

APPLICATION NO	PA/2018/660
APPLICANT	Mr John Riley, J & S Metals Ltd
DEVELOPMENT	Outline planning permission with all matters reserved for the erection of five detached dwellings
LOCATION	Belton Garden Centre, Sandtoft Road, Westgate, Epworth, DN9 1PN
PARISH	Epworth
WARD	Axholme Central
CASE OFFICER	Andrew Willerton
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Departure from adopted policy

POLICIES

National Planning Policy Framework: Paragraph 14 states that at the heart of the National Planning Policy Framework there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 34 states that plans and decisions should ensure developments which generate significant movements are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Paragraph 35 of Core Planning Principle 4 states that plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore developments should be located and designed, where practical, to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.

At paragraph 37 it states that planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.

Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies which guide housing supply should not be considered up-to-date.

Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 60 states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

Paragraph 61 states that planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 63 states that in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 100 states inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Paragraph 101 states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding.

Paragraph 102 states that to pass the Exceptions Test it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and the development must be safe for its lifetime without increasing the risk of flooding elsewhere.

Paragraph 103 states that planning applications in areas of flood risk should only be considered by the planning authority if they are informed by a site specific flood risk assessment following the sequential test and, if required, the exceptions test, and it can be demonstrated that the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location and the development is safe from flooding and any residual risk can be safely managed.

Paragraph 118 states that local planning authorities should aim to conserve and enhance biodiversity by refusing planning permission if significant harm cannot be avoided or adequately mitigated. Opportunities to incorporate biodiversity in and around developments should be encouraged.

Paragraph 123 states that planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Paragraph 128 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.

Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities, including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site, and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation, and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible, and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 136 states that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 137 states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance.

Paragraph 139 states that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

Paragraph 186 states that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development.

Paragraph 187 states that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Paragraph 196 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

Paragraph 203 states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Paragraph 206 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

North Lincolnshire Core Strategy:

CS1 (Spatial Strategy for North Lincolnshire)

CS2 (Delivering More Sustainable Development)

CS3 (Development Limits)

CS5 (Delivering Quality Design in North Lincolnshire)

CS7 (Spatial Distribution of Housing Sites)

CS8 (Overall Housing Provision)

CS17 (Biodiversity)

CS18 (Sustainable Resource Use and Climate Change)

CS19 (Flood Risk)

Housing and Employment Land Allocations DPD:

Inset Map for Belton

PS1 (Presumption in Favour of Sustainable Development)

North Lincolnshire Local Plan:

H5 (a-m only) (New Housing Development)

H8 (Housing Design and Housing Mix)

RD2 (Development in the Open Countryside)

T1 (Location of Development)

T2 (Access to Development)

T19 (Car Parking Provision and Standards)

LC14 (Area of Historic Landscape Interest)

DS1 (General Requirements)

DS14 (Foul Sewerage and Surface Water Drainage)

DS16 (Flood Risk)

CONSULTATIONS

Highways: No objection subject to conditions.

Drainage: No objection subject to conditions.

Environmental Health: Advises that additional information is required in respect of potential for land contamination and conditions in respect of restricting construction hours.

Historic Environment Record: No objection.

Seven Trent Water: No comments received.

Environment Agency: Advises conditions to secure the flood mitigation measures as set out within the submitted flood risk assessment.

TOWN COUNCIL

No objection.

PUBLICITY

The application has been advertised by site notice and within the local press for a period of not less than 21 days prior to writing this report. One letter of objection has been received which highlights that planning permission for six properties on this site has previously been refused.

ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003, the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011 and the Housing and Employment Land Allocations (HELA) DPD which was adopted in March 2016. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising the Planning Practice Guidance (PPG).

The application site is the former Belton Garden Centre, Sandtoft Road, Epworth. Planning permission was sought for five dwellings at the same site under PA/2014/0252 which was refused and subsequently dismissed at appeal. Planning permission was granted at the site for the demolition of the redundant garden centre and the erection of three detached dwellings, one detached garage and other ancillary infrastructure works on 26 April 2017. Outline planning permission is now sought for the erection of five detached dwellings.

The main issues for consideration with regard to the determination of this application are whether the development is acceptable in principle, and whether the development would be safe from flooding and not increase flood risk elsewhere.

Principle and sustainability

The application site is outside of any development limit as defined by the HELA DPD and accordingly the site is considered to be within the open countryside. Adopted policy (NLCS CS2, CS3 and NLLP RD2) strictly controls residential development in the open countryside to that which has special justification such as to meet an essential need for the efficient operation of agriculture or forestry. The residential development proposed does not have any special justification and thus conflicts with these policies. However, it is noted that planning permission for the erection of three dwellings on this site was granted by the Planning Committee on 26 April 2017 under PA/2017/63.

Furthermore, the March 2016 Housing Land Supply Statement confirms the council does not have a five-year housing land supply. Paragraph 49 of the NPPF states that where an authority cannot demonstrate it has a five-year supply of deliverable housing sites its policies for the delivery of housing should not be considered up-to-date. Where a local authority has out-of-date policy for the delivery of housing it should apply the presumption in favour of sustainable development as defined by paragraph 14 of the NPPF.

The principal of development for residential purposes has been granted on this site and it is considered that the site is sustainable for residential use. The applicant has provided justification for this alteration in that the previously approved scheme proposed a large eight-bedroom detached property to the front of the site which has gained little interest by the housing market. Objection has been received which highlights that the site has previously had five dwellings refused by the planning authority and dismissed by the Inspectorate. There has been a fundamental change in circumstance since the 2014 decision as the site has now gained planning permission for the erection of three dwellings. Accordingly the assessment of whether the site is sustainable should only relate to the additional two dwellings being created beyond those already approved at the site. On this basis it is not considered that the development of a further two dwellings at the site would result in significant impacts to warrant refusal of the proposal on sustainability grounds.

Flood risk and drainage

The application site is within Flood Zone 2/3a of the Northern Lincolnshire Strategic Flood Risk Assessment (SFRA). Residential land use is categorised as a 'more vulnerable' land use within the NPPG and in accordance with this guidance and the NPPF it is necessary to consider whether the development can be carried out on land that is of lesser risk of flooding in the settlement which forms the sequential test. The submitted FRA states that there are no alternative sites available within Sandtoft or Westgate of lower risk. The vast majority of these settlements are within flood zone 2/3a according to the SFRA. It is noted that a significant proportion of Belton is within flood zone 1 and land within this settlement has not been explored. However, the site for consideration does have the benefit of planning permission for residential use, albeit for a lower number of units.

Where the sequential test is passed the NPPG continues to require the exceptions test to be applied which forms two parts. The first part of the test is to determine whether there are other sustainable community benefits to the scheme that outweigh the flood risk issue. In this case it is considered that the scheme would result in the development of untidy, previously developed land and deliver much needed housing within the district. The second part of the test requires the development to be safe from flooding for its lifetime. The submitted flood risk assessment (FRA) states flood mitigation measures are to be employed at the site including the raising of finished floor levels within the dwellings to that which is beyond the critical flood level for the area in addition to flood resilient construction methods. The Environment Agency has reviewed the submitted FRA and has raised no objection subject to a condition to secure the mitigation measures as set out by the FRA.

The Drainage team has also been consulted on the proposal in its capacity as Lead Local Flood Authority. The team has considered the proposal and has raised no objection but has recommended a condition to secure the submission and implementation of a surface water drainage scheme based on sustainable drainage principles where practicable.

Other matters

The site is within an area of historic landscape interest. The Historic Environment Record has been consulted and has raised no objection to the proposal. As the proposal comprises previously developed land it is not considered that it would result in significant harm to the historic landscape. However, consideration should be given to the design of the dwellings at the reserved matters stage.

The application site is on land used previously as a garden centre. The Environmental Health team considers it necessary to obtain further information prior to making a decision on the proposal to ascertain the potential of land contamination at the site. It is not considered necessary to require such information upfront and this issue can be dealt with through a robust planning condition. As the site is within close proximity of other residential properties the team has recommended a condition to restrict construction hours, which is considered reasonable.

Although the application is in outline with all matters reserved it is still necessary to consult with the Highways team with regard to the principle of achieving a vehicular access to the site. Upon review of the indicative layout plan access would be achieved from Sandtoft Road in a similar position to the previously approved full application (PA/2017/63). The Highways team has raised no objection to the proposal subject to a condition and on this basis it is not considered the proposal would adversely affect the safe operation of the highway.

As the application site is within the open countryside and within an area of special historic landscape interest, it is necessary to control any future development at the site to protect visual amenity. Therefore, it is recommended that permitted development rights are removed as set out by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) by imposing a planning condition. Such a condition would be consistent with the decision taken by the council under PA/2017/63.

RECOMMENDATION Grant permission subject to the following conditions:

1.
Approval of the details of the layout, scale, and appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.

Reason

The application has been made under Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015.

2.
Plans and particulars of the reserved matters referred to in condition 1 above, relating to the layout, scale, and appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason

The application has been made under Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015.

3.
Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason

To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4.

The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason

To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

5.

The development hereby permitted shall not exceed five dwellings.

Reason

For the avoidance of doubt and to define the terms of the permission.

6.

The development hereby permitted shall be carried out in accordance with the following approved plan: 'Site Location Plan'.

Reason

For the avoidance of doubt and in the interests of proper planning.

7.

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) April 2018, compiled by Mark Simmonds Planning Services, including the following mitigation measures detailed within the FRA:

- finished floor levels set no lower than 4.4 metres above Ordnance Datum (AOD)
- flood resilience and resistance measures as described.

The mitigation measures shall be fully implemented prior to occupation and shall subsequently remain in place.

Reason

To reduce the risk of flooding to the proposed development and future occupants.

8.

No development shall take place until a scheme for the disposal of surface water has been agreed in writing by the local planning authority and none of the dwellings shall be occupied until it is connected to the approved drainage system. The surface water drainage scheme shall be based on sustainable drainage principles where practicable and include ground investigation to demonstrate the feasibility of infiltration.

Reason

To ensure satisfactory drainage is provided in accordance with policy DS14 of the North Lincolnshire Local Plan.

9.

No development shall take place until details of:

- (i) the location and layout of the vehicular access; and

- (ii) the number, location and layout of vehicle parking and turning spaces within the curtilage of the site;

have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

10.

The existing vehicular access to the site shall be improved within highway limits in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

11.

No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

12.

No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

13.

No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking and turning space serving it have been completed and, once provided, the vehicle parking and manoeuvring space shall be retained.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

14.

No development shall begin until details of the private driveway, including construction, drainage, lighting and where appropriate signage/street naming arrangements, have been

agreed in writing with the local planning authority and no dwelling on the site shall be occupied until the private driveway has been constructed in accordance with the approved details. Once constructed the private driveway shall be retained.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

15.

No other works shall be commenced on the site until the access road junction with the adjacent highway, including the required visibility splays, has been set out and established.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

16.

Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 4 has been complied with in relation to that contamination.

Part 1: Site Characteristics

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed), including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and a proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Part 2: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

Part 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 3.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policy DS7 of the North Lincolnshire Local Plan.

17.

Construction and site clearance operations shall be limited to the following:

- 7am to 7pm Monday to Friday

- 7am to 1pm on Saturdays.

No operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

Reason

For the protection of residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

18.

Notwithstanding the provisions of Classes A, B, C and E Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, or any order re-enacting that order with or without modification, no extensions, alterations or outbuildings shall be installed in the building or erected on the site other than those expressly authorised by this permission.

Reason

To regulate and control development on the site, which lies in the open countryside, in accordance with saved policy RD10 of the North Lincolnshire Local Plan (2003).

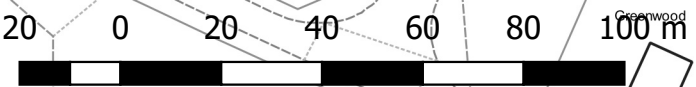
Informative 1

The development hereby granted planning permission requires works to be carried out within the limits of the adopted (public) highway. Therefore:

- before ANY construction works take place within the limits of the highway you MUST contact the highway authority on telephone number 01724 297000 to arrange for the relevant permissions/licenses to be issued;
- before ANY service (utility) connections take place within the limits of the highway you MUST contact the highway authority on telephone number 01724 297319 to arrange for the relevant permissions/licenses to be issued.

Informative 2

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



PA/2018/660

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PA/2018/660 Indicative layout (not to scale)



Drawing Title		
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