

BOSTON BOROUGH COUNCIL

Planning Committee – 06 May 2025

Reference No: B/24/0177

Expiry Date: 29-Jul-2024

Extension of Time: 08-May-2025

Application Type: Major - Full Planning Permission

Proposal: Proposed Residential Development Comprising 142 Affordable Dwellings and Associated Works

Site: Land adj to 78 Puritan Way, Land off Puritan Way, Boston, PE21 8NW

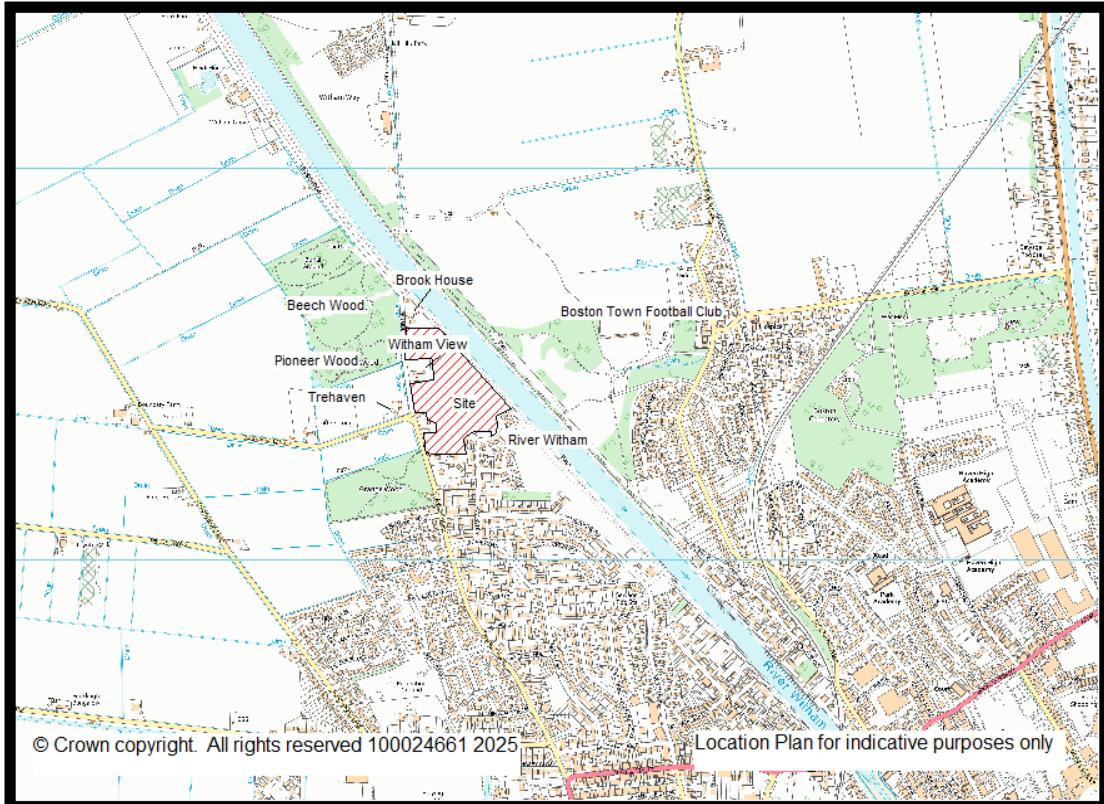
Applicant: James & Susan Gosling, Katie Newton Margaret Leggate & Rita Wicks

Agent: Clive Wicks Associates

Ward: Fenside Parish: Boston Town Area Committee

Case Officer: Ian Carrington Third Party Reps: 11

**Recommendation:** Approve subject to conditions and signing of a Section 106 agreement



## **1.0 Reason for Report**

1.1 The application has been called in for Committee determination by a ward member, Cllr Dani, to allow discussion of the following issues:

- Flooding neighbouring properties
- Overlooking other houses
- Only one exit via Puritan Way for such a large residential area.

## **2.0 Application Site and Proposal**

2.1 The application site is a roughly triangular piece of flat farmland extending across 4.6882 hectares, currently in arable use and located on the north western edge of the built form of the settlement of Boston. The site is bounded to the west by Fenside Road, a rural cul de sac beyond which lies open arable farmland. To the north west is Pioneer Wood, an area of woodland. To the immediate north at the apex of the triangle is a residential dwelling with a large domestic curtilage. The eastern boundary is formed by the River Witham, which at this point has high embankments. To the south is existing residential development centered on Puritan Way.

2.2 The application site forms the northern part of a larger area allocated for housing in the Local Plan. This extends to 8 hectares in total, and is described as allocation Fen006, Land East of Fenside Road, in Inset Map 1 and Policy 11 of the South East Lincolnshire Local Plan. The southern part of the allocation has already been developed.

2.3 The site is in Flood Risk Zone 3 (FRZ3), and is also within the Coastal Hazard Zone. Environment Agency mapping indicates the hazard level as being in the category 'Danger For All'.

2.4 The proposal is for the erection of 142 dwellings with associated infrastructure, drainage and open space. All the dwellings will be affordable housing.

2.5 After the initial submission amendments were made to the layout to incorporate a corridor for wildlife and natural planting, to add additional drainage at the boundary with existing neighbours and other detail changes.

## **3.0 Relevant History**

3.1 B/16/0106 allowed the erection of 86 dwellings – effectively the southern part of the allocation site.

3.2 B/18/0395 allowed the erection of 79 dwellings – this was an amendment to the scheme allowed under B/16/0106 which took into account some specific requirements of the housing association.

- 3.3 B/18/0385 allowed off-site works to provide surface water disposal for the scheme allowed under B/16/0106.
- 3.4 In addition there have been a number of applications confirming compliance with conditions imposed under B/16/0106.

#### **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: Flood Risk  
Policy 5: Meeting Physical Infrastructure and Service Needs  
Policy 6: Developer Contributions  
Policy 10: Meeting Assessed Housing Requirements  
Policy 11: Distribution of New Housing  
Policy 17: Providing a Mix of Housing  
Policy 18: Affordable Housing  
Policy 31: Climate Change and Renewable and Low Carbon Energy  
Policy 32: Community, health and Wellbeing  
Policy 36: Vehicle & Cycle Parking

National Planning Policy Framework 2024 (NPPF)

National Design Guide (NDG)

Planning Practice Guidance (PPG)

#### **5.0 Representations**

- 5.1 As a result of publicity 11 representations including 4 objections have been received at the time of writing with some addresses providing multiple items of correspondence. Some correspondents have provided detailed documents, alternative plans and third-party assessments. The full text of all representations is available on the Council's website and the planning file. Correspondents have also supplied photographs including those showing drainage conditions at the site. All comments have been carefully considered. Note: After the initial submission amendments were made to the layout to incorporate a corridor for wildlife and natural planting, to add additional drainage at the boundary with existing neighbours and other detail changes, and the amended plans were subject to an additional consultation. Comments from both rounds of consultation are included in the summaries below.

5.2 The comments and objections can be summarised as follows:

- request that a condition requiring swift bricks is included
- there is a high potential for flooding on and near the site, with poor ground drainage conditions and potential for run-off from the raised new dwellings affecting neighbours
- alternative layout provided increasing the distance between the new dwellings and two of the existing neighbours and seeking to improve the situation for owls
- poor maintenance of existing riparian drains including that which take surface water from the earlier phase of development to the south
- alternative proposals for drainage including proposal to place additional drains on the perimeter of a neighbour's property
- No access should be permitted from Fenside Road
- the development will cause traffic congestion on local roads
- the development would be contrary to local character
- loss of privacy for existing neighbours

5.3 A comment was also received from the Boston Woods Trust. This did not object but asked that the following concerns should be taken into account: 1) poor local drainage and flooding; 2) concern that residents would access Fenside road directly, with adverse impacts on those (including pedestrians and dog walkers) seeking to access Boston Wood; 3) development will increase footfall, wear and tear and littering in the woods and requests a contribution towards upkeep from the developer.

## 6.0 Consultations

6.1 Lincolnshire County Council Highways/SUDS – no objection – highway layout is acceptable for adoption and subject to some minor conditioned improvements the local highway network has capacity for the new flows; drainage strategy is acceptable subject to provision and approval of further more detailed plans.

6.2 Barn Owl Trust – initial objection withdrawn subject to use of agreed condition requiring preparation of a mitigation strategy.

6.3 Council Ecologist – no objection - BNG provision satisfactory subject to details being secured by condition and/or a legal agreement.

6.4 Anglian Water – no objection – notes a) company assets in the locality; b) local system has capacity for foul water flows; c) notes provisions relating to adoption of assets and connection to AW systems; d) further work required on details of surface water strategy: QBAR rates proposed are not in accordance with Anglian Water policy 'we assess the 1 in 1 year rate only'.

6.5 BBC Housing Strategy – 'fully support'

6.6 BBC Environmental Operations – ‘no objections’

6.7 Environment Agency – initial objection withdrawn – supports subject to a condition stating: ‘ The development shall be carried out in accordance with the submitted FRA dated June 2024, ref: ‘ECL1081b/SHIELDS WILSON’, prepared by Ellingham Consulting Ltd and the following mitigation measures it details:

- Finished floor levels to be set no lower than 3.2 metres above Ordnance Datum (AOD)
- The development to have at least two storeys
- Flood resilience and resistance measures to be incorporated into the proposed development as stated’.

6.8 Black Sluice Internal Drainage Board – no objection – notes Board consent required for a range of operations including discharge to and works on watercourses; notes that increased ground levels on the site should not be allowed to generate off-site flood risk.

6.9 Lincolnshire Wildlife Trust – ‘holding objection’ pending additional BNG details. [Additional details were supplied but no further comment received from the Trust]. Trust also requests covenant on householders regarding BNG.

6.10 Lincolnshire County Council (education) – no objection – requests £626,780.82 towards secondary and sixth form education.

6.11 NHS Integrated Care Board – no objection – requests £93,720 towards primary health care.

6.12 BBC Environmental Health – no objection – requests a) contaminated land condition and b) construction management plan to be secured by condition.

## **7.0 Planning Issues and Discussions**

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

Principle of the development  
Design and impact on local character  
Impact on neighbour amenity  
Flood risk and drainage  
Highway safety  
Affordable housing and developer contributions  
Ecology and biodiversity

## **7.2 Principle of the development**

7.3 Policy 1 (Spatial Strategy), Policy 10 (Meeting Assessed Housing Requirements) and Policy 11 (Distribution of New Housing) of the SELLP set out the framework for housing provision and make allocations proportionate to current and anticipated need, and proportionate to available infrastructure. At Text 3.5.2 the Plan notes: 'the allocated sites identified in the Inset maps are those considered to best meet the requirement for each settlement'. Members will note the aim of the plan is to deliver 310 units per annum over the plan period, this being through a combination of existing commitments, allocations and windfall development. These numbers are not an upper limit. Members will also note that the Plan was adopted in 2019, and the Council can currently demonstrate a 5-Year supply of housing land. This supply includes site allocations and thus the plan may be given full weight in decision taking.

7.4 Policy 11 of the SELLP includes allocated sites. The application site forms part of allocation Fen006, Land East of Fenside Road, shown in Inset Map 1 and Policy 11 of the South East Lincolnshire Local Plan. The Plan was adopted on 8th March 2019 after widespread public consultation and an Examination in Public. The adopted Plan has been approved by the Planning Inspectorate, is not subject to legal challenge and has full weight in any planning decision. Therefore, the development of this part of the site has been agreed in principle as a result of the allocation.

7.5 The sites allocated in the Plan resulted from an intensive process of analysis and selection subject to public scrutiny and formal examination. No circumstances have arisen since the adoption of the Plan which would undermine the validity of allocated site Fen006 and the present application is for housing development on part of that allocated site.

7.6 The principle of the development is therefore considered to be sound and to accord with policies 1 and 11 of the Local Plan. The housing mix proposed is considered to accord with the requirements of Policy 17 Providing a Mix of Housing.

## **7.7 Design and impact on local character**

7.8 Policy 2 of the Local Plan deals with development management, and requires proposals to meet a range of criteria for sustainable development including matters of 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 and also quality of design and orientation. Policy 3 of the Plan deals with sets out parallel criteria dealing with the design of new development which seek to ensure that 'development will create distinctive places through the use of high quality and inclusive design and layout'. In addition to these local policies Section 12 of the National Planning Policy Framework provides overarching guidance on 'achieving well-designed places'.

7.9 The layout and overall design of the development reflects that of the earlier development consented under B/16/0106. At its southern end this terminated with a large circular 'village green' feature with a service road around it, and the main distributor road for the present proposal would start at this point with a second road starting to its south. All roads are sinuous which will give an organic feel to the development and improve its appearance and living quality. The development will urbanise what has been open agricultural land on the settlement edge. This will have a significant character impact, but it must be remembered that the site was allocated for housing in the Local Plan and the urbanizing impact was taken into account and deemed acceptable at the plan making stage. The proposal implements this urbanization in a manner which references the previous stage of development but at a lower density, and is considered acceptable in this edge-of-settlement location.

7.10 The 'village green' forms the largest area of public open space for this development and would be shared with the housing already built, in accordance with the original concept and plan. Additional areas of open space and wildlife resource are scattered through the site with an area of woodland planting at the northern apex of the site. The public open space provision meets the requirements of Policy 32 of the Local Plan.

7.11 All dwellings have two storeys to meet flood resilience requirements, most are arranged as semi detached pairs, with some triples and two blocks of four maisonette units. The external design is conventional, with brick and tile external surfaces. The design of the dwellings, the layout and the materials palette is considered acceptable, and to accord with the character of the locality. Parking provision meets the requirements of Policy 36 of the Local Plan.

7.12 The proposal seeks 142 dwellings on an area of 4.6882 hectares, a density of 30.3 dwellings per hectare. The development to the immediate south (79 dwellings in its amended form on 2.2 hectares of land) has a higher density of 35.9 dwellings per hectare. The present proposal includes more recreational and nature-oriented open space than the southern development and also takes more than half of the circular 'village green'. The density as apparent on the street will not appear very different to the earlier phase. Development further to the south is also relatively dense suburban housing, and the proposed density of this scheme is acceptable in its context.

### **7.13 Impact on neighbour amenity**

7.14 Policy 2 of the Local Plan requires developments to meet sustainability requirements including those relating to good design and respecting existing developments and land uses, whilst Policy 3.11 makes 'residential amenity' a specific issue.

7.15 Dealing firstly with the amenities of future occupants, the arrangement of the dwellings, their separation distances, private amenity spaces and fenestration arrangements are

such that occupants will enjoy a good level of amenity. This will be augmented by the provision of public open space.

- 7.16 Turning to existing neighbours, there is a single dwelling to the north and two in separate plots inset into the west side of the site and a further two dwellings on the south side west of the 'village green'. There are also two more recent dwellings from the first phase, one to either side of the green.
- 7.17 The long-standing neighbours will of course experience the greatest degree of change. Historically the neighbouring land use has been agriculture with a rural outlook. Whilst loss of view is not a material planning consideration (and the inset dwellings have substantial boundary treatments including hedging) the change in land use to residential will have a degree of impact. However, it is noted that for the most part these dwellings have substantial curtilages with the dwelling itself set back from the boundary with the application site, and that a proposed area of trees will further distance the northern neighbour from the new housing.
- 7.18 The test is not whether there will be any impacts at all, but whether those impacts (through such things as overlooking, loss of privacy or overshadowing) would cause unacceptable harm to the residential amenities of those existing neighbours. In suburban situations such as will be created by this development a separation distance of 16 metres from the rear elevation of one dwelling to the elevation of its neighbour would be considered acceptable, and in this case the separation distances are significantly greater. Whilst for flood resilience reasons the new dwellings will be raised above existing ground level, the separation distances and existing boundary treatments are such that no significant harm through overlooking/loss of privacy is likely, and with the proposal lying east and north of most of the neighbours, overshadowing is not an issue.
- 7.19 In summary, by reason of separation distance, orientation, scale and fenestration the new dwellings would not cause unacceptable harm to the residential amenities of existing neighbours to the west, north or south. The relationship between the existing and the new dwellings would be more distant than that typical of the vicinity. The development would therefore accord with those parts of Policy 3 of the Local Plan which deal with residential amenity.

## **7.20 Flood risk and drainage**

- 7.21 The application is supported by a site-specific Flood Risk Assessment (FRA) which meets the requirements of the NPPF, a supplementary Drainage Principle Review Statement which contains additional information, a Site Boundary Drainage Statement and a Surface and Foul Water Drainage Strategy. Policy 4 of the Local Plan deals with flood risk; Section 14 of the Framework is also a material consideration. As a residential development in a location of elevated flood risk any development must mitigate flood risk.

7.22 The South East Lincolnshire Level 1 and Level 2 SFRA (2017) Flood Hazard Map for 2115 shows that the site has a Flood Hazard between 1.25 and 2 indicating a Danger for All. It is noted that the latest Environment Agency 2115 Breach Hazard Map quoted in the submitted FRA gives a range of depths across the site between 0.25m and 1m. The site is in Flood Risk Zone 3.

7.23 At the plan-making stage the site was fully assessed and no more recent information has come to light which would undermine the residential allocation set out in the Local Plan. Therefore, in line with paragraph 180 of the Framework the sequential and exception tests do not need to be applied again. As an allocation, the site is considered to be sequentially preferable to other, non-allocated sites and the sequential test is not required. However, regarding the exception test the NPPF states: 'the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account'. Whilst no change of circumstances has taken place, it has been considered prudent to consider the merits of that Test afresh. The Test consists of two parts:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall*

Regarding part (a) it is considered that the provision of 142 units of affordable housing provides a very substantial sustainability benefit to the community which outweighs the flood risk. This is in part because that flood risk has, as is required by part (b) of the Test, been mitigated both in terms of on-site and off-site risks, and that mitigation has, subject to the use of appropriate conditions as recommended in this report, been considered suitable by the Council and its expert consultees. The Exception Test is therefore considered to have been passed.

7.24 Preparatory ground investigations undertaken in January 2024 included 5 boreholes and 19 trial pits across the full extent of the site. Taken together with other evidence and local knowledge this work demonstrated that infiltration drainage was not feasible. The Drainage Strategy document therefore gives details proposals for surface water to be collected via a network of drains to an attenuation area including subsurface tanks and a detention basin to be located at the circular 'green'. Water would then be pumped into a riparian drain already used for the earlier phase and taken some 300m westward to be fed into the watercourse system maintained by the Black Sluice Internal Drainage Board. This would in part utilize infrastructure created for the earlier phase and would use the same riparian channel to connect to the IDB network. However, the connection will be made downstream of the existing flow control device for the earlier phase, and the two

systems will act independently of each other. The discharge rate will be limited to 6.6 litres per second in line with the existing greenfield run-off rate of the site.

7.25 The drainage strategy has been developed ground investigation included 5 boreholes and 19 trial pits across the full extent of the site with the involvement of the Black Sluice drainage board and has been reviewed by them, the Lead Local Flood Authority, the Environment Agency and Anglian Water. It is considered that it is capable of ensuring that surface water is properly drained from the site, but as the strategy itself acknowledges, further detailed design work for both above- and below-ground assets is necessary. It is therefore recommended that more detailed plans are secured by condition – these would include resolving a issue relating to discharge rates raised by Anglian Water. These would be subject to the approval of the Local Planning Authority, which would as ever be advised by a range of highly qualified experts.

7.26 An existing neighbour has expressed concern that run-off from the site would adversely impact his premises and has provided photographic evidence of standing water in the field adjacent to his boundary. The resident has made a number of suggestions to mitigate this, including amended layout, amended site grading and the installation of a concrete barrier at his site boundary to prevent inflowing water.

7.27 Responding to these concerns the Authority requested the provision of an interceptor drain to run along the western site boundary to capture any run-off from the new development. This feature is included in the overall site drainage plan and is discussed in detail in the document 'Site Boundary Drainage Statement'. This feature uses the wildlife corridor adjacent to the affected property and would consist of a depressed French drain to intercept any flows, though this would not be a graded 'live' drain removing water to another part of the site. Instead, the Statement seeks to demonstrate that this will allow natural drainage to take place as it would be above the water table. In this way the neighbouring property would be protected.

7.28 Foul water disposal would be via a connection to the Anglian Water sewer system which Anglian has confirmed has capacity to take and process the flows.

7.29 In an area of elevated flood risk flood mitigation and resilience measures are of great importance. The Environment Agency has requested both specified finished floor levels and flood resilient construction and these measures are considered reasonable and necessary to secure by condition.

7.30 The drainage measures have been assessed by the Authority's consultees. It is considered that the strategy has the potential to ensure that the site is properly drained and that the development will not cause increased risk of flooding on or off the site. However, the strategy needs to be developed into more detailed plans (and if necessary additional calculations to justify those plans) and it is recommended that their development and

approval is secured by condition. In this way the Authority and its expert advisors can ensure that the implemented scheme will deliver the performance required.

7.31 During the determination period a neighbour to the site commissioned a study of drainage documentation associated with the application. Its contents have been studied and are noted. The study – by Amazi Consultants Ltd. – was referred for comment to the Lead Local Flood Authority as an advisor and statutory consultee to the Authority. LCC responded as follows:

*Having reviewed the Flood and Drainage document by Amazi Consulting Ltd, Lincolnshire County Council as a Highway and Lead Local Flood Authority as a consultee for this application, have assessed the submitted details in relation to flood risk and the drainage strategy. During the consultation period, no concerning matters have been raised without them first being addressed at that stage to minimise the impact of any flood risk by applying mitigation measures. It should be noted from our formal response dated 09th August 2024, that the proposed drainage strategy adequately demonstrates a suitable scheme for the development site and has been conditioned to ensure that a detailed design requires submission and further review under a S38 Agreement to discharge the relevant condition.*

7.32 Subject to the use of appropriate conditions it is considered that the proposal will satisfactorily mitigate flood risk and will not cause increased risk of flooding off the site. The proposal is therefore considered to comply with the requirements of Local Plan Policy 4 and with the provisions of Section 14 of the NPPF.

### **7.33 Highway safety**

7.34 The site access will be off the circular public open space via a spur road and a distributor road, the latter with its own two spur roads. All estate roads will have footways. The estate will connect to Puritan Way (the road which serves the built phase to the south) and thence to the wider highway network. There will be no access to the estate roads or to individual dwellings from Fenside Road.

7.35 The proposal has been discussed extensively with LCC Highways. In its formal comments on the scheme it states that the layout is acceptable, and that roads should be built to adoptable standards to enable later adoption. It notes the connection to Boston via Puritan Way. The capacity of this road to take traffic flows was specifically raised with LCC, and County Highways considers that the network has capacity to accept traffic flows subject to some minor improvements such as the introduction of tactile crossings.

7.36 Commenting on the application, LCC Highways notes that its response is governed by the guidance set out in paragraph 109 of the NPPF, that judged by those criteria it makes no objection to the proposal and its formal recommendation is 'approve with conditions'. LCC requests a number of conditions and informative notes regarding highways matters,

and these are considered reasonable and necessary and are included in the recommendation.

### **7.37 Affordable housing and developer contributions**

7.38 Policy 6 of the Local Plan deals with developer contributions. It states:

*'Developments of 11 or more dwellings, or which have a combined gross floorspace of more than 1,000 sqm, or non-residential development of 1,000sqm gross floorspace or more will be expected to mitigate their impacts upon infrastructure, services and the environment to ensure that such developments are acceptable in planning terms'.*

The policy goes on to detail the linked relevant policies for different aspects of planning gain which will apply. These include Policy 18 dealing with affordable housing which requires market housing developments of this scale to deliver a 20% contribution of on-site affordable housing provision. Policy 18 was modified to match by central Government guidance issued after the SELLP was adopted to read that affordable housing contributions would be sought for developments of 10 or more (rather than 11 or more) dwellings.

7.39 The supporting text to the policy states (at 3.7.11):

*'The policy implications of this Local Plan, including those matters to be sought by developer contributions, have been subject to a Whole Plan Viability Assessment<sup>4</sup> to ensure that the cost would not adversely impact upon the viability of development in South East Lincolnshire. As such, it is expected that the costs of developer contributions are factored in when land is purchased. In exceptional circumstances, where applicants state that financial viability prevents the delivery of some or all developer contributions, a financial appraisal should be submitted. Preferably this should form part of the pre-application negotiations but must be submitted with a planning application. Each Local Planning Authority's independent valuer will consider the assessment. All costs associated with the assessments will be met by the developer'.*

This is consistent with higher level guidance set out in the NPPF and Planning Practice Guidance. At paragraph 58 the Framework sets out the criteria which apply to all planning obligations and at paragraph 59 it details the circumstances under which an applicant may submit viability arguments and how Local Planning Authority should respond using nationally established guidelines. More detailed guidance on the technicalities of viability assessments is set out in Planning Practice Guidance.

7.40 A request for £626,780.82 was received from Lincolnshire County Council towards education provision, consisting of £463,272.78 for secondary education and £163,508.64 for sixth form provision. No request was made for primary education. In addition, a

request was received from the NHS Integrated Care Board for £93,720 towards local primary health care provision. A request for £67,000 from LCC Highways is made for improvements to Fenside Road to the junction with Washdyke Lane. A further request is made via LCC Highways for £350,000 to fund a new bus service consisting of £195,000 for operation costs for the first three years and £155,000 for free bus passes for each dwelling for 12 months. This adds up to a total of £1,167,500.82 sought against the scheme.

- 7.41 The applicant asserted that the scheme could not bear the obligations sought and submitted a detailed viability case. In line with Policy 6 this was assessed by the Council's expert independent advisor, CPV Viability Ltd., using nationally agreed methodology and with the costs borne by the applicant. The viability assessments process was a lengthy one, with detailed analyses from both sides being reviewed and discussed. Throughout it was noted that this scheme is entirely for affordable housing. The final position agreed by both the Council's assessor and the applicant was that the scheme could deliver the scheme as 100% affordable housing plus a total financial contribution of £152,478.
- 7.42 This figure is significantly less than the total contributions sought and it is therefore necessary to establish a hierarchy of planning obligations sought. In this case primacy is given to the £67,000 sought by LCC Highways primarily for the improvements to Fenside Road. These are considered by the Highway Authority to be essential for the scheme to proceed safely, and funding those improvements in their entirety is recommended.
- 7.43 Regarding the remaining £85,478, both the NHS and education are highly valuable services to the community. It could be argued that the NHS serves the entire population whilst education is restricted to those families with children in the appropriate age range, possibly at some relatively distant point in the future. Conversely not everyone needs the services of the NHS, whereas all children require education.
- 7.44 The options are to fund NHS request in full with the residue contributed to the education service, to allocate all available funds to education or simply to divide the available monies between the two. On balance (and it is a fine balance) officers recommend the first option due to health care being a universal requirement and education only benefitting those members of the community with children of a particular age. However, there are merits in all options, and the Committee could find justification for taking a different course. It is noted that in commenting on the case the Boston Woods Trust also requested an unspecified contribution from the developer. However, this request is not from a statutory provider, so that matter is left as a private issue between the applicant and the Trust.
- 7.45 Regarding the request for a new bus service, whilst desirable this is considered to be lower in the hierarchy of community benefit and is in any case unaffordable. It is also noted that the practicalities of creating a reserve for bus passes the take-up of which cannot be predicted would entail the reserve of £155,000 being created at the cost of other, better-

defined calls for funding. Moreover, the bus pass scheme is not considered by officers to accord with the requirements for planning obligations set out in paragraph 58 of the NPPF. The bus scheme is therefore discounted.

7.46 Regarding affordable housing, the Local Plan requires a 20% contribution on market schemes but this proposal will deliver the entire development as affordable homes. Commenting on the case the Housing Strategy Manager wrote: 'the application proposes 142 affordable dwellings - 16 x 1 bed 2 person, 80 x 2 bed 4 person, 37 x 3 bed 5 person and 9 x 4 bed 6 person dwellings all provided as affordable rented properties... this scheme will provide much needed affordable rented housing to meet the identified need'.

7.47 In summary, the proposed scheme will deliver 100% affordable housing plus a financial contribution which, though smaller than the sums sought, will nevertheless provide valuable community benefit. It is recommended that these are secured by means of a Section 106 legal agreement.

#### **7.48 Ecology and biodiversity**

7.49 The application was submitted after the new national Biodiversity Net Gain (BNG) provisions came into force, and therefore there is a requirement to demonstrate that the scheme can deliver at least 10% biodiversity net gain. Policy 28 of the SELLP deals with the natural environment. At 28.3 it requires development to provide 'biodiversity net gain' but does not specify a figure. The policy also requires at 28.1(b) that major housing applications within 10km of The Wash should be supported by a Habitats Regulations Assessment regarding their impact on sites of ecological value.

7.50 The application is supported by:

- Biodiversity Assessment - Report Dated August 2024
- Preliminary Ecological Appraisal and Habitat Regulations (Screening) Assessment August 2024
- Preliminary Ecological Appraisal and Habitat Regulations (Screening) Assessment Dated November 2023
- Biodiversity Metric Calculation Tool (parts I and II)
- Biodiversity Metric Condition Assessment Existing Habitats
- Biodiversity Metric Condition Assessment Proposed Habitats

7.51 The Preliminary Ecological Appraisal and Habitat Regulations (Screening) Assessment and the Biodiversity Assessment deal with nearby sites of scientific and ecological interest. The proposal will have no adverse impacts on such sites, and the documents are considered to satisfy the requirements for a Habitat Regulations Assessment.

7.52 The proposals for on-site biodiversity net gain demonstrate that the site is capable of delivering significantly in excess of the national BNG requirement of 10% net. The

proposal envisages a net gain of habitat (area) biodiversity units of 4.5% and net gain of habitat (linear) biodiversity units of 55.94%. The applicant's proposal notes: 'this outcome assumes that areas of compensatory planting have successfully established and that a plan of adequate, long-term management and monitoring is implemented to ensure longevity for a minimum of 30 years'. It also states that if the on-site provision proves impossible to deliver it will be necessary to purchase off-site units.

7.53 The proposal has been assessed by the Council's ecologist, and after a number of modifications the final scheme is considered by him to be satisfactory to meet national requirements and to be capable of delivery. The recommendation is therefore the details are secured by a legal agreement to include both delivery and long-term monitoring.

7.54 A particular aspect of ecology for this case has been the issue of barn owls. The occupant of a dwelling on the southern site boundary has converted an outbuilding to provide barn owl nesting facilities, and reports that with his assistance broods are successfully raised each year. Barn owls, a protected species, hunt over open countryside, and the resident has raised concerns that the development would disturb nesting and deprive the owls of their hunting ground. The resident involved the Barn Owl trust in the case, and there have been lengthy discussions involving the Trust, the applicant's agent and the Authority.

7.55 The final position, agreed between the Authority and the Trust, is that any approval should be conditioned to require that a method of works and mitigation strategy is prepared by a suitably qualified ecologist, the details to include:

- Strict timings of works accompanied by immediate pre commencement checks conducted by a suitably qualified ecologist
- Appropriate buffer zones around the existing nest site and any proposed temporary alternative mitigation.
- Ensure permanent additional/alternative nesting provision i.e. wildlife tower positioning is in a location unlikely to suffer from high levels of disturbance post development and not obscured by soft or hard landscaping.
- Design landscaping in such a way to maximise chances of continued use of the existing nest site post development. Removing trees and shrubs from entrance 'corridors'.

Such a strategy may require some minor modification of the BNG delivery plan, and may involve a degree of off-site provision. However, the Trust is of the opinion that such a mitigation strategy would provide appropriate protection for the species and at the same time allow the development to progress. The Council's ecologist and the applicant are in agreement with this proposal.

## **8.0 Summary and Conclusion**

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals are determined in accordance with the development plan unless material considerations

indicate otherwise. It is well defined in case law that the Development Plan (in this case the South East Lincolnshire Local Plan 2019) should be taken as a whole. It is for the decision-maker to weigh up the extent to which proposals are in accordance with or may conflict with policies of the development plan and their objectives, along with all relevant materials considerations. The weight attributed to each of these factors is known as the 'planning balance'.

- 8.2 The proposal is on a site allocated for housing in the Local Plan. No changes on the ground or in the planning framework have taken place since the Local Plan was approved in 2019 which would undermine the allocation. It is a material planning consideration that the proposal effectively forms the second phase of a wider development allowed under B/16/0106 and B/18/0395.
- 8.3 The principle of the development is sound. The proposal would deliver 142 units of additional residential accommodation, all of which will be affordable housing. The proposals would therefore be compliant with policies 11 and 18 of the Plan, as well as contributing to the housing stock within the Borough and the overall growth ambitions set out in the Plan.
- 8.4 The plans have demonstrated to the satisfaction of the Highways Authority that the scheme is capable of implementation without compromising the safety of road users and pedestrians. A comprehensive drainage strategy has demonstrated that the scheme is capable of implementation without causing additional risks of flooding on or off the site, and in a manner likely to result in betterment for existing neighbouring residents. Additional details of the drainage plan and its future maintenance will be required, and these can safely be secured by condition.
- 8.5 It has been demonstrated the amount of development proposed can be accommodated on site without causing harm to the residential amenities of neighbours to the site and in a manner in keeping with the character of the locality, and with the inclusion of measures to deliver environmental benefit and biodiversity net gain.
- 8.6 The viability assessment has demonstrated that the scheme can generate £152,478 towards panning obligations benefitting NHS primary care, education, or both. Such contributions as are approved by the Committee are recommended to be secured through a Section 106 legal agreement.
- 8.7 It is therefore considered that the proposal is in accordance with the policies of the development plan when taken as a whole and to represent sustainable development. It is recommended planning permission is granted subject to the conditions as set out below.

## 9.0 **Recommendation**

9.1 It is recommended that Committee approves the application subject to conditions and the signing of a Section 106 legal agreement.

### **RECOMMENDED CONDITIONS**

1. The development hereby permitted must be begun not later than the expiration of three years beginning with 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 only be undertaken in accordance with the following approved plans:

- 14-2221-300-LP Location Plan
- 14-2221-301-01 Rev D Proposed Site Plan – Roofscape
- 14-2221-301-02 Refuse Strategy
- 14-2221-302 House Type Proposals - Plots 1 + 2
- 14-2221-303 House Type Proposals - Plots 3 – 6
- 14-2221-304 House Type Proposals - Plots 7 + 8 and 71 + 72
- 14-2221-305 House Type Proposals - Plots 9 + 10 and 73 + 74
- 14-2221-306 House Type Proposals - Plots 11 + 12
- 14-2221-307 House Type Proposals - Plots 13 – 15
- 14-2221-308 House Type Proposals - Plots 16 + 17
- 14-2221-309 House Type Proposals - Plots 18 + 19
- 14-2221-310 House Type Proposals - Plots 20 – 23
- 14-2221-311 House Type Proposals - Plots 24 + 25, 46 - 51 & 63 – 66
- 14-2221-312 House Type Proposals - Plots 26 + 27
- 14-2221-313 House Type Proposals - Plots 28 – 31
- 14-2221-314 House Type Proposals - Plots 32 – 34
- 14-2221-315 House Type Proposals - Plots 35 – 38
- 14-2221-316 House Type Proposals - Plots 39 + 40
- 14-2221-317 House Type Proposals - Plots 41 – 43
- 14-2221-318 House Type Proposals - Plots 44 + 45
- 14-2221-319 House Type Proposals - Plots 52 + 53
- 14-2221-320 House Type Proposals - Plots 54 – 57
- 14-2221-321 House Type Proposals - Plots 58 – 60
- 14-2221-322 House Type Proposals - Plots 61 + 62
- 14-2221-323 House Type Proposals - Plots 67 + 68
- 14-2221-324 House Type Proposals - Plots 69 + 70
- 14-2221-325 House Type Proposals - Plots 75 – 77

- 14-2221-326 House Type Proposals - Plots 78 + 79
- 14-2221-327 House Type Proposals - Plots 80 + 81
- 14-2221-328 House Type Proposals - Plots 82 + 83
- 14-2221-329 House Type Proposals - Plots 84 - 89, 105 - 106 + 125 – 128
- 14-2221-330 House Type Proposals - Plots 90 – 91
- 14-2221-331 House Type Proposals - Plots 92 – 95
- 14-2221-332 House Type Proposals - Plots 96 – 98
- 14-2221-333 House Type Proposals - Plots 99 + 100
- 14-2221-334 House Type Proposals - Plots 101 + 102
- 14-2221-335 House Type Proposals - Plots 103 + 104
- 14-2221-336 House Type Proposals - Plots 107 + 108
- 14-2221-337 House Type Proposals - Plots 109 + 110
- 14-2221-338 House Type Proposals - Plots 111 + 112
- 14-2221-339 House Type Proposals - Plots 113 + 114
- 14-2221-340 House Type Proposals - Plots 115 – 118
- 14-2221-341 House Type Proposals - Plots 119 + 120
- 14-2221-342 House Type Proposals - Plots 121 + 122
- 14-2221-343 House Type Proposals - Plots 123 + 124
- 14-2221-344 House Type Proposals - Plots 129 + 130
- 14-2221-345 House Type Proposals - Plots 131 + 132
- 14-2221-346 House Type Proposals - Plots 133 + 134
- 14-2221-347 House Type Proposals - Plots 135 + 136
- 14-2221-348 House Type Proposals - Plots 137 + 138
- 14-2221-349 House Type Proposals - Plots 139 + 140
- 14-2221-350 House Type Proposals - Plots 141 + 142
- 23-88-01 Topographical Survey (1 of 4)
- 23-88-01 Topographical Survey (2 of 4)
- 23-88-01 Topographical Survey (3 of 4)
- 23-88-01 Topographical Survey (4 of 4)

In addition, the following drawings are embedded in submitted drainage documents:

- SW23-228-REP-01 – Surface & Foul Water Drainage Strategy Report with the following Appended Drawings:
  - SW23-228-001 – Existing Flood Exceedance Plan
  - SW23-228-010B – Proposed Drainage Strategy Arrangement
  - SW23-228-011A – Proposed Drainage Strategy Details
  - SW23-228-015 – Proposed Flood Exceedance Plan
  - SW23-228-030 – Fire Tender
  - SW23-228-031 – Refuse Truck SW23-228-020
  - SW23-228-L01A – Riparian Drain Condition & Flow Capacity Review Statement
  - SW23-228-L02A – Drainage Principle Review Statement
  - SW23-228-L03A – Site Boundary Drainage Review Statement with the following Appended Drawing:

- SW23-228-SK004 – Proposed Boundary Section

**Reason:** To ensure that the development is undertaken in accordance with the approved details, in the interests of residential amenity and to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

3. Prior to the commencement of the development hereby permitted, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include (although not restricted to) the following details:

- a) a traffic management plan incorporating the routing of construction traffic and details of heavy vehicle movement patterns (including the earliest and latest times, and the suspension of trips during peak traffic times)
- b) hours of work for site preparation, delivery of materials and construction
- c) measures to minimise and control noise, vibration, dust, dirt and fumes during the development period
- d) details of on-site parking facilities for both visiting construction vehicles and deliveries and workers on the site
- e) the loading and unloading arrangements for heavy plant and machinery and materials
- f) the location of storage of plant and materials used in constructing the development
- g) measures to avoid disturbance to nesting birds and other wildlife
- h) measures to prevent mud being deposited on the surrounding highway
- i) details of any protective fencing to maintain public access and public safety for the public footpaths that cross/are adjacent to the site
- j) measures to ensure that the site is properly drained during the construction period
- k) a programme for the implementation of all of the above items.

Development shall then be carried out in strict accordance with the approved CEMP.

**Reason:** To satisfy Policies 2 and 30 of the South East Lincolnshire Local Plan (2019) and to ensure that appropriate measures are put in place before any development commences to limit noise, nuisance and disturbance to the occupiers of neighbouring properties during the construction of the development and to prevent any obstruction of or disturbance to the operation of the Highway.

4. The development shall proceed in strict accordance with the contamination recommendations set out at page 30 of the contaminated land assessment for the site (GDP Project Number 2385) forming part of the approved application.

**Reason:** To ensure all contamination within the site is dealt with and to accord with Policies 2 and 30 of the South East Lincolnshire Local Plan (2019).

5. 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 by the Local Planning Authority.

**Reason:** To ensure all contamination within the site is dealt with and to accord with Policies 2 and 30 of the South East Lincolnshire Local Plan (2019).

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

The scheme shall:

- be based on the results of evidenced groundwater levels and seasonal variations (e.g. via relevant groundwater records or on-site monitoring in wells, over a 12-month period);
- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and the principles set out in the submitted documents Flood Risk Assessment; Surface & Foul Water Strategy Ref SW23-228-REP-01; Site Boundary Drainage Review Statement; Drainage Principle Review Statement and Drainage Principle Review Statement which form part of the approved application;
- provide flood exceedance routing for storm event greater than 1 in 100 years;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100-year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to a rate approved by the Local Planning Authority;
- provide detailed drawings and associated calculations of all drainage assets forming part of the scheme;
- provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development including the maintenance of the interceptor drain and any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

No dwelling/no part of the development shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing.

The approved scheme shall be retained and maintained in full, in accordance with the approved details.

**Reason:** To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the permitted development and to accord with Policy 4 of the South East Lincolnshire Local Plan (2019).

7. Prior to any works above slab level the locations of fire hydrants to be provided at the developer's expense shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the details so agreed.

**Reason:** In the interests of the safety and amenity of future occupants of the development and to accord with policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

8. No part of the development hereby permitted shall be occupied before the works to improve the public highway by means of upgrading uncontrolled pedestrian crossing points to include tactile paving and dropped kerbs where necessary at the junctions of Puritan Way with Shaw Road and Puritan Way with Carlton Road have been certified complete by the Local Planning Authority.

**Reason:** To ensure the provision of safe and adequate means of access to the permitted development and to accord with policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

9. 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 and to accord with policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

10. The permitted development shall be undertaken in accordance with an Estate Road Phasing and Completion Plan, which shall first be approved in writing by the Local Planning Authority. The Plan shall set out how the construction of the development will be phased and standards to which the estate roads on each phase will be completed during the construction period of the development.

**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 to accord with policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

11. There shall be no vehicular or pedestrian access from the development to Fenside Road or from any individual dwelling forming part of the development to Fenside Road and no such accesses shall be made in the future from the development or any dwelling forming part of the development.

**Reason:** In the interests and amenities of users of Fenside Road, of visual amenity and of local character, and to accord with policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

12. The development shall be carried out in accordance with the submitted FRA dated June 2024, ref: 'ECL1081b/SHIELDS WILSON', prepared by Ellingham Consulting Ltd and the following mitigation measures it details:

- Finished floor levels to be set no lower than 3.2 metres above Ordnance Datum (AOD)
- The development to have at least two storeys
- Flood resilience and resistance measures to be incorporated into the proposed development as stated

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

**Reason:** To reduce the risk of flooding to the proposed development and future occupants in line with Policy 4 of the South East Lincolnshire Local Plan (2019).

13. None of the dwellings hereby approved shall be occupied until details of the public open space and how it is managed and maintained as part of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall cover the full lifetime of the open space and drainage system and, as a minimum, shall include:

- (i) details of the public open space and how the POS will be landscaped (hard and soft) along with provision of play equipment or other facilities;
- (ii) arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a Residents' Management Company.
- (iii) arrangements concerning funding mechanisms for the ongoing maintenance of all elements of the POS (including mechanical components) to include details such as:
  1. on-going inspections relating to performance and asset condition assessments;
  2. operation costs for regular maintenance, remedial works and irregular maintenance of limited life assets; and

3. any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime including
  - (i) means of access and easements for maintenance purposes;
  - (ii) A timetable for implementation.

The POS shall thereafter be installed in accordance with the details and timetable contained within the duly approved scheme, and shall be managed and maintained as such thereafter.

**Reason:** To ensure that satisfactory measures are put in place for the management and maintenance of the public open space area throughout the lifetime of the development and to accord with Policies 2, 3, 6 and 31 of the South East Lincolnshire Local Plan (2019).

14. Prior to any works above slab level a detailed scheme of landscaping and planting based on the principles set out in the approved proposed site plan and including details of species and future maintenance shall be submitted to and approved in writing by the Local Planning Authority. Plan shall be carried out and completed in its entirety during the first planting season following completion of the development. All trees, shrubs and bushes shall be maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

**Reason:** To ensure that the development is adequately landscaped, in the interests of its visual amenity and character in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

15. 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 (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 (2019).

16. Prior to the commencement of any works on the development hereby permitted, a strategy for the mitigation of the impact of the scheme on barn owls shall be submitted to and approved in writing by the Local Planning Authority.

The method of works and mitigation strategy shall be prepared by an appropriately qualified ecologist and shall include:

- Strict timings of works accompanied by immediate pre commencement checks conducted by a suitably qualified ecologist;
- Appropriate buffer zones around the existing nest site and any proposed temporary alternative mitigation;
- Ensure permanent provision i.e. wildlife tower positioning is in a location unlikely to suffer from high levels of disturbance post development and not obscured by soft or hard landscaping;
- Design landscaping in such a way to maximise chances of continued use of the existing nest site post development for example by removing trees and shrubs from entrance 'corridors';
- Provision of on- and/or -off-site barn owl nesting facilities
- Monitoring programme to determine the effectiveness of the mitigation strategy to at least 2029.

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

**Reason:** In the interests of barn owls and biodiversity and to accord with Policy 28 of the South East Lincolnshire Local Plan (2019).

17 Three swift nest bricks shall be incorporated within the external walls of each dwelling hereby approved and shall be retained thereafter.

**Reason:** In the interests of biodiversity and in accordance with Policy 28 of the South East Lincolnshire Local Plan (2019).

18. Development may not begin unless a biodiversity gain plan has been submitted to and approved by the Local Planning Authority.

**Reason:** To comply with Schedule 7A of the Town and Country Planning Act (1990, as amended).

19. Prior to the implementation or enhancement of any habitat included within the approved gain plan, a 30 year management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- Aims, objective and targets for management, including the target conditions as specified within the Statutory Biodiversity Metric and Biodiversity Gain Plan.
- Details of the phasing and implementation of the habitats
- Details of the management operations necessary to achieve those aims and objectives and the target conditions of all relevant habitats.
- Details of the monitoring needed to measure the effectiveness of management and details of an assessment as to whether the target condition is achieved within the time to target period specified within the approved metric.
- Mechanisms for adaptive management and remedial measures to account for

changes in the work schedule to achieve required targets and to redress any shortfall in biodiversity units that may occur.

- Details of the persons responsible for the implementation and monitoring detailed above
- Reporting on the delivery of on-site gains on years 1, 2, 5, 10, 20 and 30 following the implementation of the habitats in accordance with the above details

The development shall be completed in accordance with the approved details and the management plan shall be adhered to for its duration.

**Reason:** In the interests on improving biodiversity and delivering the Mandatory Biodiversity Net Gain. This condition is imposed in accordance with policy 28 and 31 of the South East Lincolnshire Local Plan 2019.

<b>BNG APPLIES</b>	
BNG1	<p><b>BIODIVERSITY NET GAIN CONDITION</b></p> <p>The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:</p> <p class="list-item-l1">(a) a Biodiversity Gain Plan has been submitted to the planning authority, and</p> <p class="list-item-l1">(b) the planning authority has approved the plan.</p> <p>The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Boston Borough Council</p>
BNG3	<p><b>Statutory exemptions and transitional arrangements</b></p> <p>There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at: <a href="https://www.gov.uk/guidance/biodiversity-net-gain">https://www.gov.uk/guidance/biodiversity-net-gain</a>.</p> <p><b>Irreplaceable habitat</b> If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.</p> <p><b>Effect of Section 73(2D) of the 1990 Act</b> Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -</p> <p class="list-item-l1">(a) a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”), and</p>

	<p>(b) the conditions subject to which the planning permission is granted:</p> <p>(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and</p> <p>(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.</p> <p>- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.</p>
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## INFORMATIVE NOTES

1. The attention of the applicant is drawn to the comments dated 8-Sep-2024 from Anglian Water including references to company assets in the vicinity and connection to foul and surface water drainage. Anglian water includes the following informative notes:

1. INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
2. INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
3. INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
4. INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

The applicant is advised to discuss the Anglian Water comments with the company's officers prior to the scheduling or commencement of any works.

2. The applicant's attention is drawn to the comment on the application dated 05-Jukl-2025 from the Black Sluice Internal Drainage Board referring to rainfall run-off, works within and affecting watercourses and other matters. The applicant is advised to discuss the matters raised with the Board's officers prior to the scheduling or commencement of any works.

3. In accordance with Section 59 of the Highways Act 1980, please be considerate of causing damage to the existing highway during construction and implement mitigation measures as necessary. Should extraordinary expenses be incurred by the Highway Authority in maintaining the highway by reason of damage caused by construction traffic, the Highway Authority may seek to recover these expenses from the developer.

4. All roads within the development hereby permitted must be constructed to an acceptable engineering standard. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. For guidance, please refer to <https://www.lincolnshire.gov.uk>

5. The highway improvement works referred to in condition 8 are required to be carried out by means of a legal agreement between the landowner and the County Council, as the Local Highway Authority. For further guidance please visit our website; [www.lincolnshire.gov.uk/highways-planning/works-existing-highway](http://www.lincolnshire.gov.uk/highways-planning/works-existing-highway)

6. Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

7. The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.