



## **1.0 Reason for report**

- 1.1 This application has been presented to the Planning Committee for determination because objections have been received from neighbouring residents and given the planning history relating to nearby sites.

## **2.0 Application site and proposal**

- 2.1 The application site is partly within the settlement of Bicker and partly within countryside as defined in the Boston Borough Local Plan. The site occupies 0.28 hectares and consists of commercial buildings and agricultural land. To the east of the site is Milkinghill Lane, which is a single track road and beyond that further to the east lie agricultural fields and a dwellinghouse. St Swithin's Close is an adopted highway which serves a housing estate located to the west of the site. This road extends further north beyond the northern boundary of the application site. To the south of the site lies residential development which fronts onto Rookery Road and St Swithins Close. Agricultural fields lie to the north of the site. There is no natural boundary to the north between the site and the wider countryside. There are two trees which are adjacent to the site which are protected by a Tree Preservation Order.
- 2.2 This outline application is a resubmission following the withdrawal of an earlier application which was withdrawn in January this year. The current application seeks outline planning permission for residential development (9 dwellings) with all matters reserved for later approval. The application is accompanied by an indicative layout plan which shows how the site could be developed. The existing commercial buildings on site will be demolished to facilitate this development. Parts of land to the west and south of the site are owned or controlled by the applicant.

## **3.0 Relevant history**

- 3.1 As indicated above, this current application is a resubmission of an outline application for housing development on this site which was withdrawn by the applicant (ref B/17/0307). This application was originally for 14 dwellings and was later reduced to 9 dwellings.
- 3.2 As Members are aware, an outline application for up to 40 dwellings with all matters reserved at land off St Swithins Close, Bicker was refused by this Council in May 2017 for the following reasons:
1. The proposed development would have a detrimental visual impact on the character of this part of the open countryside and the unique fen character of the environs of the village of Bicker by reason of it's pronounced siting and intrusion into the open Lincolnshire countryside. The proposal is therefore contrary to policies G1 and C01 of the adopted Local Plan.

2. The proposal would see the introduction of dwellings outside the settlement and in the open countryside in a highly unsustainable location. The allowance of new dwellings in this location would result in future occupiers of the properties relying totally on the use of motor vehicles to meet their everyday needs. It is therefore considered that the proposal is contrary to adopted Local Plan policy C01 and in conflict with the sustainability objectives contained within the National Planning Policy Framework (2012) and the settlement hierarchy in Policy H4 of the Boston Interim Local Plan.
- 3.3 The subsequent appeal was upheld (i.e. permission granted) by the Planning Inspector in May of this year and a copy of the Planning Inspector's decision letter is attached as Appendix 1. The appeal site is immediately to the north and abutting the current application site. This appeal decision is a material consideration. Comment on the appeal decision in relation to the current application is discussed in section 7 below (ref B/16/0463).
- 3.4 At the meeting held recently, full planning permission was granted for the erection of two dwellings at land adjacent to the Ye Olde Red Lion, Donington Road Bicker, located about 700m from the current site boundary. This application site is located at the edge of the settlement boundary and within countryside.
- 3.5 In 2016 an application for the erection of 4 dwellings on land within countryside adjacent to Piveltoft House, Monument Road, Bicker was refused by this Council. The subsequent appeal was dismissed. (Ref B/16/0209). In dismissing the appeal, the Inspector concluded '...given that the scheme would promote unsustainable patterns of development, the benefits associated with the provision of new housing would be significantly and demonstrably outweighed.'

#### **4.0 Relevant policy**

##### **Boston Borough Adopted Local Plan**

- 4.1 The Development Plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 4.2 This site is at the edge of the village, partly within the settlement boundary and partly within countryside. The southern part of the site which includes the existing commercial buildings is allocated in the Local Plan as 'industrial/commercial area'.

The saved Local Plan Policies of relevance to this application are as follows:

- Policy G1 – Amenity
- Policy G2 – Wildlife and Landscape Resources
- Policy G3 – Surface and Foul Water Disposal
- Policy G4 – Safeguarding the Water Environment
- Policy G6 – Vehicular and Pedestrian Access
- Policy G8 - Air and soil resources
- Policy CO1 – Development in the Countryside
- Policy H3 – Quality of housing development
- Policy T2 – Roads and Footpaths in New Developments
- Policy ED1- Development in industrial/commercial areas.

## **National Planning Policy Framework (NPPF) (2018)**

4.3. The NPPF (2018) replaces the NPPF (2012) version. At the heart of the new framework is a presumption in favour of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and should not be taken in isolation. As with the former NPPF, these overarching objectives are economic, social and environmental. The sustainability credentials of this development with regard to these three objectives are discussed in detail below.

4.4 Paragraph 9 of the Framework indicates that:

‘These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area’.

Paragraph 11 of the NPPF indicates that plans and decisions should apply to a presumption in favour of sustainable development. It adds that for decision making, this means

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, (this includes development proposals involving the provision of housing in situations where the Borough cannot demonstrate a 5 year supply of deliverable housing sites) granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.5 With regard to rural housing, paragraphs 77 and 78 of the NPPF are relevant. Paragraph 77 indicates that in rural areas, planning policies and ‘decisions should be responsive to local circumstances and support housing developments that reflect local needs’.

4.6 Paragraph 78 states:

‘To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby’.

4.7 Section 9 of the NPPF relates to transport issues. Paragraph 103 states:

‘The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.’

### **South East Lincolnshire Local Plan**

4.7 The site is included as part of the built up area of Bicker within the South East Lincolnshire Local Plan (SELLP). Bicker is identified within the SELLP as a ‘minor service centre’ and the site is also allocated in the SELLP as part of a larger housing site. As such this development would not conflict with the SELLP.

4.8 Paragraph 48 of the NPPF states:

Local planning authorities may give weight to relevant policies in emerging plans according to:

a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)

4.9 It is anticipated that the South East Lincolnshire Local Plan will likely be adopted before the end of this year. Therefore the policies contained within this document will attract increasing weight over the next few months as the plan approaches adoption.

## **5.0 Representations**

5.1 At the time of writing this report, 5 letters of objection or concern have been received from the occupiers of the following properties:

- Walnut Lodge, Rookery Road, Bicker
- Daisy Cottage, Milkinghill Lane, Bicker
- The Rookery, Milkinghill Lane, Bicker
- Corner Cottage, Rookery Road, Bicker (x2)

The neighbours have raised objections or concerns on the following grounds:

- Impact on residential amenity, loss of privacy, overlooking and security, concerns over boundary treatment, impact on visual amenity, need for frosted glass to be inserted in windows overlooking neighbours' property if permission is granted.
- Drainage – Concerns over ability of existing system to accommodate development.
- Existing facilities in the village would struggle to support development.
- Application publicity- Lack of public notices erected around site (Note: A site notice was erected near the site on the 5<sup>th</sup> April 2018).
- Sustainability: there is no state school, pre- school (except an informal facility), health facility, children/youth facility or library. There is also only one public house, one shop and there are only limited recreational facilities and since the previous application there is been a reduction in the bus service.
- Traffic access and impact on highway safety, increased traffic generation along local road network, increase in the number of vehicle movements entering and existing St Swithin's Close, concerns over traffic speeds, poor visibility along road when turning right, conflict with local farm and HGV traffic. No site development traffic should be allowed to use Milkinghill Lane under any circumstances- including when the existing buildings on site are demolished.
- Parking- plan shows limited parking for residents or visitors. Parking on the roadside would cause access problems for emergency vehicles as well as inconvenience for people living on the development.
- Internet- Bicker has slow/limited speeds and concerns have been expressed that this development will have a detrimental effect on internet speeds.
- Concerns about impact on wildlife and loss of grassed area.
- Concerns about future development on adjacent land.
- Development will result in loss of employment land and buildings.
- No details submitted relating to boundary treatment- concerns relating to access onto Milkinghill Lane.

## **6.0 Consultations**

6.1 Bicker Parish Council has no objections.

6.2 County Highway Authority has no objections.

6.3 Environmental Health has no objections subject to conditions relating to land contamination.

6.4 Black Sluice Internal Drainage Board has raised no objections but has made comment with regard to surface water drainage, land levels and piped watercourses.

6.5 Environment Agency has no comment.

## **7.0 Planning issues and discussions**

7.1 The main considerations in the determination of this application are:

- Principle of the development
- Impact upon residential amenities,
- Impact on the character of the locality
- Sustainability
- Impact on highway safety
- Loss of employment land

### **Principle of development**

- 7.2 As indicated above, the site is at the edge of the village envelope, partly within the settlement boundary and partly within countryside as defined in the Local Plan. Local Plan Policy C01 primarily seeks to resist development in the countryside unless supported by other Local Plan policies. In terms of the principle of development, the main issues are whether the proposed development would be acceptable having regard to policies concerning the location of new housing, whether it promotes a sustainable form/pattern of development and whether the development will harm the character and appearance of the area.
- 7.3 The Inspector's decision to grant outline planning permission (with all matters reserved) for up to 40 dwellings on land to the north of the site is a material consideration of substantial weight in the determination of this current application. Also, the recent appeal decision(s) at Spalding Road, Sutterton and the recently approved dwellings adjacent to Ye Olde Red Lion public house mentioned above are all material considerations. Although these approvals do not set a precedent for this current application to be supported in principle since each application must be assessed on its own merits, the reasons why these permissions have been granted both by this Council and by the Planning Inspectorate for housing in the countryside clearly has to be a major consideration.
- 7.4 Thus the fact that the proposed development would be partly located in the countryside does not necessarily by itself make it unacceptable in principle. Instead, such applications for housing schemes within countryside locations are now assessed more generally in relation to the objectives of Local Plan Policies G1 and H3 which resists development which will cause substantial harm to the amenity and character of an area which promotes quality housing schemes. As indicated above the Planning Inspector relating to the site at Spalding Road, Sutterton whilst acknowledging the objectives of Local Plan Policy C01, concluded that given the appeal applications accorded with other Local Plan policies (i.e. G1, G6 and H3), the development would also accord with Local Plan Policy C01.

### **Impact on residential amenity**

- 7.5 This application seeks outline planning permission for up to 9 dwellings with all matters reserved for later approval though an indicative plan has been submitted which shows how the site could be developed. The proposed density would equate to around 32 dwelling per hectare. In comparison the density at the St Swithin's Close to the west of the site is around the same.
- 7.6 There are residential properties within the immediate vicinity of the site and the occupiers of these properties may be affected by the proposed development to some extent with particular regard to loss of privacy, overlooking and traffic generation, both pedestrian and vehicular. However it is considered that, subject to a good quality housing scheme which may be submitted at reserved matters stage, this site is large enough to satisfactorily accommodate a sensitively designed residential development without causing substantial harm to residential amenity to the future occupiers of this development.
- 7.7 In addition, it should also be noted that on part of the site are commercial buildings and a large part of the site is identified in the Local Plan as 'industrial/commercial area'. These buildings are not particularly attractive and their demolition to facilitate this development may enhance the residential amenity of existing neighbours. The development of the site for residential use may be considered to be more compatible with the area than its current use. Given the current land use, the Environmental Health Manager has recommended that conditions are imposed which relate to land contamination.

### **Impact on the character of the area.**

- 7.8 The site occupies 0.28 hectares and consists of a series of commercial buildings, grass land and agricultural land. It is in a semi-urban location, at the edge of the village. The site is therefore partly brownfield land and is not of high environmental value given it is not nationally or locally designated as a protected site of having any landscape value. The site may however provide some visual amenity to the occupiers of neighbouring residents and for pedestrians walking along Milkinghill Lane and St Swithins Close.
- 7.9 The settlement boundary for Bicker as identified on Inset Map 4 of the Local Plan follows the northern boundary of the commercial buildings on site with the rest of the land to the north being located within countryside. The rear (north) elevation of the commercial building forms a 'hard edge' and natural boundary to the built up part of the village. The proposed development will therefore encroach within countryside. Given the site backs onto the built up part of the village to the south and is bordered to the west and east by roads, the development of the site cannot be considered currently as 'infill'.



- 7.10 It should be noted that although outline permission referred to above has been granted at appeal for up to 40 dwellings to the north of the site, there is no guarantee that an application will be submitted for the approval of reserved matters for this scheme, or if an application were to be submitted and approved, that the site will ever be developed. If the site to the north were to be developed, this current scheme would form an 'infill' between that site and the existing built form of the village to the south. However the development of this current application site is not dependent on the site to the north being developed and this site may be developed independently. Furthermore, any resultant development of the current site would not prevent the site to the north from being developed.
- 7.11 Upon determining the appeal application to the north of the site, the Planning Inspector concluded that '... the proposal would, overall result in moderate harm to the character and appearance of the area in conflict with saved Policies C01 and G1 of the LP [Local Plan]'. However he also added that '... however there is genuine potential for significant mitigation through design at the reserved matters stage' afforded moderate weight to this impact against the scheme.
- 7.12 Regardless of whether the site to the north is developed in the future, the fact remains that this development will extend into open countryside. However, it is considered that given a substantial part of the site is already built upon, the development overall would not represent an awkward or alien encroachment that would substantially harm the character, appearance or amenity of the area sufficient to warrant refusal of this application, especially having regard to the presence of the housing estate to the west of the site and the Planning Inspector's conclusions relating to the land to the north.

### **Sustainability**

- 7.12 The application site is at an edge of a minor village and is within easy walking or cycling distance to the limited facilities and amenities which are available within the village. Although Bicker does have some facilities the need for the future occupiers of the proposed dwellings on this site to travel outside of the settlement to access key services, employment and shops is a significant factor against this application. It is therefore likely that future occupiers would be highly dependent on the use of the motor vehicle to provide safe and convenient access day to day facilities within the nearby main villages, such as Swineshead and Donington which would result in a high level of traffic movement.
- 7.13 The limited facilities within the village and the need by future residents to travel by motor vehicle elsewhere were matters which were raised by the Planning Inspector when determining the appeal relating to the adjacent site. He considered that the need to travel by motorized transport would harmfully undermine the local and national policy objectives designed to minimize carbon emissions. Nevertheless, he concluded that the impact would be offset to an extent by the presence of some local services, the proximity of Donington and the extent of the local bus service. As such, he concluded, the harm relating to a scheme of up to 40 dwellings would be 'moderate'. In comparison, this current application is for 9 dwellings.
- 7.14 In economic terms, the proposal would provide employment at construction stage and may support local businesses and the local economy both during construction

and when the dwellings are occupied. On this basis, although this application is for 9 dwellings and the impact on the local economy may not be significant, the development would meet the economic dimension of sustainable development.

- 7.15 The environmental dimension of the NPPF aims to protect and enhance the natural, built and historic environment and biodiversity. In environmental terms, the development will have an adverse impact on the local environment given the site will encroach outwards within countryside and may undermine the visual amenity of some neighbours and local inhabitants. This part of the village envelope as defined in the Local Plan is partly defined by the existing commercial buildings and represents a natural edge to the village. The northern boundary of the site is not defined and forms part of a field. However, given the presence of the housing estate to the west, that part of the site is brownfield land and that the encroachment into countryside is not significant (around 23m), it is not considered that the development of this site would substantially erode the characteristics of the surrounding rural landscape or conflict with the objectives of Local Plan Policy C01. Indeed, any notable harm to the landscape may be mitigated by the use of structured landscaping in and around the site. It is considered that this development would meet the environmental thread of sustainability.
- 7.16 In social terms residential development of the site (the indicative layout shows provision of 9 new dwellings) would make a minor contribution towards the supply of housing in the area which accords with paragraph 8 of the Framework and will provide some social benefit.

#### **Loss of employment land**

- 7.17 As indicated above, a substantial part of the site is allocated in the Local Plan as 'industrial/commercial area'. The development of this site for housing will therefore lead to a loss of employment land in the village and will be contrary to Local Plan Policy ED1. However, there is no evidence submitted which would indicate that the development of the site would undermine the local economy or stifle employment opportunities. It may also be the case that the proposed residential development would provide a much better land use than any future industrial uses on this site which may have the potential to cause harm and disruption to the amenity of existing neighbouring residents. On this basis, it is considered that the loss of industrial /commercial land would not be a significant factor against this application.

#### **8.0 Summary and conclusion**

- 8.1 It is considered that this development will represent an acceptable expansion to this part of the built up area. Although it will represent a change, in part to the open characteristics of the site, which will have some affect on residential amenity and will introduce an urbanising and consolidating form of development in this semi-rural area, it is considered that the changes to the character of the area will not be substantial or cause demonstrable harm especially given that there are already commercial buildings on part of the site. It may also be argued that the impact on the surrounding countryside will be only local and will not represent a significant change to the character of the surrounding environment in the wider context. Indeed it may be also argued that this development represents a natural expansion of the village, is in character to its surroundings and the overall shape of the village.
- 8.2 Bringing these matters together as part of the planning balance, it is considered that the limited adverse environmental impacts would not significantly or

demonstrably outweigh the social and economical benefits. It is concluded that, subject to satisfactory design, this development would comply with Local Plan Policies G1 and H3 and on this basis; the development would comply with Local Plan Policy C01.

- 8.3 It therefore follows that this application should be supported subject to the conditions set out below.

## 9.0 Recommendation:

- 9.1 It is recommended that planning permission is granted subject to the conditions below:

1. No development shall commence until details of the layout, access, appearance, landscaping and scale of the development (hereafter referred to as the 'reserved matters') have been submitted to and approved by the Local Planning Authority.

**Reason:** This is an outline application only and such details must be approved before development commences in order to comply with the objectives of Local Plan Policies G1 and H3 and required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.

**Reason:** Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

**Reason:** Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

4. No development shall commence above slab level until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

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

5. No development shall commence above slab level until a surface water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

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

6. Prior to the commencement of the development hereby permitted, a Construction Management Plan shall be submitted to the Local Planning Authority for approval in

writing. The Construction Management Plan will prescribe how the construction of the site will be phased, where site accommodation and welfare facilities will be placed, hours of working, where site vehicles and the vehicles of site personnel will be parked and where materials will be delivered and stored within the site. Construction of the permitted development shall be undertaken in accordance with the approved Construction Management Plan.

**Reason:** In the interests of the safety and free passage of the public and to accord with the objectives of Local Plan Policies G1 and G6. This is a pre-commencement condition due to the fact that the management of plant, site equipment etc. needs to be agreed prior to the commencement of any development to ensure that neighbour's amenity and safety are respected

- 7 No development shall commence until a biodiversity enhancement plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken and thereafter managed in accordance with the approved enhancement plan.

**Reason:** This is a pre-start condition to safeguard wildlife, in the interests of biodiversity and to accord with the objectives of Local Plan Policy G2.

- 8 All landscape works, including a fencing scheme, shall be carried out in accordance with the approved details in accordance with timescales that shall be submitted to and agreed in writing by the Local Planning Authority before any development above ground level. Any trees, plants, grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the first available planting season with others of similar size species or quality.

**Reason:** In the interests of visual amenity and in accordance with Section 197 of the 1990 Act which requires Local Planning Authorities to ensure, where appropriate, adequate provision is made for the preservation or planting of trees, and to ensure that the approved scheme is implemented satisfactorily. The condition accords with Adopted Local Plan Policies G1 and H3.

In determining this application the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2018 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

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