

Planning Committee Dated: 25th March 2026

Summary List of Detailed Plans and Applications

	Recommendation: Approved with Conditions
Item:	1
Application No:	DM/0329/24/FUL
Application Type:	Full Application
Application Site:	Land Off Southern Way Immingham Docks Immingham
Proposal:	Erection of one wind turbine (T2), measuring up to 149.9m to blade tip height. Associated ancillary infrastructure to include access tracks, hardstanding areas for the turbine location, electrical infrastructure, drainage works, temporary laydown areas, temporary construction compound and associated works 'amended Habitats Regulations Assessment (HRA) November 2024'
Applicant:	Associated British Ports (ABP)
Case Officer:	Richard Limmer

	Recommendation: Approved Conditions and signing of S106
Item:	2
Application No:	DM/0415/20/OUT
Application Type:	Outline Application
Application Site:	South Of Diana Princess Of Wales Hospital Kings Park, Williams Way Grimsby North East Lincolnshire
Proposal:	Amended description - Variation of Condition 18 (Junction Improvement Works) as granted on DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) to enable the occupation of 56 dwellings prior to junction improvement works being commenced at Scartho Top with supporting verification information (condition 14) and additional information to support the removal of the affordable housing contribution
Applicant:	Mr Kevin Stevens
Case Officer:	Cheryl Jarvis

Recommendation: Approved Conditions and signing of S106

Item: 3

Application No: DM/0245/22/FUL

Application Type: Full Application

Application Site: South Of Diana Princess Of Wales Hospital Kings Park, Off Williams Way Grimsby North East Lincolnshire

Proposal: AMENDED DESCRIPTION - Erect 29 dwellings with associated highways and landscape works, cricket ball stop netting and supports to the south side of the cricket pitch between 9-15m in height and information to support the removal of the affordable housing contribution

Applicant: Stevens

Case Officer: Cheryl Jarvis

Recommendation: Approved with Conditions

Item: 4

Application No: DM/0749/25/OUT

Application Type: Outline Application

Application Site: Land Off Mushroom Lane Brigsley North East Lincolnshire DN37 0BJ

Proposal: Outline application for nine dwellings and garages with access to be considered and all other matters reserved (AMENDED PLANS AND DESCRIPTION - ALTERATIONS TO ACCESS)

Applicant: Mr & Mrs P Hansen

Case Officer: Lauren Birkwood

Recommendation: Refused

Item: 5

Application No: DM/0015/26/FULA

Application Type: Accredited Agent - Homeholder application

Application Site: 22 South Marsh Road Stallingborough North East Lincolnshire DN41 8AN

Proposal: Raise roof height to create first floor accommodation. Erect extensions to front and rear with front and rear dormers. Demolish existing garage and erect new detached garage to rear, associated internal and external alterations and retrospective permission for new boundary wall/pillars and gates to front.

Applicant: Mrs K Kaur

Case Officer: Abigail Hattersley

Recommendation: Refused

Item: 6

Application No: DM/0617/25/CEA

Application Type: Cert of Lawful Use/Operation - Proposed

Application Site: 323 Wellington Street Grimsby North East Lincolnshire DN32 7JU

Proposal: Certificate of Lawfulness for a Proposed Use as a 5 bed house in multiple occupation (HMO) for up to 6 people

Applicant: Subhajit Sengupta

Case Officer: Mark Danforth

Recommendation: Refused

Item: 7

Application No: DM/0679/25/CEA

Application Type: Cert of Lawful Use/Operation - Proposed

Application Site: 203 Stanley Street Grimsby North East Lincolnshire DN32 7LH

Proposal: Certificate of Lawfulness for a Proposed Use as a 4 bed house in multiple occupation (HMO) for up to 6 people with alterations

Applicant: Mr Subhajit Sengupta

Case Officer: Mark Danforth

Recommendation: Conditions Complied With

Item: 8

Application No: DM/0385/25/CND

Application Type: Discharge Condition

Application Site: Summerfields Louth Road Waltham North East Lincolnshire

Proposal: Details in Discharge of Condition 11 (Dog Park Management Plan) pursuant to Appeal APP/B2002/W/24/3352579 (Our Ref: AP/018/24) of DM/0220/24/FUL (AMENDED MANAGEMENT PLAN REC 02-JAN-2026)

Applicant: Mrs Nicola North

Case Officer: Lauren Birkwood

PLANNING COMMITTEE - 25th March 2026

ITEM: 1 **RECOMMENDATION: Approved with Conditions**

APPLICATION No: DM/0329/24/FUL

APPLICATION TYPE: Full Application

APPLICATION SITE: Land Off, Southern Way, Immingham Docks, Immingham, North East Lincolnshire,

PROPOSAL: Erection of one wind turbine (T2), measuring up to 149.9m to blade tip height. Associated ancillary infrastructure to include access tracks, hardstanding areas for the turbine location, electrical infrastructure, drainage works, temporary laydown areas, temporary construction compound and associated works 'amended Habitats Regulations Assessment (HRA) November 2024'

APPLICANT:

Associated British Ports (ABP)
25 Bedford Street
London
WC2E9ES

AGENT:

Rob Collin
Green Cat Renewables Ltd
Midlothian Innovation Centre
Roslin
EH25 9RE

DEPOSITED: 28th March 2024

ACCEPTED: 16th April 2024

TARGET DATE: 6th August 2024

PUBLICITY EXPIRY: 9th November 2025

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY:

CASE OFFICER: Richard Limmer

PROPOSAL

The proposal is for the erection of one wind turbine (T2), measuring up to 149.9m to blade tip height. Associated ancillary infrastructure to include access tracks, hardstanding areas for the turbine location, electrical infrastructure, drainage works, temporary laydown areas, temporary construction compound and associated works

The turbine has a current indicative generating capacity of 4.2MW but, if technological improvements permit, the installed capacity may be greater. The application is EIA development and an Environmental Statement (ES) has been submitted alongside the

application and other related documentation.

Electrical cables will be laid in trenches, typically alongside the access tracks, and will run to the off-site substation to the west that is within the applicant's ownership. The proposed turbine will connect to the existing electricity grid at the port, although the applicant is in discussion with Northern Power Grid (NPG), who are the Distribution Network Operator (DNO), with regard to how the project may interact with the national electricity grid network in the future.

The turbine will rotate in a clockwise direction. The computerised control system within the turbine continuously monitors the wind direction and instructs the turbine to turn (yaw) to face into the wind to maximise the amount of energy that is captured. The turbine will begin generating at a wind speed of 3-4m/s and operate with a storm control feature that enables the turbine to continue to operate in very high wind speeds; this avoids the need for sudden shutdowns and the resulting energy yield losses. In the event of extreme wind speeds, in excess of those that the turbine can operate at (typically 10minute averages of 25m/s or a gust of 34m/s), the turbine would shut down until the wind speed has dropped to a level where it can safely start operating again. The turbine will be finished in a pale grey colour with a semi-matt finish.

The foundation would typically have a diameter of approximately 22m, and a depth of 5.1m. When the foundations are excavated, a further metre around the foundation edge will be dug to allow working space during construction. A concrete blinding, 10cm thick, will be poured to provide a surface on which the foundation can be constructed. It is likely that the turbine foundation will require piling as part of the construction phase. A plinth is left, just above the surface level, upon which the turbine is bolted.

A crane hardstanding area is required at the turbine location to facilitate the erection of the wind turbine. The indicative hardstanding design measures 101m x 63m. The hardstanding will be constructed using aggregate with a topping layer of type 1 aggregate or similar.

Electrical cables will be laid in trenches and run to the off-site substation. The proposed development will connect to the existing port electricity network.

It is not expected that there will be a requirement to construct any new access tracks for the delivery of the wind turbines and associated components, just upgrades to existing tracks/roads. All sections of track would have a 0.5m shoulder on each side and would consist of crushed stone to a depth dictated by ground conditions, generally between 300mm and 600mm. The on-site construction period for the proposed development is expected to be approximately 2-3 months.

Planning permission is sought for a temporary period of 35 years. At the end of the operational life the turbine would be removed from the site, and the foundations and hardstanding areas would be covered over with suitable material, with the site returned to its previous condition of hardstand. The electrical cables would be de-energised and left

in place, with any cable marker signs removed. The decommissioning process would take between four to six months to complete.

This application has been submitted alongside a separate application also within the Immingham Port Estate for a second wind turbine within the North Lincolnshire administrative area, this is referenced as turbine T1. In essence it is submitted as a cross boundary application but each application is decided independently by the relevant Local Planning Authority. That application has been considered and dealt with by North Lincolnshire council and recently approved. For completeness and to ensure that cumulative impacts are properly considered this application references and considers both wind turbines but North East Lincolnshire Council is only considering and determining the turbine referenced T2 that is located within the North East Lincolnshire administrative area.

Reason for Presenting to Planning Committee

This application would normally be within officers' delegated powers and does not meet the exceptions to delegated powers in the constitution as the application has received no objections from statutory consultees but there are 2 objections from neighbours. Nonetheless officers seek to refer this matter to the committee for the following reason:

Application DM/0329/25/FUL is for a wind turbine of a scale which has not been proposed in North East Lincolnshire before, with a tip height of 149.9m.

As the first application of its kind within NELC, and a detailed one supported by a suite of technical information and reports, it is important to understand the technical and detailed assessment of it as a proposal and as an application in planning terms. There was also a separate planning application (ref. PA/2024/397) close to the site in North Lincolnshire for a matching wind turbine that was determined by North Lincolnshire Planning Committee (December 2025) due to the objections received. It is on this basis that this particular application would benefit from an open and transparent determination process which sets the basis in which future applications which will be considered and assessed; rather than, because of any particular issue raised by officers, the public or consultees.

Officers have taken legal advice, including advice from Counsel and the Council's deputy monitoring officer on such an approach generally. Notwithstanding the scheme of delegations, the planning committee retains the duty to determine planning applications. The delegated authority is a power which enables delegated decision making. The planning committee, by virtue of the delegated authority, does not lose the power to determine planning applications. If officers are of the view that in their professional opinion, the planning committee would be better placed to deal with an application, the application can go before the committee and any determination by the committee would be valid. This is not going against the scheme of delegation and is in accordance with section 101 of the Local Government Act 1972 which states that:

"(1) Subject to any express provision contained in this Act or any Act passed after this

Act, a local authority may arrange for the discharge of any of their functions—
(a) by a committee, a sub-committee or an officer of the authority; or
(b) by any other local authority

...

(4) Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority shall not prevent the authority or committee by whom the arrangements are made from exercising those functions."

The effect of this is that even once a decision has been delegated to others, the delegating body can always decide to determine the matter itself, unless there was something express or necessarily implicit in the scheme of delegation to prevent this: see R. (on the application of Couves) v Gravesham BC [2015] EWHC 504 (Admin).

While all major planning applications are delegated to the Director of Economy, Environment and Infrastructure (beyond those set out in paragraph 5.5 of Section 5, Part 2 of the Constitution), there is nothing in the Constitution or the Scheme of Delegation which prevents the Planning Committee choosing to decide an application itself notwithstanding the terms of the delegation.

In terms of procedure, paragraph 1.12 of Section 5 states as follows:

"1.12. Notwithstanding the approval of this Scheme of Delegation, the Cabinet and any Committee exercising delegated powers may, through the course of any Municipal Year:

1.12.2. amend, substitute or remove specific delegations from this Scheme, subject to appropriate advice from the Monitoring Officer."

Prior to presentation of this item by officers and in light of 1.12 above, members are asked to vote on amending the scheme of delegation to permit the Committee to hear this application on this occasion.

SITE

The Site is located wholly within the Port of Immingham under the control of the applicant Associated British Ports. The port area consists mostly of made ground, utilised in the most part for storage associated with the freight operations at the port, as well as other bulk storage and industrial facilities utilising sheds and buildings throughout the port estate.

The site is located off Southern Way adjacent to the Coal Products site and is currently used for coal storage. The surrounding land is used for coal storage and various other port related industries. There are railway lines to the north and south of the site that serve the port and continue further afield.

The closest residential properties are located on the northern edge of Immingham with

the closest being on Woodlands Way approximately 730m away. There are other commercial and industrial uses closer to the proposed development.

RELEVANT PLANNING HISTORY

North Lincolnshire Wind Turbine Ref T1 - PA/2024/397 - Erection of one wind turbine (T1), measuring up to 149.9m to blade tip height. Associated ancillary infrastructure to include access tracks, hardstanding areas for the turbine location, electrical infrastructure, drainage works, temporary laydown areas, temporary construction compound and associated works. - Approved

Whilst there is extensive planning history in and around the Port of Immingham it is not considered to be relevant to this proposal.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

- NPPF2 - Achieving sustainable development
- NPPF12 - Achieving well designed places
- NPPF14 - Climate, flooding & coastal change
- NPPF15 - Conserv. & enhance the natural environ.
- NPPF16 - Conserv. & enhance the historic environ.

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

- PO1 - Employment land supply
- PO5 - Development boundaries
- PO7 - Employment allocations
- PO22 - Good design in new developments
- PO31 - Renewable and low carbon infrastructure
- PO33 - Flood risk
- PO39 - Conserve and enhance historic environ
- PO41 - Biodiversity and Geodiversity
- PO42 - Landscape

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Immingham Town Council - no objections.

North Lincs Council - no objections.

Natural England - no objections.

NELC Ecologist -no objections, the shadow Habitat Regulations Assessment is acceptable and can be adopted by the Council.

Lincolnshire Wildlife Trust - no objections.

NELC Highways - no objections, conditions for construction management.

Environment Agency - no objection, recommend conditions to implement the approved flood risk assessment and for contamination.

HSE - does not advise against the proposed development.

Cadent Gas - no objections, recommend and informative on the decision notice regards infrastructure.

NATS - no objections subject to conditions for radar improvements to mitigate the development.

Humberside Airport - no objections subject to conditions for radar improvements to mitigate the development.

Environmental Health Officer - no objections subject to conditions.

Ministry of Defence - no objections.

Arqiva Television - no objections.

NELC Heritage Officer - no objections.

NELC Drainage Officer - no objections.

NELC Highways Officer - no objections, recommends conditions for construction.

Network Rail - no objections, comments in regard to the applicants duty to consider the adjacent railway.

National Grid - no objections.

NELC Tree Officer - no objections.

Drainage Board - no objections, comments on flood risk.

Humberside Fire Brigade - no objections.

National Gas - no objections.

Joint Radio Company - no objections.

Anglian Water - no comments.

Northern Power - no objections.

Neighbours

The following have supported the proposal.

DFDS Seaways, Shed 8, Wallenius Wilhelmson, Kia and GY1900 - support the proposed development and the development of sustainable energy.

The following have objected to the proposal.

122 Woodlands Avenue and 2 St Andrews Way, Immingham on the grounds of

- Impact on ecology and flight paths of birds
- Proximity to railway
- Proximity to pipelines
- Proximity to residential

APPRAISAL

Main Issues

1. Principle of development
2. Landscape Visual Impacts
3. Ecological Impacts
4. Safeguarding Existing Infrastructure
5. Drainage and Flood Risk

6. Highways

7. Noise

8. Shadow Flicker

9. Other Matters

1. Principle of development

The turbine is to provide electricity to support Immingham Port's operations. The NPPF Paragraph 168 states that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 states in Schedule 4, Part 2 that an EIA Report must include 'a description of the reasonable alternatives studied by the developer and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.' In addition to the requirement for consideration of alternatives, there is also a requirement to consider the likely effects if the development does not come forward. This is known as the 'no development scenario'.

The applicant, in meeting the requirements of the EIA regulations, has provided the following considerations:

- likely effects in the event that the development does not come forward (i.e. the 'no development' scenario).
- consideration of whether alternative locations would achieve the objectives of the current proposal.
- consideration of the evolution of the design of the scheme and whether alternative forms of development would achieve the same objective.

If the development does not come forward, then no turbine and associated development/infrastructure would be installed on the site. The visual appearance of the site and impacts of the site on the surrounding landscaping, SPA/Ramsar, SSSIs, heritage assets etc would largely remain as it was pre-development. A 'no development' scenario would also result in the Port not progressing plans for harnessing wind energy (renewable energy) to provide electricity for the port operations with aim of becoming carbon net zero and self-sufficient. No development would also impact on the employment and investment benefits anticipated from the proposed development both during construction and operation as well as the reduction in carbon emissions.

Alternative locations have been considered as part of the process. The turbine is to provide electricity to serve the port, therefore the turbine has to be located

within/adjacent to Immingham Port. The developer in the ES has assessed alternatives including larger wind turbines and alternative siting locations. ABP and GCR undertook a constraint mapping exercise of the port at Immingham to identify suitable locations for onshore wind development. A number of potential sites were identified and then assessed against additional criteria such as operations and future plans for the port. The location selected followed a robust screening process, with a number of other options ruled out due to environmental constraints, or port operational constraints. It was considered that, at present, to meet the current demands of the port operations, the wind turbine in the current location is sufficient. It is therefore reasonable to conclude that ABP have reviewed the alternatives available and this location presents one of the best opportunities for the deployment of an onshore wind turbine at the port. Other forms of renewable energy on the port, such as solar arrays, would require a significant footprint of land. The Port has limited ground space as ground space is required for port operations.

Whilst the application does not constitute a Nationally Significant Infrastructure Project (NSIP); the NPPF, at paragraph 5, specifies that national policy statements (NPS) form part of the overall framework of national planning policy and may be a material consideration in making decisions on planning applications. Paragraph 6 of the NPPF also states that other statements of government policy may be material when preparing plans or deciding applications such as Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission.

The overarching NPS for energy (EN-1) (December 2025) sets out national policy for national energy infrastructure. The NPS makes it clear that applications for the type of infrastructure covered by the NPS are to be determined on the basis that the government has demonstrated that there is a need for those types of infrastructure which is urgent and substantial weight should be given to the need when considering applications. It also makes clear that consideration of the specific contribution of any individual project to satisfying the need established in the NPS is not required. Whilst the NPS is concerned with NSIP applications, the NPS is a material consideration for strategic energy infrastructure development proposals, such as this application.

With regard to the NPPF, a policy statement on onshore wind was issued by the government on 8 July 2024. This policy statement removed the two tests set out in footnotes 57 and 58 to paragraph 163 of the NPPF that applied to onshore wind. These tests originally stated that onshore wind development was only acceptable in areas either allocated in a development plan or through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders and 'With the narrow exception of proposals brought forward by Neighbourhood Development Orders and Community Right to Build Orders, where the proposal has proved community support.' These two tests set a higher bar for onshore wind development than is set for other forms of development and was often interpreted to mean that any opposition to onshore wind development meant the proposal was not acceptable.

The removal of these tests from planning policy now means that onshore wind

applications will be treated in the same way as other energy development proposals.

The proposed development is therefore considered to be in broad compliance with national government policy (NPPF) and guidance (NPS) which states that the planning system should support the transition to net zero by 2050 and support renewable and low-carbon energy and associated infrastructure.

Policy 31 of the NELLP is supportive of renewable energy in appropriate locations subject to consideration of all other impacts including cumulative impacts. One of the general areas highlighted as being appropriate for wind development is the industrial landscape of the South Humber bank.

The proposed development will provide electricity to serve the port. Immingham Port is an established industrial area, which is allocated as existing employment site in Policy 7 of the NELLP. The proposal will support the continued use of Immingham Port and aid the applicants' efforts to improve sustainability.

Within this overall policy context, it is clear in terms of the principle of the development, with regard to national policy/targets to reduce carbon emissions and generate electricity from renewable sources, combined with Policies 7 and 31 of the NELLP, that the proposed development is acceptable in principle.

It then falls to consider the acceptability of the proposal in relation to the environmental impacts which are to be discussed in the sections below.

2. Landscape Visual Impacts

The NPPF and Policies 5, 22, 31 and 42 require due consideration to be given to the potential impact of new development on the visual landscape character of the area. This element has been included within the scope of the Environmental Statement. Clearly given the scale of the proposed turbine it would be visible from a wide range of places both on the north and south bank of the Humber Estuary and further afield from the Lincolnshire Wolds National Landscape. Views would range from close range to distant views and from both public and private places. A wide range of views have been considered in the submitted LVIA.

An assessment of the effects of the proposed development in respect of its impact on the landscape and visual amenity is provided within Chapter 5 of the submitted Environmental Statement (ES); the application is also accompanied by a Design and Access Statement. The Landscape and Visual Impact Assessment (LVIA) and the Cumulative Landscape and Visual Impact Assessment (CLVIA) that have been undertaken conform with The Guidelines for Landscape and Visual Impact Assessment, Third Edition (Landscape Institute and IEMA, 2013). An overall study area of 40km radius from the proposed turbine was established. While this 40km study area was initially investigated, the focus of the LVIA assessment was on those impacts within 20km of the proposed development, as receptors beyond this are unlikely to experience any

significant landscape or visual effects.

The assessment process has encompassed the construction, operational and decommissioning phases of the proposed development and has included the design, landscape and visual assessment (including cumulative) and assessment of the residual effects. The design process has sought to achieve the highest energy generation capacity for the site, whilst balancing this with environmental considerations and achieving an acceptable design in terms of landscape and visual effects. The following landscape and visual receptors have been assessed:

- landscape/townscape character, key characteristics, and elements
- designated landscapes
- views and visual amenity experienced by residents, tourists, visitors and road users.

The scope of the landscape and visual assessment in terms of landscape relates to landscape character, landscape elements and landscape designations. In terms of visual issues, the landscape and visual assessment relate to local community, tourist destinations and major transport routes. Cumulative issues are also addressed.

The proposed development is not within any designated landscapes, and thus there will be no direct effects on any designated landscapes. While there are no direct impacts, there is potential for indirect impacts on those designated landscapes that overlap the ZTV and may potentially have views of the proposed development. These designated landscapes have been considered within the landscape chapter of the ES.

Landscape effects are defined by the Landscape Institute as 'Change in the elements, characteristics, character, and qualities of the landscape as a result of development.' These effects are assessed by considering the landscape sensitivity (low, medium or high) against the magnitude of change (negligible, low, medium or high (based on criteria set out in the ES)). A matrix is used to guide the evaluation of the significance of the predicted effect. A matrix is used to guide the evaluation of the significance of the predicted effect.

Changes to local landscape can occur where there would be direct or indirect physical changes to the landscape. In this instance, direct changes to landscape fabric would only occur within the development boundary, while indirect changes may occur outside of it. The Industrial Landscape has been assessed to be of low sensitivity.

During operation, the proposed development would occupy and directly affect a limited extent of the Industrial Landscape, typically defined by the Humber Refinery, Immingham Docks and Immingham settlement, and stretching south-east to Grimsby where there are other very large industrial installations.

The ES states, 'This local landscape has been completely man modified by the port and refinery activities and there remains no evidence of a natural landscape. As such, the

turbines and associated infrastructure would be positioned within a section of the landscape which has a similar character and similar materials, in terms of being manmade structures, with a mechanical character, reducing their potential to impact the area'.

It is considered that whilst the proposed turbine would be widely visible across the industrial landscape, it would not be out of character, given these existing elements which comprise the Industrial Landscape, it is also noted that there are various other wind turbines present in the wider landscape and there is of course the approved turbine nearby (T1). There are also very large scale off shore wind farms that are visible in the wider marine landscape.

In addition to this, the vertical nature of the turbines would be in keeping with the form and scale of the vertical flare stacks and cranes currently within the landscape, and while there would be movement of the blades, this landscape is busy and many port and industrial activities provide an existing sense of movement. The wider south Humber Bank is also home to several large-scale industries and factories.

The ES concludes on this matter that, 'The magnitude of change for direct landscape effects as a result of the Proposed Development on the local landscape character resource, would be low, resulting in a minor level of effect, which would not be significant.' Having considered the information submitted this conclusion is concurred with and the application would accord with Policies 5, 22, 31 and 42 of the NELLP.

3. Ecological Impacts

The NPPF, Policies 5 and 41 of the NELLP require full and proper consideration be given to the impact of new development on ecology and biodiversity. This has therefore been included into the ES.

The assessment of the effects of the proposed development in respect of potential impacts on habitats, flora and fauna is set out within chapter 9 (Ecology) of the Environmental Statement which accompanies the planning application. This assessment details whether there is potential for significant effects associated with the construction, operation and decommissioning phases of the proposed development.

Chapter 9 of the ES is supported by a number of surveys and preliminary ecological appraisals. Impacts on bats, great crested newts, badger, birds (assessed in ES chapter 10 - Ornithology section of this report), reptiles and hedgehogs have been surveyed and assessed. A BNG report and metric has been submitted. The application has also been supported by a Shadow Habitat Regulations Assessment (sHRA).

Chapter 10 of the ES evaluates the effects of the proposed development on bird species of conservation concern and their supporting habitats. Consultation was undertaken through Natural England's (NE's) Discretionary Advice Service to ensure that the survey programme would be robust and fit for purpose. The baseline survey methods were

developed based on Defra's and Natural England's standing advice for local planning authorities, developers and ecologists for assessing the impacts of wind farms on wild birds. Collision modelling was undertaken using the industry standard method. Cumulative assessments were also provided with chapter 10 and in-combination effects.

The application has been supported by a shadow Habitats Regulations Assessment. It has been prepared to inform the 'competent authority' (NELC) about the implications of the proposed works on internationally important sites, as required under Regulation 63 of The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (amendment) (EU Exit) Regulations 2019. Regulation 63 of the Habitats Regulations sets out a two-stage process:

- Stage 1 (Screening): determine whether the project is likely to have a significant effect on the European/Ramsar site;
- Stage 2: determine whether the project will affect the integrity of the European/Ramsar Site.

Key findings of Stage 2 assessment relate to the following:

- Displacement Impacts on the Humber estuary SPA/Ramsar Birds;
- Noise disturbance impacts during construction;
- Injury or mortality from collision with operational turbines;
- Water quality impacts during construction;
- Air quality impacts;
- In-combination plans and projects;

It is considered that an appropriate assessment (AA) is required to determine the implications of the project on the Humber Estuary SPA and Ramsar site only in view of the sites' conservation objectives for the European interest. The appropriate assessment considers the effects of the project alone. The potential impacts requiring appropriate assessment are:

- displacement impacts on Humber Estuary SPA/Ramsar birds;
- noise disturbance impacts - construction;
- injury or mortality from collision with operational turbines.

The Council Ecologist and Natural England have considered the submitted information, surveys, assessments and sHRA, which includes a shadow Appropriate Assessment and has concluded that they have no objections to the proposed development subject to securing mitigation as detailed in the sHRA. This mitigation is in the form of a detailed Construction Environmental Management Plan condition. On this basis the Council Ecologist has recommended that the sHRA can be adopted by the Council.

It is therefore considered that the proposed development would not cause harm to ecology and biodiversity in accordance with NPPF and Policies 5 and 41 of the NELLP.

The application was submitted in March 2024 once Biodiversity Net Gain (BNG) had come into effect. The application has been submitted with a BNG assessment which details that the current state of the site and its use, i.e. made-up land used for coal storage. The assessment concludes that the site has less than 25 square metres of habitat and is therefore exempt from BNG requirement. The Council Ecologist has considered this and concurs with the conclusion.

4. Safeguarding Existing Infrastructure

In terms of air safety NATS have advised and this consultee also originally objected to the proposal. Following discussion with NATS and ABP, NATS are recommending planning conditions to also secure a primary radar mitigation scheme to avoid impacts on the primary radar of the operator at Claxby and associated air traffic management operations. This type of mitigation usually involves a 'radar blanking' contract which removes the unwanted radar returns from the wind turbine to prevent displayed radar clutter.

In terms of MOD, the proposed turbine falls within a low flying area. A turbine in this location has the potential to introduce a physical obstruction to low flying aircraft operating in the area. To mitigate these impacts, given the location and scale of the development, the MOD requires conditions that the development is fitted with aviation safety lighting and that sufficient data is submitted to ensure that structures can be accurately charted for deconfliction.

No objections have been raised, subject to conditions, by the statutory technical consultees on these matters. All requested conditions are recommended. In terms of telecommunications, radar and aviation safety, the proposals, subject to mitigation by planning conditions, are considered to be acceptable and will ensure telecommunications, radar and aviation safety are protected/safeguarded. The proposal, subject to the recommended planning conditions, is therefore considered to accord with Policy 5 of the NELLP and the NPPF.

5. Drainage and Flood Risk

Policies 5 and 33 of the NELLP and the NPPF requires consideration to be given the impact of flooding on new developments and what impact that development may have on flood risk. The site is located in flood zone 3 on the EA flood maps along with most of the port area. Indeed, that is the nature of ports and the proximity to the estuary. The application has been submitted with a detailed Flood Risk Assessment (FRA) and the development designed with flood risk in mind. The FRA details that the development is compatible with the site location and the critical infrastructure associated with it has been designed to reduce flood risk. The EA, Drainage Board and NELC Drainage Engineer has not raised any objections to the proposed development. The EA has recommended a condition that secures the mitigation set out in the FRA. The proposal is therefore considered to accord with Policies 5 and 33 of the NELLP.

6. Highways

Policy 5 of the NELLP requires consideration to be given to the traffic generation and highway impact of new development proposals. As a wind turbine it has no permanent staff on site and the ongoing maintenance would attract very few vehicle movements. The construction phase of the development is limited to 2 to 4 months. It is considered that due to the scale and nature of the application, the proposals do not give rise to any material traffic and transport impacts. The application site is accessed via the existing port accesses, east gate and west gate, which already serves all the port-related activities. Traffic movements for components will be small as the proposal relates to 1 turbine. Construction vehicles will also be low in number due to the nature of the proposals, and parking is available on the application site and the wider port development. The proposal therefore does not result in any material impacts on traffic and transport, and access and car parking arrangements are acceptable. The components of a wind turbine are large and transporting them on the public highway network needs to be considered to ensure highway safety is maintained. It is considered that this can be controlled through a condition for a Construction Traffic Management Plan.

With the inclusion of the condition mentioned it is considered that the proposal therefore complies with Policy 5 of the NELLP and the NPPF in terms of traffic and transport.

7. Noise

The assessment of the effects of the proposed development in respect of noise are set out in chapter 7 in the Environmental Statement (ES). This chapter assesses the noise impacts that could potentially arise during the construction, operation and decommissioning phases of the proposed development.

The noise effects of the proposed development were assessed using a combination of propagation modelling and noise limits that reference survey data collected within the study area. For the purposes of the noise impact assessment (NIA), the Enercon E138-EP3-E2, with a maximum tip height of 150m and generating capacity of 4.2MW, has been chosen as the candidate turbine (because the exact model of the turbine is not known at this stage) and represents a realistic worst-case scenario for noise emissions.

Noise impacts have the potential to arise from three distinct areas of development:

- the construction of the wind turbines
- during operation of the wind turbines
- cumulative noise from surrounding wind farms.

The Noise Impact Assessment (NIA) considered potential noise impacts associated with the construction and operation of ABP Port of Immingham, a proposal consisting of two wind turbines (T1 in NLC and T2 in NELC) and ancillary infrastructure. Construction phase and operation phase noise impact assessments have been provided within

chapter 7. The assessment concluded that nearby sensitive receptors, including residential properties, would not suffer harm when considered against the background noise levels.

It is noted that the Environmental Health Officer has reviewed the submitted information and has raised no objections but has requested conditions in regard to implementing noise control measures and monitoring. It is considered that the proposed development would accord with Policy 5 of the NELLP.

8. Shadow flicker

The assessment of the effects of the proposed development in respect of shadow flicker are set out in chapter 11 in the Environmental Statement (ES). This chapter assesses possible shadow flicker impacts that could potentially arise during the operational phase of the proposed development.

The likelihood of this occurring and the duration of such an effect depend upon:

- the direction of the building relative to the turbine(s);
- the distance from the turbine(s);
- the turbine hub height and rotor diameter;
- the time of year;
- the proportion of hours in which the turbine operates;
- the frequency of bright sunshine and cloudless skies (particularly at low elevations above the horizon); and
- the prevailing wind direction.

The further the observer is from the turbine, the less pronounced the effect will be. There are several reasons for this:

- there are fewer times when the sun is low enough to cast a long shadow;
- when the sun is low, it is more likely to be obscured by either cloud on the horizon or intervening buildings and vegetation; and
- the centre of the rotor's shadow passes more quickly over the land reducing the duration of the effect.

There is currently no standard UK Guidance on acceptable levels of shadow flicker. The only guidance that provides suggested levels is Northern Ireland's Best Practice Guidance to Renewable Energy, which recommends that shadow flicker at neighbouring offices and dwellings within 500m should not exceed 30 hours per year. This document also comments that at distances greater than 10 rotor diameters, the potential for shadow flicker is very low.

Based on guidance above, a study area of 1,380m around each of the proposed turbines - T1 (NLC) and T2 (NELC) - has been considered.

Shadow flicker was calculated assuming window sizes of 4m x 4m at each property. This is likely to be an overestimate in the majority, if not all, cases. In practice, smaller window sizes could lead to a lower frequency of shadow flicker occurring than modelled. Shadow flicker is predicted to occur largely within the months of March, April, September and October. Residential receptors may experience shadow flicker in the morning hours of 6am to 7am. For office locations, shadow flicker effects are predicted to occur outside the standard working day of 9am to 5pm.

Once realistic meteorological and operational factors are considered, all properties assessed within the shadow flicker analysis that are in NLC are predicted to receive less shadow flicker than the 30 hours per year threshold of significance. As such, shadow flicker is not expected to have a significant impact on residential amenity. The impact on office receptors is considered to be low given the predicted time of day as it falls outside hours that workers are likely to occupy the building.

In terms of mitigation, the ES states that 'Where shadow flicker is predicted to occur for short periods of time, it is likely that no mitigation will be required as the magnitude of resulting impacts will be low. Should shadow flicker prove to be problematic in practice, the turbines can be fitted with a shadow stop system that can be programmed to automatically shut down when environmental conditions are conducive to shadow flicker at affected properties. This means that the turbine would be equipped with a light level sensor, which would be used to ensure the turbine shuts down during periods of sufficient light to generate shadow flicker. Shadow flicker impacts could be managed through a suitable planning condition that requires a mitigation scheme to be submitted to, and approved by, the local planning authority in response to a justified complaint.'

The ES concludes that there is only 1 receptor which may receive in excess of the 30 hours impact, at 38:44mins. However, this is the DFDS booking in office (ref. 04) on the port estate which could be a less sensitive receptor at any rate given its nature. It is also noted that DFDS have written in to support the application.

The ES concludes that it is expected that a suitable planning condition could be used to mitigate any potential adverse shadow flicker effects either in response to a justified complaint or proactively by means of incorporating a turbine shutdown strategy.'

The Environmental Health Team have reviewed the submitted information and assessments and have raised no objections the proposed development but have requested a condition in regard to responding to shadow flicker complaints as recommended in the ES. The proposal is therefore considered to accord with Policy 5 of the NELLP in regard to shadow flicker.

9. Other Matters

The application has been submitted with a heritage assessment which has been considered by the Heritage Officer. This assessment includes the potential for impact on the below ground archaeology and impact on above ground heritage assets. The

Heritage Officer has confirmed that they have no concerns in regard to heritage impact and that no further assessment is required. The application is therefore considered to accord with Policy 39 of the NELLP and the NPPF.

The proposed development is located in close proximity to railway lines, and this issue has been raised by a neighbour. Network Rail have been consulted as part of the application process and have responded to confirm that they have no objection in principle, but the applicant will have to consider the potential impact on the railway network from a topple incident. They do not request a condition and so it is considered that an informative can be used to direct the applicant to this matter and to liaise with Network Rail accordingly.

CONCLUSION

In conclusion it is considered that the proposed development would aid the de-carbonisation of the port of Immingham. Whilst the proposed wind turbine would be visible in the local and wider landscape it would not cause harm to the visual character of the area, ecology and biodiversity, highway safety and amenity, flood risk, residential and general amenity, telecommunications, radar and general health and safety. The development accords with the NPPF and the relevant policies of the NELLP, the application is therefore recommended for approval.

RECOMMENDATION

Approved with Conditions

(1) Condition

The development hereby permitted shall begin within three years of the date of this permission.

Reason

To comply with S.91 of the Town and Country Planning Act 1990.

(2) Condition

The development shall be carried out in accordance with the following plans:

- C4933 (1) 100 - Immingham - Site Location
- C4933 (1) 101 - Immingham - Site Layout
- C4933 (1) 102 - Immingham - Cranepad Insets
- C4933 (1) 103 - Immingham - Cable Layout
- C4933 (1) 104 - Immingham - Turbine Elevation

C4933 (1) 105 - Immingham - Foundation Details
C4946 (1) 107 - Immingham - T2 Foundation Section
C4933 (1) 106 - Immingham - Foundation Section
C4933 (1) 108 - Immingham - Hardstanding Detail
C4946 (1) 109 - Immingham - Access Sections
C4933 (1) 110 - Immingham - Cable Details
C4933 (1) 111 - Immingham - Drainage Details
C4933 (1) 112 - Immingham - Fence and Gate Detail

Reason

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

(3) Condition

The development hereby approved shall be temporary, for a period of 35 years from the date of first exportation of electricity from the site. The applicant, or their successor in title, shall notify the local planning authority in writing of the date of first exportation of electricity from the site.

Reason

To confirm the proposed 35-year temporary period of the permission for the avoidance of doubt and in the interests of proper planning.

(4) Condition

Within a period of 34 years and 6 months following the date of first exportation of electricity from the site, a scheme for the decommissioning of the wind turbine and its ancillary equipment shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of how the land is to be restored, and shall include a programme for the completion of the decommissioning and restoration works. It shall make provision for the removal from the land of the wind turbine and associated above-ground works approved under this permission, as well as details of the management and timing of any works, a traffic management plan to address any likely traffic issues during the decommissioning period, and an environmental management plan to include details to be taken during the decommissioning period to protect wildlife and habitats. Thereafter, the decommissioning of the wind turbine shall be undertaken in accordance with the approved details and timings.

Reason

To ensure the decommissioning of the wind turbine and associated equipment, and restoration of the land, upon expiry of the temporary permission to accord with Policy 5 and 31 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(5) Condition

Prior to development commencing final details of the size, make, model, colour, type of finish and final finish of the wind turbine to be installed shall be submitted to and approved in writing by the Local Planning Authority. This shall include an assessment to ensure that the proposed turbine accords with the submitted Environmental Statement for this application.

Reason

In the interests of residential amenity, health and safety and ecological protection in accordance with Policies 5 and 41 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(6) Condition

The development shall be carried out in accordance with the submitted flood risk assessment (dated August 2025, referenced C4946-1307 Version 4.0, compiled by Greencat Renewables) and the following mitigation measures it details:

- The turbine shall be sited on a raised foundation set no lower than 2.50m above the existing ground level.
- All critical equipment shall be set no lower than 4.30m above the existing ground level, as detailed in 'Response to EA' letter dated 28 August 2025.

These mitigation measures shall be fully implemented prior to operation of the turbine, and subsequently retained and maintained thereafter, throughout the lifetime of the development.

Reason

To reduce the risk of flooding to the proposed development and ensure that the development remains operational in accordance with policies 5 and 33 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(7) Condition

The development hereby permitted shall not be brought in to use until a flood warning and evacuation plan (FWEP) has been submitted to and approved in writing by the local planning authority. The details submitted shall include (but not be limited to) proposals for flood warnings and associated site-specific actions, signage and emergency access/egress. The plan shall be implemented in accordance with the approved details before the development is first brought into use and thereafter for the lifetime of the development.

Reason

To ensure the occupiers of the development are safe in a flood event in accordance with Policies 5 and 33 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(8) Condition

Upon North East Lincolnshire Council receiving any justified complaint in respect of shadow flicker from any receptor identified within chapter 11 Shadow Flicker of the Environmental Statement or from any other property, the council will inform the developer who will

investigate the complaint and report the findings to the council within one month of the complaint being received. If shadow flicker mitigation is required, the developer will submit a shadow flicker mitigation scheme within two months of the complaint being received by the council. The shadow mitigation scheme shall be agreed in writing by the local planning authority and, once agreed, the scheme shall be installed on/in the turbine within one month of the shadow flicker mitigation scheme being agreed by the local planning authority.

Reason

To mitigate shadow flicker impacts on adjacent properties to safeguard amenity and health in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(9) Condition

Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of the North East Lincolnshire Council in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

- a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason

To maintain aviation safety in accordance with Policy 5 of the North East Lincolnshire

Local Plan 2013-2032 (adopted 2018).

(10) Condition

The undertaker must notify the Ministry of Defence and Local Planning Authority, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence and Local Planning Authority must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason

To maintain aviation safety in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(11) Condition

No development shall commence until a scheme for the sustainable provision of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The development shall then be built out in accordance with the approved details and thereafter maintained and retained.

Reason

To prevent an increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(12) Condition

Prior to the commencement of construction works on site detailed specifications of the type of piling/ground improvement/foundations to be used to support the buildings/structures shall be submitted to the Local Planning Authority for approval. Included shall be a scheme to mitigate the effects of the design with particular regard to noise and vibration to the surrounding premises and pollution to the underlying chalk aquifer. The foundations shall be carried out/constructed in accordance with the approved details unless variations are approved in writing by the Local Planning Authority.

Reason

To ensure that the proposed piling does not harm groundwater resources in accordance with policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(13) Condition

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.
- (d) working hours

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) the location of potential temporary floodlights;
- (d) the 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) the 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) the provision of water to the site;
- (d) dust mitigation techniques at all stages of development;
- (e) the 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

In the interest of ecological protection and to safeguard residential amenity in accordance with Policies 5 and 41 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(14) Condition

No part of the hereby approved wind turbine shall be erected above ground until a Primary Radar Mitigation Scheme has been agreed between the Airport Operator and ABP, and has been submitted to, and approved in writing by the Local Planning Authority.

No blades shall be fitted to any Turbine until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with such approved Scheme.

Reason

To protect the interests Primary Radar of the Airport Operator located at Humberside International Airport, and the associated air traffic management operations in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(15) Condition

Following the assessment methodology contained within Section 7.5 of the report entitled ES Chapter 7: Noise - Port of Immingham Wind Turbines, reference: C4946 1307 version 1, of this planning application, the noise emission from the wind turbine shall not exceed the limits detailed in Tables 7.10 and 7.11 of the aforementioned report at the identified dwellings.

Reason

In the interests of local amenity in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(16) Condition

The rating level of noise emissions from the combined effects of the wind turbines (including the application of any penalties for tonal and/or amplitude modulation components), when determined in accordance with the Template Planning Condition on Amplitude Modulation Noise Guidance Notes dated December 2013, produced by Renewables UK (Guidance 2013), shall not exceed the values for the relevant integer wind speeds set out in, or derived from tables 1 to 3 of Guidance 2013 at any dwelling which is lawfully existing or has planning permission at the date of this permission and

a) The wind turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance 2013, Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind turbine operator shall provide this information in the format set out in Guidance 2013, Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

b) No electricity shall be exported until the wind turbine operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants

who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

c) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbine at the complainants property in accordance with the procedures described in Guidance 2013. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component or an amplitude modulation component which may attract a penalty under these conditions.

d) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance 2013, Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component or an amplitude modulation component, which may attract a penalty under these conditions, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind turbine operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainants dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainants dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainants dwelling.

f) The wind turbine operator shall provide to the Local Planning Authority the independent consultants assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local

Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of Guidance 2013. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultants assessment of the rating level of noise emissions.

Reason

In the interests of general and residential amenity in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(17) Condition

If during development contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately, and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. Remediation shall take place in accordance with the details approved.

Reason

To ensure that any previously unconsidered contamination is dealt with appropriately in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(18) Condition

No works related to the development hereby approved shall begin until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP should include, but not be limited to the following:

- Contact details of the person with responsibility for the implementation of the CTMP;
- The expected number, types and size of vehicles during the entire construction period;
- The proposed daily hours of operation during the construction period;
- Details of on-site parking provision for construction related vehicles;
- Details of on-site storage areas for materials, if required;
- Details of expected delivery schedules and how this will be managed to eliminate waiting on the public highway (i.e. call ahead or pre-booking scheduling system), if required; and
- Details of wheel washing facilities (locations, types etc.)

Once approved, the CTMP shall be adhered to at all times during construction.

Reason

To ensure adequate access facilities are provided during construction, and for highway

safety reasons in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).

(19) Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission, would be North East Lincolnshire Council, or the Secretary of State (where they have determined under sections 62A, 76A or 77 of the Town and Country Planning Act 1990 (as amended) that such applications must be made to them) or the Planning Inspectorate or Secretary of state where they have so specified in determining an appeal under s 78 of the Town and Country Planning Act 1990 (as amended).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. It is the applicant or developers responsibility to make sure that they are complying with the requirements of this legislation.

Where this permission has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In Summary: Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. It is considered that exemption number 4.2 applies.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition can be found at <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out)

applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or

(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;

ii) planning permission is granted which has effect before 2 April 2024; or

iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

* "original planning permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

4.2 Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Informatives

1 Reason for Approval

The Local Planning Authority has had regard to development plan policies and especially those in the North East Lincolnshire Local Plan. The proposal would support the decarbonisation of the port and support economic development and would not harm the area character or residential or general amenity and is acceptable under all other planning considerations including ecological considerations. This proposal is approved in accordance with the North East Lincolnshire Local Plan 2013-2032 (adopted 2018), in particular policies 5, 7, 22, 31, 39, 41 and 42 .

2 Added Value Statement

Article 31(1)(cc) Statement - Positive and Proactive Approach

In accordance with paragraph 187 of the National Planning Policy Framework, the Local Authority has worked in a positive and proactive manner with the applicant to seek solutions to problems arising, by working with the applicant to overcome issues as they arose through the planning process..

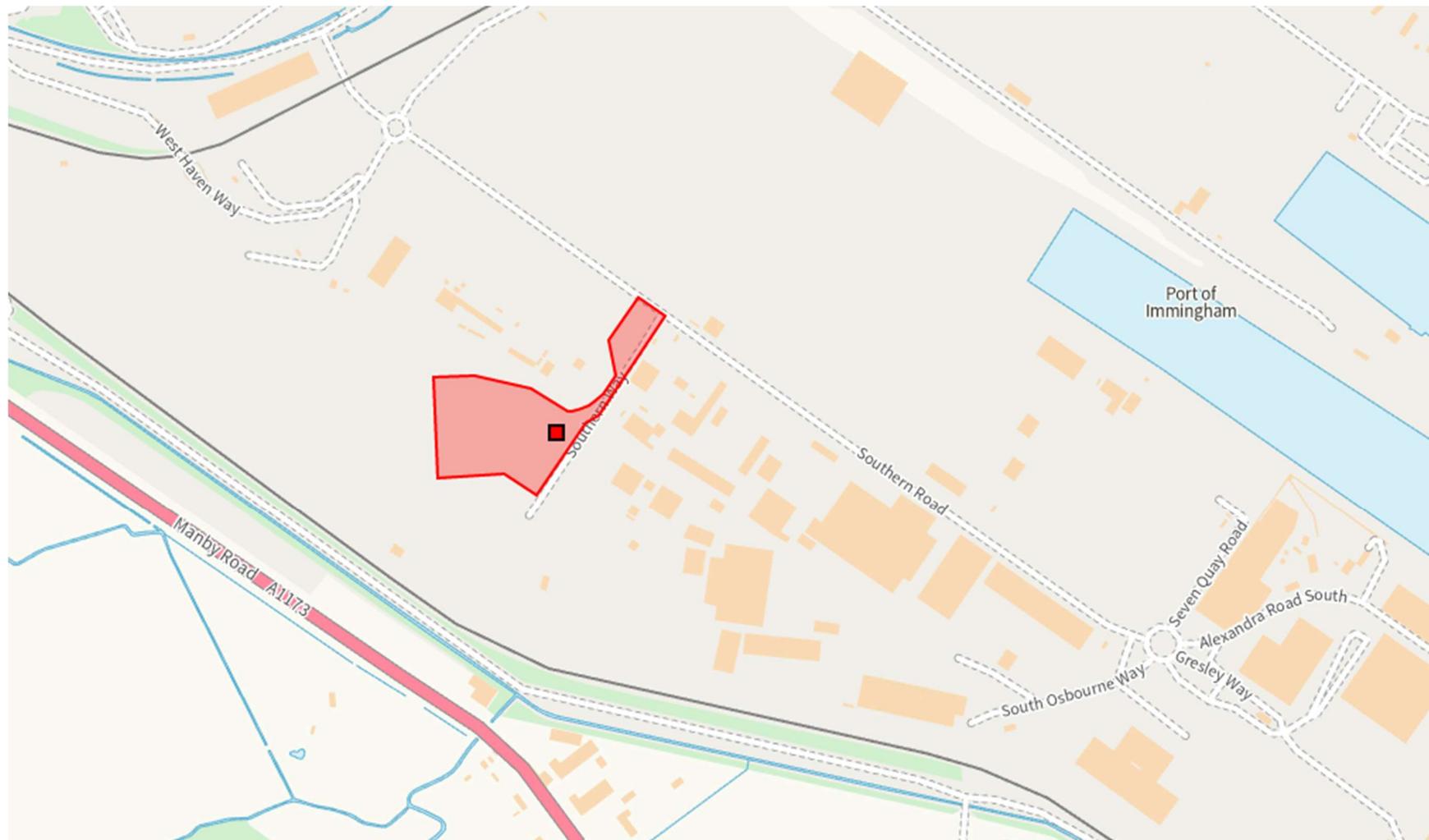
3 Informative

The applicant's attention is drawn to the comments made by Network Rail, Cadent, National Gas and National Grid in regard to working in proximity to their assets.

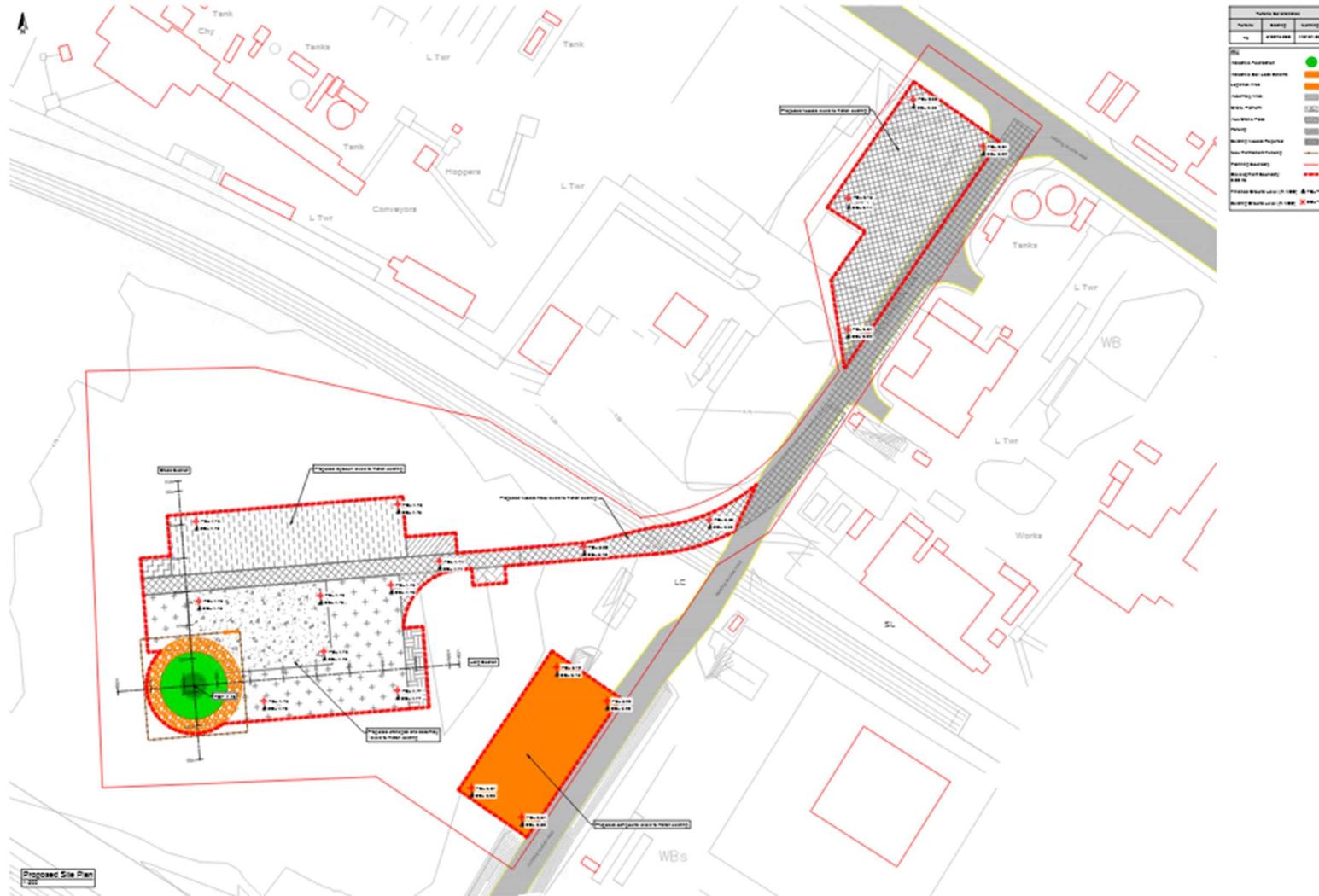
4 Informative

Please note that you may also require Building Regulations. You are advised to contact them in advance of work on site commencing (Tel: 01472 326289 - Option 2).

DM/0329/24/FUL – LAND OFF SOUTHERN WAY, IMMINGHAM DOCKS



DM/0329/24/FUL – LAND OFF SOUTHERN WAY, IMMINGHAM DOCKS



PLANNING COMMITTEE - 25th March 2026

ITEM: 2 **RECOMMENDATION: Approved Conditions and signing of S106**

APPLICATION No: DM/0415/20/OUT

APPLICATION TYPE: Outline Application

APPLICATION SITE: South Of Diana Princess Of Wales Hospital, Kings Park, Williams Way, Grimsby, North East Lincolnshire

PROPOSAL: Amended description - Variation of Condition 18 (Junction Improvement Works) as granted on DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) to enable the occupation of 56 dwellings prior to junction improvement works being commenced at Scartho Top with supporting verification information (condition 14) and additional information to support the removal of the affordable housing contribution

APPLICANT:

Mr Kevin Stevens
E5 Living (Grimsby) Ltd
The Coach House
Oldberrow Manor
Ullenhall Lane
Ullenhall
Warwickshire
B95 5PF

DEPOSITED: 4th June 2020

AGENT:

Mr Benjamin Gath
Hodson Architects
The Old Post Office
Yarra Road
Cleethorpes
North East Lincolnshire
DN35 8LS

ACCEPTED: 17th July 2025

TARGET DATE: 16th October 2025

PUBLICITY EXPIRY: 27th November 2025

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY: 20th July 2020

CASE OFFICER: Cheryl Jarvis

PROPOSAL

The application seeks permission to vary Condition 18 attached to DM/0937/15/OUT

which was an outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered.

Condition 18 stated:

Condition

Prior to commencement of development in zones 3a, 3b, 5, 6 and 6a, final details of the improvements to Matthew Telford Park/Scarcho Road junction, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the improvements shall be completed, in accordance with the approved details, prior to the occupation of any residential unit within these zones.

Reason

To mitigate the impacts of development on the local highway network and to accord with saved Policy GEN1 of the North East Lincolnshire Local Plan 2003'.

The design of the junction detail was approved under DM/0316/19/CND. The applicant wishes the trigger for implementation of the junction works to be amended to enable the occupation of 56 dwellings prior to the junction improvement works being completed.

The application also provides details of verification in response to Condition 14 which stated:

Condition

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development in each zone 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 that demonstrates the effectiveness of the remediation carried out within each zone must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason

To ensure that contamination is dealt with appropriately and to accord with saved Policy GEN1 of the North East Lincolnshire Local Plan 2003.

Lastly, this revised application seeks to remove the Affordable Housing Contribution which was secured via a Section 106 Agreement for this scheme. The application is accompanied by a Viability Report which has been produced by RPS. This also links to the adjacent site being considered separately under DM/0245/22/FUL but which originally

fell under the scope of the 2015 application.

The application is brought to committee on the basis that the application is seeking to remove a policy requirement relating to affordable housing. Equally when it was first brought forward in 2015 it represented a departure from the sites's allocation in the Local Plan, however in the later 2018 Local Plan the site was formally allocated for housing so the application is no longer technically a departure in this respect.

SITE

The site is to the south of the Diana Princess of Wales Hospital and to the west side of Scartho Road. The site is largely developed and this is mainly to the west proportion of the site where the site adjoins Scartho Top. Under the 3A and 3B Zones, only plots 1, 2 and 3 are left to be built along with some works to the road. 28 properties in total have been sold and are now occupied. The remaining units are built but not yet occupied. The residential plots in Zone 6 have had their foundations completed, with most completed upto damp course level. Foundations have also been dug out in relation to DM/0245/22/FUL which is being considered separately but these are located within the former Zones 2, 4 and 5 on the Zoning Plan.

The land which housed the former cricket pitch, which was last used around 10 years ago, is to the north east of the site and this is essentially a construction compound as it exists today.

Beyond the far eastern boundary are houses on Scartho Road.

The main hospital buildings are north of the application site, accessed from Scartho Road. Buildings at the hospital are utilitarian in style and of varying heights. The original 'Zone 1' development that was consented has been completed for a number of years and comprises of student accommodation serving the hospital.

Two storey houses on Scartho Top adjoin the site's western boundary.

Scartho Hall, a student accommodation complex, adjoins to the south. Scartho Hall is a locally listed building and is bordered to its northern edge by a public footpath. Scartho Conservation Area adjoins the site's southern boundary. Access is also to the south from Williams Way.

A range of ground levels are evident throughout the site and a mixture of fencing and landscaping denotes the site boundaries.

RELEVANT PLANNING HISTORY

The site has an extensive history to it which stems from the original 2015 application. Aside from the student accommodation which is built and occupied and retained by the hospital trust, the remainder of the development on the site has been undertaken or is

proposed by E5 Living (Grimsby) Ltd.

Various applications to discharge planning conditions have also been submitted and considered.

DM/0245/22/FUL - Erect 29 dwellings with associated highways and landscape works, cricket ball stop netting and supports to the south side of the cricket pitch between 9-15m in height and information to support the removal of the affordable housing contribution. Pending Consideration.

DM/0710/21/FUL - Change of use from hospital land to residential. Approved with Conditions.

Zones 3A and 3B: DM/0709/21/REM - Variation of Condition 1 (Approved Plans) as granted on DM/1142/19/REM to amend layout / appearance of plots 3 - 5, 8, 9, 12, 22 - 31, 34, 35, 37 - 39, 44 - 51, 52, 55, 60, 65, 66, 72, 78. Approved with Conditions.

Zone 6: DM/0589/21/REM - Variation of Condition 1 (approved plans) as granted on application DM/0405/19/REM for the reduction to 16 dwellings with changes to layout, design, parking and associated works (Zone 6). Approved with Conditions.

Zones 3A and 3B: DM/1142/19/REM - Reserved Matters Application pursuant to DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) specifically for zones 3A and 3B providing details of access, appearance, landscaping, layout and scale for the erection of 78 dwellings (revising details of DM/0713/18/REM). Approved with Conditions.

Zone 6 area: DM/0406/19/FUL - Erect single storey retail store (use class A1) and three commercial units (with flexible A1 and A3 use classes) with access, parking, landscaping and associated works. Approved with Conditions. The time to implement this permission has now expired.

Zones 3A and 3B: DM/0316/19/CND - Details in discharge of Conditions 4 (Foul and Surface Water Drainage), 8 (Road Construction Details), 9 (Construction Management Plan), 12 (Contamination), 13 (Remediation), 14 (Remediation/Verification Report), 15 (Contamination), 16 (Foundation Details) and 18 (Junction Improvement works) pursuant to DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered). Conditions Part Discharged.

Zone 6: DM/0405/19/REM - Reserved Matters Application to erect 19 dwellings in zone 6

to consider access, appearance, landscaping, layout and scale following application DM/0937/15/OUT with details to comply with condition 17 (Phasing Plan) (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered). Approved with Conditions.

Zone 1: DM/0721/18/NMA - Non material amendment application as granted on DM/0294/17/REM (Reserved Matters pursuant to DM/0937/15/OUT for Zone 1 comprising of 124 apartments, 96 student bedrooms, 12 communal rooms and central support hub with details of access, layout, landscaping, appearance and scale to be considered) to amend highway and omit southern bin store. Non material amendment accepted.

Zones 3A and 3B: DM/0713/18/REM - Reserved Matters Application pursuant to DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) specifically for zones 3A and 3B providing details of access, appearance, landscaping, layout and scale for the erection of 77 dwellings. Approved with Conditions.

Zone 1: DM/0520/18/FUL - Improved access to Zone 1 of planning permission DM/0294/17/REM, by extending car park and modifying circulation. Approved with Conditions.

Zone 1: DM/0294/17/REM - Reserved Matters pursuant to DM/0937/15/OUT for Zone 1 comprising of 124 apartments, 96 student bedrooms, 12 communal rooms and central support hub with details of access, layout, landscaping, appearance and scale to be considered. Approved with Conditions.

All zones: DM/0937/15/OUT - Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered. Approved with Conditions and Section 106 Agreement.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

NPPF5 - Delivering a sufficient supply of homes

NPPF6 - Building a strong, competitive economy

NPPF8 - Promoting healthy and safe communities
NPPF9 - Promoting sustainable transport
NPPF11 - Making effective use of land
NPPF12 - Achieving well designed places
NPPF14 - Climate, flooding & coastal change
NPPF15 - Conserv. & enhance the natural environ.
NPPF16 - Conserv. & enhance the historic environ.

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

PO5 - Development boundaries
PO6 - Infrastructure
PO13 - Housing allocations
PO15 - Housing mix
PO16 - Provision-elderly person's housing needs
PO17 - Housing density
PO18 - Affordable housing
PO22 - Good design in new developments
PO33 - Flood risk
PO34 - Water management
PO36 - Promoting sustainable transport
PO37 - Safeguarding transport infrastructure
PO38 - Parking
PO39 - Conserve and enhance historic environ
PO41 - Biodiversity and Geodiversity
PO42 - Landscape
PO43 - Green space and recreation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Trees and Woodlands - No comments.

Waste Team - Informative advice regarding NELC bin collections and waste policies.

Drainage - No drainage comments.

Highways - The application follows discussions with the Highway Authority and is

considered to be acceptable. Note that the final junction details form part of a separate application.

North East Lindsey Drainage Board - No comments to make as the application does not affect the Board's area.

Natural England - Do not wish to provide any comments.

Environmental Health - The application does not relate to environmental matters, thus no comments are to be made on the proposal. Confirmation on which conditions need to be reimposed have been provided.

Police Liaison Officer - No comments to make.

Heritage Officer - No comments to make.

Humberside Fire and Rescue - A standard response with informative advice on access and water supplies for fire fighting has been provided.

Sport England - No comments to make.

Environment Agency - No comments to make on the basis that the matters are not relevant to flood risk.

Public Rights of Way - Advise the changes do not impact upon the Public Rights of Way close to the site. At no time however, should the right of way be obstructed.

Anglian Water - No comments to make on the basis that the changes are not drainage related.

Northern Powergrid - Informative advice and maps showing their assets has been provided.

Neighbours and Public

Civic Society - The Civic Society support affordable housing and so oppose the removal of the affordable housing requirement.

APPRAISAL

Planning Considerations

- 1) History
- 2) Highways Impact and Amenity
- 3) Removal of Affordable Housing
- 4) Conditions

1) History

The history to this site is extensive and stems from the original 2015 outline planning application to develop the site for a range of residential type uses, including a student accommodation complex for the hospital. So far what has been constructed includes:

- The NHS student accommodation 'Zone 1' comprising of 124 apartments, 96 student bedrooms, 12 communal rooms and central support hub. This is accessed from the main hospital entrance onto Scartho Road and is completely separate from the site now. Timber fencing delineates the boundary with the housing site.
- Zones 3A and 3B of which 28 are occupied, and other than plots 1, 2 and 3 the rest of the plots have been constructed but not yet occupied.
- Foundations for the residential properties in Zone 6.
- Foundations dug out in relation to DM/0245/22/FUL which is being considered separately but are located within the former Zones 2, 4 and 5 on the Zoning Plan.

Whilst there was a later planning application in 2019 for a retail development in part of the site (Zone 6), this has not been started and that permission has now lapsed. The applicant still has a desire however to take this forward and reapply at some stage.

The time to submit any further reserved matters applications has now expired. This means that Zones 2, 4 and 5 as originally shown on the Zoning Plan could not come forward under a reserved matters in relation to the original permission. There is however another tandem planning application for housing on these remaining zones which is being considered concurrently under DM/0245/22/FUL.

The principle of the development has already been well established under the various applications, and the considerations of this application are merely those relating to the impacts arising from the proposed amendments sought.

2) Highways Impact and Amenity

This application follows advice and discussions with the Highway Authority on the acceptability, deliverability and potential timing of the junction works to Matthew Telford Way. The application seeks to amend the trigger from 'prior to any occupation' to 'prior to occupation of the 56th dwelling'. Amending the trigger would allow a number of dwellings to be occupied, whilst still ensuring that the junction works are completed in a timely period. It is noted that 28 dwellings are occupied as it stands.

The Highway Authority has confirmed their acceptability to this approach and deemed there would not be a severe impact on the network as a result of changing the trigger point. No objections are raised. Thus, this element is considered acceptable. The applicants are advised to ensure they book their slot on the network with Highways well in advance of the occupation trigger given its position on the network. There will also be a need to undertake works within the school holidays to minimise disruption on the

network whilst they are undertaken.

3) Removal of Affordable Housing

Under the original 2015 application, the requirement for affordable housing only applied to parts of the site, specifically this related to:

- 20% of the 125 eligible residential units to be developed in Zones 3 and 6/6A (now just Zone 6)
- 20% of the 65 retirement apartments to be developed in Zone 5.

Though the Section 106 which was signed, the parameters for the affordable housing contribution and delivery were set out. It is noted that Zone 5 can no longer come forward under this particular application given the time to submit its reserved matters has expired.

Through discussions with the Affordable Housing Lead Officer and the lack of any RP willing to take the affordable housing in 2021, the Affordable Housing Lead Officer agreed with the developer a commuted sum in lieu of the on site affordable housing, the wording of the Section 106 allowed for this change. This equated to a sum of £1,247,600 as agreed with the Officer (essentially 15 units).

Since then COVID has impacted on the delivery of the site as has the changing market which has resulted in difficulty selling the units. More importantly however and specific to planning considerations, was the abnormalities on this site and the costs involved in bringing it forward for development. This predominantly relates to the remediation costs and the nature of the foundations which were required. A cumulation of matters has therefore led to a formal viability challenge. Under 3 (g) of Policy 6, it states 'The Council will seek to ensure that all development is commercially viable and deliverable. Where the delivery of a proposed scheme is threatened on the basis of viability, the Council may consider a reduction in the extent of the obligations required to be met.' This is on the basis of an open book Financial Viability Assessment being provided.

The developer appointed RPS to undertake a Viability Appraisal which has been submitted to NELC and subsequently consulted on. This is based on RICS guidance. On the back of this, NELC has secured their own independent review of the assessment which has been undertaken by BNP. Given the complexity of the history on the site, the assessments have been undertaken on the basis of with the retail element and without the retail element. Consideration has also been given to the site as a whole, but also separate with the tandem proposal under DM/0245/22/FUL. The conclusions of the RPS report are that the site is not viable if the contributions as set out for affordable housing are sought. BNP in their independent assessment of the RPS report agree with these conclusions, though some commentary on the assumptions has been made. Essentially the Residual Land Value is indicated as being over 15% below the Benchmark Land Value with no affordable housing contribution. From a viability perspective there is therefore a material deficit, and the scheme would not generate sufficient land value to meet the minimum that a landowner/developer should reasonably expect. Given there

was no major conflict in terms of the viability report produced by RPS and the BNP report procured by the Council, this would indicate that a removal of this planning obligation would be justified and would not represent a departure from the current policy requirement. The Affordable Housing Lead has been made aware of this and has accepted this position.

On the basis of the information provided therefore and on the assessments made, it has been demonstrated that the site is not viable with affordable housing contributions. The NPPF indicates that 'The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning practice guidance, including standardised inputs, and should be made publicly available'.

Whilst the importance of delivering affordable housing either on or off site is not in dispute by any party, national policy allows for an assessment into viability in certain circumstances. It is considered in this case that the relevant evidence has been provided, and this has been appropriately independently tested to ensure its robustness. It also follows recognised guidance on its preparation. This case has a very bespoke set of circumstances which have impacted its viability and again national policy allows for these to be taken account of. Removing the affordable housing requirement is considered to be justified in this instance and importantly, may lead to this stalled brownfield site within the urban area being completed. The applicant has made a commitment to continue to comply with all other S106 contributions in relation to education and highway infrastructure delivery. National Guidance does however allow for a review mechanism even if it is deemed unviable to provide contributions. It states, 'Review mechanisms are not a tool to protect a return to the developer, but to strengthen local planning authorities' ability to seek compliance with relevant policies over the lifetime of the project'. In the event of an approval, it is recommended that with advice from the Legal Officer that a review mechanism is included in any redrafted S106 Agreement.

4) Conditions

It is important to review the original planning conditions attached to the 2015 application to determine which conditions apply and need to be reimposed and which are no longer required given the status of completions on the site.

Condition 1 - Submission of Reserved Matters Time Trigger - This condition has not been reimposed as the time to submit any further reserved matters for any of the remaining zones (2, 4 and 5) has expired. Equally separate full applications have been submitted for other zones and considered accordingly.

Condition 2 - Submission of Reserved Matters Details - This condition has not been reimposed as the time to submit any further reserved matters for any of the remaining zones (2, 4 and 5) has expired.

Condition 3 - Ball Stop Netting for Zones 2 and 4 - These were the original zones which adjoined the cricket pitch and the requirement was designed to limit any ball strikes to proposed dwellings by providing netting. As the time to submit reserved matters for these zones has expired, this condition has not been reimposed. Equally, a separate full application where this has been addressed is being considered under DM/0245/22/FUL.

Condition 4 - Foul and Surface Water Drainage Details - This condition was discharged for Zone 1 under DM/0440/17/CND. This condition was discharged for Zones 3A and 3B under DM/0316/19/CND. Information was submitted under DM/0739/22/CND for Zone 6 however this was not discharged and remains outstanding. Zones 2, 4 and 5 have not commenced and cannot now under this application. This condition therefore needs to be reimposed in part, insofar as Zone 6 is concerned and on an instructional basis for Zones 1, 3A and 3B.

Condition 5 - Car Park Relocation - This was for a relocation of a hospital car park within the hospital grounds, and this work was approved under DM/1083/14/FUL and subsequently completed. This condition therefore does not need to be reimposed.

Condition 6 - Access Segregation Details - This condition relates to the access to be provided to the north between the application site and the hospital. This was discharged under DM/0417/21/CND but it is yet to be completed and so a modified version of the condition is recommended to be reimposed to specify when it needs to be completed by.

Condition 7 - Parking Management Strategy - This was for a parking management strategy for the residential zones. This has been discharged for Zones 3A and 3B under DM/0417/21/CND. This is still required for Zone 6. Zones 2, 4 and 5 have not commenced and cannot now under this application. This condition therefore needs to be reimposed in part, insofar as Zone 6 is concerned and on an instructional basis for Zones 3A and 3B.

Condition 8 - Highway Construction Details - This relates to access and internal road construction details for the residential zones. This was discharged for Zones 3A and 3B under DM/0316/19/CND. Information was submitted under DM/0739/22/CND for Zone 6 however this was not discharged and remains outstanding. Zones 2, 4 and 5 have not commenced and cannot now under this application. This condition therefore needs to be reimposed in part, insofar as Zone 6 is concerned and on an instructional basis for Zones 3A and 3B.

Condition 9 - Construction Management Plan - This was relevant to all zones. This was discharged for Zone 1 under DM/0440/17/CND. This was discharged for Zones 3A and 3B under DM/0316/19/CND. This is still required for Zone 6. Zones 2, 4 and 5 have not commenced and cannot now under this application. This condition therefore needs to be

reimposed in part, insofar as Zone 6 is concerned and on an instructional basis for Zones 3A and 3B. It is not required for Zone 1 as this phase is fully complete.

Condition 10 - Ecology Measures - This required measures to comply with the ecology reports under the original permission. This was relevant to all zones. This was discharged for Zone 1 under DM/0631/17/CND. This was discharged for Zones 3A and 3B under DM/0417/21/CND. This was discharged for Zone 6 under DM/0739/22/CND. Zones 2, 4 and 5 have not commenced and cannot now under this application. This condition therefore needs to be reimposed in part, insofar as Zones 1, 3A, 3B and 6 are concerned on an instructional only basis.

Condition 11 - Travel Plan - This required a travel plan for each zone. This was discharged for Zone 1 under DM/0857/18/CND. It was discharged for Zones 3A and 3B under DM/0417/21/CND. This is still required for Zone 6. Zones 2, 4 and 5 have not commenced and cannot now under this application. This condition therefore needs to be reimposed in part, insofar as Zone 6 is concerned and on an instructional basis for Zones 1, 3A and 3B.

Condition 12 - Contamination - This was relevant to all zones and was instructional in setting out which ground condition conditions needed to be complied with before works began on site and so in theory did not require to be discharged on any zone. As Zone 1 is complete, it no longer applies to this zone. As Zones 3A and 3B remain under construction and Zone 6 has commenced, the condition is also no longer required. Zones 2, 4 and 5 have not commenced and cannot now under this application.

Condition 13 - Contamination - This was relevant to all zones and required a remediation scheme. This was discharged for Zone 1 under DM/0440/17/CND. This was discharged for Zones 3A and 3B under DM/0316/19/CND. It has not been discharged for Zone 6. The condition is reimposed for Zone 6. Zones 2, 4 and 5 have not commenced and cannot now under this application.

Condition 14 - Implementation of Remediation and Verification - This was relevant to all zones for implementation of an approved remediation scheme and submission of verification thereafter. This was discharged for Zone 1 under DM/0857/18/CND. This was part discharged for Zones 3A and 3B under DM/0316/19/CND and the remainder of the information has been provided under this submission. It has not been discharged for Zone 6. The condition is reimposed and reworded for Zone 6 and imposed on an instructional basis to cover the rest of Zones 3A and 3B. Zones 2, 4 and 5 have not commenced and cannot now under this application.

Condition 15 - Unconsidered Contamination - This was an instructional condition which only requires discharge if unconsidered contamination is found. Given development of Zones 3A and 3B and Zone 6 are still to be completed, this is reimposed. It is not required for Zone 1 as this phase is fully complete. Zones 2, 4 and 5 have not commenced and cannot now under this application.

Condition 16 - Piling/Foundations/Ground Improvement - This was relevant to all zones and required all details of below ground works. This was discharged for Zone 1 under DM/0440/17/CND. This was discharged for Zones 3A and 3B under DM/0316/19/CND. This was discharged for Zone 6 under DM/0739/22/CND. Zones 2, 4 and 5 have not commenced and cannot now under this application. Given development of Zones 3A and 3B and Zone 6 are still to be completed, this is proposed to be reimposed on an instructional basis. It is not required for Zone 1 as this phase is fully complete.

Condition 17 - Zoning Plan - This required development to be completed in accordance with the Zoning Plan and the accesses to be from certain locations. This was changed through the reserved matters application DM/0405/19/REM. The condition is therefore reworded and reimposed on this basis.

Condition 18 - Matthew Telford Way Junction Improvements - This was relevant for the residential zones only and required the junction design to be approved. This detail was discharged for Zones 3A, 3B, 5, 6 and 6A under DM/0316/19/CND. As the junction design is approved, the condition shall be reworded and reimposed as an instructional condition. The trigger point for delivery will be amended in light of the assessment made in this report to prior to occupation of the 56th dwelling.

Condition 19 - Parking - This was instructional for all zones and relates to the completion of parking before individual occupation occurs. As Zone 1 is complete it is not required for this zone. As Zones 3A and 3B are not yet complete, this will be reimposed to cover these zones and this goes for Zone 6 which is also not complete. Zones 2, 4 and 5 have not commenced and cannot now under this application.

Condition 20 - Main Hospital Entrance - This required improvements to the hospital entrance before the residential zones could be occupied. This work was completed. This condition therefore need not be reimposed.

Condition 21 - Approved Plans - This was instructional and related to the approved plans. This is relevant to all zones. These have not altered and thus the condition shall be reimposed. As the Zoning Plan has been updated through another condition, it is not included in the approved plans list on this basis.

CONCLUSION

The application has been considered in detail and has been subject to ongoing engagement with consultees and the developer over an extended period to understand and properly assess the extent of impact arising from this application.

Whilst the loss of affordable housing in particular is regrettable, the scheme simply cannot progress as it stands as it is not viable. Important information regarding verification has been secured and important junction works are still to take place, though at a modified trigger of occupation.

On the basis it is recommended that the application is approved, subject to the Section 106 being amended, with the decision delegated back to the Assistant Director for Regeneration to allow this to take place.

RECOMMENDATION

Approved Conditions and signing of S106

(1) Condition

A final scheme for the disposal of foul and surface water drainage, including an implementation plan, shall be submitted to and approved in writing by the Local Planning Authority before development above base course level occurs in Zone 6. Once approved, the drainage shall be installed in strict accordance with the approved details.

In relation to Zone 1, the drainage shall be retained in accordance with DM/0440/17/CND.

In relation to Zones 3A and 3B, the drainage shall be completed and retained in accordance with DM/0316/19/CND.

Reason

To ensure appropriate provisions for the disposal of surface and foul water for the lifetime of the development and to reduce the risk and impact of flooding, to accord with Policies 5 and 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(2) Condition

The access segregation between Williams Way and the junction with the hospital shall be completed in accordance with the details approved under DM/0417/21/CND before the hoarding is removed between the application site and the hospital. It shall be retained as approved thereafter.

Reason

In the interests of highway safety and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(3) Condition

Prior to the occupation of any dwelling in Zone 6, a Parking Management Strategy for it; including a schedule for implementation, shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the strategy shall be implemented as specified and approved and adhered to thereafter.

The Parking Management Plan approved under DM/0417/21/CND for Zones 3A and 3B shall be adhered to at all times.

Reason

In the interests of highway safety and to accord with Policy 5 and 38 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(4) Condition

Development in Zone 6 shall not progress above base course level until the following details for it have been submitted to and approved in writing by the Local Planning Authority:-

(i) Detailed plans to a scale of at least 1/500 showing:-

- (a) the proposed layout of the access road and footways to the entrance of the development;
- (b) the wearing course materials proposed for the access road and footways;
- (c) cross sections;
- (d) the highway drainage system;
- (e) the proposed locations of street lighting columns, all services and ducts for services, within the access road and footways;
- (f) a schedule for implementation;

Once approved, the development shall only be carried out in accordance with the approved details.

Zones 3A and 3B shall be completed in accordance with details submitted and approved under DM/0316/19/CND.

Reason

To ensure safe and appropriate access into the development and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(5) Condition

Prior to development commencing above base course level in Zone 6 a Construction Management Plan for it shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall contain details of the following:

- Contractor and visitor parking;
- Contractors compound;
- Area for deliveries;
- Wheel cleaning;
- The routing of construction traffic;
- Phasing of construction/demolition;

- Noise reduction methods;
- Dust suppression techniques;
- Hours of construction.

Once approved, the development shall proceed in strict accordance with the approved details and be adhered to at all times during construction works.

Zones 3A and 3B shall be completed in strict accordance with the Construction Management Plan approved under DM/0316/19/CND.

Reason

To protect the amenities of neighbouring land uses and for highway safety reasons, to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(6) Condition

Insofar as ecology matters are concerned, Zone 1 shall be retained as approved DM/0631/17/CND, Zones 3A and 3B shall be completed and retained as approved under DM/0417/21/CND and Zone 6 shall be completed and retained under DM/0739/22/CND.

Reason

To protect existing species and to promote biodiversity to accord with Policies 5 and 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(7) Condition

Before occupation of any dwelling within Zone 6, a Travel Plan for it shall be submitted to and approved in writing by the Local Planning Authority. Once approved, it shall be implemented and adhered to at all times following first occupation.

Zone 1 shall be occupied in accordance with the Travel Plan submitted and approved under DM/0857/18/CND and adhered to at all times.

Zones 3A and 3B shall be occupied in accordance with the Travel Plan submitted and approved under DM/0417/21/CND and adhered to at all times.

Reason

In the interests of sustainable development and to accord with Policies 5 and 36 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(8) Condition

A detailed remediation scheme to bring Zone 6 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, 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.

For Zones 3A and 3B development shall be completed in accordance with the Jem Build Remediation Method Statement and Verification strategy dated 12th February 2020 and the TLP Ground Investigations Supplementary Ground Investigation dated 16th September 2019 approved under DM/0316/19/CND.

Reason

To ensure that contamination is dealt with appropriately and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(9) Condition

Following completion of measures identified in the approved remediation scheme, a verification report for Zone 6 that demonstrates the effectiveness of the remediation carried out within that zone must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason

To ensure that contamination is dealt with appropriately and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(10) Condition

In the event that contamination is found at any time when carrying out the approved development within Zones 3A, 3B or Zone 6 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 DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and where remediation is necessary a remediation scheme must be prepared, 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.

Reason

To ensure any unsuspected contamination is dealt with appropriately and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(11) Condition

Any piling, foundations and ground improvement for Zones 3A and 3B shall be completed in accordance with the details submitted to and approved under DM/0316/19/CND and Zone 6 shall be completed in accordance with the details submitted to and approved under DM/0739/22/CND unless, otherwise agreed in writing by the Local Planning Authority.

Reason

To protect the amenities of nearby residents and to ensure the integrity of the underlying aquifer is not compromised and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(12) Condition

Development shall be completed in strict accordance with the revised Zoning Plan approved under DM/0405/19/REM.

Reason

In the interests of amenity and safety and to ensure the operational efficiency of the hospital is not compromised, to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(13) Condition

The improvements to the Matthew Telford Park/Scartho Road junction shall be completed, in accordance with the details approved under DM/0316/19/CND, prior to the occupation of the 56th dwelling within Zones 3A and 3B.

Reason

To mitigate the impacts of development on the local highway network and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(14) Condition

No dwelling within Zones 3A, 3B or Zone 6 shall be occupied, until the parking associated to that dwelling has been completed in full and made available for use.

Reason

To ensure satisfactory parking provision for the development and to accord with Policies 5 and 38 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(15) Condition

The development shall be carried out in accordance with the following plans:

Masterplan - 9221 (pp) 14 Rev C

Location Plan - PP01B
Topographical Survey - 10436-137
Utilities Plan - 6221- PP06A

Reason

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

(16) Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission, would be North East Lincolnshire Council, or the Secretary of State (where they have determined under sections 62A, 76A or 77 of the Town and Country Planning Act 1990 (as amended) that such applications must be made to them) or the Planning Inspectorate or Secretary of state where they have so specified in determining an appeal under s 78 of the Town and Country Planning Act 1990 (as amended).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. It is the applicant or developers responsibility to make sure that they are complying with the requirements of this legislation.

Where this permission has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In Summary: Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. It is considered that exemption number 1 applies.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition can be found at <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:
 - 4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:
 - i) the application for planning permission was made before 2 April 2024;
 - ii) planning permission is granted which has effect before 2 April 2024; or
 - iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).* "original planning permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.
 - 4.2 Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).
 - 4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.
 - 4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain

Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Informatives

1 Reason for Approval

The Local Planning Authority has had regard to development plan policies and especially those in the North East Lincolnshire Local Plan. The amendments to the application have been considered in detail and following further information and justification are considered to be acceptable. This proposal is approved in accordance with the North East Lincolnshire Local Plan 2013-2032 (adopted 2018), in particular policies 5, 6, 13, 15, 16, 17, 18, 22, 33, 34, 36, 37, 38, 39, 41, 42 and 43.

2 Added Value Statement

Article 31(1)(cc) Statement - Positive and Proactive Approach

In accordance with paragraph 187 of the National Planning Policy Framework, the Local Authority has worked in a positive and proactive manner with the applicant to seek solutions to problems arising, by securing amended and additional information to support the decision making process.

3 Informative

Please note the comments of Humberside Fire and Rescue with regards to access and water supplies for firefighting and the Council's Waste Team regarding bin collections.

4 Informative

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

5 Informative

This application will require the creation of new postal addresses. You are advised to contact the Street Naming & Numbering Team on 01472 323579 or via email at snn@nelincs.gov.uk to discuss the creation of new addresses.

6 Informative

Please note that you may also require Building Regulations. You are advised to contact them in advance of work on site commencing (Tel: 01472 326289 - Option 2).

7 Informative

As works are required within the existing Highway, you are required to contact the Highways Management Section at least three months in advance of the commencement of works (Tel: 01472 324431).

Separately, a section 278 agreement will be required for the proposed junction improvements.

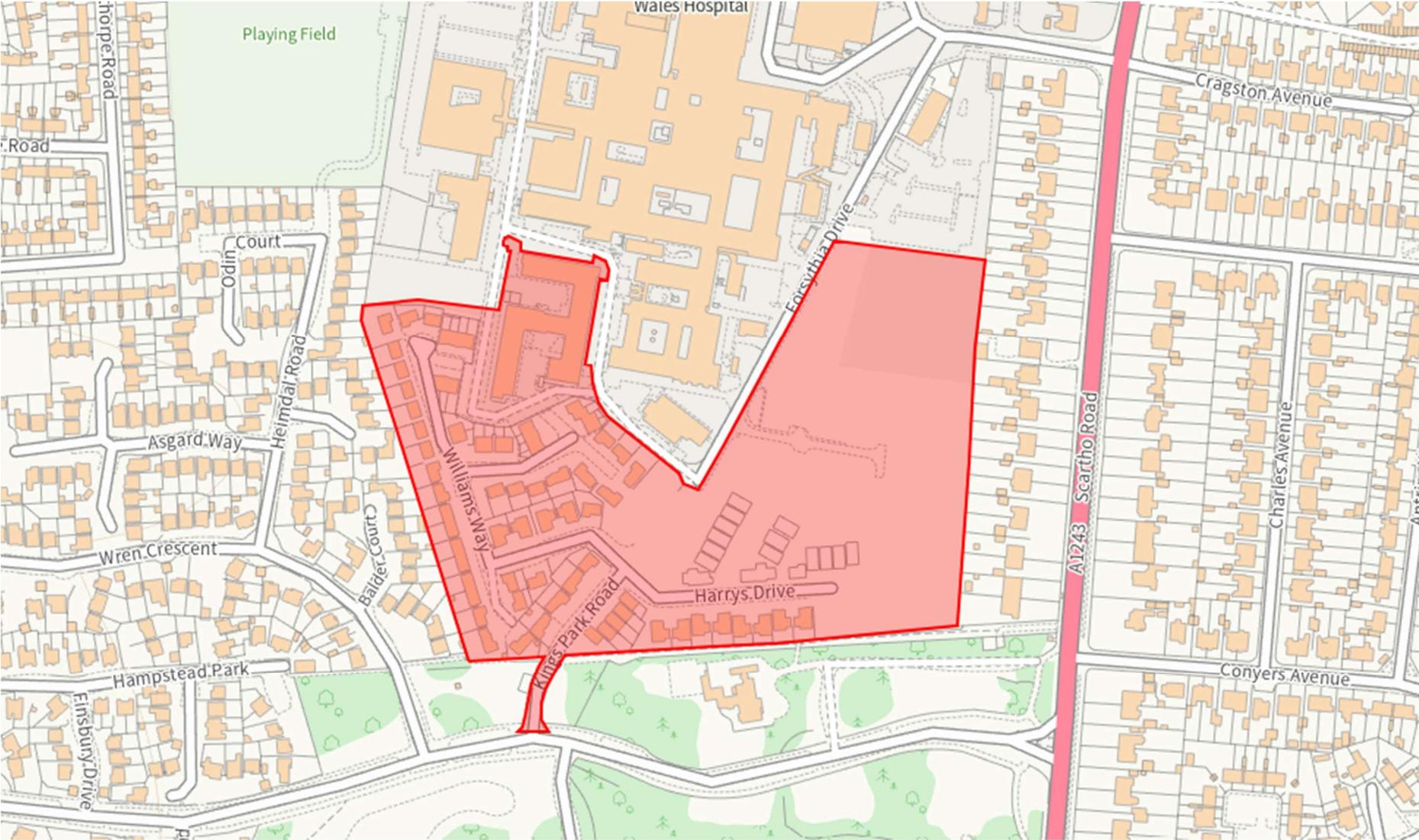
8 Informative

Please be advised that there is a public right of way (Grimsby FP4) running adjacent to the southern boundary of this site and crossing the site entrance road. At no time should public use of this path be prevented or the surface damaged both during and after development takes place.

9 Informative

The site is within the sewerage catchment of Pyewipe (Grimsby) WRC, so would be expected to connect to it. Previously the WRC had permitted headroom to accommodate the proposed number of houses. However, headroom may now have been taken by other developments which have had planning permission granted. In the light of this, the developer should contact Anglian Water Services (AWS) at their earliest convenience to ascertain whether any upgrades to the treatment and/or collection facilities would be needed to accommodate the proposed number of houses.

DM/0415/20/OUT – SOUTH OF DIANA PRINCESS OF WALES HOSPITAL, KINGS PARK, WILLIAMS WAY, GRIMSBY



PLANNING COMMITTEE - 25th March 2026

ITEM: 3 **RECOMMENDATION: Approved Conditions and signing of S106**

APPLICATION No: DM/0245/22/FUL

APPLICATION TYPE: Full Application

APPLICATION SITE: South Of Diana Princess Of Wales Hospital, Kings Park, Off Williams Way, Grimsby, North East Lincolnshire,

PROPOSAL: AMENDED DESCRIPTION - Erect 29 dwellings with associated highways and landscape works, cricket ball stop netting and supports to the south side of the cricket pitch between 9-15m in height and information to support the removal of the affordable housing contribution

APPLICANT:

Stevens
E5 Living Grimsby
The Coach House
Oldberrow Manor
Warwickshire
B95 5PF

DEPOSITED: 21st March 2022

AGENT:

Adam Fulton
Hodson Architects
The Old Post Office
Cleethorpes
DN35 8LS

ACCEPTED: 7th November 2022

TARGET DATE: 6th February 2023

PUBLICITY EXPIRY: 27th November 2025

AGREED EXTENSION OF TIME DATE: 28th April 2023

CONSULTATION EXPIRY: 11th July 2022

CASE OFFICER: Cheryl Jarvis

PROPOSAL

This application seeks full planning permission for the erection of 29 dwellings. The dwellings would be accessed from the west from an existing road that runs through the Kings Park Estate which has been developed by the same applicant.

Dwellings would be a mixture of 2, 3 and 4 bed and each would have a front and rear garden. All have at least one parking space outside but a number benefit from their own garage. Whilst the majority of the dwellings are proposed as bungalows, there is one particular house type that includes first floor accommodation. This sits to the south of the site.

Ball stop netting is proposed to the north of the site. This is proposed between 9m and 15m in height.

Included in this application is a request to remove the affordable housing requirement and the application is supported by a Viability Assessment. This also links to the adjacent site being considered under DM/0415/20/OUT.

The application was presented to planning committee originally on the 26th April 2023. It was resolved at that meeting to grant permission subject to resolution with Sport England regarding ball stop netting alongside the cricket pitch and following the signing of a S106 agreement for all the required infrastructure contributions. Sport England withdrew their objection on the 21st June 2023, subject to a condition securing the ball stop netting. However, the S106 agreement was never signed due to viability concerns and this has led to the submission of a Viability Report produced by RPS.

It is therefore brought back to committee due to the original number of objections received to the application and on the basis that the application is seeking to remove a policy requirement relating to affordable housing.

SITE

The site is to the south east of the Diana Princess of Wales Hospital and to the west side of Scartho Road. Construction on site has commenced in some areas. The land to the west has been developed by the applicant and this extends to the Scartho Top boundary.

The former cricket pitch is to the north of the site and this is essentially a construction compound as it exists today.

Beyond the eastern boundary are houses on Scartho Road.

The main hospital buildings are north and north west of the application site, accessed from Scartho Road. Buildings at the hospital are utilitarian in style and of varying heights. The original 'Zone 1' development that was consented has been completed for a number of years and comprises of student accommodation serving the hospital.

Two storey houses on Scartho Top adjoin further to the west.

Scartho Hall, a student accommodation complex, adjoins to the south. Scartho Hall is a locally listed building and is bordered to its northern edge by a public footpath. Scartho Conservation Area adjoins the site's southern boundary.

Access is from Williams Way.

A range of ground levels are evident throughout the site and a mixture of fencing and landscaping denotes the site boundaries.

RELEVANT PLANNING HISTORY

The site has an extensive history to it which stems from the original 2015 application. Aside from the student accommodation which is built and occupied and retained by the hospital trust, the remainder of the development on the site has been undertaken or is proposed by E5 Living (Grimsby) Ltd.

Various applications to discharge planning conditions have also been submitted and considered.

DM/0710/21/FUL - Change of use from hospital land to residential. Approved with Conditions.

Zones 3A and 3B: DM/0709/21/REM - Variation of Condition 1 (Approved Plans) as granted on DM/1142/19/REM to amend layout / appearance of plots 3 - 5, 8, 9, 12, 22 - 31, 34, 35, 37 - 39, 44 - 51, 52, 55, 60, 65, 66, 72, 78. Approved with Conditions.

Zone 6: DM/0589/21/REM - Variation of Condition 1 (approved plans) as granted on application DM/0405/19/REM for the reduction to 16 dwellings with changes to layout, design, parking and associated works (Zone 6). Approved with Conditions.

All Zones: Amended description - Variation of Condition 18 (Junction Improvement Works) as granted on DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) to enable the occupation of 56 dwellings prior to junction improvement works being commenced at Scartho Top with supporting verification information (condition 14) and additional information to support the removal of the affordable housing contribution. Pending Consideration.

Zones 3A and 3B: DM/1142/19/REM - Reserved Matters Application pursuant to DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) specifically for zones 3A and 3B providing details of access, appearance, landscaping, layout and scale for the erection of 78 dwellings (revising details of DM/0713/18/REM). Approved with Conditions.

DM/0415/20/OUT - Amended description - Variation of Condition 18 (Junction Improvement Works) as granted on DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be

considered) to enable the occupation of 56 dwellings prior to junction improvement works being commenced at Scartho Top with supporting verification information (condition 14) and additional information to support the removal of the affordable housing contribution. Pending Consideration.

Zone 6 area: DM/0406/19/FUL - Erect single storey retail store (use class A1) and three commercial units (with flexible A1 and A3 use classes) with access, parking, landscaping and associated works. Approved with Conditions. The time to implement this permission has now expired.

Zones 3A and 3B: DM/0316/19/CND - Details in discharge of Conditions 4 (Foul and Surface Water Drainage), 8 (Road Construction Details), 9 (Construction Management Plan), 12 (Contamination), 13 (Remediation), 14 (Remediation/Verification Report), 15 (Contamination), 16 (Foundation Details) and 18 (Junction Improvement works) pursuant to DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered). Conditions Part Discharged.

Zone 6: DM/0405/19/REM - Reserved Matters Application to erect 19 dwellings in zone 6 to consider access, appearance, landscaping, layout and scale following application DM/0937/15/OUT with details to comply with condition 17 (Phasing Plan) (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered). Approved with Conditions.

Zone 1: DM/0721/18/NMA - Non material amendment application as granted on DM/0294/17/REM (Reserved Matters pursuant to DM/0937/15/OUT for Zone 1 comprising of 124 apartments, 96 student bedrooms, 12 communal rooms and central support hub with details of access, layout, landscaping, appearance and scale to be considered) to amend highway and omit southern bin store. Non material amendment accepted.

Zones 3A and 3B: DM/0713/18/REM - Reserved Matters Application pursuant to DM/0937/15/OUT (Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered) specifically for zones 3A and 3B providing details of access, appearance, landscaping, layout and scale for the erection of 77 dwellings. Approved with Conditions.

Zone 1: DM/0520/18/FUL - Improved access to Zone 1 of planning permission DM/0294/17/REM, by extending car park and modifying circulation. Approved with Conditions.

Zone 1: DM/0294/17/REM - Reserved Matters pursuant to DM/0937/15/OUT for Zone 1 comprising of 124 apartments, 96 student bedrooms, 12 communal rooms and central support hub with details of access, layout, landscaping, appearance and scale to be considered. Approved with Conditions.

All zones: DM/0937/15/OUT - Outline application for residential development for up to 131 dwellings with Step Down Care Unit (approximately 40 bedrooms), Assisted Living Unit (approximately 80 bedrooms), Retirement Living Unit (approximately 59 apartments), NHS Trust Accommodation (approximately 125 apartments & 96 student bedrooms) and club house, with means of access to be considered. Approved with Conditions and Section 106 Agreement.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

- NPPF2 - Achieving sustainable development
- NPPF5 - Delivering a sufficient supply of homes
- NPPF6 - Building a strong, competitive economy
- NPPF8 - Promoting healthy and safe communities
- NPPF11 - Making effective use of land
- NPPF12 - Achieving well designed places
- NPPF14 - Climate, flooding & coastal change
- NPPF15 - Conserv. & enhance the natural environ.
- NPPF16 - Conserv. & enhance the historic environ.

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

- PO5 - Development boundaries
- PO6 - Infrastructure
- PO13 - Housing allocations
- PO15 - Housing mix
- PO17 - Housing density
- PO18 - Affordable housing
- PO22 - Good design in new developments
- PO33 - Flood risk
- PO34 - Water management
- PO36 - Promoting sustainable transport
- PO38 - Parking
- PO39 - Conserve and enhance historic environ
- PO41 - Biodiversity and Geodiversity
- PO42 - Landscape
- PO43 - Green space and recreation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Drainage - Recommend an instructional condition in relation to surface water drainage as details have been agreed.

Sport England - Confirms the ball strike assessment which accompanies the application is acceptable. As ball strike mitigation has been provided, there are now no objections. A condition for the ball stop netting is recommended.

Strategic Housing - Advised previously that 20% affordable housing would need to be secured on the site. Following the submission of a Viability Report, the findings are accepted.

Environmental Protection - Advises conditions relating to working hours, unconsidered contamination and construction management with an informative for electrical vehicle charging.

Humberside Fire and Rescue - Informative advice provided for water supplies and access for firefighting.

Heritage Officer - No input required.

Education Officer - Confirms contributions to primary and secondary education will be required for this development.

Environment Agency - No comments to make.

Northern Powergrid - Standard advice note regarding their apparatus.

Public Rights of Way Officer - Notes the Public Right of Way to the south of the site and the procedure should the footpath need to be closed. The path should not be obstructed at any time.

Trees and Woodlands Officer - Notes the position of the trees on the adjacent land and raises a concern over their proximity to the proposed gardens. No objections in principle

to the proposed landscaping but final detail will be required.

Anglian Water - The existing systems have the capacity for the foul flows arising from the development. Final surface water drainage scheme still needs to be conditioned. Informative advice also recommended.

Crime Reduction Officer - Advice given on the design of the scheme and measures which could be incorporated. Suggests ideally that the scheme be designed to Secured By Design standard.

Highways - No objections given historic context with previous planning approvals on the site. Conditions recommended for construction details and the submission of a Construction Traffic Management Plan. Informatives in regards to works in the highway and adoption recommended.

Waste Team - Informative advice on bin collection provided.

Cadent Gas - Informative advice on their assets.

Public Representations:

Civic Society - Oppose the application with concerns raised over traffic, impacts on the drainage systems and infrastructure and the limited access to public transport. Additionally now object on the basis of the lack of affordable housing to be provided.

27a Parker Street - Hopes that the suggestion of bird nesting features is incorporated and conditioned as part of the development. Suggests 9 swift bricks are incorporated into the construction of the dwellings to address a decline in species in Grimsby.

4 Beverley Court, Healing (Grimsby Area Swift Project and on behalf of Lincolnshire Bird Club) - Suggests that if permission is to be granted swift bricks are incorporated into the construction of the dwellings.

174 Scartho Road - Objects on the basis of an increased risk in surface water flooding, which has already been experienced from the recent developments in the area.

197 Scartho Road - Objects to the development on the basis of increased traffic.

201 Scartho Road - Objects to the development on the basis of road safety, increased pressure on existing infrastructure, impact on quality of life and density.

17 Muirfield - Objects on the basis of increased traffic.

APPRAISAL

The material planning considerations are:

1. Principle of Development;
2. Design, Visual Amenity and Character;
3. Impact to Neighbours;
4. Access and Highways;
5. Ecology and Landscape;
6. Drainage and Flood Risk;
7. S106 and Policy Requirements;
8. Sport England and Ball Stop Netting;
9. Other Matters.

1. Principle of Development;

The site is within the development boundary of Grimsby in the NELLP. Policy 5 of the NELLP does not restrict residential development in such areas subject to an assessment of the site-specific impacts. These will be assessed through this report.

Importantly, the site is allocated for housing under reference HOU150 and Policy 13 of the NELLP. It provides a mixture of 2, 3 and 4 bed dwellings which would add to the range and quality of accommodation available in this part of Scartho in line with Policy 15 of the NELLP.

The extensive site history should be acknowledged which includes an outline approval on this site for extra care, step down accommodation and retirement living. Changes in the market and delivery of such housing in NELC force an alternative approach. Hence this proposal. In terms of the site's position, it is within central Scartho. From a sustainability perspective it is close to local services, public transport and amenities.

In terms of flood risk, the site is in flood zone 1 which is considered sequentially preferable for residential development.

It then falls to assess the proposal against the site-specific impacts as required by Policy 5.

2. Design, Visual Amenity and Character;

Policy 5 of the NELLP requires an assessment on the impact to the character of the area and visual amenity by virtue of size, scale and density with Policy 17 further seeking to ensure an appropriate level of density; reflective of settlement character and Policy 22 setting out the requirements for 'good design' and the need to ensure safe and suitable development to reduce the fear and opportunity for crime. As the site adjoins the Conservation Area and a locally listed building, Policy 39 is also relevant as this requires proposals to preserve or enhance heritage areas or buildings. The requirements under

Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area also apply.

The site is largely undeveloped land. The land to the west has been substantially developed out for housing by the same developer and this development would be a continuation of it. The application proposes 29 dwellings on a 1.3 ha site (approximately) which is considered to represent a similar density to the existing adjoining development, fitting for this part of Scartho in accordance with Policy 17 of the NELLP.

The existing development to the west has been undertaken to a high standard with a mixture of single and two storey houses. This development follows a similar theme comprising of predominantly bungalows, with the exception of one which includes first floor accommodation to the south. Individual features include canopies, chimneys and timber gable detailing. This gives the dwellings their own identity and character along with the different house types. The approach to design and scale is sympathetic to the adjoining Conservation Area and locally listed Scartho Hall, ensuring no adverse impacts. This is reflected in the 'no heritage input' given by the Heritage Officer.

All dwellings are proposed to face onto the access roads, promoting natural surveillance and safety. The dwellings are designed to front onto the cricket pitch site to the north which is considered to represent a principle of good design. Such measures aid in responding to the need to design out crime.

The scheme responds well to its context, is appropriate in scale and would represent good design in accordance with Policies 5, 15, 17, 22 and 39 of the NELLP.

3. Impact to Neighbours;

Policy 5 of the NELLP requires an assessment on the impact to neighbouring land users. Full regard has been given to the objections received.

The site is relatively self-contained, including those newly constructed properties to the west and existing dwellings at Scartho Road to the east. These properties at Scartho Road are typically two storey but have substantial gardens and landscaping. Being single storey bungalows that are proposed along this boundary, the separation and general low scale of development ensures an acceptable relationship without undue impacts relating to massing, overshadowing or overlooking.

Similarly, the relationship with dwellings recently constructed retains acceptable levels of amenity and separation to ensure no undue impacts.

Where the dwelling is proposed which includes ground and first floor accommodation to the south, this backs onto Scartho Hall. With such extensive boundaries and separation between buildings themselves, no adverse harm to the Hall complex would result.

It is accepted that construction has the potential to create noise and nuisance for neighbours and a series of conditions in response to consultee feedback have been recommended to protect neighbours' amenities.

Objections that relate to traffic impacts are dealt with under section 4. Drainage matters are discussed in section 6 and ecology matters raised are considered in section 5.

Whilst there would be impacts associated with the development, these would not be at a level that is considered to be detrimental and subject to conditions, the proposal accords with Policy 5 of the NELLP.

4. Access and Highways;

Policy 5 of the NELLP requires an assessment of the impacts of the proposal in regard to access and traffic generation with Policy 36 seeking to promote sustainable travel and Policy 38 setting out the requirements for parking.

Some objections have been received and these reference traffic impacts.

Access to the site is proposed from the existing development at Kings Park to the west. The application proposes 29 dwellings, and a Transport Statement (TS) accompanies the application. The TS states that the trip generation for this proposal is less than that originally proposed through an earlier proposal and will result in 18 two-way trips in the AM peak and 19 two-way trips in the PM peak. The Highways Officer considers that the level of traffic generated by the development would not result in a severe impact on the highway network.

In coming to this conclusion, it is important to note the site history as stated which included step down care, assisted living and accommodation for the over 55's. This development of 29 dwellings essentially replaces this element of that scheme resulting in a lower level of development on the wider site overall. Moreover, improvement works to Matthew Telford Way remain a requirement of the wider site delivery and will be delivered at such a time the trigger for these works is reached.

In terms of the detail the Highway Officer raises no safety concerns. Each dwelling is proposed with its own parking space and in some instances a garage serving it to. This is considered to be adequate to serve the size of the dwellings proposed in accordance with Policy 38 of the NELLP.

In regard to sustainable travel, there are bus stops at Scartho Road to the east within walking distance and on Matthew Telford Park. Electrical vehicle infrastructure is recommended via an informative. This is in accordance with Policy 36 of the NELLP.

The proposal is considered acceptable on highway grounds. Thus, the proposal accords with Policies 5, 36 and 38 of the NELLP.

5. Ecology and Landscape;

Policy 41 of the NELLP requires that regard is had to ecology. It advises that ecology should be protected or enhanced where necessary. Policy 42 places an emphasis on the natural environment. A Preliminary Ecology Appraisal accompanies the application as does an Arboricultural Survey.

The Ecology Appraisal in summary concludes that with set working restrictions and best practice, development can be accommodated without detriment to ecology. The Ecology Officer agrees with these conclusions and welcomes the inclusion of swift bricks (30) as shown on the plans. Such measures should be secured via condition.

In relation to landscaping, the National Design Guide stresses the importance of street trees. All of the dwellings have their own private gardens but integrated in the layout are street trees at the back edge of the footpath. Such an approach is welcomed. The Tree Officer is acceptive of the approach but requires final details of the landscaping scheme which can be secured via condition. The Tree Officer does also raise a concern in regard to the trees to the south and also to the east, in that these could be put under pressure given the size of the rear gardens to these dwellings and their orientation. That being said, no objections are raised and the principle of developing along this boundary has already been established by earlier permissions.

Subject to conditions the impacts to ecology and the landscape are acceptable in accordance with Policies 41 and 42 of the NELLP.

6. Drainage and Flood Risk;

Policy 33 of the NELLP sets out the requirements in relation to flood risk with Policy 34 seeking to ensure appropriate provisions are in place for water management. A Flood Risk Assessment and Drainage Strategy accompany the application.

As stated previously, the site is within flood zone 1 and so is suitable for housing on a sequential basis. Nevertheless, a site-specific Flood Risk Assessment still accompanies the application given the size of the site. The Environment Agency have confirmed they have no comments to make on the application.

In regard to surface water a SUDS scheme has been proposed. The plans show an attenuation pond to the north of the site with an infiltration trench that will take water from the highway. Water butts are proposed to all dwellings. All driveways will be permeable. The Drainage Officer is content with these details.

In regard to foul drainage, Anglian Water have confirmed that the existing systems have the capacity for the flows arising from this development and raise no objections.

A condition to secure implementation of the water efficiency statement is recommended in line with the requirement under Policy 34 of the NELLP which seeks to ensure a water

efficiency standard of no more than 110 litres per person per day.

On the basis that the site is outside an area of flood risk, provides positive solutions for surface water management and the existing systems have the capacity to accommodate the foul flows arising from development, the development accords with Policies 5, 33 and 34 of the NELLP.

7. S106 and Policy Requirements;

Policy 6 of the NELLP requires that appropriate infrastructure is provided to support the development with Policy 18 setting out the Affordable Housing requirement.

The developer has agreed to provide the primary and secondary education contributions - in line with Policy 6. Trigger points have been agreed with the Education Officer.

Policy 18 requires 20% affordable housing (high market area) - in line with Policy 18.

This site is inherently linked to the adjacent site DM/0415/20/OUT and its various historic permissions. It is also brought forward by the same developer. It is noted that the aftermath of COVID and changing markets have affected delivery on the adjacent site in addition to challenging abnormals. As part of this wider site these are acknowledged. Under 3 (g) of Policy 6, it states 'The Council will seek to ensure that all development is commercially viable and deliverable. Where the delivery of a proposed scheme is threatened on the basis of viability, the Council may consider a reduction in the extent of the obligations required to be met.' This is on the basis of an open book Financial Viability Assessment being provided.

The developer appointed RPS to undertake a Viability Appraisal which has been submitted to NELC and subsequently consulted on. This is based on RICS guidance. On the back of this, NELC has secured their own independent review of the assessment which has been undertaken by BNP. Detailed consideration is given in the reports as to how this site fits in with the wider site in terms of its consideration. The conclusions of the RPS report are that the site is not viable if the contributions as set out for affordable housing are sought. BNP in their independent assessment of the RPS report agree with these conclusions, though some commentary on the assumptions has been made. Essentially the Residual Land Value is indicated as being over 15% below the Benchmark Land Value with no affordable housing contribution. From a viability perspective there is therefore a material deficit, and the scheme would not generate sufficient land value to meet the minimum that a landowner/developer should reasonably expect. Given there was no major conflict in terms of the viability report produced by RPS and the BNP report procured by the Council, this would indicate that a removal of this planning obligation would be justified and would not represent a departure from the current policy requirement. The Affordable Housing Lead has been made aware of this and has accepted this position.

On the basis of the information provided therefore and on the assessments made, it has

been demonstrated that the site is not viable with affordable housing contributions. The NPPF indicates that 'The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning practice guidance, including standardised inputs, and should be made publicly available'.

Whilst the importance of delivering affordable housing either on or off site is not in dispute by any party, national policy allows for an assessment into viability in certain circumstances. It is considered in this case that the relevant evidence has been provided and this has been appropriately independently tested to ensure its robustness. It also follows recognised guidance on its preparation. This case has a very bespoke set of circumstances which have impacted its viability and again national policy allows for these to be taken account of. Removing the affordable housing requirement is considered to be justified in this instance and importantly, may lead to this stalled brownfield site within the urban area being completed.

National Guidance does however allow for a review mechanism even if it is deemed unviable to provide contributions. It states 'Review mechanisms are not a tool to protect a return to the developer, but to strengthen local planning authorities' ability to seek compliance with relevant policies over the lifetime of the project'. In the event of an approval, it is recommended that with advice from the Legal Officer that a review mechanism is included in the S106 Agreement.

The applicant has made a commitment to continue to comply with the 106 contribution in relation to education and in the event of an approval, the education contribution will be secured through a Section 106 Agreement.

8. Sport England and Ball Stop Netting

Policy 43 of the NELLP seeks to protect sporting provision across the borough.

Whilst this site does not include any protected areas, the land directly to the north is a former cricket pitch, last used around 2015. In the event the pitch becomes operational, Sport England have advised on the need to mitigate against potential ball strikes to the proposed dwellings. It should be noted that the dwellings have been laid out as to provide an intervening road in-between them and the pitch. No objections from Sport England are raised in regard to the position of the development, as there is no encroachment onto the pitch. Sport England are acceptive of the Ball Strike Assessment that has been provided, which outlines the need for mitigation fencing. The ball stop netting/fencing proposed is between 9m-15m in height, the report sets out the locations where the changes in height are needed. Whilst this would not necessarily prevent ball strikes, it would reduce the frequency if the pitch becomes operational. Details have been provided and Sport England have no objections. A condition is however recommended to

implement the fencing. This matter therefore has been resolved since the application previously was presented to planning committee.

In regard to the specifics of the ball stop netting, this would comprise 7 x 9m fabricated posts and 2 x 15m fabricated posts with netting between. In the main netting will be 9m and the only section where the height raises up to 15m is well into the site, close to the hospital buildings to the west. From a visual perspective, this would be limited to within the housing development or within the hospital grounds and whilst the posts are relatively high, the netting is not offensive in itself. Equally, it is not unusual to see such proposals against the backdrop of recreational sites. It is noted that no neighbours or the hospital have raised concerns in relation to this element and the proposed dwellings have been separated to aid with this.

It is considered therefore that the proposal would comply with Policy 43 of the NELLP.

9. Other Matters.

To the south of the site is a Public Right of Way. The proposal does not impede on the right of way. The Rights of Way Officer notes its position and advises on the procedure should the footpath need to be closed during construction works. An informative advising the applicant of this is recommended and to ensure it is not obstructed at any time.

CONCLUSION

The application seeks full planning permission for the erection of 29 dwellings with associated roads, landscaping and infrastructure. It is a continuation of an existing development on an allocated site in a low flood risk area. The scheme represents good design and responds well to its context. Ongoing negotiations have secured improvements to the scheme and an overall reduction in density. Sport England matters are now resolved.

The application has been subject to ongoing engagement with consultees and the developer over an extended period to understand and properly assess the extent of impact arising from this application. Whilst the loss of affordable housing in particular is regrettable, the scheme simply cannot progress as it stands as it is not viable.

On the basis it is recommended that the application is approved, subject to the conditions set out and a Section 106 being signed to secure the education contribution, with the decision delegated back to the Assistant Director for Regeneration to allow this to take place.

RECOMMENDATION

Approved Conditions and signing of S106

(1) Condition

The development shall be carried out in accordance with the following plans:

Site Location Plan - 2427.E3-001B
Proposed Block Plan - 2427.P3-002 Rev D
Proposed Block Plan - Swift Boxes - 2427.T004 Rev A
Proposed Block Plan - Boundary Treatments - 2427.T005 Rev A
Proposed Block Plan - Materials - 2427.T006 Rev A
House Type 4 - 2427-HA-A8-ZZ-DR-A-T4100 Rev P01
House Type 4 (H) - E5-HA-A04-ZZ-DR-A-4100 Rev P01
House Type 6 - E5-HA-A1-ZZ-DR-A-6100 Rev P01
House Type 6 (H) - E5-HA-A1-ZZ-DR-A-6100 Rev P01
House Type 6C - E5-HA-A1-ZZ-DR-A-6100 Rev P01
House Type 6C (H) - E5-HA-A1-ZZ-DR-A-6100 Rev P01
House Type 07A - E5-HA-A1-ZZ-DR-A-7A100 Rev P01
House Type 07A (H) - E5-HA-A1-ZZ-DR-A-7A100 Rev P01
House Type 07A.2 - E5-HA-A1-ZZ-DR-A-7A200 Rev P01
House Type 7C.2 - E5-HA-A7C-ZZ-DR-A-7C200 Rev P01

Reason

For the avoidance of doubt and in the interests of proper planning and in accordance with Policies set out in the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(2) Condition

The external materials to be used in the construction of the dwellings shall be as specified on drawing 2427.T006 Rev A. All other materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority before they are utilised. Once approved, development shall proceed in accordance with the approved details unless otherwise submitted to and agreed in writing by the Local Planning Authority.

Reason

In the interests of good design and character and in accordance with Policies 5 and 22 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(3) Condition

No development above base course level shall commence until a final scheme for the provision of surface water drainage including a management and maintenance plan have

been submitted to and approved in writing by the Local Planning Authority. All drainage shall be installed before the first house is occupied in accordance with the approved details unless, an alternative scheme or timeframe is subsequently submitted to and approved in writing by the Local Planning Authority. Management and maintenance following installation shall be in strict accordance with the approved details.

Reason

In the interests of ensuring a satisfactory means of surface water disposal and in the interests of flood risk in accordance with Policies 5, 33 and 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(4) Condition

No development above base course level shall commence until:

- (a) A final scheme of landscaping showing the details of the number, species, sizes and planting positions of all trees and shrubs to be planted;
- (b) A plan including details of all trees to be retained, any to be felled, hedgerows to be retained, any sections of hedgerow or trees to be removed;
- (c) Measures for the protection of trees and hedges during construction work;
- (d) An Arboricultural Implications Assessment (AIA) and Arboricultural Method Statement (AMS)

have been submitted to and approved in writing by the Local Planning Authority. All tree protection shall be installed as approved before any further works on site commence. It shall be retained on site for the duration of all construction works.

The scheme of landscaping approved through a) and b) shall be completed within a period of 12 months, beginning with the date on which development began or within such longer period as may be first agreed in writing by the Local Planning Authority. All planting shall be adequately maintained for 5 years, beginning with the date of completion of the scheme and during that period all losses shall be replaced during the next planting season. Development shall accord with the approved specifications and Method Statements.

Reason

To ensure a satisfactory appearance and setting for the development and continued maintenance of the approved landscaping in the interests of local amenity in accordance with Policies 5 and 42 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(5) Condition

Each dwelling shall be completed in accordance with the Water Efficiency Statement received 8th June 2023 and the measures retained thereafter.

Reason

In the interests of efficient water management and to accord with Policies 5 and 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(6) Condition

No machinery shall be operated, no process shall be carried out and no deliveries to be taken in or dispatched from the site in connection with the demolition and construction of the development hereby approved outside the hours of 8.00 am to 6.00 pm Monday to Friday, 8.00 am to 1pm Saturday and not on Sundays or Bank Holidays or any other time.

Reason

To protect the amenities of nearby residents and to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(7) Condition

No further development shall commence until a Construction Management and Traffic Plan (CMTP) has been submitted to and approved in writing by the Local Planning Authority. The CMTP shall include:

- Details of the control measures that will be employed to control the impact of noise, vibration and dust during the construction phase. The noise assessment must comply with the requirements of British Standard 5228.
- Contact details of the person with responsibility for the implementation of the Plan;
- The expected number, types and size of vehicles during the entire construction period;
- Details of on-site parking provision for construction related vehicles;
- Details of on-site storage areas for materials and temporary fencing to the site;
- Details of expected delivery schedules and how this will be managed to eliminate waiting on the public highway (i.e. call ahead or pre-booking scheduling system), and
- Details of wheel washing facilities (locations, types etc.).

The approved Plan and control measures it contains shall be implemented throughout the construction phase. There shall be no burning of construction waste material on site.

Reason

In the interests of public health, to protect the amenities of nearby residents, to ensure adequate access facilities are provided during construction and for highway safety reasons to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(8) Condition

The development shall be constructed in accordance with the working practises outlined in the Ecological Appraisal and its subsequent appendices.

The scheme of Ecological enhancement stated in the Ecological Appraisal and as shown on drawing 2427.T004 Rev A shall be implemented for each dwelling it relates to before that individual dwelling is occupied. The measures shall be retained thereafter.

Reason

In the interests of ecological preservation, mitigation and enhancement and to accord with Policies 5 and 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(9) Condition

The development hereby approved shall not be occupied until full details of the final design, layout and specification of the ball stop mitigation, including details of its management and maintenance responsibilities, as set out in the Labosport Technical Report titled: 'Boundary Strike Assessment: - Scartho Road - Cricket Pitch', dated 09 February 2023, have been submitted to and approved in writing by the Local Planning Authority, after consultation with Sport England. Included, shall be a scheme for implementation. The approved details shall be installed in full and maintained and managed thereafter as approved.

Reason

To provide protection for the occupants of the development from potential ball strikes from the adjacent cricket pitch and to accord with Policy 43 of the North East Lincolnshire Local Plan 2023-2032 (Adopted 2018).

(10) Condition

No highway or access works shall commence until the following details have been submitted to and approved in writing by the Local Planning Authority.

(i) Detailed plans to a scale of at least 1/500 showing:-

- (a) the proposed layout of the carriageways and footways on the development;
- (b) the wearing course materials proposed for the carriageways and footways;
- (c) cross sections;
- (d) the highway drainage system;
- (e) the proposed locations of street lighting columns, all services and ducts for services, within the carriageways and footways;
- (f) the number, location and layout of the vehicle garaging and/or parking facilities within the site to serve the proposed development;
- (g) management arrangements for any carriageways, footways and/or landscaped areas not to be adopted by the local authority;
- (h) swept path analysis demonstrating turning manoeuvres for emergency vehicles on all carriageways (adopted and private), and refuse vehicles on all adopted carriageways;

Once approved, development shall proceed in strict accordance with the approved details.

Reason

To ensure that the proposed access roads are made up as soon as possible and in the interests of public safety and in accordance with Policies 5 and 38 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(11) Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission, would be North East Lincolnshire Council, or the Secretary of State (where they have determined under sections 62A, 76A or 77 of the Town and Country Planning Act 1990 (as amended) that such applications must be made to them) or the Planning Inspectorate or Secretary of state where they have so specified in determining an appeal under s 78 of the Town and Country Planning Act 1990 (as amended).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. It is the applicant or developers responsibility to make sure that they are complying with the requirements of this legislation.

Where this permission has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In Summary: Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply. It is considered that exemption number 1 applies.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition can be found at <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>.

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024;
- ii) planning permission is granted which has effect before 2 April 2024; or
- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

* "original planning permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

4.2 Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be

taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Informatives

1 Reason for Approval

The Local Planning Authority has had regard to development plan policies and especially those in the North East Lincolnshire Local Plan. This residential development represents a good form of development that would not harm the area character or residential amenity and is acceptable under all other planning considerations. This proposal is approved in accordance with the North East Lincolnshire Local Plan 2013-2032 (adopted 2018), in particular policies 5, 6, 13, 15, 17, 18, 22, 33, 34, 36, 38, 39, 41, 42 and 43.

2 Added Value Statement

Article 31(1)(cc) Statement - Positive and Proactive Approach

In accordance with paragraph 187 of the National Planning Policy Framework, the Local Authority has worked in a positive and proactive manner with the applicant to seek solutions to problems arising, by securing amended plans and information to respond to consultee comments and matters arising.

3 Informative

Please note the informative advice provided by:

Humberside Fire and Rescue (3rd November 2025)
Northern Powergrid (3rd November 2025)
Public Rights of Way Officer (3rd November 2025)
Anglian Water (7th November 2025 and 2nd May 2023)
Crime Reduction Officer (20th January 2023)
Cadent Gas (20th June 2022)

which can be viewed on the council's website.

4 Informative

This application will require the creation of new postal addresses. You are advised to contact the Street Naming & Numbering Team on 01472 323579 or via email at snn@nelincs.gov.uk to discuss the creation of new addresses.

5 Informative

Please note that you may also require Building Regulations. You are advised to contact them in advance of work on site commencing (Tel: 01472 326289 - Option 2).

6 Informative

In accordance with Approved Document S of the Building Regulations you will be required to install electric vehicle charging points as part of the development.

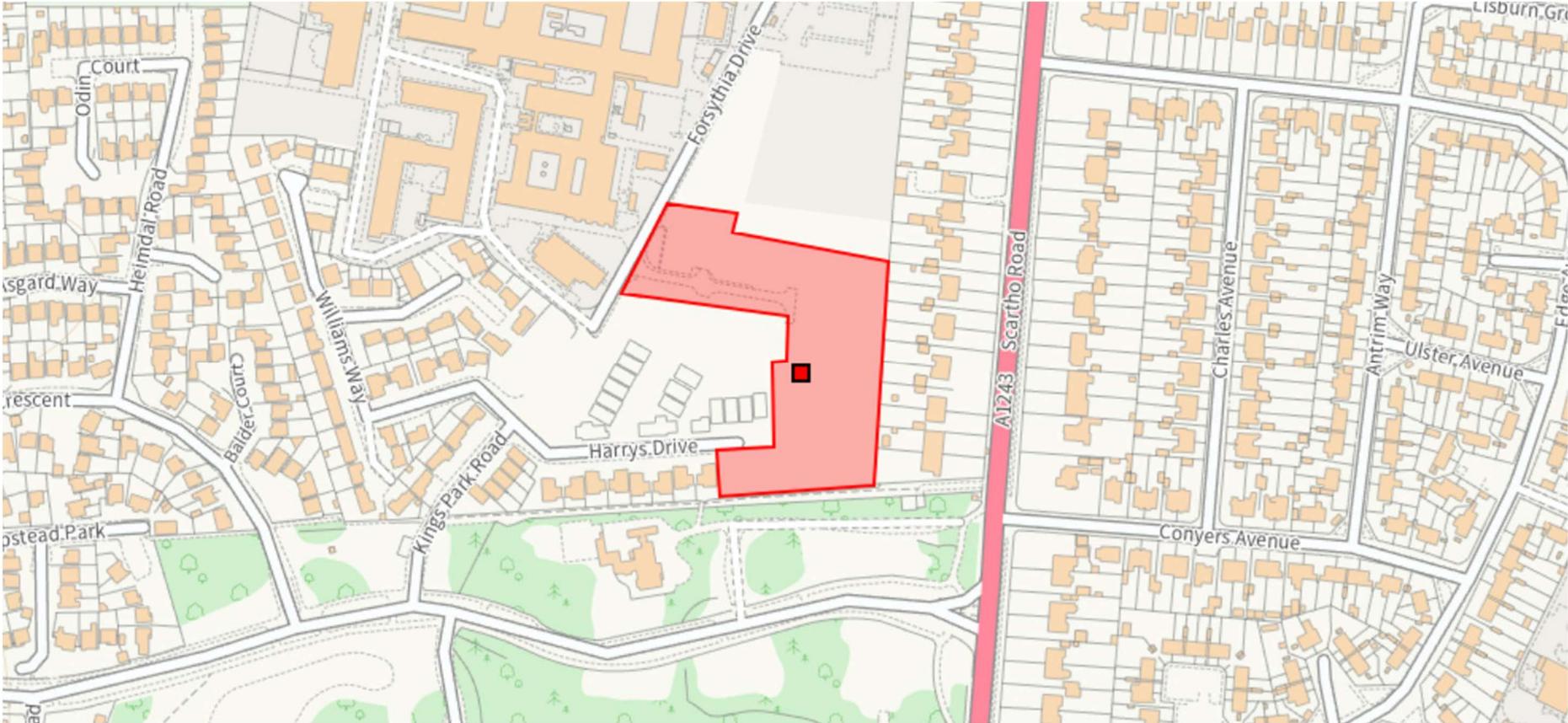
7 Informative

If the highways within the site are to be adopted by the Council, in accordance with Section 38 of the Highways Act 1980, please contact the Highway Management Team six months in advance of the commencement of works. (Tel: 01472 324505).

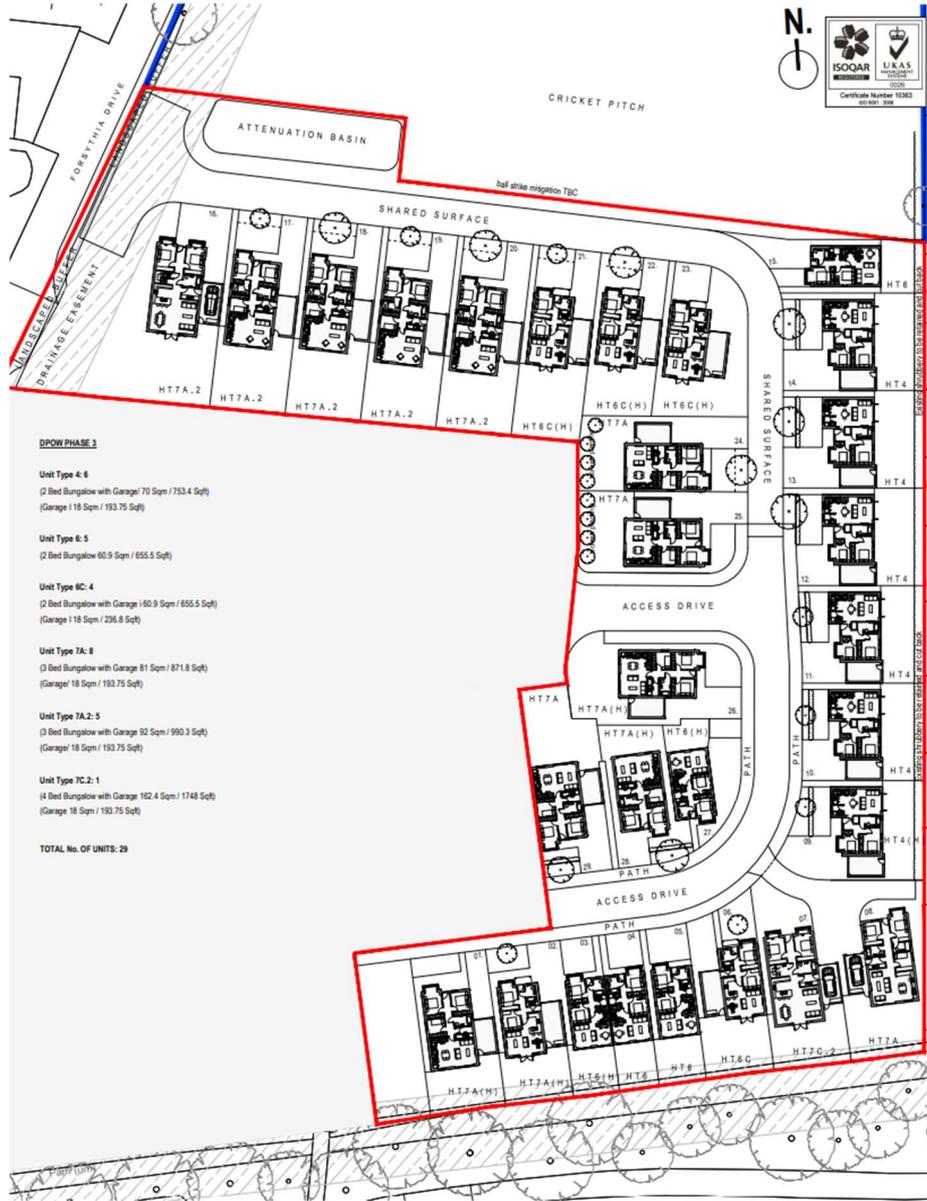
If the footway or carriageway is damaged as a consequence of any excavation or any other operations relating to the development, the Highway Authority may make good the damage and recover expenses reasonably incurred. You are required to contact the Highway Management Team at least 4 weeks prior to commencement of works to arrange for a highway pre-condition inspection (Tel: 01472 324431).

As works are required within the existing highway, in accordance with Section 278, Highways Act 1980, in order to enable the development to take place, please contact the Highway Management Team at least 6 months in advance of the commencement of works (Tel: 01472 324505).

DM/0245/22/FUL – SOUTH OF DIANA PRINCESS OF WALES HOSPITAL, KINGS PARK, OFF WILLIAMS WAY, GRIMSBY



DM/0245/22/FUL – SOUTH OF DIANA PRINCESS OF WALES HOSPITAL, KINGS PARK,
OFF WILLIAMS WAY, GRIMSBY



PLANNING COMMITTEE - 25th March 2026

ITEM: 4 **RECOMMENDATION: Approved with Conditions**

APPLICATION No: DM/0749/25/OUT

APPLICATION TYPE: Outline Application

APPLICATION SITE: Land Off Mushroom Lane, Brigsley, North East Lincolnshire, DN37 0BJ

PROPOSAL: Outline application for nine dwellings and garages with access to be considered and all other matters reserved (AMENDED PLANS AND DESCRIPTION - ALTERATIONS TO ACCESS)

APPLICANT:

Mr & Mrs P Hansen
6 Mushroom Lane
Brigsley
North East Lincolnshire
DN37 0BJ

AGENT:

Mr Daniel Snowden
Ross Davy Associates
Pelham House
1 Grosvenor Street
Grimsby
North East Lincolnshire
DN32 0QH

DEPOSITED: 27th August 2025

ACCEPTED: 27th August 2025

TARGET DATE: 22nd October 2025

PUBLICITY EXPIRY: 11th March 2026

AGREED EXTENSION OF TIME DATE: 27th March 2026

CONSULTATION EXPIRY: 28th September 2025

CASE OFFICER: Lauren Birkwood

PROPOSAL

The proposal is an outline planning application for nine dwellings with access to be considered. Matters relating to the site layout, scale of the development, appearance of the dwellings, and landscaping are left reserved, to be considered at a later stage. The indicative details provided shows that access is proposed to be taken directly off Mushroom Lane at a single point.

The application is presented to planning committee due to an objection received from Waltham Parish Council and the site is a departure from the Council's Local Plan.

SITE

The site is located on the north eastern side of Mushroom Lane in Waltham. The site itself, however, sits within the Parish of Brigsley.

The site is a generally flat, open, agricultural field used as grazing land. The boundaries of the site are defined by hedging and landscaping. The eastern boundary includes the open countryside. Beyond the northern, western and southern boundaries are residential properties. The main access to the site is from Mushroom Lane which enters onto the main road, Waltham Road.

RELEVANT PLANNING HISTORY

DM/0120/17/OUT - Outline application to erect 8 dwellings with all matters reserved - Refused 20th July 2017. Appeal dismissed. Reasons of sustainability and adverse impact on character of the area.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

- NPPF12 - Achieving well designed places
- NPPF14 - Climate, flooding & coastal change
- NPPF15 - Conserv. & enhance the natural environ.

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

- PO5 - Development boundaries
- PO22 - Good design in new developments
- PO33 - Flood risk
- PO34 - Water management
- PO36 - Promoting sustainable transport
- PO38 - Parking
- PO41 - Biodiversity and Geodiversity
- PO42 - Landscape

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Council's Environmental Health Officer - No objection. Conditions recommended.

Council's Waste Officer - No objections. Condition recommended.

Council's Waste Enforcement Officer - No objections. Informative recommended.

Council's Highways Officer - No objections. Conditions recommended.

Council's Public Right of Way Officer - No objections.

Council's Drainage Officer - No objections. Condition recommended.

Anglian Water - No objections. Conditions and informatives recommended.

Council's Heritage Officer - No objections.

Council's Tree Officer - No objections. Conditions recommended.

Council's Ecology Officer - No objections. BNG required and satisfied. Conditions recommended.

Cadent Gas - No objections. Informative recommended.

Orsted - No objections. Informative recommended.

Crime Reduction Officer - No objections. Informative recommended.

Brigsley Parish Council - No objections.

Waltham Parish Council - Objects to the development on grounds that the site is not allocated for housing in the Local Plan, and that the drainage plan is not clear, giving cause for concern over potential impact on Brigsley Road.

Neighbour Representations

7 Brigsley Grange Close, Brigsley and 2 and 4 Mushroom Lane, Brigsley - Supports the proposal on the grounds that it is a sympathetic development with parking and poses great housing opportunities in the area. However, raised consideration should be given to drainage.

1 Brigsley Grange Close, Brigsley - Objects to the development with concerns regarding drainage and flood risk, highways and traffic safety, impacts on residential amenity, and the use and maintenance of Brigsley Grange Close.

Additional Representations

Grimsby and Cleethorpes Civic Society - Objects to the development on the grounds that the site outside of the development boundaries within the Local Plan, concerned about the over development of villages with no increase in the amenities and would increase traffic in the area.

APPRAISAL

The key planning material considerations are:

- Principle of Development and Sustainability
- Highways Impacts
- Concept, Design and Character
- Neighbouring Amenity
- Drainage and Flood Risk
- Ecology, Biodiversity and Trees

Principle of Development and Sustainability

It is acknowledged that the site is located within the Parish of Brigsley but directly adjacent to the edge of the village of Waltham and is visually more associated with Waltham than Brigsley. The site sits outside but adjacent to the development boundary of Waltham in the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018). It is therefore deemed to be within the open countryside. The proposal does not meet any of the exceptions criteria for development proposals outside of the defined development boundaries in Policy 5 of the Local Plan.

However, a material factor in the determination of this application arises because the Council cannot demonstrate a 5 year supply of deliverable housing land. The figure currently sits at 3.6 years (April 2025). Therefore, under paragraph 11 of the National Planning Policy Framework (NPPF), the Local Plan housing supply policies are now considered to be out of date and there is a tilted balance in favour of sustainable housing development. The authority must now consider increasing the supply of housing by looking beyond allocated housing sites and to sites which may fall outside of the defined development area boundaries on the Local Plan. The principles of the NPPF must still be followed, which is to support sustainable development and to still comply with other relevant Local Plan Policies. Part 3 of Policy 5 is of particular importance and requires special regard be given to the distinctive open character, landscape quality and the role the site plays in the setting of Waltham and Brigsley. This Part of Policy 5 is still relevant.

In terms of the site's position, it is directly adjacent the development boundary with Waltham. From a sustainability perspective, a Sustainability Statement has been provided by the applicant. The statement confirms that the site is in cycle and walking distance to the local centre, amenities and bus stops. There are pedestrian pathways and

public rights of way in the vicinity to access the centre of Waltham which is a Level 2 settlement in the Local Plan offering a good range of basic services and amenities, combined with good accessibility to the wider services available in the urban area.

In terms of flood risk, the site is in flood zone 1 which is considered sequentially preferable for residential development.

The land itself is in agricultural use, and it is evident that this is a small piece of land that is currently divorced from the main agricultural fields beyond by the landscape buffer to the east side. This, in combination with the identified housing need, places the balance in favour of development. The loss of agricultural land is not considered to justify a planning objection in this case.

The detailed particulars of the scheme and its impacts against the Plan as a whole will be addressed in the following sections of this report. However, it is considered that there is no 'in principle' objection to development given the 'tilted balance' that applies in light of the defined housing shortfall position. In coming to this conclusion on principle consideration has been given to the planning history which includes a refusal and appeal dismissal in 2017 under application, reference DM/0120/17/OUT.

Highways Impacts

Policies 5, 36 and 38 of the Local Plan require proposals for new development to have due consideration to highway safety, amenity, parking and sustainable transport. Details at this stage need to demonstrate that the access can be achieved, and that the adjacent highway network is able to accommodate the increase in vehicular movements which would arise.

The development site is proposed as an extension to an existing private road (Mushroom Lane). The Council's Highway Officer has worked closely with the applicant to outline requirements, including the adoption of the roads back to Brigsley Road which is adopted. This would be Mushroom Lane and Brigsley Grange Close. Works are required to ensure they can be adopted. In terms of the wider site design, the details show that this would predominantly be a shared surface. This approach is considered acceptable for the number of properties proposed.

The details provided also shows a turning head for a typical fire appliance/refuse vehicle. The Council's Highway Officer is content that the proposed number of dwellings served by the shared private drive conforms with requirements of NELC Highway Design Guide. The indicative details also show an adequate bin collection point positioned immediately adjacent to, but not directly on, the adopted highway.

With regard to the above, it is considered that the proposal accords with Policies 5, 36 and 38 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018) in terms of highways impacts. The Council's Highways Officer has no objections, subject to conditions.

Concept, Design and Character

The applicant has set out in the Design and Access Statement principles for the layout of the proposed development. It is proposed that the development aims to respond to the setting of the site, especially the urban edge and develop housing of mixed sizes and tenures. Given the nature of the application, the final details of this have not yet been submitted for consideration.

In addition, and to comply with national advice in the NPPF and the National Design Guide, significant weight is attached to good design as a key aspect of sustainable development. This is also mirrored in Policies 5 and 22 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018). In terms of the layout of the site, the indicative drawings show how a good quality scheme could be developed with open and green areas assimilating it into the landscape and with dwellings responding well to neighbours and being forward looking over open space and access roads. This demonstrates how it will be possible to meet good design under Policy 22 of the Local Plan and the NPPF.

Whilst site layout and appearance of the development are reserved matters and these issues will be considered in more detail at that later stage, it is considered that the development demonstrates how an acceptable scheme under Policies 5 and 22 of the Local Plan could be derived.

Neighbouring Amenity

Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018) requires that regard is given to the impact of new development on the neighbouring land uses. The proposed development has immediate residential neighbours to the west on Brigsley Grange Close and Mushroom Lane. These neighbours are predominately detached houses. It is noted that concerns have been raised by neighbouring properties.

The applicant has supplied a site layout plan which indicatively shows how the site could be set out to avoid any detrimental impacts to the neighbours' residential amenities in terms of massing, loss of light or overlooking. Whilst an existing access is used the development is limited in number and it is not considered that the level of traffic would be detrimental. A common layout for a residential development of this nature would be the result. The final impacts will be a material consideration in any forthcoming reserved matters application. It is considered that, in principle, the site could be delivered without having a detrimental impact on the neighbours' residential amenities in accordance with Policy 5 of the Local Plan.

Drainage and Flood Risk

The application site is within an area zoned Flood Zone 1 on the Environment Agency's Flood Risk Maps. As such, the area is considered to be at the lowest risk of flooding from rivers or the sea and is sequentially preferable for residential development. The proposal

therefore accords with Policy 33 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

In terms of surface water drainage, the applicant has confirmed that surface water run-off from the development can be sustainably managed in accordance with policy guidance set out in the NPPF and Policies 33 and 34 of North East Lincolnshire Local Plan 2013-2032 (Adopted 2018). Should planning permission be granted, it will be necessary for full details of surface water run-off be agreed prior to the commencement of development, and this can be secured by a planning condition. This approach is supported by the Council's Drainage Officer who recommend that conditions are included for full details of both surface and foul water disposal. In relation to foul water drainage, Anglian Water has also confirmed that existing systems have the capacity to take the foul flows arising from this development.

As the proposed development is at the outline stage, it is entirely appropriate that this approach is taken. Only once the amount of hard standing has been calculated at the reserved matters stage, can a full and proper sustainable drainage scheme be designed for the site. Indicatively the layout shows how SUDs features could be incorporated into the development in accordance with Policy 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

Ecology, Biodiversity and Trees

Policy 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018) and Section 15 of the NPPF confirms that development should have regard to biodiversity and geodiversity, seeking specifically to minimise the loss of biodiversity features, and create opportunities to retain, protect, restore and enhance features of biodiversity value, including priority habitats and species.

Ecological reports with the application conclude that there are some ecological constraints to the site's development and the document provides recommendations including protection and mitigation measures. The Council's Ecology Officer is supportive of these recommendations, and if the application is approved, conditions would be required to secure these measures.

The development is subject to Biodiversity Net Gain (BNG) requirements. A BNG metric and Biodiversity Impact Assessment has been submitted which demonstrates in excess of 10% net gains. The assessment outlines onsite habitat enhancement and creation with long term management which could be achieved. The Council's Ecologist has reviewed the details and has confirmed that the BNG metric is acceptable and deems the gains to be significant, and if the application is approved, conditions relating to management and monitoring are recommended. The proposal therefore accords with Policies 5 and 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

The site is identified within the Local Plan as being of local nature conservation importance and value under Policy 41. However, in view of the ecological studies

undertaken, it not considered that the development is contrary to that designation. Indeed, the scheme will add to the bio diversity of the site. No objection has been received from the Ecology Officer.

With regards to landscape, the Council's Tree Officer has confirmed that the drawings indicate that the site could be developed, and that the intention to retain the existing internal hedgerow, north of the proposed biodiversity area and between proposed Plots 5 and Plots 6, is considered to be a positive. Furthermore, the Tree Officers has not objections to the principles of the proposed landscaping plan. Clearly any landscape plans would form part of the Reserved Matters considerations in the event of any approval in accordance with Policy 42 of the Local Plan.

CONCLUSION

The proposal is for a residential development outside of the development boundary in the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018) on an agricultural field to the west of Waltham and in the parish of Brigsley. Whilst the site is outside of the development boundary, the shortfall in deliverable housing land engages the tilted balance in favour of development, subject to an assessment of the proposal against the Plan as a whole. No technical objections have been received from any consultee and full regard has been given to the objections by neighbours. However, it is considered that the development is acceptable in overall character and amenity grounds and accords with the elements of Policy 5 (site specific criteria against which all development is assessed as opposed to locational requirements in relation to development boundaries) and Policies 22, 33, 34, 36, 38, 41 and 42 of the Local Plan. Thus, the proposal is recommend for approval subject to the conditions outlined.

RECOMMENDATION

Approved with Conditions

(1) Condition

Applications for approval of the matters referred to in Condition 2 (known as reserved matters) shall be made within three years of the date of this permission and the development to which it relates shall begin no later than whichever is the later of the following dates:

- (a) Three years from the date of the grant of outline planning permission; or
- (b) Two years from the final approval of the reserved matters, or in the case of approval on different dates, final approval of the last such matter to be approved.

Reason

This permission is in outline only and the information is necessary for consideration of the detailed proposal as required by S.92 of the Town and Country Planning Act 1990.

(2) Condition

This permission hereby granted is in outline form only and no development shall begin until full details of the following reserved matters have been submitted to and approved by the Local Planning Authority:

- (a) The layout, scale and appearance of the development; and
- (b) A landscaping scheme for the site including details of existing trees, hedges and planting to be retained.

Reason

This permission is in outline only and the information is necessary for consideration of the detailed proposal as required by S.92 of the Town and Country Planning Act 1990.

(3) Condition

The development is approved in accordance with the following plans:

Site Location Plan - RD:5629-01 REV B
Proposed Site Plan - RD:5629-03 REV E

Reason

For the avoidance of doubt and in the interests of proper planning in accordance with Policies 5, 22, 33, 34, 36, 38, 41 and 42 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(4) Condition

Prior to the commencement of development, a final scheme for the disposal of foul and surface water shall be submitted and approved in writing by the Local Planning Authority. Once approved, the scheme shall be implemented before the dwellings are occupied and remain in place thereafter.

Reason

To ensure a satisfactory means of foul and surface water disposal and in order to accord with Policies 5 and 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(5) Condition

No development shall commence until full detail of the highway construction for all new roads within the development have been submitted to and approved in writing by the

Local Planning Authority, in consultation with the Local Highway Authority. The details shall include, but not be limited to:

- (i) Detailed plans to a scale of at least 1/500 showing:-
 - (a) the proposed layout of the carriageways and footways on the development;
 - (b) the wearing course materials proposed for the carriageways and footways;
 - (c) cross sections;
 - (d) the highway drainage system;
 - (e) the proposed locations of street lighting columns, all services and ducts for services, within the carriageways and footways;
 - (f) the number, location and layout of the vehicle garaging and/or parking facilities within the site to serve the proposed development;
 - (g) management arrangements for any carriageways, footways and/or landscaped areas not to be adopted by the local authority;
 - (h) swept path analysis demonstrating turning manoeuvres for emergency vehicles on all carriageways (adopted and private), and refuse vehicles on all adopted carriageways;
 - (i) visibility splays and construction for the individual driveways. Once approved, nothing shall at any time be erected or allowed to grow over 1.05 metres in height above the carriageway level of the adjoining highway within the visibility splay. Driveways shall be thereafter retained as agreed and constructed.
 - (j) A Stage 1 and 2 Road Safety Audit (RSA) must be provided. The Road Safety Audit must be undertaken by a fully qualified independent Road Safety Auditor.
 - (k) Confirmation that the roads shall be offered for adoption.

The approved highway works shall be constructed in full accordance with the approved details prior to the construction of any dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure that the proposed access roads are made up as soon as possible and in the interests of public safety in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(6) Condition

No dwelling on the site shall be occupied until the access road has been constructed to at least base course level and adequately lit from the connection with the existing highway up to the access to the dwelling, in accordance with comprehensive engineering details to be submitted and approved in writing by the Local Planning Authority before such works are commenced.

Reason

To ensure that the proposed access roads are made up as soon as possible and in the interests of public safety in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(7) Condition

No development shall commence until details have been submitted to and approved in writing by the Local Planning Authority, demonstrating how the existing private roads known as Mushroom Lane and Brigsley Grange Close shall be improved and brought forward for adoption as highway maintainable at public expense. The details shall include:

1. Core sampling and testing of the existing carriageway construction of Mushroom Lane and Brigsley Grange Close, with results submitted to demonstrate that the roads are constructed to adoptable standards;
2. Full highway construction details for any required alterations or strengthening works identified as necessary to achieve adoptable standards, including carriageway widening works to achieve a minimum carriageway width of 5.5 metres where roads are to remain as traditional tarmac carriageway;
3. Details of the proposed conversion of Mushroom Lane to a shared surface, including materials, levels, demarcation (if any), drainage and pedestrian priority measures;
4. A programme for the delivery of the works; and
5. Confirmation that the roads shall be offered for adoption under a Section 38 Agreement, including provision of all necessary bonds and legal agreements.

The approved works shall be fully implemented and completed in accordance with the approved details prior to the construction of any dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure that the existing private roads serving the development are constructed or upgraded to adoptable standards, to secure their adoption as public highway, and to ensure safe and suitable means of access to the development in the interests of highway safety and the free flow of traffic in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(8) Condition

The 2-metre wide service strips shown adjacent to the shared surface areas to be offered for adoption as public highway on the approved plans shall be retained and kept free from built development at all times. No structures, walls, fences, gates, or other forms of development (whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent amendment) shall be erected within the service strip, with the exception of development permitted under Class 13 of the Order. Any planting or landscaping within the service strip shall be limited to species agreed in writing with the Local Planning Authority.

Reason

To ensure that public utility companies (such as gas and water companies) can install and access their equipment in a safe manner in accordance with Policy 5 of the North

East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(9) Condition

No development shall commence until a Construction Management and Traffic Plan (CMTP) has been submitted to and approved in writing by the Local Planning Authority. The CMTP shall include:

- Details of the control measures that will be employed to control the impact of noise, vibration and dust during the construction phase. The noise assessment must comply with the requirements of British Standard 5228.
- Contact details of the person with responsibility for the implementation of the Plan;
- The expected number, types and size of vehicles during the entire construction period;
- Details of on-site parking provision for construction related vehicles;
- Details of on-site storage areas for materials and temporary fencing to the site;
- Details of expected delivery schedules and how this will be managed to eliminate waiting on the public highway (i.e. call ahead or pre-booking scheduling system), and
- Details of wheel washing facilities (locations, types etc.).

The approved Plan and control measures it contains shall be implemented throughout the construction phase. There shall be no burning of construction waste material on site.

Reason

In the interests of public health, to protect the amenities of nearby residents, to ensure adequate access facilities are provided during construction and for highway safety reasons to accord with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(10) Condition

Before development begins, a detailed scheme for the protection of trees/hedges to be retained as part of the landscape scheme (to meet the requirements of BS5837 and including construction details, methods and maintenance, if required of hard surfacing) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme as shall be implemented before development begins and shall be retained during construction works. Any maintenance scheme hereby approved shall be implemented and retained thereafter

Reason

To prevent damage to trees/hedges during construction works and in accordance with

Policies 5, 22 and 42 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(11) Condition

No construction work shall be carried out on or before 08:00 or after 18:00 Mondays to Fridays inclusive, before 08:00 or after 13:00 on Saturdays and at any time on Sundays or Bank Holidays.

Reason

To protect the amenities of nearby residents in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(12) Condition

If during development contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately, and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. Remediation shall be undertaken in accordance with the details agreed.

Reason

To ensure that any previously unconsidered contamination is dealt with appropriately in accordance with Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(13) Condition

Prior to the occupation of the any dwelling on the site, final details of how water will be reused and recycled on site shall be submitted to and agreed in writing by the Local Planning Authority. Once approved the details shall be adhered to at all times following occupation.

Reason

To ensure the efficient use of water and accord with Policy 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018)

(14) Condition

The development shall be designed and carried out in accordance with the recommendations set out in the Preliminary Ecological Appraisal (dated April 2024).

Reason

In the interests of Ecological protection and enhancement in accordance with Policy 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(15) Condition

Development shall not commence until a Construction Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. Development shall then be implemented in accordance with the Construction Ecological Management Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason

In the interest of habitat and bio-diversity improvement and protection in accordance with Policy 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(16) Condition

The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan and including:

- (a) A non-technical summary;
- (b) The roles and responsibilities of the people or organisation(s) delivering the HMMP;
- (c) The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) The management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and;
- (e) The monitoring methodology and frequency in respect of the created or enhanced habitat

has been submitted to, and approved in writing by, the Local Planning Authority.

Additionally, notice in writing shall be given to the Local Planning Authority when the:

- (a) HMMP has been implemented; and;
- (b) Habitat creation and enhancement works as set out in the HMMP have been completed.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP. Monitoring reports shall be submitted to the Local Planning Authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason

To ensure the development delivers biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Policies 5 and 41 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

(17) Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission, would be North East Lincolnshire Council, or the Secretary of State (where they have determined under sections 62A, 76A or 77 of the Town and Country Planning Act 1990 (as amended) that such applications must be made to them) or the Planning Inspectorate or Secretary of state where they have so specified in determining an appeal under s 78 of the Town and Country Planning Act 1990 (as amended).

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. It is the applicant or developers responsibility to make sure that they are complying with the requirements of this legislation.

Where this permission has the effect of requiring or permitting the development to proceed in phases, the modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition can be found at <https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates*

was granted before 12 February 2024; or
(ii) the application for the original planning permission to which the section 73 planning permission relates was made before 12 February 2024.

4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;
ii) planning permission is granted which has effect before 2 April 2024; or
iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

* "original planning permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

4.2 Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

4.5 Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;
ii) is carried out on a site which has an area no larger than 0.5 hectares; and
iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.5 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Informatives

1 Reason for Approval

The Local Planning Authority has had regard to development plan policies and especially those in the North East Lincolnshire Local Plan. The Councils lack of a 5-year housing supply has been taken into account and having regard to this it is considered that the principle of the proposal is acceptable and it would not harm the area character or

residential amenity and is acceptable under all other planning considerations. This proposal is approved in accordance with the North East Lincolnshire Local Plan 2013-2032 (adopted 2018), in particular policies 5, 22, 33, 34, 41 and 42.

2 Added Value Statement

Article 31(1)(cc) Statement - Positive and Proactive Approach

In accordance with paragraph 187 of the National Planning Policy Framework, the Local Authority has worked in a positive and proactive manner with the applicant to seek solutions to problems arising, by requesting additional information to overcome concerns.

3 Informative

This application will require the creation of new postal addresses. You are advised to contact the Street Naming & Numbering Team on 01472 323579 or via email at snn@nelincs.gov.uk to discuss the creation of new addresses.

4 Informative

The applicants' attention is drawn to the fact that the requirements of the Party Wall Act may apply and you should seek advice from your agent or suitably qualified person.

5 Informative

Please note that you may also require Building Regulations, including the installation of electric vehicle charging points. You are advised to contact them in advance of work on site commencing (Tel: 01472 326289 - Option 2).

6 Informative

As the highways within the site are to be adopted by the Council, in accordance with Section 38 of the Highways Act 1980, please contact the Highway Management Team six months in advance of the commencement of works. (Tel: 01472 324505)

7 Informative

As works are required within the existing highway, in accordance with Section 278, Highways Act 1980, in order to enable the development to take place, please contact the Highway Management Team at least six months in advance of the commencement of works (Tel: 01472 324505).

8 Informative

The applicants' attention is drawn to the comments received from the Crime Reduction Officer, Anglian Water, the Council's Waste Enforcement Officer, Cadent Gas and Orsted. Please go to www.nelincs.gov.uk to view the comments.

DM/0749/25/OUT – LAND OFF MUSHROOM LANE, BRIGSLEY



PLANNING COMMITTEE - 25th March 2026

ITEM: 5 **RECOMMENDATION: Refused**

APPLICATION No: DM/0015/26/FULA

APPLICATION TYPE: Accredited Agent - Homeholder application

**APPLICATION SITE: 22 South Marsh Road, Stallingborough, North East
Lincolnshire, DN41 8AN**

PROPOSAL: Raise roof height to create first floor accommodation. Erect extensions to front and rear with front and rear dormers. Demolish existing garage and erect new detached garage to rear, associated internal and external alterations and retrospective permission for new boundary wall/pillars and gates to front.

APPLICANT:

Mrs K Kaur
22 South Marsh Road
Stallingborough
North East Lincolnshire
DN41 8AN

AGENT:

Mr Byron Smith
By Design
47 The Avenue
Healing
Grimsby
North East Lincolnshire
DN41 7NA

DEPOSITED: 7th January 2026

ACCEPTED: 21st January 2026

TARGET DATE: 18th March 2026

PUBLICITY EXPIRY: 28th March 2026

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY: 28th March 2026

CASE OFFICER: Abigail Hattersley

PROPOSAL

The proposal seeks planning permission to raise the roof height to create first floor accommodation, erect extensions to the front and rear with front and rear dormers. The proposal also seeks planning permission to demolish the existing garage and erect a new detached garage to the rear, associated internal and external alterations and seeks retrospective permission for new boundary wall/pillars and gates to the front of 22 South Marsh Road, Stallingborough.

The application is brought to planning committee due to a call-in request from councillor Crofts.

SITE

The application site is a detached bungalow-type dwelling located on the south side of South Marsh Road. South Marsh Road itself is a residential street consisting of a variety of detached residential bungalows and houses of differing designs and scales. Furthermore, many properties have been extended and altered over time. To the north of the application site is open fields.

RELEVANT PLANNING HISTORY

DM/0319/24/FULA - Raise roof height to create first floor accommodation, erect extensions to front and rear and installation of front and rear dormers, demolish existing garage and front boundary wall, erect new detached garage to rear and retrospective permission for new boundary wall with pillars and gates to front with associated internal and external alterations. Refused 3rd October 2024.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

NPPF12 - Achieving well designed places
NPPF14 - Climate, flooding & coastal change

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Consultees

Asset Management - No comments received.
Trees and Woodlands Officer - No comments.
Anglian Water - No objections.

Heritage Officer - No heritage input required.
Drainage Team - Surface water drainage proposal is satisfactory.
Environmental Protection Team - Approval with conditions.
Ecology Team - BNG exempt.
Stallingborough Parish Council - No objections.
Highways Officer - Approval no conditions.

Neighbour Representations

Objections have been received from the following addresses broadly on the grounds of loss of light, massing, dominance, reduced visibility, obstruction to highway safety, visual dominance, and out of keeping with the character of the area.

24 South Marsh Road
52 Station Road
134 Station Road
12 South Marsh Road

Comments of support have been received from the following address.

18 South Marsh Road

Call in from Councillor Croft on the basis that the amended scheme addresses previous concerns and that consideration again needs to be given to the character of neighbouring development.

APPRAISAL

The main issues in this appraisal are:

1. Principle of development
2. Design and wider character of the area
3. Impact on neighbouring amenity
4. Other Considerations

1. Principle of development

The proposal is located within the development boundary of Stallingborough as defined within Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018) [NELLP] and relates to the raising of the roof height to create first floor accommodation, the erection of extensions to the front and rear with front and rear dormers. It further relates to the demolition of the existing garage and erection of a new detached garage to the rear, associated internal and external alterations and retrospective permission for new boundary wall/pillars and gates to the front of 22 South Marsh Road, Stallingborough. Policy 5 does not preclude works of this nature in principle within the defined development boundaries. It is therefore considered in principle that the proposed development is acceptable subject to the site-specific impacts discussed below.

2. Design and Wider Character of the Area

The application site is a detached bungalow type dwelling with a hipped roof which measures approximately 4.8 metres in height. The proposed works involve increasing the roof height by approximately 2.5 metres to provide first floor accommodation. This will form three additional bedrooms, a bathroom, an ensuite and a study.

To the front of the application site is an existing single storey extension with a hipped roof. The proposed works involve extending the width of the front extension to approximately 7.8 metres. This will extend the lounge and form a porch area to the front of the property. Further, the height of the single storey extension is to be raised. This will amalgamate the proposed first floor extension with the existing roof to form a single Dutch gabled roof which will extend around the front and rear of the property.

To the rear of the application site, the south western proportion of the rear elevation is proposed to be extended by approximately 5 metres at ground floor, and the north eastern proportion of the rear elevation will be extended by approximately 2.5 metres at ground floor. This will form a sitting room and an additional bedroom. Although the extensions would be viewable from the street scene, they would be set back within the site. Materials proposed would also match the existing dwelling. On this basis, they would not harm the character and appearance of the area.

Three dormers are proposed to the front of the property, and three dormers are proposed to the rear of the property. The three dormers to the front elevation and the two dormers to the south western proportion of the rear elevation will appear uniform in finish and appearance. The dormer proposed to the north eastern proportion of the rear elevation will feature minor differences in projection and height. It is considered that their position below the ridge of the roof will also ensure they appear sympathetic in visual appearance to the existing dwelling. Further, the dormers would be proportionate to the existing dwelling and would be externally faced in materials that would match those used in the construction of the existing dwelling, and this would therefore ensure the character and appearance of the building and wider area is maintained.

The proposed detached garage will be situated in a similar position to the rear of the property as the existing garage in situ which is proposed to be removed. Therefore, it would not be readily viewable within the street scene. It will measure approximately 4.2 metres in length. The eaves of the garage are proposed at a height of approximately 1.6 metres, with a maximum height to the top of the gabled roof proposed at approximately 2.9 metres. A shutter door is proposed within the front elevation of the proposed garage, with a window unit to the rear elevation and a door proposed to the side elevation. The exterior walls will be completed in red face brickwork to match the existing property. Further, the windows and doors will be completed in UPVC to match the existing. The gabled roof will be completed in materials which are sympathetic to the style of the property.

The retrospective boundary wall with pillars and gates measures 2 meters. The pillars have been completed in red-face brickwork, with the wall completed in render panel. Although this is a change in terms of height and materials, it is not considered out of keeping with the character of the area as South Marsh Road consists of various boundary treatments, including that adjacent at 20 South Marsh Road.

The works are reasonably extensive, increasing the footprint of the property. However, the property can accommodate the level of works without becoming overdeveloped and would be left with enough amenity space should the works be carried out.

It is therefore considered that the proposal does not have an unacceptable impact on the street scene or character of the area in this instance and accords with Policies 5 and 22 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

3. Impact on neighbouring amenity

Neighbouring properties include 20 South Marsh Road to the south west and 24 South Marsh Road to the east. Neighbour representations have been received from 24 South Marsh Road, 52 Station Road, 134 Station Road and 12 South Marsh Road objecting to the proposed works.

In terms of the boundary treatments, it is not considered that these works create residential amenity issues. The wall, pillars and gates are situated away from neighbours and are therefore considered acceptable. The detached garage would be situated along the boundary shared with 20 South Marsh Road. However, as the proposed garage will be single storey in nature and be adjacent to an existing structure within the rear garden of the neighbour, it is not considered that it would create massing or overshadowing issues.

The proposed works include dormers installed to the front and rear which will face onto the garden area of the application site and then obliquely onto neighbours on South Marsh Road. The dormers would be relatively minor and would not unduly impact neighbours in terms of overlooking.

The concerns raised by 24 South Marsh Road in terms of overshadowing are noted. The scheme has been amended from that refused DM/0319/24/FULA under planning application but it is still considered that the combination of the proposed extensions and the increase in roof height would significantly increase the overall size of the dwelling. The roof height of the application site would be increased by approximately 2.5 metres which is considered significant, especially considering the north east elevation sits right along the boundary with the neighbour at 24 South Marsh Road. Number 24 has windows on the side elevation which would face the proposal, and it is considered that the resultant dominance and massing from within and outside this property would be detrimental to the residential amenity of 24 South Marsh Road.

It is therefore considered, due to issues outlined above in terms of massing and

dominance on neighbour 24 South Marsh Road, that the proposal would be contrary to Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

4 Highways

The Council's Highways Officer has reviewed the information provided and has confirmed that the front boundary wall does not impact visibility splays and the property retains sufficient within-curtilage space for vehicle turning to enable access and egress from the site on to the classified road in a forward-facing gear. Similarly, existing parking arrangements at the site remain unchanged. The Council's Highways Officer is content with this information and has no objections.

5. Other Considerations

A Flood Risk form has been provided which confirms that the floor levels would be set no lower than the existing levels and flood proofing would be incorporated into the scheme. This is considered acceptable. The Council's Drainage Officer has reviewed the information provided and is content with the proposed use of water butts. The proposal therefore accords with Policies 33 and 34 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

The Trees and Woodlands Officer, Anglian Water, the Heritage Officer, Stallingborough Borough Council and the Highways Officer offer no objections to the proposed works.

The proposal is for development which is subject to a householder application and subsequently is exempt from the mandatory biodiversity net gain.

CONCLUSION

In conclusion, it is considered that the proposal represents a detrimental impact to the amenity of the neighbour by reason of dominance and massing. The proposal is therefore contrary to Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018) and is recommended for refusal.

RECOMMENDATION

Refused

(1) The proposal would be detrimental to the residential amenities of the neighbouring property by virtue of dominance and adverse massing contrary to Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

Informatives

1 Informative

This decision relates to the following plan:

3809.011 - Site Location and Block Plan

3809.04 - Existing/Proposed Garage and Boundary Wall Details

3809.06 - Proposed Plans and Front and Side Elevation

3809.07 - Proposed Rear and Side Elevations

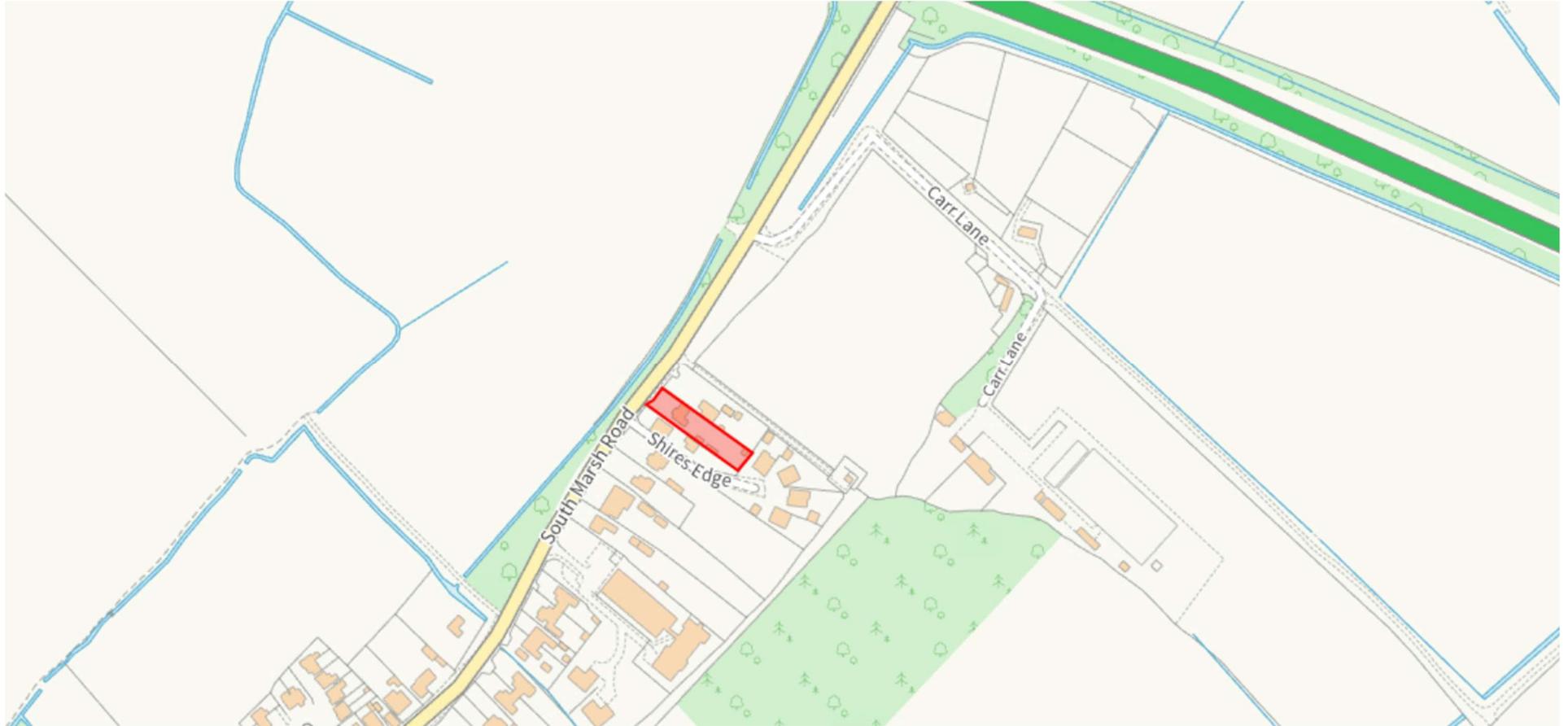
Flood Risk Assessment - Received 7 January 2026

2 Added Value Statement

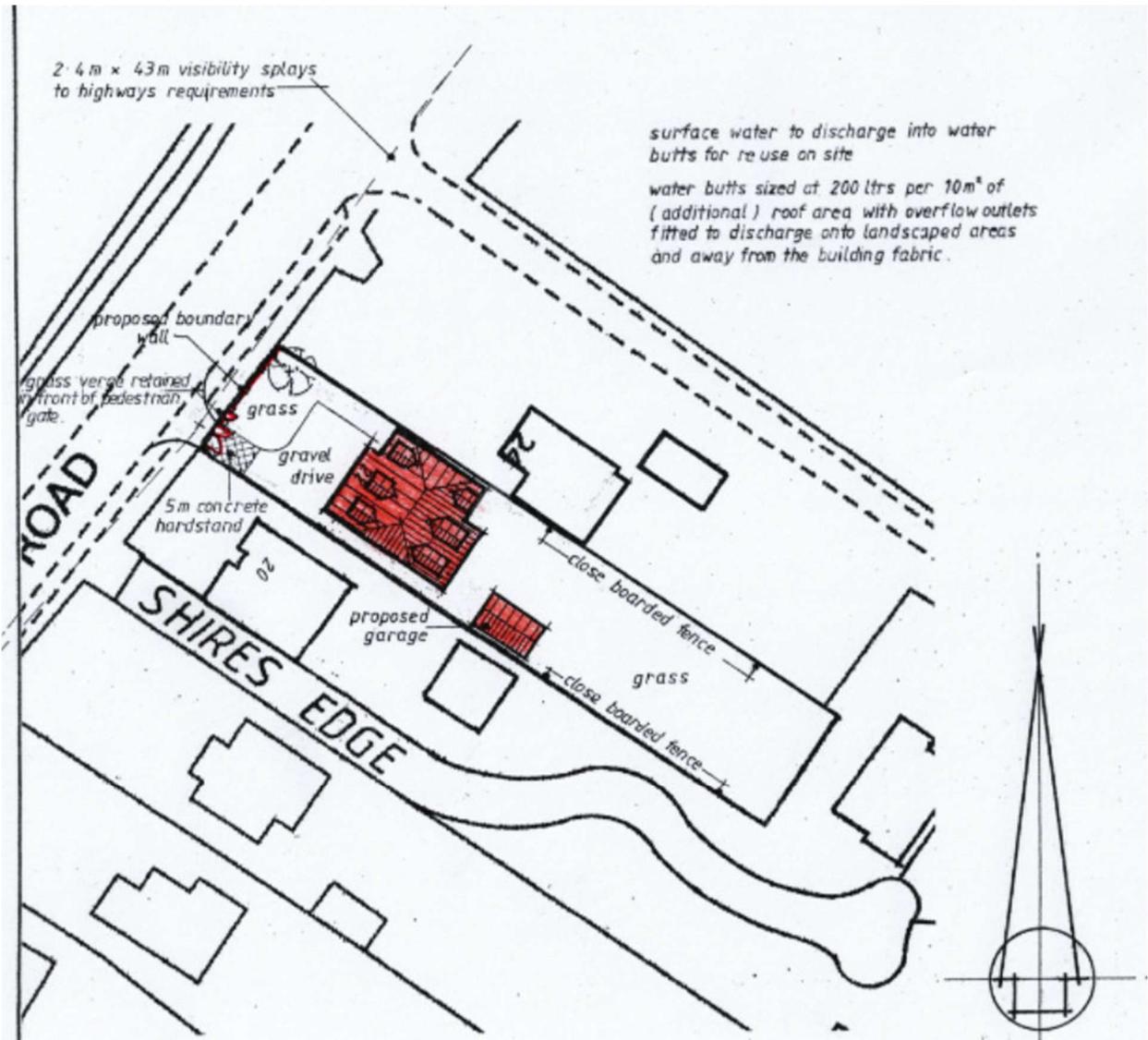
Article 31(1)(cc) Statement - Positive and Proactive Approach

In accordance with paragraph 187 of the National Planning Policy Framework, the Local Authority has worked in a positive and proactive manner with the applicant to seek solutions to problems arising, by requesting amended plans though negotiations were not successful.

DM/0015/26/FULA – 22 SOUTH MARSH ROAD, STALLINGBOROUGH



DM/0015/26/FULA – 22 SOUTH MARSH ROAD, STALLINGBOROUGH



PLANNING COMMITTEE - 25th March 2026

ITEM: 6 **RECOMMENDATION: Refused**

APPLICATION No: DM/0617/25/CEA

APPLICATION TYPE: Cert of Lawful Use/Operation - Proposed

APPLICATION SITE: 323 Wellington Street, Grimsby, North East Lincolnshire, DN32 7JU

PROPOSAL: Certificate of Lawfulness for a Proposed Use as a 5 bed house in multiple occupation (HMO) for up to 6 people

APPLICANT:

Subhajit Sengupta
97 Parkhall Road
Walsall
WS5 3HS

AGENT:

Ms Cerys Atchison
Planning by Design
167-169 Great Portland Street
London
W1W 5PF

DEPOSITED: 17th July 2025

ACCEPTED: 17th July 2025

TARGET DATE: 11th September 2025

PUBLICITY EXPIRY: 14th August 2025

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY: 14th August 2025

CASE OFFICER: Mark Danforth

PROPOSAL

The application is for the 'proposed use of a small (5-bedroom) HMO (C4). The applicant is seeking a certificate of lawfulness stating that a proposed change of the use of 323 Wellington Street to use as an HMO would be lawful as permitted development.

The proposal has been called in by ward councillors' Cllr Aisthorpe and Cllr Beasant.

SITE

Number 323 Wellington Street is a mid-terraced residential property located in Grimsby. This is an established urban neighbourhood situated to the east of Grimsby town centre.

RELEVANT PLANNING HISTORY

No relevant history.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Legal Officer - see report.

Cllr Aisthorpe and Cllr Beasant have called in the application citing parking, anti-social behaviour and negative impact on the streetscene by wheelie bins being left on the street as their reasons for the referral.

APPRAISAL

Considerations

1. Type of application
2. Applicants case
3. Proposed use

1. Type of application

The application is for a certificate of lawful use and is determined entirely on factual evidence, about the history and planning status of the building or other land, and the interpretation of any relevant planning law or judicial authority.

The National Planning Guidance Note states: "Lawful Development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. The grant of a certificate applies only to the lawfulness of development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as The Building Regulations 2010, or the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) or other licensing or permitting schemes" (Planning Policy Guidance, 2014).

Applicants Case;

In this instance the proposed use is for a small (C4) HMO up to 6 people. The applicant considers three main points in relation to the proposal.

1. The Property has been in continuous use as a single dwellinghouse falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) up to the present date.
2. To the best of his knowledge and belief, at no time during this period has the Property been used for any other planning use class, including use as a House in Multiple Occupation (C4), sui generis HMO, commercial, or mixed use.
3. The Property has been occupied as a single household and used for normal residential purposes throughout this time therefore its lawful baseline use prior to seeking planning permission for change of use to Class C4.

Proposed Use;

The application is based on permitted development rights under Class L, Part 3, Schedule 2 of the GPDO 2015, which allows a change of use from a C3 dwelling house to a C4 HMO. Under the Use Classes Order, a C4 is defined as a use of a dwellinghouse as a house in multiple occupation by not more than 6 residents. Apart from the following exceptions, the UCO uses the same definition as s254 of the Housing Act 2004.

The application itself is for the 'proposed use of the site as a small (4-bedroom) HMO (C4). The TCPA and DMO require the applicant to provide information to satisfy the Local Planning Authority (LPA) that the use would be lawful and such evidence verifying the information as the applicant can provide. The burden of proof is on the applicant to satisfy the LPA, on the balance of probabilities, that the proposed use would be lawful.

The Council consider that the applicant hasn't provided sufficient evidence to prove that 323 Wellington Street has been used as a dwellinghouse. Advice has been sought from the Council's Legal Officer.

The applicant/agent has been requested to provide evidence that the property has been used as a dwelling house. The permitted development rights are for a change of use so

evidence of the previous use must be provided, unless the Council's records clearly show that the house was used as a dwelling house, which is not clear.

The Council require evidence in the form of a statutory declaration from someone who has first-hand knowledge of the use of the house, and can provide evidence of whether the house is currently used as a dwelling house, or when it was last used as a dwelling house, the length of the dwelling house use, the arrangement of such use, the occupants of the house and any corroborating documents that the applicant is minded to provide.

The applicant has provided no specific written evidence to verify the current status of the property as a dwelling from anyone other than himself. This evidence cannot therefore be relied upon to be certain of granting a certificate of lawful use as future HMO accommodation.

Having regard to the above there is no alternative from the limited information that has been provided, but to refuse the application for the proposed use as an HMO.

CONCLUSION

The development fails to comply with Schedule 2, Part 3, Class L(b) of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the change of use of the building would not be lawful based on the fact that sufficient evidence has not been provided by the applicant to satisfy the Local Planning Authority, that on the balance of probabilities, the proposed use would be lawful.

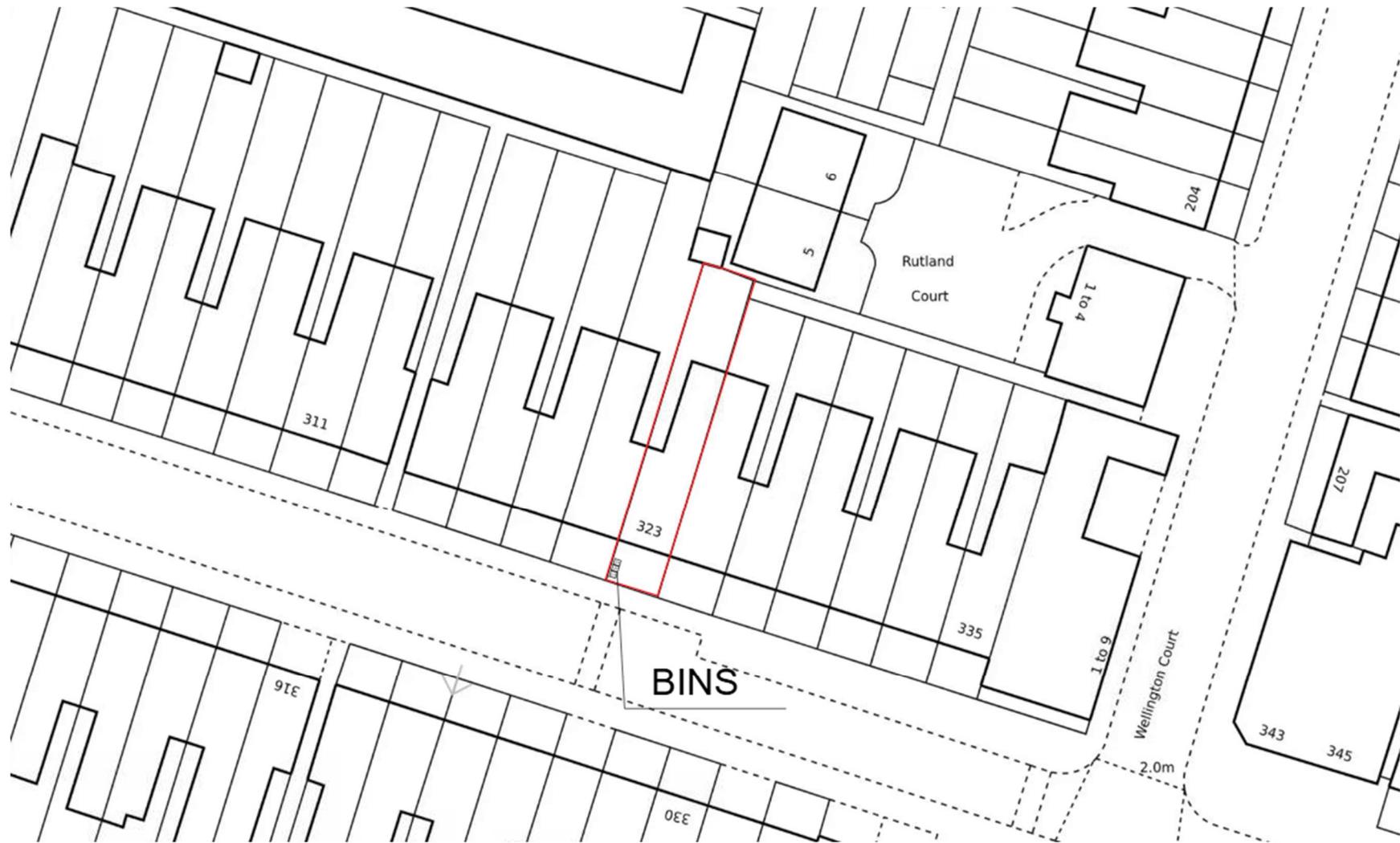
RECOMMENDATION

Refused

DM/0617/25/CEA – 323 WELLINGTON STREET, GRIMSBY



DM/0617/25/CEA – 323 WELLINGTON STREET, GRIMSBY



PLANNING COMMITTEE - 25th March 2026

ITEM: 7 **RECOMMENDATION: Refused**

APPLICATION No: DM/0679/25/CEA

APPLICATION TYPE: Cert of Lawful Use/Operation - Proposed

APPLICATION SITE: 203 Stanley Street, Grimsby, North East Lincolnshire, DN32 7LH

PROPOSAL: Certificate of Lawfulness for a Proposed Use as a 4 bed house in multiple occupation (HMO) for up to 6 people with alterations

APPLICANT:

Mr Subhajit Sengupta
97 Parkhill Road
Walsall
WS5 3HS

AGENT:

Ms Cerys Atchison
Planning by Design
167-169 Great Portland Street
London
W1W 5PF

DEPOSITED: 31st July 2025

ACCEPTED: 7th August 2025

TARGET DATE: 2nd October 2025

PUBLICITY EXPIRY: 1st September 2025

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY: 1st September 2025

CASE OFFICER: Mark Danforth

PROPOSAL

The proposal seeks a Certificate of Lawfulness for a proposed use as a 4 bed house in multiple occupation (HMO) for up to 6 people with alterations at 203 Stanley Street, Grimsby.

The proposal has been called in by Ward councillors' Cllr Aisthorpe and Cllr Beasant.

SITE

203 Stanley Street is a mid-terraced residential property located in Grimsby. The site is within an established urban neighbourhood situated to the east of Grimsby town centre.

RELEVANT PLANNING HISTORY

No relevant planning history.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Legal advice provided see report.

Cllr Aisthorpe and Cllr Beasant have called in the application citing parking, anti-social behaviour and negative impact on the streetscene as their reasons for the referral.

APPRAISAL

Considerations

1. Type of application
2. Applicants case
3. Proposed use

1. Type of application

The application is for a certificate of lawful use and is determined entirely on factual evidence, about the history and planning status of the building or other land, and the interpretation of any relevant planning law or judicial authority.

The National Planning Guidance Note states: "Lawful Development is development

against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. The grant of a certificate applies only to the lawfulness of development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as The Building Regulations 2010, or the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) or other licensing or permitting schemes" (Planning Policy Guidance, 2014).

Applicants Case;

In this instance the proposed use is for a small (C4) HMO up to 6 people. The applicant considers three main points in relation to the proposal.

1. The Property has been in continuous use as a single dwellinghouse falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) up to the present date.
2. To the best of his knowledge and belief, at no time during this period has the Property been used for any other planning use class, including use as a House in Multiple Occupation (C4), sui generis HMO, commercial, or mixed use.
3. The Property has been occupied as a single household and used for normal residential purposes throughout this time therefore its lawful baseline use prior to seeking planning permission for change of use to Class C4.

Proposed Use;

The application is based on permitted development rights under Class L, Part 3, Schedule 2 of the GPDO 2015, which allows a change of use from a C3 dwelling house to a C4 HMO. Under the Use Classes Order, a C4 is defined as a use of a dwellinghouse as a house in multiple occupation by not more than 6 residents. Apart from the following exceptions, the UCO uses the same definition as s254 of the Housing Act 2004.

The application itself is for the 'proposed use of the site as a small (4-bedroom) HMO (C4). The TCPA and DMO require the applicant to provide information to satisfy the Local Planning Authority (LPA) that the use would be lawful and such evidence verifying the information as the applicant can provide. The burden of proof is on the applicant to satisfy the LPA, on the balance of probabilities, that the proposed use would be lawful.

The Council consider that the applicant hasn't provided sufficient evidence to prove that 203 Stanley Street has been used as a dwellinghouse. Advice has been sought from the Council's Legal Officer.

The applicant/agent has been requested to provide evidence that the property has been used as a dwelling house. The permitted development rights are for a change of use so evidence of the previous use must be provided, unless the Council's records clearly show that the house was used as a dwelling house, which is not clear.

The Council require evidence in the form of a statutory declaration from someone who has first-hand knowledge of the use of the house, and can provide evidence of whether the house is currently used as a dwelling house, or when it was last used as a dwelling house, the length of the dwelling house use, the arrangement of such use, the occupants of the house and any corroborating documents that the applicant is minded to provide.

The applicant has provided no specific written evidence to verify the current status of the property as a dwelling from anyone other than himself. This evidence cannot therefore be relied upon to be certain of granting a certificate of lawful use as future HMO accommodation.

Having regard to the above there is no alternative from the limited information that has been provided, but to refuse the application for the proposed use as an HMO.

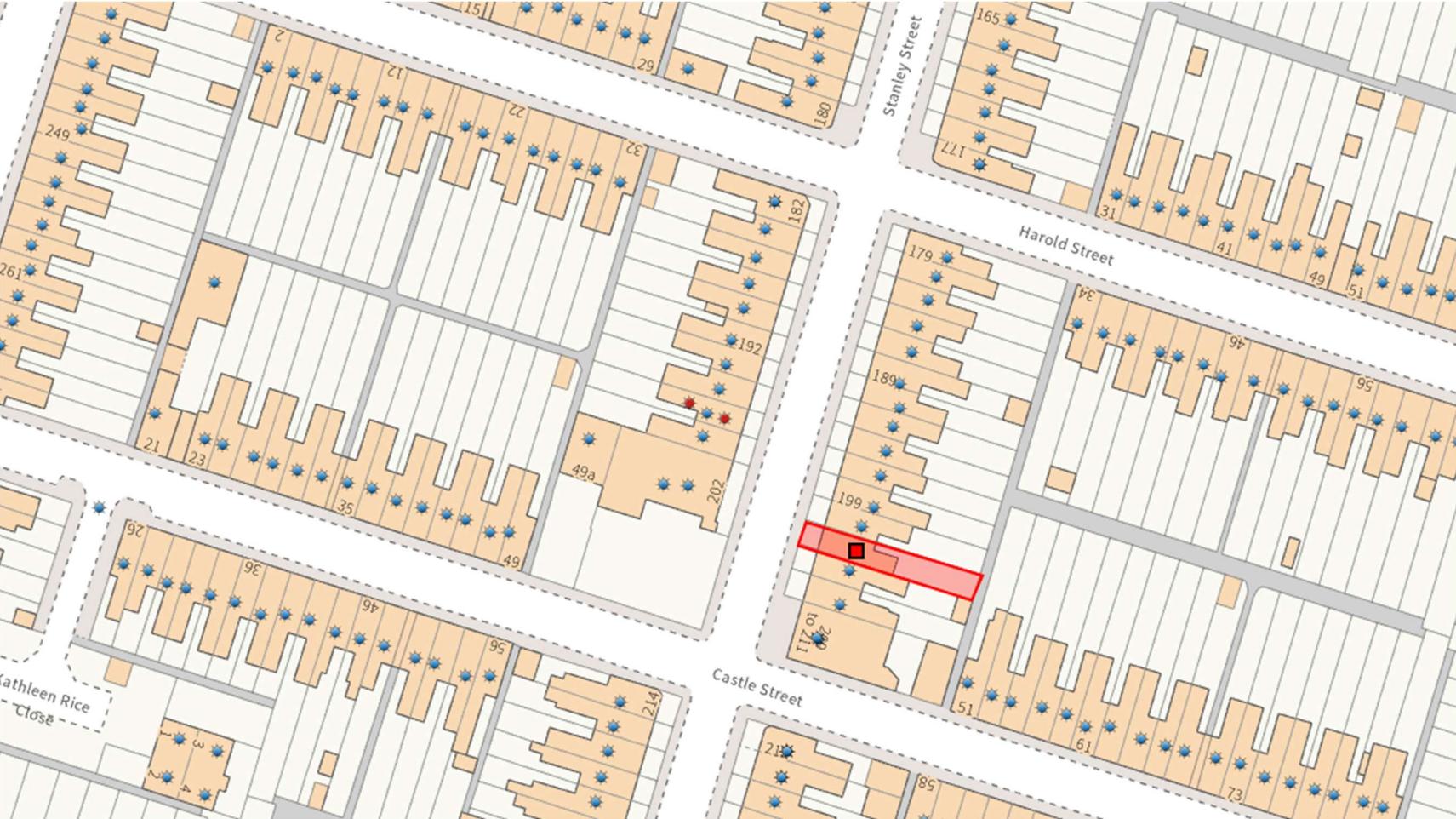
CONCLUSION

The development fails to comply with Schedule 2, Part 3, Class L(b) of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) as the change of use of the building would not be lawful based on the fact that sufficient evidence has not been provided by the applicant to satisfy the Local Planning Authority, that on the balance of probabilities, the proposed use would be lawful.

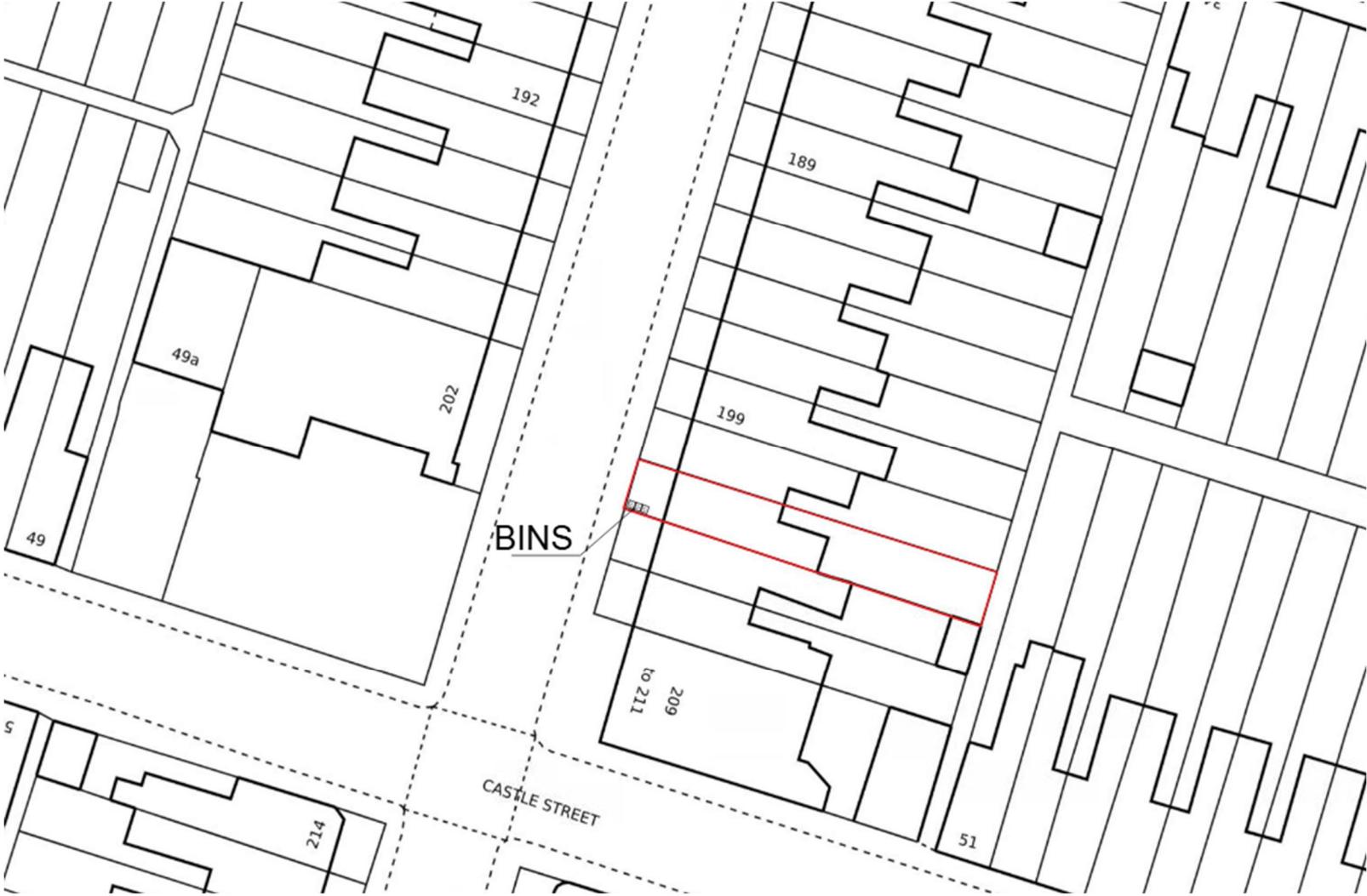
RECOMMENDATION

Refused

DM/0679/25/CEA – 203 STANLEY STREET, GRIMSBY



DM/0679/25/CEA – 203 STANLEY STREET, GRIMSBY



PLANNING COMMITTEE - 25th March 2026

ITEM: 8 **RECOMMENDATION: Conditions Complied With**

APPLICATION No: DM/0385/25/CND

APPLICATION TYPE: Discharge Condition

APPLICATION SITE: Summerfields, Louth Road, Waltham, North East Lincolnshire, DN36 4RY

PROPOSAL: Details in Discharge of Condition 11 (Dog Park Management Plan) pursuant to Appeal APP/B2002/W/24/3352579 (Our Ref: AP/018/24) of DM/0220/24/FUL (AMENDED MANAGEMENT PLAN REC 02-JAN-2026)

APPLICANT:

Mrs Nicola North
In The Dog House
Summerfields
Louth Road
Waltham
North East Lincolnshire
DN36 4RY

AGENT:

DEPOSITED: 7th May 2025

ACCEPTED: 7th May 2025

TARGET DATE: 2nd July 2025

PUBLICITY EXPIRY: 19th February 2026

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY: 8th June 2025

CASE OFFICER: Lauren Birkwood

PROPOSAL

The application seeks to discharge condition 11 (Dog Park Management Plan) pursuant to Appeal APP/B2002/W/24/3352579 (Our Ref: AP/018/24) of DM/0220/24/FUL.

The application is brought to committee due to the number of objections received.

SITE

The site is located to the west of Louth Road positioned along a private access road. The road allows for access to three other dwellings and an existing farmyard. Waltham House

Residential Home also has a pedestrian access to this area.

The site has been operating for some time with the garden areas utilised for both domestic and commercial, separated by an existing timber fence to separate the two. The western land is the dog park. The grooming and breeding elements are contained within the footprint of the house.

RELEVANT PLANNING HISTORY

DM/0220/24/FUL - Retrospective change of use to create a mixed use site consisting of residential, dog grooming, dog breeding, dog day care, dog boarding and a dog park within an existing paddock - Refused with Appeal Allowed in Part 7th March 2025.

The application was allowed insofar as the dog breeding, dog grooming and dog park were concerned and dismissed in regards to the dog day care and dog boarding.

DM/1051/22/FUL - Retrospective change of use to create a mixed use site consisting of residential, dog grooming, dog breeding, dog day care, dog boarding and a dog fun park within an existing paddock (Noise Impact Assessment received 5th April 2023) - Withdrawn.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Environmental Health Officer - No objections.

Council's Highways Officer - No objections.

Neighbour Representations

The following neighbours object:

The Lodge Waltham Farm House, Louth Road, New Waltham
Pine Lodge, Louth Road, New Waltham
Waltham House Care Home, Louth Road, New Waltham
Westfield House, Raithby, Louth

On the following grounds:

- Noise Issues
- Traffic and parking issues
- Security issues
- Management issues
- Waste management concerns
- Enforcement issues

27A Parker Street, Cleethorpes - Commented providing observations regarding documentation listed on a neutral basis.

APPRAISAL

The application seeks to discharge condition 11 (Dog Park Management Plan) pursuant to Appeal APP/B2002/W/24/3352579 of DM/0220/24/FUL.

Condition 11 - Dog Park Management Plan

Application DM/0220/24/FUL was refused on the 14th June 2024 and an appeal was lodged with the Planning Inspectorate on the 29th October 2024. This was determined and allowed in part on the 7th March 2025 with a list of conditions. Particularly, condition 11 of the appeal decision requested management details of the dog park including details of staggered booking times, customer parking, waste disposal, terms, conditions and rules to be displayed on site and on any online website/booking site, details of how the owners will monitor and enforce its own rules, and details of how the owners will deal with any complaints relating to the use of the dog park, including complaints relating to dog park customers parking in the wrong place.

Significant consultation has been undertaken with the Council's Environmental Health Officer and the applicant to provide the above details in the form of a Management Plan. On the 2nd January 2026, a final Management Plan which included all relevant details was provided and reviewed by the Council's Environmental Health Officer. They have concluded the information provided is now sufficient to discharge condition 11 and addresses the matters outlined in the condition.

The information regarding customer parking was reviewed by the Council's Highways

Officer and they are also content for condition 11 to be discharged.

The comments received by neighbouring properties are noted with concerns relating to noise, traffic and parking, security, waste management and overall management issues. It is considered the final management plan sufficiently addresses matters raised. However, any matters relating to the site which are not directly linked to the management plan will require consideration through the relevant channels and are separate to this application.

CONCLUSION

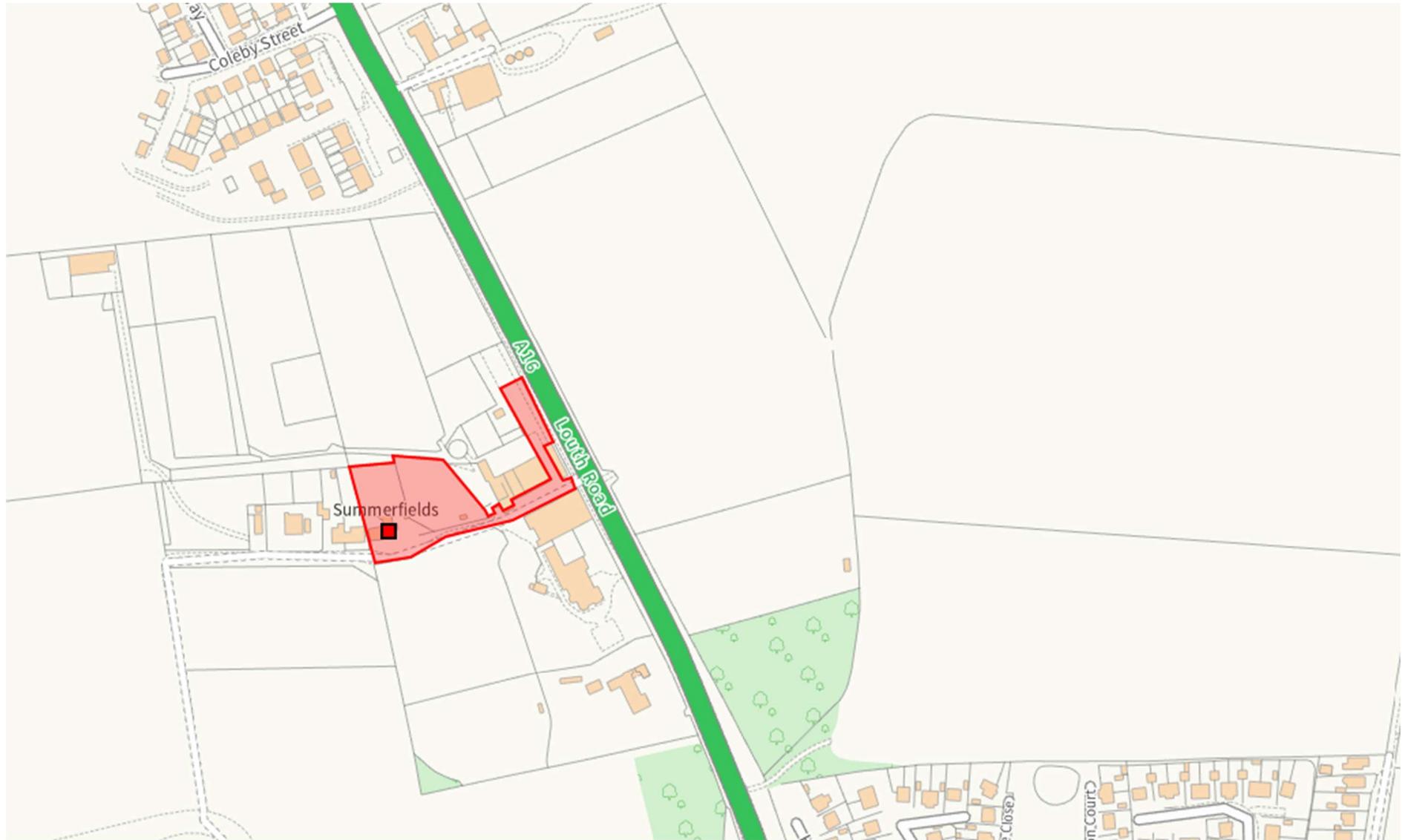
Pursuant to the Town and Country Planning Act 1990 (as amended), I hereby confirm the details are sufficient to discharge condition 11 (Dog Park Management Plan) pursuant to Appeal APP/B2002/W/24/3352579 of DM/0220/24/FUL subject to adherence at all times to the following approved document:

Management Plan - Received 2nd January 2026

RECOMMENDATION

Conditions Complied With

DM/0385/25/CND – SUMMERFIELDS, LOUTH ROAD, WALTHAM



DM/0385/25/CND – SUMMERFIELDS, LOUTH ROAD, WALTHAM

