

<b>APPLICATION NO</b>	<b>PA/2021/1330</b>
<b>APPLICANT</b>	Mr Philip Jackson
<b>DEVELOPMENT</b>	Outline planning permission for up to 20 dwellings with all matters reserved for subsequent consideration (resubmission of PA/2020/672)
<b>LOCATION</b>	Land off Scotter Road/High Street, Messingham
<b>PARISH</b>	Messingham
<b>WARD</b>	Ridge
<b>CASE OFFICER</b>	Mark Niland
<b>SUMMARY RECOMMENDATION</b>	<b>Subject to the completion of a section 106 agreement, grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Objection by Messingham Parish Council

## **POLICIES**

### **National Planning Policy Framework:**

Paragraph 38 – Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 47 – Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 55 – 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 56 – Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

Paragraph 57 – Planning obligations must only be sought where they meet all of the following tests:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

Paragraph 111 – Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 130 – Planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 180 – When determining planning applications, local planning authorities should apply the following principles:

- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;

- (c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- (d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

**North Lincolnshire Core Strategy:**

CS1 – Spatial Strategy for North Lincolnshire

CS2 – Delivering more Sustainable Development

CS3 – Development Limits

CS5 – Delivering Quality Design

CS17 – Biodiversity

CS18 – Sustainable Resources

CS19 – Flood Risk

CS25 – Promoting sustainable transport

**North Lincolnshire Local Plan:**

T2 – Access to Development

T19 – Parking Provision

LC5 – Species Protection

LC11- Areas of Amenity Importance

DS1 – General Requirements

DS11 – Polluting Activities

H5 – New Housing

**CONSULTATIONS**

**Highways:** No objections subject to conditions.

**Environment Agency:** Does not wish to make any comments on the application.

**Humberside Fire and Rescue:** The consultee gives standard advice on access to water services and access for fire services.

**LLFA Drainage:** The application currently provides a very basic level of information. There is no mention of the surface water drainage system 'parish drain' that exists along the full length of the western boundary. This is a riparian drain and provides critical flood risk mitigation for the village and so it is vital that this drainage feature is fully addressed. However, given the scale of the development, the LLFA Drainage Team has no objection to it subject to conditions relating to surface water.

**Police (Designing Out Crime Officer):** No objections but offers advice for the reserved matters stage.

**Severn Trent Water:** States that 'Foul is proposed to connect into a public foul water sewer, which will be subject to a formal section 106 sewer connection approval. A sewer modelling study will be required to determine the impact this development will have on the existing system and its flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will be needed to allow these works to be completed before any additional flows are connected.'

Whilst not objecting, due to the S106 adoption process which sits outside of planning, requests an informative is attached should permission be granted.

**Section 106 Officer:** Requests have been made towards education, leisure and affordable housing. The applicant has agreed with the heads of terms that are set out below.

**Environmental Protection:** No objection subject to conditions relating to noise and land contamination, and (to protect amenity during construction) requiring an environmental management plan and specifying construction hours.

**Historic Environment Record:** No comments to make.

**Spatial Planning:** This application for residential development conforms to policies. However, careful consideration needs to be given to the LC11 designation and the low density of the site.

**Ecology:** No comments received.

## **PARISH COUNCIL**

Objects to the application for the following reasons:

- The proposed development is on LC11 land – loss of an 'Area of amenity importance' land in the adopted local plan and loss of habitat for protected species.
- Present ongoing drainage and sewerage issues in the close vicinity. Concerns over the increased pressure that will be placed on the present ineffective and already overloaded system. During periods of heavy rainfall the nearby Manor Farm development experiences WCs not flushing and overflowing inspection covers resulting in raw sewage entering water courses. Requests there be a moratorium on all future developments in the village until existing foul water infrastructure issues have been resolved.

- Highway concerns regarding road safety issues for the safe access and egress with the A159 and close proximity to the junction with Brigg Road.
- Messingham has already reached its target population. The village infrastructure is not coping with the existing demand from residential properties.
- North Lincolnshire Council has already met its land supply figure.

## **PUBLICITY**

The site has been advertised by both site and press notice. A number of objections have been received that are summarised into the following material comments:

- flooding and drainage concerns
- highway safety
- loss of amenity land
- concerns over design
- bats/protected species
- access to willow court
- impact on infrastructure
- village saturated with houses
- residential amenity.

## **STATEMENT OF COMMUNITY INVOLVEMENT**

No information has been submitted in relation to any public consultation carried out.

## **ASSESSMENT**

### **Site allocations**

This site is designated as an Area of Amenity Importance (LC11) as identified by the Housing and Employment Land Allocations DPD. The proposal is wholly located within the settlement boundary for Messingham as identified by the HELA DPD. The site is located within flood zone 1 as identified by the North and North East Lincolnshire SFRA 2011.

### **Site characteristics**

The site is within the settlement boundary for Messingham and is abutted by residential development to the north, west and south. To the east is an electricity substation north of the restaurant. The site hosts an existing dilapidated barn and hardstanding, and the rest is scrubland. A watercourse runs along the western boundary of the site.

Messingham itself is described within the settlement hierarchy as being a larger rural settlement. The village has many services and amenities and is also served well by public

transport. The village is just north of the shared boundary with West Lindsey and south of Yaddlethorpe and Bottesford. The village is sustainable according to the sustainable settlement survey, having all of the key facilities.

## **Proposal**

Outline planning permission is sought for up to 20 dwellings with all matters reserved for subsequent consideration (resubmission of PA/2020/672). **The assessment will focus on the following issues:**

- **planning principle**
- **planning obligations**
- **flooding and drainage**
- **character and amenity**
- **ecology**
- **highway safety**
- **air quality**
- **land contamination.**

## **Planning principle**

Messingham is considered to be a rural settlement by the North Lincolnshire Core Strategy though it ranks eighth within the sustainable settlement survey, having seven of the seven key facilities within that settlement. Policy CS1 of the Core Strategy states, '...Rural settlements will be supported as thriving sustainable communities, with a strong focus on retaining and enhancing existing local services to meet local needs. Development will be limited and should take into account levels of local service provision, infrastructure capacity and accessibility. Any development that takes place should be in keeping with the character and nature of the settlement.'

Policy CS2 is concerned with delivering more sustainable development. It sets out a sequential approach to where development should be focused; bullet point 3 states, '...Small scale developments within the defined development limits of rural settlements to meet identified local needs.'

This proposal for residential development is therefore considered generally acceptable in principle given the site is within the settlement limits and would represent a small scale considering the size of the village. The site is close to the settlement centre where a plethora of services and amenities exist. Policy CS7 of the Core Strategy sets out densities and states that 30 to 35 dwellings per hectare is acceptable for rural settlements. This proposal would represent the lower end of the density range. However, the site is close to a restaurant and other dwellings, and site characteristics may dictate that this lower number is more preferable in the interest of amenity and character.

The policy states, '...Housing development will be required to make efficient use of land but the density of new development should be in keeping with the character of the area and should support the development of sustainable, balanced communities.'

Policy CS8 is concerned with the spatial distribution of housing. The site is predominantly greenfield with the exception of the barn and associated hardstanding. It states, '...Development on greenfield sites will only be allowed where it can be demonstrated that this will bring additional community benefits, contributing to building sustainable communities and is acceptable in terms of its impact on the high quality environment of the urban space and adjoining countryside.'

and

'Flood risk will be taken into account, as this will be a determining factor in the distribution and location of housing.'

Policy LC11 of the North Lincolnshire Local Plan is concerned with areas of amenity importance; this site is allocated as such. It states, '...within important amenity areas, development will only be permitted where it would not adversely affect their open character, visual amenity or wildlife value or compromise the gap between conflicting land uses.'

A previous application on this site resulted in a dismissed appeal (APP/Y2003/W/20/-3265136). That proposal was for up to 30 dwellings and the application was refused on not being acceptable in planning terms (failing to agree to obligations that would mitigate the externalities brought about by the development), and for not providing a preliminary ecological appraisal or an outline drainage strategy.

The latter point is now somewhat mute given the reduction in size of the scheme, though additional information has been submitted and the LLFA no longer object. Furthermore, negotiations on obligations have taken place and requests are agreed as well as the submission of a preliminary ecological survey; these are discussed later in the report.

The proposal is therefore considered to align 'in principle' with the aforementioned policies providing that levels of local service provision, infrastructure capacity and accessibility are taken into account, the density of the proposal meets the requirements of policy CS7 (this point is expanded upon in the obligations section) and that it can be demonstrated that the proposal will bring additional community benefits, meet identified local needs as tasked by policy CS2, contribute to building sustainable communities and that flood risk is taken into account. Furthermore, the site is allocated as an area of amenity importance within the local plan and the proposal will only be approved if it would '...not adversely affect their open character, visual amenity or wildlife value or compromise the gap between conflicting land uses'.

### **Planning obligations**

Policy CS27 is concerned with planning obligations and states that where a development proposal generates an identified need for additional infrastructure, North Lincolnshire Council will, through the negotiation of planning obligations pursuant to Section 106 of the Town & Country Planning Act 1990 and in accordance with guidance set out in Circular 05/2005, enter into agreement with developers to capture obligations that would make proposals acceptable in planning terms.

The tests for planning obligations are set out in Part 11, section 122 of the Community Infrastructure Levy Regulations 2010 (as amended). It states:

- (2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—
  - (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.

The legal test is also set out in planning policy under paragraph 56 of the National Planning Policy Framework 2018.

### ***Affordable housing***

Policy CS9 is concerned with affordable housing and requires schemes for new residential housing in rural settlements to contribute 10% of the scheme for affordable tenure. Ideally 70% of affordable housing supplied should be 70% for rent and, where possible, the housing should be provided on site, but an off-site contribution may be acceptable.

The applicant has agreed to provide 10% of affordable housing on site. This therefore complies with the policy and represents 2 of the 20 dwellings proposed.

### ***Public open space***

Policy H10 of the North Lincolnshire Local Plan is concerned with public open space. It states, '(i)...New housing developments on allocated and windfall sites of 0.5 ha or more will be required to provide recreational open space on a scale, and in a form, appropriate to serve the needs of residents. Or alternatively, where appropriate, to provide commuted payments for this provision to be made off-site, either individually or in combination with existing or other proposed recreational sites and facilities.' This is reinforced by policy CS22 of the North Lincolnshire Core Strategy; both are considered relevant.

The applicant has confirmed that 10m<sup>2</sup> per dwelling of on-site informal open space will be provided. The space within the red line boundary is sufficient to accommodate this and the reserved matters will identify its location. On this point an estate management company will, through legal agreement, be tasked to maintain the space for 10 years. A contribution towards leisure is also proposed and this amounts to £12,611 towards improving local natural turf pitches and a further £1,151 towards a 3g pitch in sub area 4.

The proposal is therefore in accordance with policy H10 of the North Lincolnshire Local Plan.

### ***Education***

Policy C1 states that where major new housing proposals would result in an increased demand for education facilities which cannot be met by existing schools and colleges, a developer may be required to enter into a planning obligation under Section 106 of the Town and Country Planning Act 1990, to secure the provision of, or contribution towards, new or extended facilities.



Whilst Education have requested both primary and secondary contributions the request is not supported by sufficient justification. In the recent appeal on this site the inspector concluded that the justification for primary places (the workings behind understanding capacity) did not meet with the legal tests for obligations (set out above).

Based upon Education's findings and the inspector's, a contribution is only sought for secondary places; this contribution equates to £4,838 per dwelling. The proposal is therefore in accordance with policy C1 of the North Lincolnshire Local Plan.

## **Drainage**

Policy CS19 is concerned with flood risk whilst policies DS14 and DS16 are concerned with foul sewage and surface water drainage. The site is located within flood zone 1 and is therefore a preferred place for development in terms of flood risk. Paragraphs 155 to 165 (inclusive) of the NPPF are also considered relevant.

Paragraph 165 states, 'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- (a) take account of advice from the lead local flood authority;
- (b) have appropriate proposed minimum operational standards;
- (c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
- (d) where possible, provide multifunctional benefits.'

An application for up to 30 dwelling has recently been refused and an appeal dismissed partly due to information surrounding a principle drainage strategy.

The applicant has provided some information as part of this application. The LLFA have been consulted and have stated the following:

'The application currently provides a very basic level of information. There is no mention of the surface water drainage system 'parish drain' that exists along the full length of the western boundary. This is a riparian drain and provides critical flood risk mitigation for the village and so it is vital that this drainage feature is fully addressed.

However, given the scale of the development, the LLFA Drainage Team has no objection to the proposed development...(subject to conditions).'

Severn Trent have also made comment and whilst they are unsure whether or not capital works are required, they have no objections due to the adoption process (s106 agreement) being a legislative requirement relating to the adoption of sewer networks. They state that a scheme can be achieved and is mitigated through the aforementioned legislation.

It is therefore considered that sufficient information has been provided in this instance by the applicant to demonstrate that a suitable drainage scheme can be achieved on site that would accord with the principles of SuDS and prevent flooding to existing and future residents. The proposal is therefore in accordance with policies CS18 and CS19 of the

North Lincolnshire Core Strategy, DS14 and DS16 of the North Lincolnshire Local Plan and paragraphs 155, 157, 163 and 165 of the NPPF.

## **Character and amenity**

Policy CS1 in part states, '...Any development that takes place should be in keeping with the character and nature of the settlement. Policy CS7 of the Core Strategy sets out densities and states that 30 to 35 dwellings per hectare is acceptable for rural settlements. The policy also states, '...Housing development will be required to make efficient use of land but the density of new development should be in keeping with the character of the area...'

Policy LC11 of the local plan states, '...Within important amenity areas, development will only be permitted where it would not adversely affect their open character, visual amenity or wildlife value.

Policy CS5 of the North Lincolnshire Core Strategy is also relevant. It states, '...All new development in North Lincolnshire should be well designed and appropriate for their context. It should contribute to creating a sense of place' and 'Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable.'

Policy H5 of the local plan, which is concerned with new housing development, policy LC7 of the local plan, which is concerned with landscape protection, and paragraph 127 of the NPPF, are also considered relevant.

The application is for outline planning permission with all matters reserved. The site is abutted on three sides by residential form and there is currently a barn on the site and a well-established restaurant to the north. The site is allocated as an 'Area of Amenity Importance' and these are known for either (or both) their open character and visual contribution to the locality (offering a break in urban form) as well as their potential wildlife value. The existing site is largely unseen and therefore not experienced (other than by the dwellings which back onto and overlook it) by the majority of residents of Messingham. It is therefore considered to have limited value as regards character or visual amenity.

Recent residential developments in this area are of a density that would fairly reflect the requirement under policy CS7 to reach 30 to 35 dwellings per hectare. The applicant proposes up to 20; given the site constraints and the on-site provision of open space, this is considered acceptable. Policy CS7 also caveats the density numbers allowing for character traits to dictate. This is an instance where the lower density may well be suitable given the location of the site close to commercial premises.

All other matters relating to design are left for subsequent consideration at the reserved matters stage. In respect of the remit for decision making under this application then the proposed development is considered to align with the aforementioned planning policy.

## **Ecology**

Policy CS17 is concerned with biodiversity and sets out principles for the management of a scheme in order to achieve a net gain for wildlife habitat networks, Policy LC5 of the local plan is concerned with protected species. They are reinforced by paragraph 170 of the NPPF. Policy LC11 of the local plan states, '...Within important amenity areas, development will only be permitted where it would not adversely affect their open character,

visual amenity or wildlife value.’ It should be noted that the previous application on this site was in part refused and dismissed at appeal for not providing a preliminary ecological appraisal.

The applicant has provided a preliminary ecological appraisal by Archer Ecology. The report states that in section 4.2.1 ‘...the ecological walkover survey did not identify any habitats of significant value to nature conservation on a county, regional or national scale. All habitats encountered were assessed as having either low or moderate nature conservation value on a site and/or local scale.’

Species considered by the report include amphibians, reptiles, birds, bats, badgers and hedgehogs. The only potential is for bats located within the ancillary shed. The report under sections 4.3.9–11 states:

‘The majority of buildings occurring on the site did not present any observable features with a potential to support roosting bats. However, the small ancillary shed exhibited several potential roosting features located underneath the roof pantiles.’

Considering the quality and limited abundance of potential roosting features, the building was assessed as having ‘low’ potential to support roosting bats. However, a small ancillary building did show signs for potential and the recommendation set out within the above report states that survey work should be carried out prior to any alteration or demolition of this building. A condition will therefore be attached to any permission granted requiring a protected species survey reflecting that recommendation.

The proposal then is considered to have a limited impact upon protected species. Both the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 also offer external legislative mitigation for any development affecting protected species. The proposal is outline at this stage and is for ‘up to 20 dwellings’ within a large area; flexibility therefore exists in terms of the location of dwellings. The preliminary report also puts forward mitigation recommendations and this document will therefore be conditioned as an approved document in that the recommendations set out within it should be adhered to. This will sit alongside the conditions relating to protected species surveys. A condition relation to biodiversity and management plans will also be included to ensure a net gain in line with local and national planning policy.

Therefore, sufficient information has been provided to determine the impact upon protected species and the wider wildlife value of the site. The proposal is therefore in accordance with policies LC5 and LC11 of the North Lincolnshire Local Plan and CS17 of the Core Strategy.

## **Highways**

Policy T2 of the North Lincolnshire Local Plan states that all development should be served by a satisfactory access. Policy T19 is concerned with parking provision as well as general highway safety. Both are considered relevant.

The proposal is in outline form and Highways have been consulted. They have no objections subject to conditions. Highways have asked for the following conditions to be attached:

- The layout and location of access.
- Further condition on layout, drainage, and construction of access road.

The above two conditions are already controlled by the details of access as the application is for outline only. Drainage conditions are also in place that would duplicate some of the requirements of the condition, whilst the finer details of the access (such as construction and visibility) are part of the detailed design stage also (as access is controlled). Therefore, these conditions are unnecessary.

- No dwelling on site shall be occupied until the access road has been completed

This condition is compliance and would ensure that works are carried out and will be attached to any permission.

- 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.

This condition will be attached given it allows safe access to the site for construction purposes and would also limit the impact upon amenity.

- No dwelling on the site shall be occupied until the footway has been constructed up to base course level from the junction with the adjacent highway to the access to the dwelling.

This condition will be attached as it would ensure pedestrian access to dwelling is achievable.

- The penultimate dwelling on site shall not be occupied until the access roads have been completed.

A condition is already requested to ensure that no dwelling will be occupied until the vehicular access and parking space serving it have been completed, so this condition is unreasonable and unnecessary.

- Highway planting.

This condition will be attached as it protects service strips and any shared surface road.

- Construction phase management plan.

This condition will be attached to ensure the impact upon the locality is mitigated during the construction phase.

- No loose material on any driveway or parking area.

This condition will be attached in order to protect highway safety for future users of the development.

- No dwelling served by any shared private driveway on site shall be occupied until it has been constructed in accordance with details including:
  - the proposed method of forming access from the highway, including the required visibility splays;
  - the method of constructing/paving the drive;

- the provision of adequate drainage features;
- the provision of suitable bin collection facilities adjacent to the highway;
- the provision of suitable lighting arrangements; and
- the provision of street name plates that shall include the words 'Private Drive'.

This condition will be attached.

Mitigation exists in that access, layout and landscaping are reserved for later consideration. On a sustainable transport front the proposal in this location is considered sustainable, allowing access and support to transport modes other than the car. It is therefore considered, subject to the aforementioned mitigation, that the proposal would align with policies T2 and T19 of the North Lincolnshire Local Plan.

### **Air quality/sustainable resource**

Policy CS18 is concerned with sustainable resource use and climate change. Its purpose is to promote development that utilises natural resources as efficiently and sustainably as possible. Two points of this policy are relevant:

- (10) Ensuring development and land use helps to protect people and the environment from unsafe, unhealthy and polluted environments, by protecting and improving the quality of the air, land and water.
- (12) Supporting new technology and development for carbon capture and the best available clean and efficient energy technology, particularly in relation to the heavy industrial users in North Lincolnshire, to help reduce CO<sub>2</sub> emissions.

The council's Environmental Health department has assessed the proposal and recommend a condition requiring a scheme for electric vehicle charging points to be submitted to and agreed in writing with the local planning authority. This is considered to be in accordance with the above policy requirements and will be attached to any permission granted to mitigate the impact upon air quality generated by the development.

### **Land contamination**

Policy DS7 of the North Lincolnshire Local Plan is concerned with contaminated land. It states that permission will only be granted on contaminated sites where a detailed site survey has been submitted and a suitable scheme of remedial measures has been agreed to overcome any existing contamination.

The EHO has assessed the scheme and recommends a condition requiring a desk top study, remediation and verification reports. The works relate to the demolition of an existing barn. It is considered, given the active agricultural history of the site and without any information to the contrary, that the imposition of this condition is reasonable. Subject to this mitigation the proposal would accord with policy DS7 of the North Lincolnshire Local Plan.

### **Noise**

Policy DS11 is concerned with polluting activities. It states that planning permission for development, including extensions to existing premises and changes of use, will only be

permitted where it can be demonstrated that levels of potentially polluting emissions, including effluent, leachates, smoke, fumes, gases, dust, steam, smell or noise, do not pose a danger by way of toxic release. Policy DS1 is also concerned with the protection of amenity.

The council's Environmental Health department has assessed the application and has stated, '...This site is located adjacent to The Stables restaurant and Wise Owl Farm Nursery which has an outdoor play area. These sources have the potential to cause an adverse noise impact for the proposed dwellings. Therefore, subject to a noise impact assessment being agreed at condition stage, as well as conditions mitigating the construction phase, the proposal is considered to accord with both DS11 and DS1 in this regard.

### **Environmental issues/amenity**

Policy DS1 is partly concerned with impacts upon residential amenity. It states, '...No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.' Policy DS11 is also concerned with pollution control and is considered relevant.

The Environmental Protection team has been consulted and request conditions controlling construction hours and requiring a construction environmental management plan to be submitted and agreed. These will be attached.

### **Conclusion**

The proposal to erect up to 20 dwellings at outline with all matters reserved for subsequent approval is considered acceptable in principle and subject to the conditions outlined within this report as well as the heads of terms is recommended for approval.

### **Heads of terms**

#### ***Affordable housing***

<b>Number of dwellings</b>	2 dwellings (10% of the development)
<b>House type</b>	To be confirmed
<b>Trigger point</b>	2 dwellings on occupation of the 10 <sup>th</sup> dwelling
<b>How many years does the council require to spend the contribution?</b>	Affordable units to be retained in perpetuity

#### ***Education***

<b>Contribution amount</b>	£4,838 per dwelling towards secondary, excluding affordable products
<b>Trigger point</b>	30% on occupation of the 1 <sup>st</sup> dwelling

	30% on occupation of the 8 <sup>th</sup> dwelling 40% on occupation of the 15 <sup>th</sup> dwelling
<b>How many years does the council require to spend the contribution?</b>	10 years

### ***Open space***

<b>Onsite informal open space</b>	10m <sup>2</sup> per dwelling on site as informal open space; estate management company can be set up
<b>Trigger Point</b>	Estate management company set up on occupation of the 1 <sup>st</sup> dwelling  Open space to be set out on occupation of the 12 <sup>th</sup> dwelling and contribution paid if required
<b>How many years does the council require to spend the contribution?</b>	10 years

### ***Recreation***

<b>Contribution amount</b>	£12,611 towards improving natural turf pitches at Holme Meadow, £1,151 towards a 3G artificial turf football facility in sub area four
<b>Trigger point</b>	On occupation of the 12 <sup>th</sup> dwelling
<b>How many years does the council require to spend the contribution?</b>	10 years

### **Pre-commencement conditions**

The applicant has been informed of the pre-commencement conditions that will be attached to any permission. The notice period is greater than 10 working days and therefore in line with the requirements set out by the Pre-commencement Conditions Regulations:

### **RECOMMENDATION Grant permission subject to the following conditions:**

**Subject to the completion of a formal agreement under Section 106 of the Town and Country Planning Act 1990 (or other appropriate legislation) providing for affordable dwellings, education contributions and maintenance of open space within the development, the committee resolves:**

- (i) it is mindful to grant permission for the development;**
- (ii) the decision be delegated to the Development Management Lead upon completion of the obligation;**

**(iii) if the obligation is not completed by 30 September 2022 the Development Management Lead be authorised to refuse the application on grounds of not being acceptable in planning terms; and**

**(iv) the permission so granted be 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 details to be submitted in respect of reserved matters for any phase of development shall include a scheme for the provision of surface water drainage for the site and shall include the following criteria:

- (a) any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse
- (b) discharge from 'greenfield sites' taken as 1.4 lit/sec/ha (1:1yr storm)



- (c) no above-ground flooding to occur up to the 100 year plus climate change critical flood event (based on current national guidance)
- (d) a range of durations should be used to establish the worst-case scenario
- (e) the suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology
- (f) a scheme for the provision of a positive outlet of surface water from the site
- (g) adoption and maintenance agreements for all surface water and SuDS drainage features.

If a full sustainable urban drainage system (SuDS) scheme is incapable of being delivered, then comprehensive justification of this must be submitted.

#### Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 155, 157, 163 and 165 of the National Planning Policy Framework.

6.

The drainage scheme shall be implemented in accordance with the approved submitted details required by condition 5 above, completed prior to the occupation of any dwelling or building within each phase or sub-phase of the development on site, and thereafter retained and maintained in accordance with the scheme for the life of the development unless otherwise agreed in writing with the local planning authority.

#### Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 155, 157, 163 and 165 of the National Planning Policy Framework.

7.

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 approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and thereafter so retained.

#### Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy and paragraph 163 of the National Planning Policy Framework.

8.

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

Reason

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

9.

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.

10.

No dwelling on the site shall be occupied until the access road has been completed to at least base course level and adequately lit from the junction with the adjacent highway up to the access to the dwelling.

Reason

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

11.

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.

12.

No dwelling on the site shall be occupied until the footway has been constructed up to base course level from the junction with the adjacent highway to the access to the dwelling.

Reason

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

13.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any order revoking and re-enacting that order with or without modification), no development shall take place within any service strip adjacent to any shared surface road, and any planting or landscaping within this service strip shall be of species which shall be agreed in writing with the local planning authority prior to planting.

## 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 take place until a noise impact assessment has been submitted to and approved in writing by the local planning authority. The noise impact assessment shall be carried out with reference to:

- National Planning Policy Framework (2019)
- National Planning Practice Guidance (2014)
- ProPG: Planning & Noise, New Residential Development (2017)
- BS 4142:2014 + A1:2019 Methods for rating and assessing industrial and commercial sound
- World Health Organisation Environmental Noise Guidelines for the European Region 2018
- World Health Organisation Guidelines for Community Noise (1999)
- World Health Organisation Night Noise Guidelines for Europe (2009)
- BS8233:2014 Guidance on sound insulation and noise reduction for buildings
- BS5228-1:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Noise
- BS5228-2:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Vibration
- BS7445-2:1991, ISO1996-2:1987 Description of environmental noise, Part 2: Guide to acquisition of data pertinent to land use.

The noise impact assessment report shall provide details of existing background noise levels, likely noise sources which will impact upon the proposed development, mitigation methods to be employed and the resulting predicted level of noise at sensitive locations. Any approved mitigation measures shall be carried out in their entirety before the use of the site commences and shall be retained thereafter.

Following installation of the mitigation measures in accordance with the approved technical specification, a verification report that demonstrates the effectiveness of the mitigation measures shall be undertaken. The verification report shall be submitted to and approved in writing by the local planning authority.

## Reason

In the interest of amenity and to accord with policy DS11 of the North Lincolnshire Local Plan.

15.

Construction, demolition and site clearance operations shall be limited to the following days and hours:

- 8am to 6pm Monday to Friday

- 8am to 1pm on Saturdays.

No construction, demolition or site clearance 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

To protect residential amenity and to accord with policy DS1 of the North Lincolnshire Local Plan.

16.

No stage of the development hereby permitted shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

Noise and vibration – The CEMP shall set out the particulars of:

- (a) the works, and the method by which they are to be carried out;
- (b) the noise and vibration attenuation measures to be taken to minimise noise and vibration resulting from the works, including any noise limits; and
- (c) a scheme for monitoring the noise and vibration during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

Light – The CEMP shall set out the particulars of:

- (a) specified locations for contractors' compounds and materials storage areas;
- (b) areas where lighting will be required for health and safety purposes;
- (c) location of potential temporary floodlights;
- (d) identification of sensitive receptors likely to be impacted upon by light nuisance;
- (e) proposed methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

Dust – The CEMP shall set out the particulars of:

- (a) site dust monitoring, recording and complaint investigation procedures;
- (b) identification of receptors and the related risk of dust impact at all phases of the development, including when buildings and properties start to be occupied;
- (c) provision of water to the site;
- (d) dust mitigation techniques at all stages of development;
- (e) prevention of dust trackout;
- (f) communication with residents and other receptors;
- (g) a commitment to cease the relevant operation if dust emissions are identified either by regular site monitoring or by the local authority;
- (h) a 'no burning of waste' policy.

Reason

To protect amenity and to accord with policy DS11 of the North Lincolnshire Local Plan.

17.

No development shall take place on the site until a scheme for the provision of electrical vehicle charging points has been submitted to and approved in writing by the local planning authority.

Reason

To facilitate the uptake of low emission vehicles and reduce the emission impact of traffic arising from the development in line with the National Planning Policy Framework.

18.

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.

19.

No development shall take place until a species protection plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of measures to avoid harm to hedgehogs, bats and nesting birds during demolition, vegetation clearance and construction works.

#### Reason

To conserve biodiversity in accordance with saved policy LC5 of the North Lincolnshire Local Plan and policy CS17 of the Core Strategy.

20.

Within three months of the commencement of development, the applicant or their successor in title shall submit a biodiversity metric assessment and biodiversity management plan to the local planning authority for approval in writing. The document shall include:

- (a) an assessment of biodiversity loss based on the submitted location plan;
- (b) details of measures required to provide at least 1% biodiversity net gain in accordance with the Defra Small Sites metric;
- (c) details of bat boxes and nest boxes to be installed;
- (d) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
- (e) prescriptions for the creation and management of the pond and raised landforms;
- (f) prescriptions for the planting and aftercare of locally native wildflowers, hedgerows, trees and shrubs of high biodiversity value;
- (g) proposed timings for the above works in relation to the completion of the dwelling.

Biodiversity units should be delivered on site, within the red line boundary shown on the submitted location plan. Those that cannot viably be delivered on site should be delivered locally, according to a local plan or strategy.

#### Reason

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

21.

The species protection plan and biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the occupation of the dwelling, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the biodiversity management plan.

Reason

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

22.

The proposal shall be carried out in accordance with the recommendations set out within the preliminary ecological appraisal by Archer Ecology unless otherwise agreed in writing with the local planning authority.

Reason

In the interest of ecology and species protection, and in accordance with policy LC5 of the North Lincolnshire Local Plan.

23.

No development shall take place until a construction phase traffic management plan showing details of:

- all associated traffic movements, including delivery vehicles and staff/construction movements;
- any abnormal load movements;
- contractor parking and welfare facilities;
- storage of materials; and
- traffic management requirements, including the means of controlling the deposition of mud onto the adjacent highway, along with appropriate methods of cleaning the highway as may be required;

has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.

Reason

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

24.

No dwelling served by any shared private driveway on site shall be occupied until it has been constructed in accordance with details including:



- the proposed method of forming access from the highway, including the required visibility splays;
- the method of constructing/paving the drive;
- the provision of adequate drainage features;
- the provision of suitable bin collection facilities adjacent to the highway;
- the provision of suitable lighting arrangements; and
- the provision of street name plates that shall include the words 'Private drive';

which have been agreed in writing by the local planning authority. Once constructed the private driveway shall be retained.

#### Reason

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

#### **Informative 1**

This application must be read in conjunction with the relevant Section 106 Agreement.

#### **Informative 2**

Our records indicate that the proposed development site is bounded by a watercourse (surface water drain) on the western boundary. Following inspection, the watercourse may need to be cleared, replaced, protected or diverted by the landowner at their expense in accordance with their riparian responsibilities. An easement adjacent to the watercourse may need to be provided for future maintenance. Any other drainage feature found during excavations must be immediately reported to the LLFA Drainage Team via email to [llfadrainageteam@northlincs.gov.uk](mailto:llfadrainageteam@northlincs.gov.uk) prior to any further construction works being carried out. Please refer to North Lincolnshire Council's 'Guide to Watercourses and Riparian Ownership' detailing rights and responsibilities. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

#### **Informative 3**

Alterations and/or new connections into this watercourse must be consented by North Lincolnshire Council's LLFA Drainage Team, in their capacity as Lead Local Flood Authority, through an Ordinary Watercourse Consent and appropriate discharge rates must be agreed. Please contact the LLFA Drainage team via email to [llfadraiangeteam@northlincs.gov.uk](mailto:llfadraiangeteam@northlincs.gov.uk) for further details. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

#### **Informative 4**

##### Bats:

All species of bat are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017 making all species of bat European Protected Species. Details of the legislation can be found at:

- Wildlife and Countryside Act  
<http://www.legislation.gov.uk/ukpga/1981/69/contents>
- The Countryside and Rights of Way Act  
[http://www.opsi.gov.uk/acts/acts2000/ukpga\\_20000037\\_en\\_7#pt3-pb8-l1g81](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_7#pt3-pb8-l1g81)
- The Conservation of Habitats and Species Regulations 2017  
[http://www.opsi.gov.uk/si/si2010/uksi\\_20100490\\_en\\_1](http://www.opsi.gov.uk/si/si2010/uksi_20100490_en_1)

Nesting birds:

It is an offence under Section 1 of the Wildlife and Countryside Act of 1981 (WCA 1981) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. The WCA 1981 also provides that all wild birds and their eggs are protected and cannot be killed or taken except under licence.

### **Informative 5**


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 6**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 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.



**Legend**  
 LC 11 Area of Amenity Importance

**North  
Lincolnshire  
Council**

[www.northlincs.gov.uk](http://www.northlincs.gov.uk)

**PA/2021/1330**

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