

## BOSTON BOROUGH COUNCIL

### Planning Committee – 06 May 2025

Reference No: B/24/0121

Expiry Date: 19-Jun-2024

Extension of Time: 13-May-2025

Application Type: Major - Full Planning Permission

Proposal: Construction of 102no. residential dwellings

Site: Agricultural land adjacent to White House Lane, Fishtoft, Boston  
PE21 0BE

Applicant: Mr Mandeep Poonian, Opal Homes Ltd

Agent: Mr Colin Sutton, Sutton & Wilkinson Architects Ltd

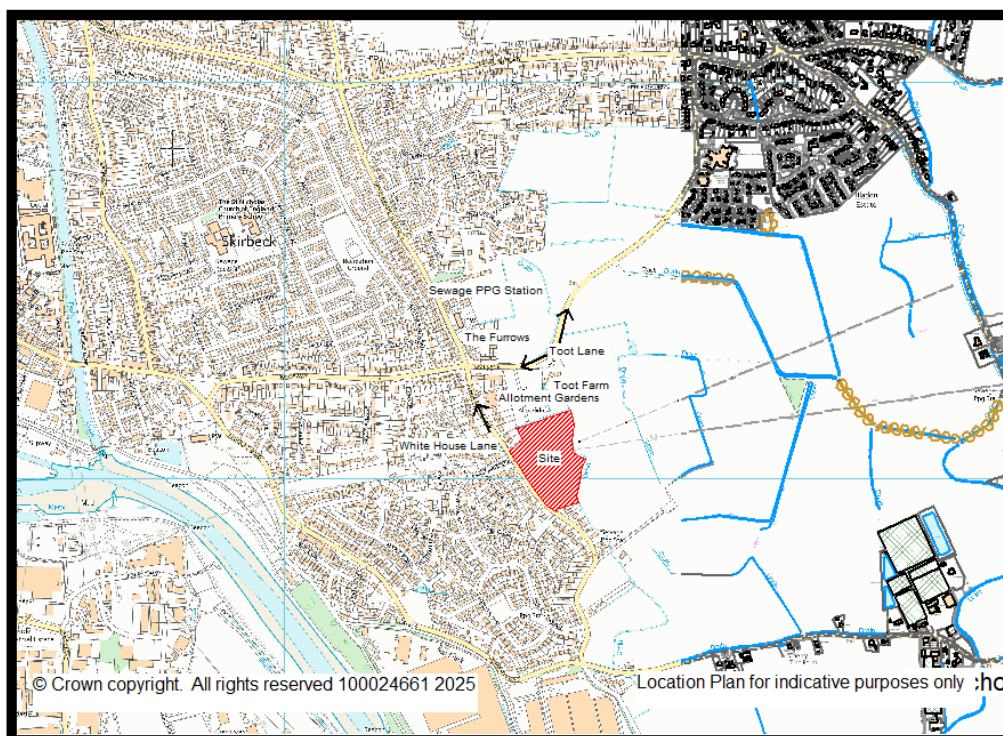
Ward: Fishtoft

Parish: Fishtoft Parish Council

Case Officer: Ian Carrington

Third Party Reps: 12

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



## **1.0 Reason for Report**

The application was called in for Committee determination by a ward member, Cllr. Sarah Sharpe, for the following reasons:

- 1.1 Policy 2 – Development Management. The local plan states 90 dwellings, however this is for 102. The quality of design doesn't reflect the families that these houses will be built for. Having steps to the front door and from the rear door into the garden would make it incredibly difficult for parents of toddlers to access their house, and indeed play in the garden. Also, it would discount anyone who has a disability being able to access these homes. Whitehouse Lane is a busy road, this development would see an increase of two junctions. There is now an increase in HGV vehicles using this road to access Havenside Business Park. There is also no footpath on this side of the road and a junction at the end of the road, leading to the local primary school, which has seen an increase in accidents and is a source of worry for many residents. We have spoken to the LCC councillors about this on a number of occasions. Some of these roads are intended to be private roads, which would see responsibility for maintenance lie with the owners of the houses, and I am concerned about refuse lorry access each week for bin collections.
- 1.2 Policy 3 – Design of a new development. This is incongruous of the existing properties in the area. There is also limited public transport available. I have concerns about storage spaces of bins and cycles. Section 3.4.6 of Policy 3 states developments must be accessible for all – including those with disabilities, older people and those with pushchairs. As stated above - given the steps to the front and rear of the properties, I feel this isn't the case

## **2.0 Application Site and Proposal**

- 2.1 The application site is on the south-eastern edge of Boston to the east of White House Lane. It is 3.01 hectares in size and has been in agricultural use although currently lies fallow. To the north is 72 White House Lane and allotments. To the west is White House Lane with existing dwellings facing the application site. To the south is 1 White House Lane with agricultural fields beyond as well as to the east. The site is predominantly open with a few trees and hedgerows dotted along the northern and southern boundaries.
- 2.2 The application site is agricultural land and, according to the Borough wide Defra records, designated Grade 1. The site is within the Environment Agency Flood Risk Zone 3. The Council's Strategic Flood Risk Assessment (SFRA) 2010 identifies the majority of the site having a Flood Hazard rating of 'Danger for All' and a 'medium' tidal flood probability. The site has a depth from flooding for the 200-year event (2115) predominately in the range 0.5m – 1.6m.
- 2.3 There are no listed buildings or tree preservation orders on the site. Running approximately east-west through the middle of the site are overhead power lines and a pylon approximately 50 metres from the site boundary with White House Lane. A Tree

Preservation Order (Fistthoft No 5) applies outside of the site, the closest protected tree is within the rear garden of Jasmine (number 76), to the north of the application site on White House Lane. This would not be affected by the development.

2.4 In 2019 the South East Lincolnshire Local Plan allocated the site for residential development as allocation Fis003, Land east of White House Lane, with a notional estimated capacity of 90 dwellings (see Inset Map 1 and Policy 11).

2.5 The application is for 102 dwellings and associated infrastructure.

### **3.0 Relevant History**

3.1 B/18/0012 granted outline planning permission with some matters reserved (scale, appearance and landscaping) for proposed residential development of up to 83 dwellings.

### **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 12 representations have been received at the time of writing with some addresses providing multiple items of correspondence. The full text of all

representations is available on the Council's website and the planning file. Two addresses submitted formal objections, other correspondence was in the form of comments.

5.2 The objections and comments can be summarised as follows:

- Adverse impacts of increased traffic on local roads and on road safety
- Upgrades to local highways are necessary if the scheme goes ahead
- The stepped access to the proposed dwellings is not suitable for all residents and discriminates against those with limited mobility; it does not provide safe fire escape route
- Use of Grade I agricultural land is inappropriate for housing
- Flood risk at the site, poor local drainage
- An assertion that the groundwater level tests are unsound
- Poor design of the dwellings and a cramped, over-dense development
- Poor local public transport
- Adverse impacts on privacy and quality of life of existing residents
- Disturbance during the construction phase
- Fishtoft has 'more than its fair share of affordable/social housing'
- 24/7 access required at nearby Franklyn Farm
- The development should include swift nesting bricks
- The number of dwellings should be reduced to allow a wider buffer between the houses and the high voltage power line

## **6.0 Consultations**

6.1 Fishtoft Parish Council – no response received

6.2 NHS Integrated Care Board – requests £67,320 towards primary health care

6.3 Anglian Water – no objection – notes a) presence of Anglian Water assets at or near the site; b) that the Boston Water Recycling Centre has capacity for foul water flows; c) provides various informatives relating to the maintenance and potential adoption of drainage assets and connection to its network.

6.4 BBC Environmental Service – no objection - requests waste strategy [subsequently provided]

6.5 Planning Archaeologist – no objection - site is in an area of archaeological interest – requests condition requiring an Archaeological Scheme of Works including initial geophysical survey and trial trenching.

6.6 Lincolnshire Wildlife Trust – 'LWT will be placing a holding objection on this application pending the inclusion of BNG, if it is not already being included'. [Comprehensive BNG details had already been submitted – no further comments received from the Trust].

- 6.7 Environment Agency – no objection subject to the development being implemented in accordance with specified details in the Flood Risk Assessment including finished floor levels, flood defence equipment and flood resilience measures.
- 6.8 Witham Fourth District Internal Drainage Board (IDB) – no objection – comments a) detailed agreements with the applicant on measures relating to the IDB easement on the eastern side of the site; b) notes by law requirements for Board consent regarding various measures including discharging into, culverting or bridging a watercourse; c) any raising of ground levels must not cause adverse impacts on neighbours to the site; d) as a matter of policy the Board does not support the use of sub-base reservoirs.
- 6.9 Council Ecologist – no objection – notes a) submitted BNG metric and other information satisfactory; b) requirement for off-site provision; c) recommends Section 106 agreement to ensure proper long term monitoring and assessment of on-site and off-site provision.
- 6.10 Lincolnshire County Council Highways/Lead Local Flood Authority – ‘Recommendation: Approve with conditions’ – notes a) access arrangements satisfactory subject to provision of additional footway and tactile crossings; b) local road network has capacity for the additional traffic the scheme will generate; c) there is nothing in the local accident record to suggest the scheme will be unsafe; d) ‘the proposal will not increase surface water flood risk to the development site, surrounding properties or land’; e) LCC requests certain conditions and informatives.

## **7.0 Planning Issues and Discussions**

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

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

### **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 is referred to in Policy 11 and Inset Map 1 as Fis003, land east of White House Lane, with an estimated capacity of 90 dwellings although this figure is not an upper limit. The South East Lincolnshire Local 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. The previous consent B/18/0012 is a material consideration but was granted under an earlier Local Plan. The allocation of the site under the current Local Plan means that the principle of the development is sound. Comments on the application expressing concern about the use of high quality agricultural land for housing are noted, but like other matters this was considered at the plan making stage. The site having been allocated it cannot now be revisited.

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

- 7.6 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 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'.
- 7.7 The layout of the proposed scheme is very largely the same as that approved under B/18/0012. A single vehicular access links to internal distributor roads serving the majority of the dwellings, with 8 dwellings located on a drive running parallel with White House Lane and having its own entrance. Although the total number of dwellings is slightly higher than the scheme previously approved, the basic layout is adaptable to the new numbers.
- 7.8 In terms of density, the proposal seeks 102 dwellings in 3.01 hectares, an average of 33.887 dwellings per hectare. This is significantly higher than the average in the near vicinity which is more typically up to 20 dwellings per hectare. However, it should be noted that the

dwelling facing the site on the west side of White House Lane are predominantly larger detached units with substantial curtilages. Of more significance is the notional density of the allocation itself, which envisaged 90 dwellings in 3.01 hectares, an average density of 29.9 dwellings per hectare. Since this density was implicit in the approved Local Plan it is the key comparator, and the density of the proposal is not considered to be greater to a degree which could be a sustainable reason for refusal. In discussions during the determination period the Authority sought to reduce the numbers but the applicant has opted to keep to 102. Given the small difference with the implied density of the allocation as set out in the Local Plan the proposal is considered acceptable in terms of density. The proposal accords with the requirements for the efficient use of land set out in the Local Plan (paragraphs 3.3.2 and 5.3.9) and the NPPF (paragraph 129).

- 7.9 Eight different house types are proposed including 1-, 2-, 3- and 4-bedroom dwellings. Most are houses with a small number of dormer bungalows, and most are arranged as semi-detached with a small number of triples in certain corner positions. The designs are conventional with ridged or hipped roofs and are predominantly finished in brick and tile. The stepped front and rear entrances are discussed later in this report, but with the exception of that feature the proposed layout and the detail of the dwellings are considered to accord with the character of the locality, albeit at a greater density than existing housing nearby.
- 7.10 Policy 17 of the Local Plan sets out requirements for the provision of a mix of housing, including family homes of different sizes and dwellings suitable for an ageing population. The range of housing in this proposal is considered to meet the requirements of Policy 17.
- 7.11 The most distinctive visual element of the proposed dwellings is the result of meeting the requirements for raised finished floor levels consequent on the flood risk level at the site. Flood risk and drainage matters are discussed in detail later in this report, but there is a requirement to raise finished floor levels substantially to mitigate the risk of flooding. In many developments this will be achieved by raising the level of the site overall, or at least of the immediate area on which a particular dwelling will be located. In this application the chosen route is to seat each dwelling on a brick plinth approximately 1m in height which allows finished floor levels to be set at least 1m above existing ground level and a minimum of 3.5m above ordnance datum, as required by the Environment Agency.
- 7.12 The key consequences in terms of appearance in the street scene are that the dwellings appear to have an unusually strong vertical emphasis, and they have very prominent steps leading up to each front door. Neither are typical of the built environment in the nearby locality, and whilst they would be a uniform and consistent feature across the development, they would not be in keeping with the wider character of the area. However, the development is very largely self-contained, with only a small number of dwellings visible from White House Lane, and those will be partly screened by soft landscaping and fronting not onto the main highway but onto a separate parallel access road. So, whilst the steps feature is visually dissonant in terms of the wider area it will have a limited visual impact

beyond the site itself. The matter is finely balanced, but taking all relevant material considerations into account it is not considered that this feature will have a sufficiently harmful impact on local character to warrant a sustainable reason for refusal.

- 7.13 The ward member in her call-in and a number of residents in correspondence have also raised the potential difficulties for residents presented by the stepped front and rear access, in particular for parents and small children, the elderly or less mobile and those with some forms of disability. Amenity issues are discussed later in this report, but in the interests of clarity those related to the steps are dealt with here.
- 7.14 In policy terms the Local Plan makes numerous references to accessibility, but these largely relate to ensuring that public spaces and shopping and other facilities are accessible, that development is located where public transport is accessible and that vehicular and pedestrian access to developments is safe. There are no specific provisions relating to personal accessibility to new housing beyond the general provisions relating to 'quality of design' in Policy 2.2 and 'residential amenity' in Policy 3.11.
- 7.15 At the national level the Framework contains similar general provisions relating to accessibility, and also allows local plan makers to adopt national standards into local plans if they see fit (although this did not take place when the SELLP was prepared). Perhaps the closest NPPF reference is in paragraph 135 (f) which states that planning policies and decisions should 'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'. However, the Framework does not provide specific guidance relating to the accessibility of individual new homes.
- 7.16 The National Design Guide (NDG) carries similar weight to the NPPF. It makes reference to accessibility in terms of public and shared spaces, movement in general and active travel in particular. It also refers to accessibility as a means of promoting social inclusion: 'contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all' (paragraph 119). Dealing with homes and buildings paragraph 120 states: 'Well-designed homes and buildings are functional, accessible and sustainable. They provide internal environments and associated external spaces that support the health and well-being of their users'. Paragraph 121 continues: 'They meet the needs of a diverse range of users, taking into account factors such as the ageing population and cultural differences'.
- 7.17 The possibility of using an alternative method to stepped access to achieve the required floor levels has been raised with the applicant on a number of occasions. The applicant has opted to retain this design feature, and has referred to application B/21/0196. This was a reserved matters application for 42 dwellings in Butterwick, which approved the same stepped design as is now applied for.



7.18 Accessibility matters are covered by Part M of the Building Regulations, and hence are subject to another regulatory regime and normally beyond the remit of planning. Some local plans incorporate elements of or references to the regulations but this does not apply to the SELLP. It follows that any evaluation of the planning merits of the access arrangements for these dwellings must be made against the general references in the Local Plan and the Framework to amenity, accessibility and good design, and the guidance in paragraphs 120 and 121 of the NDG which although more applicable to the present case remain relatively general in terms of their wording. Taking all relevant material planning considerations into account, and noting that other regulatory regimes may apply, the matter is considered finely balanced. However, that balance is considered to be in favour of the development, and it is not considered that accessibility issue, real though they clearly are, would necessarily constitute a sustainable reason to refuse the application.

#### **7.19 Impact on neighbour and public amenity**

7.20 The existing neighbours to the north and south will not be subject to significant adverse amenity impacts, although it is of course the case that their outlook will change from an agricultural field to residential development. Neighbours to the west are separated by White House Lane itself, and whilst activity at the site entrances (especially traffic at night time) will have some impact it is not considered sufficient to be a reason for refusal. Within the site the layout, disposition of the dwellings and their fenestration arrangements are such that acceptable levels of residential amenity will be experienced by future residents.

7.21 The proposal includes two areas of public open space. The first, centered on the attenuation ponds, will include a children's play area. The second runs along the eastern boundary of the site along much of which an internal drainage board easement applies. This area includes a path. Taken together these areas are considered to meet the requirements of Local Plan Policy 32 (Community, Health and Well-being).

7.22 One item of correspondence has been received about the high voltage electricity line which crosses the site. This is supported by pylons, and the housing is arranged so avoid any dwelling being beneath the line. Guidance on this matter is set out in the document 'Development near overhead lines - Planning and amenity aspects of high voltage electricity transmission lines and substations' issued by the National Grid. This describes statutory safety clearances, which the development meets. It also notes that National Grid does not consider it appropriate to set minimum distances between properties and a transmission line. In this case there is no development planned beneath the line which has a clear run across the site, and the buffer zone is the same as was approved on this site under B/18/0012 and is very similar to those approved under other recent consents such as B/17/0317 and the subsequent permissions which allowed the Heron Park development. A resident of Wrangle has commented arguing that the buffer should be increased entailing the removal of 34 dwellings from the scheme. However, it is not considered that it has been demonstrated that this is necessary or reasonable, and it is noted that the Council's

Environmental Health team has been consulted on the application and has raised no concern about the transmission line.

### **7.23 Flood risk and drainage**

- 7.24 The application is supported by a site-specific flood risk assessment (FRA) which meets the requirements of the NPPF. As a residential development in a location of elevated flood risk any development must mitigate that flood risk. Policy 4 of the Local Plan deals with flood risk and drainage. The application site is in Flood Risk Zone 3 with Environment Agency data showing the risk to be tidal/fluvial but with very low risk of surface water flooding. The hazard mapping varies across the site but is largely in the maximum risk category 'Danger for All' and maximum flood depths are predicted at between 0.5m and 1.6m depending on the scenario being modelled. 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.
- 7.25 The Environment Agency was consulted before the application was submitted and the details reflect both the Agency's advice at that time and its comments on the case. For mitigation the Agency requires that 'Proposals must have a minimum of 2 storeys, with FFL set a minimum of 1m above existing ground level, flood resilient construction to a height 300mm above the predicted flood depth, and demountable defences to 600mm above FFL'. The application also proposes that each dwelling should have to sign up to the Agency's flood warning system. Other expert external bodies including the Lead Local Flood Authority have been consulted on the case and have made no objections to this mitigation. It is therefore considered that subject to appropriate mitigation being secured by condition the scheme can be satisfactorily implemented without increasing the risk of flooding on or off the site.
- 7.26 The application is also supported by ground condition and permeability assessments and a comprehensive drainage strategy and plan. The final details have been subject to extensive consultation with the Lead Local Flood Authority and the Witham Fourth District IDB. Percolation drainage is not feasible at this location, so surface water would be collected by a network of drains and led to an attenuation area incorporating two detention basins. Water would then be released into the IDB maintained system, an IDB drain running parallel to the eastern site boundary. Release would be via two piped outfalls and would be limited by a hydrobrake to no more than 3 litres per second to ensure that capacity always exists to take the flows. The Council's expert advisors have expressed satisfaction with the final details, and it is recommended that these are secured by condition along with detailed design drawings of all drainage assets. Similarly a schedule of ownership and maintenance responsibilities of all drainage assets is recommended to be secured by condition to ensure that responsibilities are clear and that the system is properly maintained at all times.

7.27 Regarding foul water, Anglian Water has commented that the proposal site is in the catchment of Boston Water Recycling Centre which will have available capacity for these flows. Anglian Water also notes the presence of various of its assets in the vicinity, and requests informative notes to any grant of permission covering a range of issues including future adoption of drainage assets.

7.28 In summary, the proposal is considered to comply with the requirements of Local Plan Policy 4 and with the provisions of Section 14 of the NPPF.

#### **7.29 Heritage matters**

7.30 There are no nearby listed buildings or other significant above-ground heritage assets. The Council's archaeological advisor comments that the location is one of archaeological interest, remains spanning the period from the Roman occupation to the Middle Ages having been found in the vicinity. The advisor therefore recommends 'that the developer should be required to commission a Scheme of Archaeological Work, in the form of an archaeological evaluation to determine the presence, character and date of any archaeological deposits present at the site. This evaluation should initially consist of geophysical survey followed by a programme of trial trenching'. This advice is accepted, and a suitable condition to secure a Scheme of Archaeological works is recommended.

#### **7.31 Highway safety**

7.32 The County Council Highways team has been actively involved with the scheme during the period of its consideration, and the final plans incorporate a number of modifications made at its request. In its comments on the case LCC notes that it is satisfied with the safety of the junctions giving access to the site, that two tactile crossing will be provided to enable residents to cross White House Lane and that there is access to a shared footway/cycleway and to nearby bus stops. In addition to the junctions, a length of new footway would be built to connect the development to the existing footway network. LCC also notes that there is no history of accidents in the vicinity which would cast doubt on the capacity of the local road network to accommodate the additional traffic, and that the network is predicted to operate within capacity when the scheme is completed. The Highways team requests a number of conditions to secure certain details of the scheme.

7.33 In summary, subject to the use of appropriate conditions the scheme is capable of implementation in a manner which will maintain the safety of road users and pedestrians and provide safe access to the development.

#### **7.34 Affordable housing and developer contributions**

7.35 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.

7.36 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 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.

7.37 When submitted the application included a commitment to meet the Council’s affordable housing requirements, and was supported by draft heads of terms for a Section 106 agreement to deal with that contribution. At a late stage in the consideration of the proposal a request was received from the County Council for a contribution of up to £354,000 towards a scheme to provide bus passes for residents for three years. Taken together with other smaller proposals a total of £403,000 was requested for transport by LCC. A request for £67,320 from the NHS Integrated Care Board had already been received; no request for an education contribution have been received.

7.38 Given the large sums involved in the bus pass scheme the applicant triggered a viability assessment 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 outcome of that assessment was that the Council's own assessor determined that the scheme could not bear the costs of the bus pass scheme or indeed of the affordable housing requirement set out in policy, but could deliver only 'a reduced S106 commitment of £131,000'. CPV also states that 'given the poor current viability outcome, the Council may wish to consider requesting a Review Mechanism, to be built into a S106 agreement. This would allow viability to be retested in the future and, in the event that market conditions were to improve, the Council would be able to recover part / all of its lost policy requirements'. The use of such a review mechanism has been accepted in writing by the applicant.

- 7.39 The outcome of the County Council's request and the subsequent viability assessment is unfortunate. The initial offer of a full 20% affordable housing contribution is withdrawn and the numbers which emerged from the assessment mean it cannot be demanded by the Authority. The bus pass scheme requested by the County Council is also unaffordable, though it must also be stated that officers do not believe such a scheme is either practicable nor in accordance with the requirements for planning obligations set out in paragraph 58 of the Framework. There is sufficient money to cover the NHS request with some left over, or alternatively the whole sum could be deemed a commuted sum toward off-site provision of social housing. There are positives and negatives to both options and the planning balance could support either. Given the expectation of 20% affordable housing from this scheme and the high levels of demand in the Borough, officers recommend that the entire £131,000 is devoted to affordable housing, but members would be equally valid in choosing to make the full requested contribution to local NHS care and put the remaining money toward off-site affordable provision.

#### **7.40 Ecology and biodiversity**

- 7.41 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. The application is supported by a Biological Impact Assessment, a Biodiversity Net Gain Metric, a multi-part Preliminary Ecological Assessment, a Pre-development Tree Survey and a range of soft landscaping proposals.
- 7.42 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 scientific and ecological value.
- 7.43 The Preliminary Ecological Assessment deals in detail with nearby sites of scientific and ecological interest. The proposal will have no adverse impacts on such sites, and the document is considered to satisfy the requirements for a Habitat Regulations Assessment.

- 7.44 The document also contains a number of recommendations in the interests of ecology both for the long term and during the construction phase, and it is recommended that these are secured by condition. The applicant's submission in relation to BNG has been assessed by the Council's ecologist who comments that 'the information in the BNG metric file and assessment are sufficient and accurately calculated for the above application'. He goes on to note that in addition to the on-site measures, the applicant will need to purchase 1.03 area-habitat units and 0.07 hedge-habitat units from an off-site habitat bank. He concludes: 'In addition, due to the size of the site (2.91 ha) and the relative significance of on-site habitat creation (5.37 habitat units in total), the standard approach (stipulated in the guidelines) is to secure these over 30 years via a section 106 planning obligation'.
- 7.45 It is therefore considered that the scheme is capable of implementation in a manner which delivers the required level of biodiversity net gain, and that such delivery should be secured by an appropriate condition.

## **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 material 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. The principle of the development is sound.
- 8.3 The proposal would deliver 102 units of residential accommodation and the range of housing is compliant with Policy 17 of the Local Plan. However, the viability of the scheme is such that it does not deliver the level of affordable housing required by Policy 18, though a more modest off-site contribution via a commuted sum is possible.
- 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. Details of the drainage scheme and its future maintenance can be secured by condition.

- 8.5 The density of the proposal is considerably higher than is typical in the vicinity. However, it is only modestly higher (by approximately 3 dwellings per hectare) than that envisaged in the allocation itself, and this is considered to be acceptable.
- 8.6 The layout of the scheme and the basic design and materials of the house types are considered acceptable in relation to the distinctive character of the locality. By contrast, measures to respond to flood risk, notably the use of c.1 metre high brick plinths for the dwellings and the consequent use of stepped entrances front and rear are not in keeping with local character and will be dissonant features in the street scene. However, whilst finely balanced, they are considered acceptable in terms of visual impact and local character.
- 8.7 The stepped entrances are sub-optimal in terms of ease of access and may present challenges to future occupants including those with mobility impairments, small children and others including the disabled. In some respects, this feature fails to accord with policy requirements for good design, accessibility for all and inclusivity. This matter is also finely balanced, but it is noted that accessibility is not simply a planning matter but one which is subject to another regulatory framework (the Building Regulations). On balance the stepped access arrangements are therefore not considered to be a reason for refusal in this case.
- 8.8 The viability of the scheme has been demonstrated to be capable of delivering only a modest level of planning gain. This means that some requests or policy requirements for planning obligations will not be met, but such contribution as can be delivered should be secured by a legal agreement with built-in review.

## **9.0 Recommendation**

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

### **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;
  - 2451-03 Location Plan
  - 2451 - 09 Rev L Proposed Site Layout

- 000156/E01 Rev D Proposed Drained Areas
- 00156 E02H Indicative Drainage Layout
- 000156/H02 Vehicle Tracking Sheet 2
- 2401-PL1-02 Soft Landscaping Masterplan
- 2401-PL1-03 Soft Landscaping Proposals - Detailed Plans
- 2401-PL1-04 Soft Landscaping Proposals - Detailed Plans
- 2401-PL1-05 Soft Landscaping Proposals - Detailed Plans
- 2401-PL1-06 Soft Landscaping Proposals - Detailed Plans
- 2401-PL1-07 Soft Landscaping Proposals - Detailed Plans
- 2401-PL1-08 Specimen Plants Near Easements (Based on Revision A of the Landscape Masterplan)
- 2401-PL1-09 Specimen Plants Near Easements (Based on Revision A of the Landscape Masterplan)
- 2401-PL1-Tree Provision
- 2451 - 01 Topographical Survey
- 2451 - 10 Rev C House Type A (2 Bed 3 Person) - Floor Plans & Elevations
- 2451 - 11 Rev C House Type B (2 Bed 3 Person) - Floor Plans & Elevations
- 2451 - 12 Rev C House Type C (3 Bed 5 Person) - Floor Plans & Elevations
- 2451 - 13 Rev C House Type D (3 Bed 5 Person) - Floor Plans & Elevations
- 2451 - 14 Rev C House Type E (4 Bed 7 Person) - Floor Plans & Elevations
- 2451 - 15 Rev C House Type F (4 Bed 6 Person) - Floor Plans & Elevation
- 2451 - 16 Rev D House Type G - Floor Plans & Elevations
- 2451 - 17 Rev C House Type H (3 Bed 5 Person) - Floor Plans & Elevations
- 2451 - 18 Rev B Proposed Street Scenes (1 of 2)
- 2451 - 19 Rev A Proposed Street Scenes (2 of 2)
- 2451 - 20 Refuse Strategy
- 2451 - 22 House Type A (2 Bed 3 Person) - Floor Plans & Elevations (Render Option)
- 2451 - 23 House Type A (2 Bed 3 Person) - Floor Plans & Elevations (Brick Option)
- 2451 - 24 House Type A (2 Bed 3 Person) - Floor Plans & Elevations (Cedral Option)
- 2451 - 25 House Type B (2 Bed 3 Person) - Floor Plans & Elevations (Render Option)
- 2451 - 26 House Type C (3 Bed 5 Person) - Floor Plans & Elevations (Brick Option)
- 2451 - 27 House Type C (3 Bed 5 Person) - Floor Plans & Elevations (Render Option)
- 2451 - 28 House Type C (3 Bed 5 Person) - Floor Plans & Elevations (Cedral Option)
- 2451 - 29 Proposed House Tenure Layout

**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. 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).



4. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the following:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording including provision for trial trenching based on the results of the geophysical survey and appraisal forming part of the approved outline application
3. Provision for site analysis
4. Provision for publication and dissemination of analysis and records
5. Provision for archive deposition
6. Nomination of a competent person/organisation to undertake the work

The scheme of archaeological investigation must only be undertaken in accordance with the approved details, and completed in accordance with the timetable within. No other works shall take place until the site investigation has been completed, unless agreed as part of the timetable.

**Reason:** To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with Policy 29 of the South East Lincolnshire Local Plan 2019.

5. 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.

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 R-00156-001-FRA-E Flood Risk Assessment, 000156/E01 Rev D Proposed Drained Areas and 00156 E02H Indicative Drainage Layout 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 with a flow control device or devices to no more than 3 litres per second;
- provide detailed drawings and associated calculations of all drainage assets forming part of the scheme;
- provide a routing from the interceptor drain on the northern and western site boundaries which will direct flows into the site attenuation area and thence to the IDB maintained drainage system;
- 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. The development hereby permitted shall not be occupied before a 2.0-metre-wide frontage footway, including uncontrolled pedestrian crossing points with tactile paving, to connect the development to the existing footway network, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.

**Reason:** To ensure the provision of safe and adequate pedestrian access to the permitted development, without increasing flood risk to the highway and adjacent land and property and to accord with policies 2 and 3 of the South East Lincolnshire Local Plan 2019.

8. 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.

9. 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.

Those roads shown on the approved plans as being planned for adoption shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense and meet specifications for emergency vehicles including fire service pumps and of refuse freighters.

**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.

10. Prior to any works above slab level, details of refuse collection arrangements for dwellings served by private drives shall be submitted to and approved in writing by the Local Planning

Authority. The development shall proceed in accordance with the details so approved which shall thereafter be so maintained.

**Reason:** In the interests of the amenities of occupants of the development and to accord with policies 2 and 3 of the South East Lincolnshire Local Plan 2019.

11. The development shall be implemented and maintained in accordance with the recommendations of the Preliminary Ecological Appraisal forming part of the approved application.

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

12. 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.

13. The scheme of landscaping and tree planting shown in the following documents:
  - 2401-PL1-02 Soft Landscaping Masterplan
  - 2401-PL1-03 to 2401-PL1-07 Soft Landscaping Proposals - Detailed Plans
  - 2401-PL1-08 Specimen Plants Near Easements (Based on Revision A of the Landscape Masterplan)

- 2401-PL1-09 Specimen Plants Near Easements (Based on Revision A of the Landscape Masterplan)
- 2401-PL1-Tree Provision

shall be carried out and completed in its entirety no later than 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).

14. 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.

15. The development hereby approved shall not be commenced until details of a comprehensive contaminated land investigation has been submitted to and approved by the Local Planning Authority and until the approved scope of works have been implemented. The assessment shall include the following measures unless the LPA dispenses with any such requirement in writing:
  - A Phase 1 desk study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk study shall establish a 'conceptual model' of the site and identify all plausible pollutant linkages. Furthermore the assessment shall set objectives for the intrusive site investigation works/quantitative risk assessment. A copy of the desk study and non-technical summary shall be submitted to the Local Planning Authority.
  - A site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the source-pathway-receptor principle and take into account the sites existing status and proposed new use. A copy of the site investigation and findings shall be submitted to the Local Planning Authority.

**Reason:** To ensure potential risk arising from previous site uses have been fully assessed and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan 2019.

16. Where the risk assessment (condition 15) identifies any unacceptable risk or risks, a detailed remediation strategy to deal with land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the Local Planning Authority. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the Local Planning Authority. Remediation shall be carried out in strict accordance with the approved remediation strategy.

Reason: To ensure the proposed remediation plan is appropriate and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan 2019.

17. 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 suspected contamination has been submitted to and approved 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 3 of the South East Lincolnshire Local Plan 2019.

18. The development shall be carried out in accordance with the submitted flood risk assessment dated March 2024, ref: 'R - 00156 – 001 – FRA – B', prepared by SEA Consulting Engineers and the following mitigation measures it details:

- Finished floor levels to be set no lower than 1.0 metre above the existing ground level, equivalent to 3.5 metres above Ordnance Datum (AOD)
- The dwellings shall have at least two storeys
- Demountable defences/flood doors shall be provided to a height of 600mm above the finished floor level, to cover all ground floor doors
- Flood resilience and resistance measures to be incorporated into the proposed development as stated.

The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place throughout the lifetime of the development.

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

## INFORMATIVE NOTES

1. The applicant's attention is drawn to the comment on the application dated 20-May-2024 from the

Witham Fourth District Internal Drainage Board and correspondence dated 1-Jul-2024 from the Board to the applicant and their agent. These documents cover a range of issues including by-law restrictions on activities on and near the Board's assets and activity, development and planting at or near those assets. The applicant is advised to discuss these matters with the Board'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 5-April-2024 from

Anglian Water. This contains advice and information regarding foul and surface water drainage and company assets in the area and the following four 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 -If a public sewer is shown on record plans within the land identified for the proposed development. It would 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 these matters with the company 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 6 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.



<b>BNG APPLIES</b>	
<b>BIODIVERSITY NET GAIN</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> <ul style="list-style-type: none"> <li>(a) a Biodiversity Gain Plan has been submitted to the planning authority, and</li> <li>(b) the planning authority has approved the plan.</li> </ul> <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></p> <p>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></p> <p>Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -</p> <ul style="list-style-type: none"> <li>(a) a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”), and</li> <li>(b) the conditions subject to which the planning permission is granted: <ul style="list-style-type: none"> <li>(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and</li> <li>(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.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>- 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.</li></ul>
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