

BOSTON BOROUGH COUNCIL

Planning Committee - 18 September 2018

Reference No: B/18/0300

Expiry Date: 18-Sep-2018

Application Type: Outline Planning Permission
Proposal: Outline planning application for the construction of two houses with all matters reserved

Site: Land adjacent to Excessive, Homers Lane, Freiston, Boston, PE22 0PA

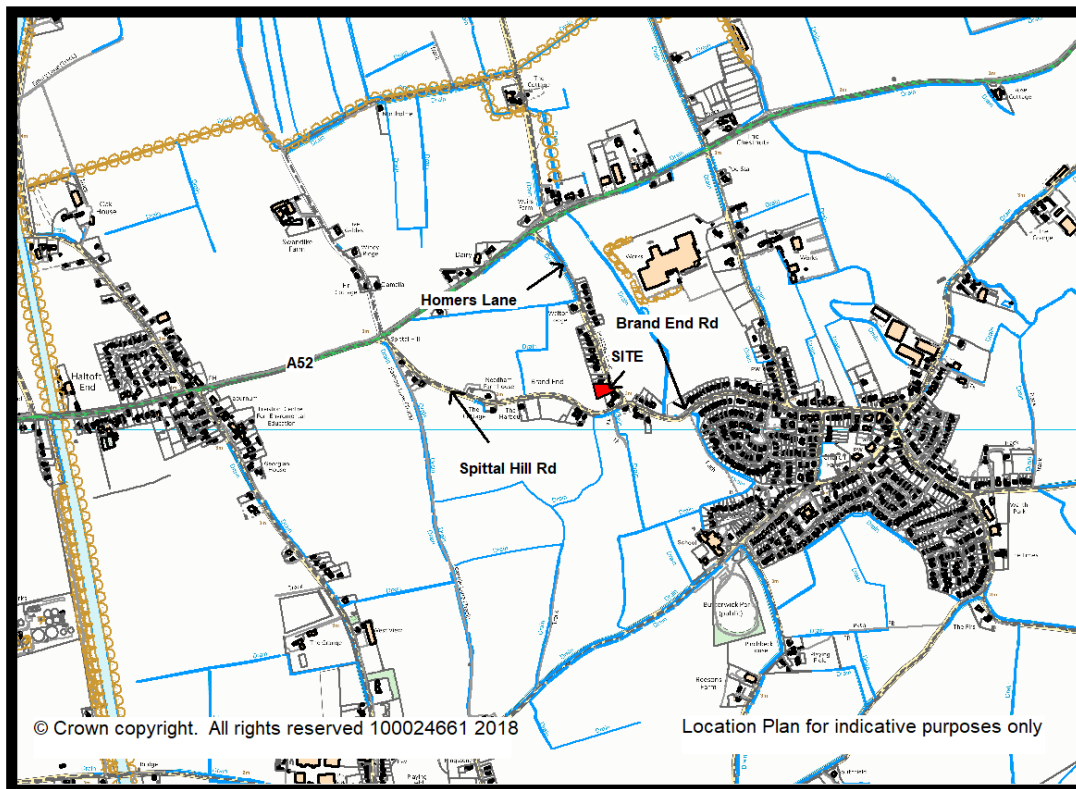
Applicant: Mr W Dowse
Agent: Origin Design Studio Ltd
Ward: Coastal
Parish: Freiston Parish Council

Case Officer: Trevor Thompson

Third Party Reps: 2

Link to Planning Record: [B/18/0300](#)

Recommendation: GRANT



1.0 Reason for Report

- 1.1 This application has been presented to the Planning Committee given that the site is located within countryside and therefore may raise issues with regard to the interpretation of planning policy, especially given the recent outline permission granted at appeal for housing on a nearby site.

2.0 Application Site and Proposal

- 2.1 The application site lies within countryside and is located to the north of a property known as 'Excessive' which is two storey dwellinghouse with associated outbuildings sited at the junction of Spittal Hill Road and Homer's Lane. It also lies to the south of no. 7 Homer's Lane, Butterwick which is a bungalow. The site occupies about 0.16 hectares and is partly in agricultural use and partly used as a car parking area and access which serves 'Boston Bowls Supplies', a commercial operation which operates from former barns which lie within the grounds of 'Excessive'. The site has a road frontage of about 25m and an average depth of around 45m. The site lies nearly 225m from the settlement boundary of Butterwick. Part of the site's south eastern boundary runs along the side wall of single storey outbuildings which face Homers Lane and within the curtilage of 'Excessive'. The remaining part of this boundary is not defined on site.
- 2.2 This application seeks outline planning permission for the construction of two dwellings on this site with all matters reserved for later approval. The application is accompanied by an indicative site plan which shows how the site could be developed.

3.0 Relevant History

- 3.1 There have been no recent planning applications relating to this site though Members may recall that outline planning permission was recently granted at appeal for residential development (2 plots) with all matters reserved for later approval at Brand End Road, some 70m from this current application site. A copy of the Inspector's appeal decision is attached as Appendix 1. This decision is a material consideration. Comment on the appeal decision in relation to the current application is discussed in section 7 below (Ref: B/17/0056).
- 3.2 In addition Members may recall that at the meetings held in August last year and in January of this year, permissions were granted for housing schemes on sites within countryside on land outside the respective village envelopes on the grounds that Members considered such development to represent 'infill' (i.e. Blows Lane Sutterton and Old Main Road Fosdyke). The similarity between those developments and the current proposal are discussed in section 7 of this report

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). Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 4.2 The site is not specifically allocated within the Development Plan though as indicated above the site is within countryside about 225m from the settlement boundary.
- 4.3 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 CO1 – Development in the Countryside
 - Policy H3 – Quality of housing development

National Planning Policy Framework (NPPF) (2018)

- 4.4 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 further below.
- 4.5 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’.

4.6 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, 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.

The Council does not have a 5 year supply of housing and therefore policies relevant to the supply of housing are out of date. The tilted balance in paragraph 11 of the National Planning Policy Framework (NPPF) is therefore engaged and on this basis there is a presumption in favour of sustainable development which presumes in favour of the grant of permission unless harm significantly and demonstrably outweighs the benefits of the scheme.

4.7 With regard to rural housing, paragraphs 78 and 79 of the NPPF are relevant. Paragraph 78 indicates that in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs’.

4.8 Paragraph 79 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’.

4.9 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 (SELLP)

- 4.10 The site is outside the settlement boundary as identified on Inset map 12 of the South East Lincolnshire Local Plan and within countryside. Butterwick is identified as a 'Minor Service Centre' in the SELLP.
- 4.11 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)
- 4.12 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 are attracting increasing weight. Objections have not been received in relation to the settlement boundaries and therefore weight can be attributed to Policy 1 (Spatial Strategy) as set out within the Main Modifications.

5.0 Representations

- 5.1 As a result of publicity two letters of representation has been received from the occupier of the following property
- 7 Homers Lane Butterwick
 - 9 Homers Lane Butterwick
- 5.2 The occupiers of 7 Homers Lane consider that the proposed two houses will be detrimental to their property but would raise no objections if permission is sought for two single storey dwellings.
- 5.3 The occupier of 9 Homers Lane has similar concerns and considers that the proposed two, 4 bed roomed houses will not fit into the area when 'all the buildings in this location are bungalows...'
- 5.4 This matter is discussed in section 7 of this report.

6.0 Consultations

- 6.1 Butterwick Parish Council has no objections.
- 6.2 County Highways Authority has no objections but considers that the reserved matters application should include the proposed access arrangements and turning arrangements relating to each plot and the host dwelling and the provision of 3 car spaces for dwellings with four or more bedrooms.
- 6.3 The Environment Agency has no objections subject to one condition.
- 6.4 Environmental Health has no objections.
- 6.5 Witham Fourth District Internal Drainage Board has no objections but has made comment with regard to the disposal of surface water.

7.0 Planning Issues and Discussions

- 7.1 The main planning issues in the determination of this application are:
- Principle of development and policy interpretation
 - The appeal decision at Brand End Road Butterwick as a material consideration
 - Impact on highway safety
 - Impact on residential amenity
 - Impact on the character and appearance of the countryside
 - Sustainability
 - Flood risk

Principle of development and policy interpretation

- 7.2 The NPPF supports sustainable housing development in rural areas. Although the Framework does not refer to settlement boundaries it does seek to recognise the character and beauty of the countryside. Policy G2 of the Local Plan seeks to resist development which would have an adverse effect on the existing landscape and Policy G1 seeks development which does not substantially harm the general character of the area because of its scale, density, layout or appearance. These aims are consistent with the Framework.
- 7.3 As indicated above, the site lies about 225m outside of the village envelope, and 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.
- 7.4 As indicated above the lack of a five year supply of housing land means that any Local Plan policies that are to do with housing supply are 'out of date'. The weight attached to such policies and their breach still falls to be determined in the planning balance.

- 7.5 The fact that the proposed development would be 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.
- 7.6 Local Plan Policy H3 refers to the Quality of Housing Development and would not permit housing which does not provide a pleasant, convenient and secure environment for residents, which is incompatible with the existing character of the area in terms of layout, density, design and materials. This policy would also resist development if it is close to an existing use which is likely to cause environmental problems to future residents; and developments which would cause or aggravate adverse traffic conditions on the highway network.
- 7.7 In terms of the principle of development, the main issues are therefore whether the proposed development would be acceptable having regard to its location and secondly its effect on the character and appearance of the area.

The appeal decision at Brand End Road Butterwick as a material consideration

- 7.8 An outline application for residential development for up to two dwellings with all matters reserved at the former garage, Brand End Road Butterwick was refused by this Council in 2017. The application was refused essentially because it did not comply with the requirements of paragraph 55 of the former NPPF 2012 which related to new homes within isolated locations within countryside and secondly because it was considered that the development would harm the appearance of the area. It was also considered that any approval would set a precedent for the submission of similar developments elsewhere along Brand End Road and elsewhere within the district which would be difficult to resist, the resultant effect would further erode the character of the countryside.
- 7.9 The subsequent appeal was upheld by the Planning Inspector (ie outline permission was granted) and a copy of the Inspectors' decision letter is attached as Appendix 1 to this report. This appeal decision is a material consideration which has substantial weight.
- 7.10 Upon determination of the appeal the Planning Inspector made the following points and conclusions:
- The proposed two dwellings would not be spatially or socially isolated
 - The proposed development would appear as part of a cogent group of other buildings and the consolidation of what would be a group would bear similarities to the remaining small clusters of ribbon development along Brand End Road
 - In terms of its location relative to places, the appeal site may be visually distinct from the built up area of Butterwick but is connected to it by a lit segregated footway which would enable 'in the region of a ten minute brisk walk' from a post office, general store, chip shop, village hall and a public house.
 - Whilst additional car journeys are likely by future occupiers needing access to employment etc, these journeys will not be significant in numbers or scale

- Proposed development would result in the removal of buildings which are not of any particular merit architecturally and given the prevailing character of the area, two dwellings would site more harmoniously in the street-scent than the existing buildings
- Proposed development would constitute the re-development of previously developed land to which support is leant via one of the aims of the Framework
- Proposed development would not impinge on any of the larger and more open areas where agricultural fields directly abut the back edge of the highway which contribute to the areas rural characteristics
- Proposed development would not be harmful to the character or appearance of the area and thus not in conflict with either one of the core principles of the Framework in protecting the character of the countryside or saved Local Plan policy G1.
- Weight was given to the effects of the scheme to the particular characteristics of the site such as the presence of existing buildings, its contextually small size, limited nature of the proposals, how other road edge sites define the 'rurality' of the area the brownfield nature of the site.

7.11 The current application site is located about 80m from the appeal site and lies within countryside between the host property, 'Excessive' and 7 Homers Lane. The site may therefore be considered to form part of a 'cogent group' and will represent 'infill' development. It may therefore have similar characteristics to the appeal application. The proposed development may also involve, in part the development of previously development land (i.e. brownfield land). The site is also not isolated and also lies within a 'brisk walk' from facilities within Butterwick.

Impact on highway safety

7.12 The application site fronts onto Homers Lane, some 35m from the junction of Homers Lane and Spittal Hill Road/ Brand End Road. Access does not form part of this application and is reserved for later approval. The County Highway Authority has no objections but has made comment with regard to the details required to be submitted at reserved matters stage as indicated above. The indicative site plan shows that it is proposed to provide access and turning areas for plots 1 and 2 off Homers Lane and to retain access to serve the existing host property. The plan also indicates that it is proposed to provide 3 car spaces within each plot.

Impact on residential amenity

7.13 There are residential properties within the vicinity of the site along Brand End Road, Spittal Hill Road and Homers Lane. As indicated above the site lies between 'Excessive' which is a two storey dwelling house and 7 Homers Lane, which is a bungalow. There are no residential properties opposite the site.

7.14 Concerns have been expressed by neighbours about the erection of two storey dwellings on this site which may be considered to be out of character with the bungalows within this area. As indicated, all matters are reserved for later approval including the scale, layout and appearance of the development.

- 7.15 However, the Environment Agency has recommended a condition (see below and the recommendations section of this report) which restricts the ground floor of the dwellings to be non-habitable accommodation i.e. is limited to garage, utility room and garage and that finished first floor levels are set at 2.95m above ground level. This would indicate that the development would need to be a minimum of at least two storey to meet these requirements.
- 7.16 Although 'scale' does not form part of the application it is considered that a condition which restricts the development to be single storey only would not be reasonable or practical given flood risk requirements.
- 7.17 The site covers 0.16ha, has a road frontage of 25m and a depth of around 45m. The proposed two plots will be similar in size to other properties along Homers Lane. It is considered that the site is large enough to accommodate the proposed development in a satisfactory manner without adversely affect the residential amenity of the occupiers of existing dwellings within the locality subject to acceptable siting, design and layout which may be determined at reserved matters stage.

Impact on the character and appearance of the countryside

- 7.18 This is one of the key considerations in the determination of the application. Part of the site is hard-standing used as a car parking area which serves Bows Supplies and part of the site at the rear which covers approximately 0.08ha is currently agricultural land. The rear boundary of the site follows the rear boundaries of the properties to the north along Homers Lane. Therefore about 50% of the site may be classified as previously developed land with the remainder being in agricultural use.
- 7.19 The area may therefore be fairly described as within a semi rural location countryside, visually distinct from the village settlement but within a cluster of frontage development, located at random intervals along the western side of Homers Lane and close to other similar located properties along Brand End Road and Spittal Hill Road. Given the range of different house types in the area, there is no dominant architectural style or type.
- 7.19 The proposed two dwellings would not be spatially isolated from other properties and would 'nestle in' between two existing dwellings forming part of a cogent group of ribbon development along this side of the road. Whilst it may be argued that the gaps between such residential properties within this area may form an integral part of the site's rural characteristics and that the consolidation would cumulatively undermine the appearance of the area, it may also be argued that such development within these gaps would be in character and would add to the areas identity.
- 7.20 Although the site is located within countryside and there is no saved Local Plan policy which supports infill development within such areas it may be considered that the proposal development will not appear alien or out of character with the area, given that part of the site is brownfield land and that the site lies between existing frontage development.

It may also be difficult to argue that the site, being relatively close to the appeal site, is not within a sustainable location or remote from any facilities and services given the existence of a lit footpath linking the site to the village within close proximity. As with the previous appeal decision, this development does not involve development on open areas of land where agricultural fields directly abut the back edge of the highway which contributes significantly to the areas 'rurality'.

Sustainability

- 7.21 The Framework sets out three dimensions and roles of sustainable development ie social, economic and environmental. In addition, one of the core elements of the NPPF is that patterns of growth should be properly managed and to make the most effective use of public transport, cycling and walking. Paragraph 8 of the Framework explains that these three roles should not be undertaken in isolation because they are mutually dependent.
- 7.22 The application site is about 225m main village and potentially a 'ten minute brisk walk' to the facilities and amenities which are available within the village. As indicated above, the Planning Inspector considered that the appeal site (some 80m from the current site) was not spatially or socially isolated and whilst additional car borne journeys would arise through occupiers needing to access employment, education, healthcare etc. outside of Butterwick and other main service centres, this was balanced against the limited scale of the development. The same circumstances may apply in this case. It may be argued that this application would promote sustainable patterns of development in accordance with paragraphs 79 and 103 of the NPPF.
- 7.23 In social terms residential development of the site for 2 dwellings would make a modest contribution towards the supply of housing in the area which accords with paragraph 8 of the Framework and will provide some social benefit.
- 7.24 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, the development would meet the economic dimension of sustainable development.
- 7.25 The environmental dimension of the NPPF aims to protect and enhance the natural, built and historic environment and biodiversity. In environmental terms, the proposed development will have limited impact on the local environment given the site is partially brownfield land and constitutes acceptable infill development. In environmental terms, the development will not be prominent, nor will it create an awkward or alien encroachment into the countryside. Subject to good design at reserved matters stage, the application would meet the environmental thread of sustainability.

Flood Risk

- 7.26 The site is located within Flood Zone 3 of the Environment Flood Risk Maps and a Flood Risk Assessment has been submitted as part of this application. The Flood Risk Assessment recommends, amongst other things, that:
- The ground floor will not contain any habitable accommodation
 - The first floor will provide a safe refuge
 - A finished first floor level of +2.95m above the existing ground levels should be set for the dwellings
- 7.27 The Environment Agency has no objections subject to a condition which requires the development to be carried out in accordance with the Flood Risk Assessment. As indicated above this would mean that the development would be a minimum of 2 storey to meet the requirements of this condition.
- 7.28 The appeal application discussed above includes a similar condition (see appeal decision notice – condition 4, Appendix 1). However, it should be noted that an application for full planning permission has recently been submitted to erect 2 houses on the appeal site which incorporates finished floor levels some 500mm above ground level and therefore does not comply with the condition attached to the outline approval. (Ref:B/18/0261). No decision has been made on this application at this stage but it does show that applications for full planning permission as opposed to an application for reserved matters can be made for schemes which do not comply with conditions set at outline stage.

8.0 Summary and Conclusion

- 8.1 The appeal decision relating to a similar scheme some 80m from the current site is a material consideration of substantial weight in the determination of this current application given there are similarities between both schemes though the current application does not include the demolition of any buildings to facilitate the new development. However, as Members are aware, the approval of the appeal application does not set a precedent to approve this current application since each application must be judged on its own individual merits. The main consideration is whether the character and appearance of the area will be substantially harmed by this development.
- 8.2 The site is within countryside in an area where Local Plan policy resists new development unless supported by other Local Plan policies. Furthermore the site is also outside of the settlement boundary of Butterwick as identified in the SELLP and further weight may now be placed on this document as it approaches adoption.
- 8.3 The revised NPPF acknowledges that the transport needs within rural areas may differ to those within urban areas which should be taken into account at decision-making. Thus a previous reason for refusal of the appeal application (which relates to sustainability of location) may not be a determining factor and any refusal of this current application on similar grounds may no longer be in accordance with the new NPPF, especially given the conclusions reached by the Planning Inspector relating to the appeal decision.

- 8.4 It is considered 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 and the objectives of the SELLP. This development will represent acceptable infill development along established frontage along Homers Lane and will reinforce the prevailing character of the area. Although part of the site is currently in agricultural use, the loss of agricultural land to facilitate this development is acceptable and practical in order to align the site's rear boundary with neighbouring properties and to ensure the development fits in with the pattern of development. Furthermore the proposal involves the re-development of previously developed land which meets the objectives of the NPPF.
- 8.5 It is therefore recommended that outline permission is granted subject to the conditions set out below.

9.0 Recommendation: GRANT

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 51 of the Planning and Compulsory Purchase Act 2004.
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 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) (Origin Design Studio Ltd, 11 July 2018) and the following mitigation measures detailed within the FRA:

- The ground floor will not contain any habitable accommodation (i.e. is limited to garage, utility room, WC);
- Finished first floor levels are set at 2.95m above existing ground level;
- Flood proofing and flood resilience measures will be incorporated as recommended.

The mitigation measures shall be fully implemented prior to occupation and subsequently maintained.

Reason: To reduce the risk of flooding to the proposed development and future occupants and accord with the objectives of Local Plan policies G1 and H3 and the National Planning Policy Framework (2018).

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

Lisa Hughes
Development Manager