that they were only considering the application for a change of use on the site. An application for signage would likely follow. The Council could not force any application on any building and an informative was not recommended on this application.

It was moved by Councillor Jonathon Noble and seconded by Councillor Paul Goodale that a delegation be agreed to the Assistant Director – Planning and Strategic Infrastructure and the Legal Officer to officially formulate the reasons for refusal of the application based on it being contrary to Policies 24/25 and 32 of the Local Plan, Section 16 of the NPPF and also Section 72 of the Town and Country Planning Act

Vote: In Favour: 5. Against 5. Abstention 0.
The Chairman's casting vote was against refusal.
Final Vote: In Favour: 5. Against: 6. Abstention: 0

It was moved by Councillor Tom Ashton and seconded by Councillor Katie Chalmers that the application be granted in line with officer recommendation subject to the reason and conditions therein:

Vote: In Favour: 5. Against 5. Abstention 0.
The Chairman's casting vote was in favour of granting.
Final Vote: In Favour: 6. Against: 5. 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 must be begun not later than the expiration of four years beginning with the date of this permission.

Reason: To take account of the present restrictions on implementing permissions, in order to assist the recovery and in order to comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall only be undertaken in accordance with the following approved plans;

- Site Location Plan
- Proposed Ground Floor Plan

Reason: For the avoidance of doubt and the interests of proper planning.

It is recorded that at this point in the meeting, prior to inviting the Deputy Development Manager to present the following report, the Chairman noted that he had taken part in recent media coverage relating to the closure of public houses within another Council role. He confirmed he had not discussed the application under consideration and would determine on the report and evidence to be presented.

Furthermore, at this point in the meeting, committee agreed to continue the meeting to conclusion after the 3 hour timed allowance with the constitution.

133 PLANNING APPLICATION B/22/0156

Conversion of existing buildings (Sui Generis) to 5no residential apartments (C3 dwelling houses)

**The Peacock, 10 High Street, Kirton, Boston PE20 1EG
Wellington Pub Company**

The Deputy Development Manager presented the report advising of update information to the report tabled within the agenda:

A further representation has been submitted from Kirton Parish Council raising concerns in relation to 1) overdevelopment of the building, with small rooms proposed and 2) lack of parking provision within the proposal along with a lack of on-street parking in the area and limited bus services and cycle routes between Kirton and Boston. This additional representation received takes the total to 4 with two of those being from Kirton Parish Council. The new issues raised were that the bus service only runs Monday to Saturday 8:00 – 18.34 and do not visit all areas of Boston and cycle routes are poor, with no direct connection to Boston.

Confirming the application has been called-in to Committee by a Councillor utilising the Scheme of Delegation mechanism due to concerns regarding the number of units and overdevelopment of the site leading to pressures in terms of quality of accommodation and amenity for future, and concerns regarding parking provision. The Deputy Development Manager advised that the site was a former public house known as The Peacock, located on High Street within the settlement boundary of Kirton. The building was a two-story terraced, located between Jhay Stores and Sylvias Beauty Salon. There was a coaching arch located to the side of the building that provided access to the small rear yard and an outbuilding. The public house was currently vacant and it was understood to have ceased trading as a public house in approximately 2012. The building was Grade II listed, located within Kirton Conservation Area and forms the setting of Grade I listed St Peter and Pauls Church. The site was also located within Flood Zone 3. The area of the site on Kirton High Street was made up of a variety of residential and commercial uses including takeaways, healthcare, bakery, salon, bookmakers and several independent shops. There was on-street parking available with no off road parking on the site. The proposal was for the conversion of the building and outbuilding from a public house to 5no self-contained flats with good separation. It was proposed to demolish the more modern (circa 1980's) rear extension as part of the proposals. The front elevation would remain largely unchanged.

Representation was received from Mr James Sturgess the agent for the Wellington Pub Company which included:

There had been no objections from the statutory consultees with the objections from Kirton Parish Council noted previously. The property had been closed for ten years and the applicant was pleased to bring it back into a long term sustainable and viable use. The alterations proposed were largely internal and to the rear of the building and would not be seen from the High Street nor impact on the frontage. The conversion scheme combined to use the existing building and all but one of the flats complied with and exceed nationally prescribed standards. Private outdoor amenity had been provided for the 3 ground floor flats.

The lack of parking spaces on site was acknowledged, however parking had been scoped with Highways at Lincolnshire County Council ahead of the application being submitted and the final view of Highways had been that it was acceptable with the town of Kirton being one of the most sustainable in the area. To have provided parking on site would have meant a significant reduction in the size of the site, with a reduction in units with the remainder being made large and accommodating more inhabitants, and it would have also resulted in a conflict in pedestrian access. The existing use if reinstated would have no parking and would create significantly more car movement throughout the week with customers parking: the function suite currently on site would increase vehicle movements considerably.

At this point in the proceedings the Chairman invited committee members to question the representatives

Referencing the 3 bedroom apartment a member questioned why it had been sited on the second and third floor with no access to the outside space, when in all likelihood it would be a family who would inhabit it. Mr Sturgess confirmed that it was due to the existing layout and access to the second floor, with no other way to transition to there without significant works to the building.

Significant committee deliberation followed which included the following foremost points:

Comments in objection to the application included over development of the site with a preference for 2 apartments only. Issues at the lack of parking on the site included comments in respect of restricted parking within the village and also at the assumption that future residents would not have their own vehicles. Referencing the open space members questioned its actual size to accommodate the number of residents who would have access to it. Seeking confirmation of the location of waste bins, members voiced concern that they needed to be sited within the development and not on the front of the building. It was agreed a condition for the suitable storage of bins be included in any recommendation to grant. Referencing the units on the ground floor facing inwards the issue of outlook and a lack of natural light were also tabled. Reference to a much larger application of a similar nature on Lister Way was made which had been appealed and the Inspector had supported the Council's reasons for refusal which had included no on-site parking.

Comments in support of the application included support of the restoration of the building and appreciation that its historic elements would be preserved along with only a little change aesthetically, to the appearance of the building. The development would be sustainable and members recognised that the site could reinstate its existing use and become a public house again, generating a residential flat on site and significant vehicle movements from customers. There was a proven need for the type of accommodation and uptake of development of the site as a single size residence was questionable in the modern day living. Kirton was a main service area with shops and transport links and options of off-site parking. Recognising the comments in objection a number of members reiterated the application was compliant with policy and with the exception of the Parish Council, all statutory consultees, including Lincolnshire County Council Highways, had raised no objections to the application.

Addressing the comments made by members the Assistant Director advised that it would be possible to add a condition in respect of suitable on site storage of waste bins. Referencing the comparison to the Lister Way appeal decision, members were cautioned against any correlation with the appeal. There were significant differences with the two applications including a lack of satisfactory parking around the heavily parked streets near Lister Way. Members were further reminded that the Council had no control over where people parked and the applicant had no control on proposals for parking as Highways were the responsible authority.

It was moved by Councillor Tom Ashton and seconded by Councillor Jonathon Noble that the application be granted in line with officer recommendation subject to the reason and conditions therein and subject to an additional condition for the suitable storage on waste bins on the site.

Vote: In Favour: 8 Against: 2 Abstention: 0

RESOLVED:

That committee grant the application in line with officer recommendation subject to the following conditions and reasons and to the additional condition for suitable storage of the waste bins.

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 form and in accordance with the associated plans as follows:

- 2067 09 Proposed Elevations and Sections
- 2067 08a Proposed Elevations
- 2067 07 Proposed First and Second Floor Plans
- 2067 06 Proposed Ground Floor Plans

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 (2021).

3. Prior to the commencement of any development a Historic Building Recording shall be submitted to and approved in writing by the Local Planning Authority, to be carried out by a suitably qualified person and in accordance with an agreed written brief and specification. The results of the building recording shall be submitted to the Local Planning Authority prior to work commencing on the site.

Reason: To ensure any historic features are recorded in accordance with Policy 29 of the South East Lincolnshire Local Plan (2011-2036).

4. Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location and full details of any external new waste water goods. The works/scheme shall be constructed and completed in accordance with the approved plans.

Reason: To address foul water provision and impacts on a heritage asset in accordance with Policies 2 and 4 of the South East Lincolnshire Local Plan (2011-2036).

5. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) produced by RAB Consultants dated 10/09/2021 Version 0.1. All mitigation measures shall be fully implemented prior to occupation and subsequently remain in place.

Reason: To reduce the risk and impact of flooding in accordance with Policy 4 of the South East Lincolnshire Local Plan (2011-2036).

6. Prior to any groundworks being undertaken a scheme of Archaeological recording shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of monitoring all groundworks with the ability to stop and fully record archaeological features.

Reason: To ensure any archaeological features are recorded in accordance with Policy 29 of the South East Lincolnshire Local Plan (2011-2036).

7. The development hereby permitted shall be undertaken in accordance with the Protected Species Survey Report produced by Windrush Ecology dated November 2021. Should any protected species be found during the development work shall cease immediately and details of bat protection measures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of protected species during the development, in accordance with Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

134 PLANNING APPLICATION B/22/1057

**Listed Building Consent for Conversion of existing buildings (Sui Generis) to 5no residential apartments (C3 dwelling houses)
The Peacock, 10 High Street, Kirton, Boston PE20 1EG
Wellington Pub Company**

The Deputy Development Manager presented the report confirming it was for the site of the previous application and sought listed building consent for the conversion. The application has been called-in to Committee by a Councillor utilising the Scheme of Delegation mechanism due to concerns regarding number of units and overdevelopment of the site leading to pressures in terms of quality of accommodation and amenity for future residents and concerns regarding parking provision (Policy 36)

The site is a Grade II Listed former public house, known as The Peacock, located on High Street in the village of Kirton. The building is a two-story mid-terraced property, with a coaching arch providing access to the rear and yard. The building is currently vacant and is understood to have ceased trading as a public house since 2012. The site is also within Kirton Conservation Area and forms the setting of Grade I Listed St Peter and Pauls Church. The proposal is for the conversion of the building and outbuilding from a public house to 5no self-contained flats. It is proposed to demolish the more modern (circa 1980s) rear extension as part of the proposals. The proposals are for internal alterations including removal of unsympathetic modern partition walls to return the building to its original plan form, removal of the bar (a modern addition), installation of a new staircase and other refurbishment works to create 5no flats. There are a small amount of new walls proposed, to create bathrooms. The main external alterations are to the rear of the building, with the removal of recent additions that form toilets, creation of a new access door, and new doors to the rear where the modern extensions are removed. The front elevation is to remain unchanged.

No public representation was received in respect of this application.

Committee deliberation followed which included:

Full support of the application which members agreed was entirely appropriate in order to retain the façade and to keep it sympathetic.

A member questioned the possibility of shot blasting the front of the building to remove the existing paint, stating that historically the Council had to take enforcement action when at one point the building had been painted either pink or cream.

The Assistant Director advised that it would be possible to expand condition 8 to include wording to address the brickwork.

It was moved by Councillor Jonathon Noble and seconded by Councillor Peter Bedford that the application be granted in line with officer recommendation subject to the reason and conditions therein and subject to an expansion of condition 8 to include wording to address the brickwork

Vote: In Favour 9. Against 0 Abstention 0

It is noted that Councillor Frank Pickett absented from the meeting for a period during the item and as such took not part in the vote.

RESOLVED:

That Committee grant the application in line with officer recommendation, subject to the following reasons and conditions and subject to the expansion of condition 8 to include wording to address the brickwork.

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. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby permitted shall be carried out in strict accordance with the application form and in accordance with the associated plans as follows:

- 2067 09 Proposed Elevations and Sections
- 2067 08a Proposed Elevations
- 2067 07 Proposed First and Second Floor Plans
- 2067 06 Proposed Ground Floor Plans
- 2067 10A Joinery Details New Doors and Fascia

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 (2021).

3. Prior to the commencement of any development a Historic Building Recording shall be submitted to and approved in writing by the Local Planning Authority, to be carried out by a suitably qualified person and in accordance with an agreed written brief and specification. The results of the building recording shall be submitted to the Local Planning Authority prior to work commencing on the site.

Reason: To ensure any historic features are recorded in accordance with Policy 29 of the South East Lincolnshire Local Plan (2011-2036).

4. Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location and full details of any external new waste water goods. The works/scheme shall be constructed and completed in accordance with the approved plans.

Reason: To address foul water provision and impacts on a heritage asset in accordance with Policies 2 and 4 of the South East Lincolnshire Local Plan 2011-2036.

5. Notwithstanding the details supplied, prior to any works or repairs to the internal joinery, a schedule of the materials and schedule of works (describing fully all repair, re-instatement & replacement works) shall be submitted to and approved in writing by the Local Planning Authority. The above documents shall contain scaled drawings where necessary. The development shall thereafter be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the Grade II Listed building, in accordance with the Planning (Listed Building and Conservation Areas) Act 1990.

6. Notwithstanding the details supplied, prior to any works or repairs to the windows on site, a detailed methodology of repair shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details. The above documents shall contain scaled drawings where necessary.

Reason: To safeguard the character and appearance of the Grade II Listed building, in accordance with the Planning (Listed Building and Conservation Areas) Act 1990.

7. Notwithstanding the details supplied, where removal of stud walls are proposed the final details of making good the cornices shall be submitted to and approved in writing by the Local Planning Authority, prior to the removal of the stud walls.

Reason: To safeguard the character and appearance of the Grade II Listed building, in accordance with the Planning (Listed Building and Conservation Areas) Act 1990.

8. Notwithstanding the details supplied, prior to any works or repairs to the brick work on site, a detailed methodology of mortar removal and proposals for replacement mortar, and methodology of repointing, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the Grade II Listed building, in accordance with the Planning (Listed Building and Conservation Areas) Act 1990.

9. Notwithstanding the details supplied, prior to any new boundary treatments being installed, new surfacing or re-surfacing being undertaken, full details shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the Grade II Listed building, in accordance with the Planning (Listed Building and Conservation Areas) Act 1990.

10. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) produced by RAB Consultants dated 10/09/2021 Version 0.1. All mitigation measures shall be fully implemented prior to occupation and subsequently remain in place.

Reason: To reduce the risk and impact of flooding in accordance with Policy 4 of the South East Lincolnshire Local Plan (2011-2036).

11. Prior to any groundworks being undertaken a scheme of Archaeological recording shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of monitoring all groundworks with the ability to stop and fully record archaeological features.

Reason: To ensure any archaeological features are recorded in accordance with Policy 29 of the South East Lincolnshire Local Plan (2011-2036).

12. The development hereby permitted shall be undertaken in accordance with the Protected Species Survey Report produced by Windrush Ecology dated November 2021. Should any protected species be found during the development work shall cease immediately and details of bat protection measures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of protected species during the development, in accordance with Policy 28 of the South East Lincolnshire Local Plan (2011-2036).

135 RECEIPT OF APPEAL DECISIONS

Members noted the report.

The Meeting ended at 2.00 pm

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PLANNING APPLICATION B/22/0103

Planning Application:

Full Planning Permission

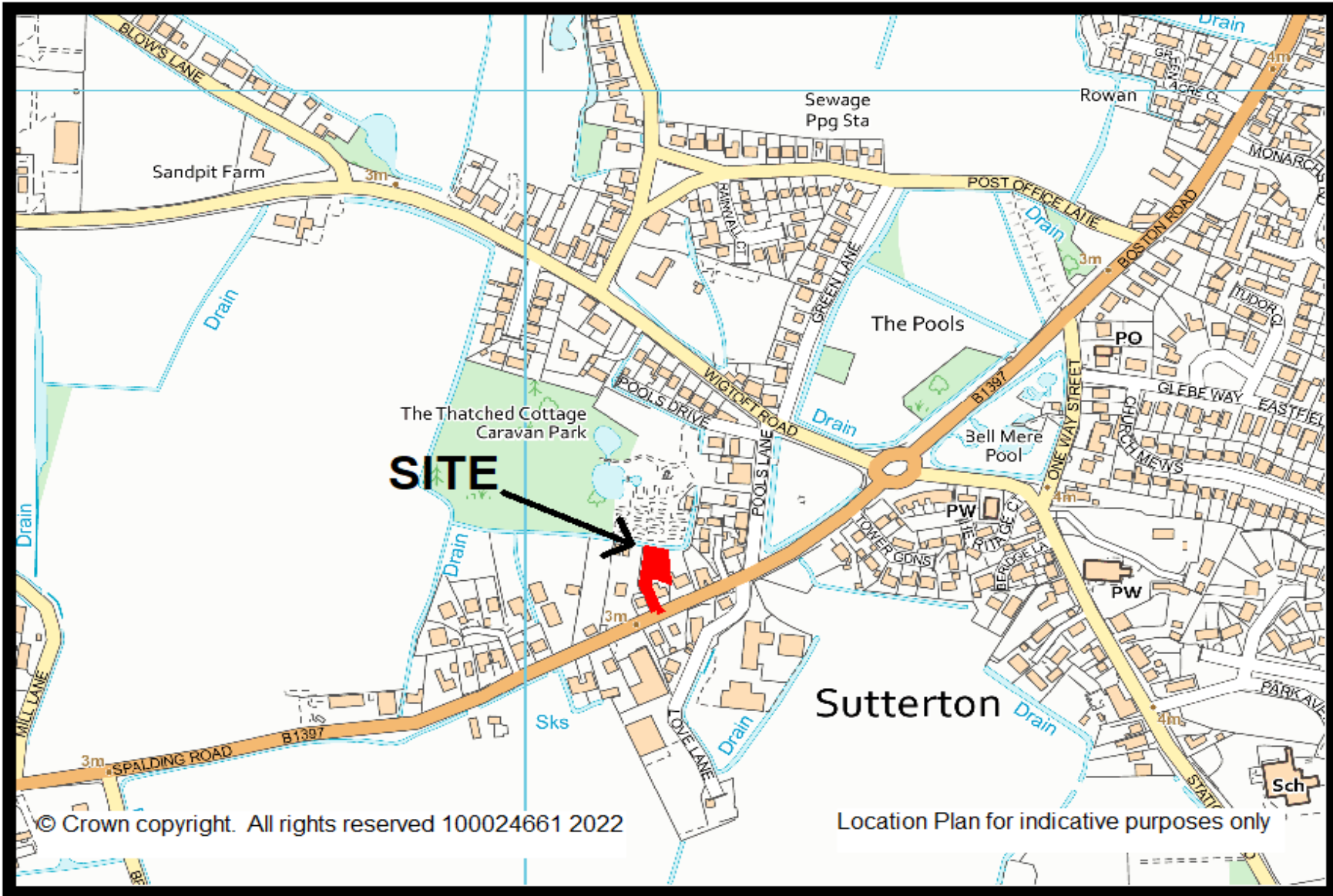
Erection of one pair of semi-detached single storey dwellings including associated site works & alteration & improvements to the existing vehicular access following demolition of existing double garage

Location:

Land to rear of Fern House, Spalding Road, Sutterton, Boston,
PE20 2ET

Applicant:

Mr Gary Stray



BOSTON BOROUGH COUNCIL

Planning Committee – 23rd August 2022

Reference No: B/22/0103

Expiry Date: 06-May-2022

Extension of Time: 17-Jun-2022

Application Type: Full Planning Permission

Proposal: Erection of one pair of semi-detached single storey dwellings including associated site works & alteration & improvements to the existing vehicular access following demolition of existing double garage

Site: Land to rear of Fern House, Spalding Road, Sutterton, Boston, PE20 2ET

Applicant: Mr Gary Stray, C/O Clive Wicks Associates

Agent: Clive Wicks, Clive Wicks Associates

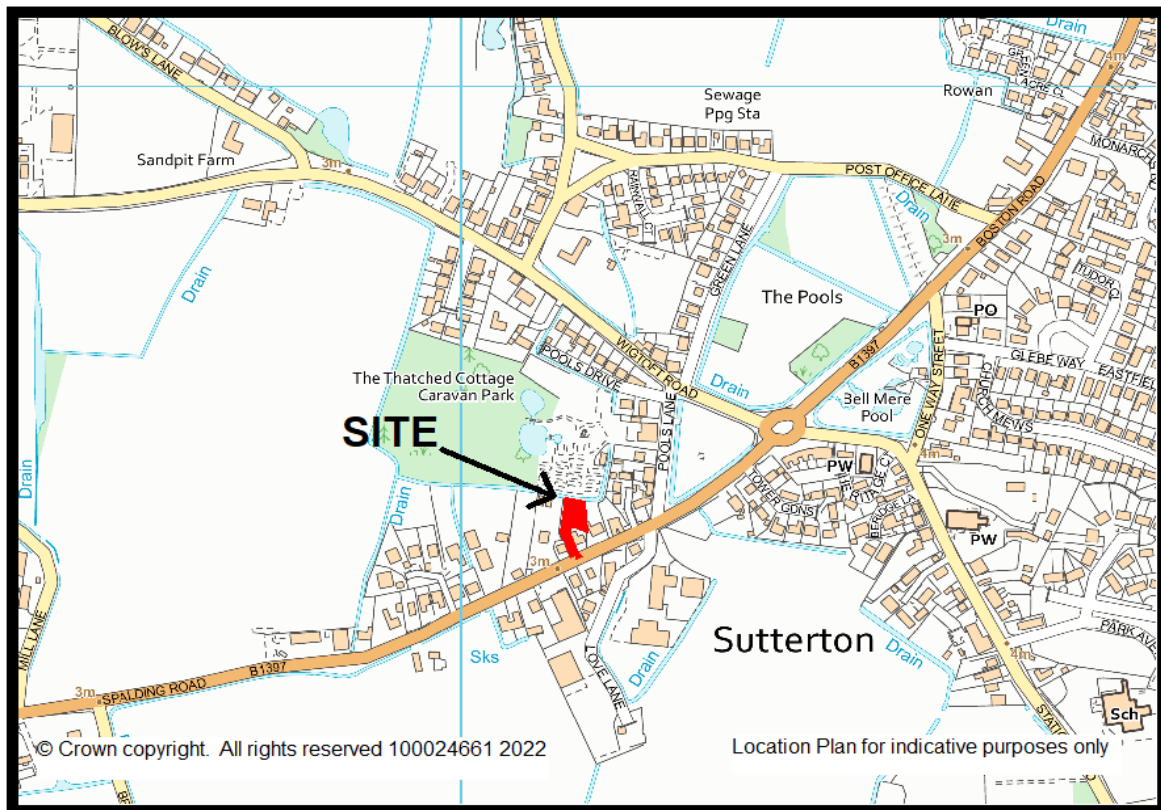
Ward: Five Village

Parish: Sutterton Parish Council

Case Officer: Ian Carrington

Third Party Reps: 1

Recommendation: Refuse planning permission



1.0 Reason for Report

1.1 The application was called to Committee by a ward member, Cllr Spencer, for the following reasons:

To consider

- the layout of the proposed development and its impact on the street scene, and how it conforms to Local Plan policies 2 and 3;
- the mitigation of neighbour amenity impacts, and how the proposal conforms to Local Plan policy 3 and NPPF paragraph 130;
- the mitigation of flood risk impacts and how the proposal conforms to Local Plan policy 4 and Section 14 of the NPPF.

2.0 Application Site and Proposal

2.1 The application site currently consists of a two storey detached house set towards the front of a plot with a frontage of c.18m and a maximum depth of c.60m. A large double garage is situated on the west boundary. There are residential neighbours on either side and opposite fronting the B1397 Spalding Road. The area is primarily residential in character, with some non-residential premises including an agricultural machinery supplier to the west and a fish and chip shop and GP surgery to the east.

2.2 To the north is land on which permission was granted 2017 for change of use to a touring caravan site (20 caravans) plus excavation of fishing lake, erection of WC/wash facility building, new internal roads and parking areas and associated landscaping.

2.3 The site and the surrounding area are flat. The location is in Flood Risk Zone 3a (FRZ3), and is also within the Coastal Hazard Zone with part of the site being categorised by the Environment Agency as Danger For Some and part categorised as Danger For Most.

2.4 The scheme is formally described as 'Erection of one pair of semi-detached single storey dwellings including associated site works & alteration & improvements to the existing vehicular access following demolition of existing double garage'. This would see the existing plot divided and the large detached garage removed, and the new dwellings erected in what is now the back garden. Access for these would be along the western boundary through the area now occupied by the garage with some improvements being made to the highway access point.

3.0 Relevant History

3.1 Pre-application advice regarding a development of three two storey dwellings to be sited in the rear garden and subdivision of the parent house was given under PENQ/21/0060.

3.2 A two storey side and rear extension to the parent dwelling and the erection of the double garage was allowed under B/05/0038.

4.0 Relevant Policy

South East Lincolnshire Local Plan 2019 (SELLP)

- Policy 1 – Spatial Strategy
- Policy 2 – Development Management
- Policy 3 – Design of New Development
- Policy 4 – Approach to Flood Risk
- Policy 5 – Meeting Physical Infrastructure and Service Needs
- Policy 11 – Distribution of New Housing
- Policy 17 – Providing a Mix of Housing
- Policy 30 – Pollution
- Policy 31 – Climate Change and Renewable and Low Carbon Energy
- Policy 36 – Vehicle and Cycle Parking

National Planning Policy Framework (NPPF) (2021)

National Planning Policy Guidance (PPG)

National Design Guide (NDG)

5.0 Representations

5.1 As a result of publicity a representation has been received from the occupant of Field House, the eastern side neighbour:

5.2 The objections and comments can be summarised as follows:

- Loss of privacy. Finished floor levels would be raised by 860mm to 3.66m ODN as a flood mitigation measure. This level is higher than the neighbouring property and existing and proposed boundary treatments will not prevent overlooking. This will be exacerbated by the proposed dwelling being set close to the boundary and behind the neighbour rather than adjacent, hence overlooking the rear garden as well as the neighbouring dwelling itself.
- Character of the area. The properties on Spalding Road are typically sited on large plots and are adjacent to the road. This would mean the proposed development is not in keeping with the existing character of the properties in the vicinity.
- Compliance with local and national planning policies. The proposal is in an area at high risk of flooding and has not demonstrated that no site at lower risk is available, hence not according with the sequential principle. The development of two dwellings will not generate a materially significant economic or social benefit to the area and is too small in scale to significantly support local facilities.
- There is already a recently approved development for approximately 240 dwellings off Spalding Road and this means that the provision of an extra 2 dwellings will have no significant benefit in terms of economic or social factors. It would also suggest that any local need for housing within the village boundary will also be met.
- Flood risk to nearby properties. No details are provided of the means by which displacement of water to nearby properties will be prevented. In

addition, if the landscaping of the property is used to accommodate the FFL of 3.66m ODN, then the site the proposed dwellings are sited on, would be higher than Field House and Fern Cottage, and may mean they are at increased risk of surface run off.

- Existing garden wall. Concern that existing and old brick boundary wall may be damaged and no indication as to how proposed new boundary fence would work with existing wall.

6.0 Consultations

- 6.1 Sutterton Parish Council - objects - 'The application was discussed at the recent Parish Council meeting, objections were raised regarding possible back yard development and the exact area of the village envelope'.
- 6.2 Lincolnshire County Council Highways/SUDS - 'As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage on all Major Applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the drainage proposals for this planning application'. LCC requests Highways informatives in event of approval.
- 6.3 Welland and Deepings IDB - no objection but notes that floor levels will be substantially raised and states that 'Provisions should be installed to prevent displacement of water from the development affecting neighbouring properties'.
- 6.4 Environmental Health - 'no objections'

7.0 Planning Issues and Discussions

- 7.1 The key planning issues in the determination of this application are:

- Locational principle of the development
- Flood risk, drainage and the sequential principle
- Design, appearance and local character
- Amenity impacts

Locational principle of the development

- 7.2 Sutterton is classified as a Main Service Centre in Policy 2 of the Local Plan, and associated Inset Map No. 8 shows the site as being within the settlement boundary. In general terms the settlement is considered to be a sustainable location which is in principle suitable for new housing development where development supports the service centre, helps sustain existing facilities or helps meet the service needs of other local communities. However such suitability is subject to other material planning considerations (such as flood risk, design/local character and amenity impacts) being satisfactory, and these are discussed later in this report.
- 7.3 Also material is the fact that policy 11 of the Local Plan allocates land for housing development in Sutterton. The two contiguous allocated sites (Sut009 and Sut028) are nearby to the south and west of Spalding Road with a total area of 13.14 hectares and a notional capacity of 263 dwellings. In addition policy 12 of the Plan gives a Reserve Allocated Site in the village (Sut034) with a capacity of 49 dwellings. At 5.3.2 the Plan states that 'the allocated sites identified on the Inset

Maps are those that are considered to best meet the requirement for each settlement'. The Plan does not rule out windfall sites, but development of such plots will be subject to the constraints of other material planning considerations including those deemed to be satisfied as far as allocated sites are concerned.

Flood risk, drainage and the sequential principle

- 7.4 The application site is described in the submitted Flood Risk Assessment (FRA) as being in Flood Risk Zone 3 with a high probability of flooding. In addition the Environment Agency mapping shows the site to be in the Coastal Hazard Zone with the southern part of the site in the 'Danger For Some' category and the northern part in the 'Danger For Most' category. 'Danger For Some' is described as 'Danger for Some – (i.e. children) Danger Flood Zone with deep or fast flowing water'. 'Danger For Most' is described as 'Danger for Most – Danger Flood Zone with deep fast flowing water'.
- 7.5 Both the NPPF and the Local Plan seek to direct housing development away from areas of higher flood risk and toward areas of lower flood risk. The Framework (paragraph 159 and following) requires the application of a 'sequential, risk based approach' and makes clear that this will be realised through the use of the Sequential Test and where necessary the Exception Test.
- 7.6 The 'Planning Design & Heritage Statement' supporting the application contains a brief section on the Sequential Test. This states that the site 'is the only site which targets the more elderly in society' and no other such sites are available in the village, nor are single plot or small general sites. However the proposal is for two units of market housing – it is not targeted social housing, and the applicant offers no means of ensuring that it would be used by the 'more elderly', nor any justification for placing potentially mobility-impaired individuals in an area of extremely high flood risk. Moreover no supporting search information or other evidence is provided, to validate this assertion and the comments on the Sequential Test are not considered to conform to the thorough and well evidenced process required by the NPPF and Planning Practice Guidance. In addition the guidance does not set a specific search radius, and no justification is offered for restricting the search area to Sutterton when other sites at lower risk of flooding may be available in nearby settlements.
- 7.7 In fact it is not necessary to leave the village to find sites at lower risk of flooding. The Environment Agency mapping reproduced in the submitted FRA clearly shows that the allocated sites on the south side of Spalding Road are at significantly lower risk on the dimensions of Max Hazard, Max Depth and the impacts of a tidal breach, and in consequence are given lower risk classifications by the Environment Agency. Having been through the Local Plan process including an Examination in Public by the Planning Inspectorate, allocated sites are deemed to have passed the Sequential test.
- 7.8 It follows that not only has the Sequential Test not been successfully completed, but that alternative sites at lower risk of flooding demonstrably exist close by. The fact that they are not in the applicant's ownership is immaterial: planning is concerned with the provision of safe housing in appropriate locations and is not concerned with land ownership.

- 7.9 Even if the Sequential Test were to be passed, as a 'more vulnerable' class of use in FRZ3a Planning Practice Guidance requires the scheme to pass the Exception Test. This is in two parts. The first requires effective mitigation of flood risk, and the second requires development to demonstrate a wider community sustainability benefit. Social housing, for example, is considered acceptable in some flood risk areas because it provides a sufficient degree of community sustainability benefit. However two units of market housing (irrespective of notional but unsecured targeting at the elderly) are not considered to have a realistic prospect of negotiating the Test and any benefits from future occupants using local facilities would be on too small a scale to meet the Test's requirements.
- 7.10 Consideration has also been given as to whether any other effects of the proposal would constitute material planning considerations which would outweigh the matter of flood risk. They are discussed elsewhere in this report, but given the weight accorded to flood risk and the protection of life and property in local policy and national guidance it can be stated at this point that no such considerations are considered to apply.
- 7.11 The submitted FRA details flood resilient construction measures which seek to protect the proposed dwellings. Whilst these are noted neither the FRA nor the submitted plans provide details of the means by which the scheme and in particular the requirement to raise the level of a large portion of the plot, will avoid displacing water onto neighbouring properties in the event of flooding from any source. It is noted that a side neighbour and the local internal drainage board both raised this issue, and given the very high level of flood risk on the site and the presence of a water course at the rear of the site this is not a matter which is considered safe to secure by condition – demonstration of the methods to achieve neighbour protection is considered essential at this stage.
- 7.12 In summary it is considered that the proposal would site new dwellings in an area of unacceptably high flood risk without appropriate justification or adequate mitigation, that the Sequential Test has not been passed and hence that the proposal fails to accord with policies 2 (2.7), 3 (3.12) and 4 of the SELLP and with Section 14 of the NPPF.

Design, appearance and local character

- 7.13 Policy 2 (Development Management) of the Local Plan sets out a range of sustainable development considerations that need to be met in order for a scheme to be supported. Policy 3 (Design of New Development) is also important in the assessment of character and layout, given that it also sets out specific design related criteria that a scheme needs to demonstrate to be acceptable.
- 7.14 Policy 2.1 states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses.
- 7.15 The proposal is for tandem development, with the two new dwellings set directly behind the parent dwelling, Fern House, in what is currently its back garden. The predominant character of local development is linear, with detached dwellings mostly set in generous plots. There are two examples of development in backland sites in this part of Sutterton, but these are different in character to the proposal.

McLoughlin Way (c.130m west) is a development of one and a half storey detached dwellings and Meadow View is a development of single storey dwellings c.70m to the east. However these are mini-estates in their own right with their own access roads and layouts which do not adversely impact nearby dwellings. There are no instances of the sort of 'tandem' rear garden development in the grain of local development and the proposal is hence contrary to the distinctive character of the locality.

- 7.16 The requirement to accommodate two dwellings and associated parking and amenity space in what is in effect half a back garden results in a cramped layout. The new dwellings extend very close to the sides of the plot, rear amenity space for the future occupants is limited and the west site boundary is dominated by parking spaces. The arrangement does not reflect the typical pattern of existing development and is at variance with the existing character of the locality.
- 7.17 Whilst the position of the new dwellings to the rear of Fern House minimises the impact of the proposal on the street scene, it is nevertheless contrary to the distinctive character of the area and hence contrary to policies 2 and 3 of the SELLP and to Section 12 of the NPPF.

Amenity impacts

- 7.18 The proposal would have an access shared with Fern House onto the B1397 Spalding Road at a point where it is speed limited and has good sight lines in both directions. LCC Highways has no objection to the scheme providing the amended access is constructed to appropriate standards. No adverse impacts on public amenity from highways or other means are considered likely.
- 7.19 Impacts on the amenities of existing neighbours and future occupants are more challenging. Policy 2 (Development Management) and Policy 3 (Design of New Development) of the Local Plan seek to ensure that new development does not have a significant impact on neighbouring land uses, including residential amenity. Policy 2.6 states that 'impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion' is a consideration with regard to sustainable development and Policy 3.11 confirms that residential amenity is a consideration in the assessment of the design of new proposals. These provisions reflect national guidance in the NPPF which at paragraph 130 states that development should result in places 'with a high standard of amenity for existing and future users'.
- 7.20 The distance from the south elevation of the new dwellings to the parent house would be approximately 11.5m and the distance to the nearest point on the eastern neighbour, Field House, approximately 3.5m. Overlooking occurs where there is an inadequate distance and unrestricted views between proposed windows or private garden areas. Direct views between the windows of habitable rooms such as lounges, dining rooms and bedrooms are particularly sensitive. The development raises amenity concerns regarding both future occupants and existing neighbours.
- 7.21 With regard to future occupants, the two new dwellings would have a total of four bedroom windows overlooked by the rear first floor windows of Fern House. Boundary treatments would provide no protection from this upper floor overlooking, and at a range of c.11m the perceived and actual impacts are likely to be oppressive. Such arrangements might be acceptable in city centre locations where urban density can be very high, but are in general alien to new construction in suburban and village sites.

- 7.22 The eastern neighbour, Field House, is closer still. It is noted that there are no habitable windows on the east elevation of the proposal (a single bathroom window could be obscure glazed). However the habitable windows on the south elevation would provide an oblique viewpoint of Field House, and although a 1.8m boundary is proposed its effectiveness would be to some degree reduced by the need to raise the new bungalows by almost 1 metre for flood risk mitigation. The raising of the new dwellings would also increase their massing impact, and notwithstanding the proposed hipped roofs the massing impact experienced from the rear of Field House and especially its rear conservatory and garden would be considerable. There would also be significant overshadowing especially of the garden with a westerling evening sun.
- 7.23 The reduced amenity space left for Fern House is adequate although atypically small for a house of that size in this area (the western side neighbour, The Old Chapel, is an exception but this modern dwelling was built on the plot of a former non-conformist chapel which is very limited in size). An additional negative amenity impact is that of the parking spaces and access immediately west of the parent dwelling which are likely to have an adverse impact on the occupants of Fern House.
- 7.24 It is acknowledged that the current proposal improves on the scheme for three two storey houses plus subdivision of Fern House which was submitted at pre-application. However taking all the above elements together it is considered that the proposal still represents an overdevelopment of the site which is likely to have unacceptably harmful impacts on the residential amenities of future occupants and of neighbours, and hence the proposal is contrary to policies 2 and 3 of the SELLP and to the NPPF with particular reference to paragraph 130.

8.0 Summary and Conclusion

- 8.1 Whilst in general terms Sutterton is considered a sustainable location for new housing development, the specifics of the present case are such that the development fails to satisfy the requirements of the Local Plan and relevant national guidance.
- 8.2 The site is in a very elevated flood risk area within both FRZ3a and the Coastal Hazard Zone. The Sequential Test has not been met, and other sites at lower risk of flooding exist in the vicinity. In addition whilst flood resilience measures are proposed for the new dwellings, the application does not provide evidence that it will be possible to implement the scheme without displacing waters into neighbouring properties, especially in times of flood.
- 8.3 The proposal is for tandem development which is contrary to the established character and grain of the area and would overdevelop the site.
- 8.4 By reason of the form, scale, layout and design of the proposal and the constraints of the site it is likely to have unacceptably adverse impacts on the residential amenities of future occupants and of neighbours through overlooking and massing.

9.0 Recommendation

9.1 It is recommended that Committee refuse the application on the following grounds:

1. The proposal would result in the erection of two units of market housing in an area of unacceptably high flood risk. The proposal is not supported by a successfully completed Sequential Test to demonstrate that sites at lower risk of flooding are not available, when allocated sites which have not been built out are located nearby. The proposal does not demonstrate that it is capable of passing the Exception Test. The proposal does not demonstrate how consequential harm to neighbouring properties through the displacement of water will be avoided, especially in times of flood. The proposal is therefore contrary to policies 2, 3 and 4 of the South East Lincolnshire Local Plan 2019 and to Section 14 of the National Planning Policy Framework 2021 with particular reference to paragraphs 152, 159, 161, 162, 163, 164, 165 and 167.
2. The proposal would result in the erection of two dwellings in a tandem location contrary to the grain of the existing built environment and by reason of the form, scale, layout and design of the scheme and the constraints of the site would overdevelop the site. The proposal therefore does not accord with the distinctive character of the locality and is contrary to policies 2 and 3 of the South East Lincolnshire Local Plan 2019 and to the National Planning Policy Framework 2021 with particular reference to paragraphs 126, 130 and 134.
3. The development would, by reason of its form, scale, layout and design and the constraints of the site, have unacceptably harmful impacts on the residential amenities of future occupants and of the occupants of neighbouring dwellings through overlooking and massing. As such the proposal is contrary to policies 3 and 4 of the South East Lincolnshire Local Plan 2019 and to the National Planning Policy Framework 2021 with particular reference to paragraph 130.

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