

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 29 April 2021

(Author: Richard Fidler - Development Manager)

Purpose: To consider Planning Application H03-0161-17

Application Number: H03-0161-17

Date Received: 17 February 2017

Application Type: OUTLINE

Description: Outline planning application with all matters reserved - Erection of up to 120 dwellings and a village hall and ancillary development

Location: Home Farm Deeping St Nicholas Spalding

Applicant: Ray Turner Partnership

Agent: Waller Planning

Ward: Crowland and Deeping

Ward Councillors: Cllr B Alcock
Cllr J R Astill
Cllr N H Pepper

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H03-0161-17>

1.0 REASON FOR COMMITTEE CONSIDERATION

- 1.1 Significant development, previous Planning Committee resolution plus proposed Section 106 contributions and policy issues raised merit Committee consideration.

2.0 PROPOSAL

- 2.1 This application seeks outline planning permission with all matters reserved for up to 120 dwellings and a village hall together with ancillary development on land at Home Farm, Deeping St Nicholas. The application was amended to revert to the current proposal in March 2020. The indicative layout is similar, as when the application was previously considered by the Planning Committee in January 2018. This indicates the access to the site from Littleworth Drove, with the village hall fronting the road and dwellings located outside the highest area of flood risk. Subsequently, a revised Flood Risk Assessment and a viability assessment have been received.
- 2.2 This application has previously taken a number of different forms which are set out below:
- 2.3 The application as originally submitted in February 2017 included an illustrative layout of 135 new dwellings, which was amended to 120 dwellings, (mixture of house types), the application originally included a village hall and open space provision embedded within the development.
- 2.4 It should be noted that the application was reported to the Planning Committee in January 2018 where it received a Resolution to Grant subject to the completion of a Section 106 Agreement to secure the contributions which included the on-site Village Hall. A copy of that Committee report

is included as Appendix B to this report.

2.5 However, instead of the Section 106 being completed and the permission issued, the developer sought to make amendments to the scheme. The application was amended to 125 dwellings with no village hall on-site. A separate application for a new village hall H03-1262-18 on Land off St Nicholas Way, Deeping St Nicholas was submitted in December 2018 and remains undetermined. This application has received a number of objections from local residents. Further the Council received legal advice that a decision to approve the village hall on this site in lieu of obligations on the Home Farm site would be at significant risk of a successful Judicial Review challenge.

2.6 The applicant has subsequently reverted to the provision of the village hall onsite with up to 120 dwellings. In the agent's supporting letter he states that the applicant would be willing to enter into a Section 106 agreement that the village hall be delivered prior to 50% of the dwellings being completed with ownership transferred to the Parish Council, if required.

3.0 SITE DESCRIPTION

3.1 The frontage of the site is located within the settlement limits of Deeping St Nicholas as outlined in the adopted South East Lincolnshire Local Plan (SELLP) March 2019, with the remaining area outside.

3.2 Home Farm is located and can be accessed off Littleworth Drove and comprises of large agricultural buildings, ancillary buildings, concrete hardstanding and agricultural land to the south east.

3.3 The site has an area of 4.4ha. Overall the topography of the site is largely flat and there are no other features of note. A group of dwellings exist to the north west and beyond the western boundary. Further agricultural fields exist beyond to the north, south and east.

3.4 The site is partially within high risk flood zone areas (Flood Zone 3), although the houses indicated on the illustrative layout are sited outside the high risk areas.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 1 - Spatial Strategy
Policy 2 - Development Management
Policy 3 - Design of New Development
Policy 4 - Approach to Flood Risk
Policy 5 - Meeting Physical Infrastructure Needs
Policy 6 - Developer Contributions
Policy 10 - Meeting Assessed Housing Requirements
Policy 11 - Distribution of New Housing
Policy 17 - Providing a Mix of Housing
Policy 18 - Affordable Housing
Policy 19 - Rural Exception Sites
Policy 20 - The Natural Environment
Policy 29 - The Historic Environment
Policy 30 - Pollution
Policy 32 - Community, Health and Well-being
Policy 33 - Delivering a more sustainable transport network
Policy 36 - Vehicle and Cycle Parking
Appendix 6 - Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2019

Section 2 - Achieving sustainable development
Section 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment
Section 16 - Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 This application, in its original form, has previously been presented to Committee in January 2018 where a resolution to grant subject to Section 106 contributions was agreed.

6.0 REPRESENTATIONS

- 6.1 A full re-consultation with local residents and consultees was undertaken and the following representations were received. (The original representations are included in the January 2018 Planning Committee report at Appendix B).

6.2 SHDC Strategic Housing

Should the development be permitted the current policy requires 25% of the development to be provided as affordable housing to meet district wide housing needs. The affordable housing should be delivered in accordance with the affordable housing as described in Annex 2 of the National Planning Policy Framework dated February 2019, or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede this.

The affordable contribution should be provided with a tenure split of 70% in favour of Rented and 30% Intermediate housing for sale dwellings. To meet needs identified within the Strategic Housing Market Assessment (2014 & 2017 update) Strategic Housing would recommend that a mix of property types and sizes are provided for the affordable housing contribution, comprising of approximately 25% as one beds, 40% as two beds, 30% as three beds and 5% as four beds.

It would be preferable for the affordable housing to be secured through a s106 agreement. The s106 agreement should include an agreed affordable housing scheme detailing the tenure split, property types and sizes, plot numbers, internal floor areas, design standards and the phasing of the affordable housing units, although appreciate the detail may not be known at outline application stage.

It would be preferable for the homes to be built to the 'Nationally Described Space Standards'. Ideally the affordable housing should be indistinguishable from the market and situated so as to enable a mixed and sustainable community.

The developer should also seek to secure a Registered Provider for the affordable dwellings at the earliest opportunity. The Strategic Housing Team can provide a list of RPs with stock in the local area should the developer require this. The RP should be prepared to enter into a Nominations Agreement with the Council to ensure that the rented homes are let to households from the Council's Housing Register.

6.3 SHDC Environmental Protection

Recommend the completion and submission of a Construction Management Plan, in respect of the proposed development.
Request that parts 2-4 of the standard land contamination condition be applied.

Aware that there is a private water supply in close proximity to this development. The original desk study concluded that there was a Low risk to controlled waters, but did not include the nearby PWS. Request that this be revised, and the conceptual model amended to include the potential for impact to the private water supply. Subsequently agreed that this matter can be dealt with in relation to a planning condition.

6.4 Environment Agency

Have reviewed the revised Flood Risk Assessment and consider that it satisfactorily addresses earlier concerns. Subject to the imposition of a condition requiring the development to be carried out in accordance with the FRA and finished floor levels within the hazard extent and Flood Zone 3 being set at a minimum of 300mm above existing ground level, withdraw the previous objection, dated 01 July 2020.

6.5 Welland & Deepings IDB

The Board's previous comments still stand but pleased to see the latest site plan within the Amended Flood Risk Assessment & Drainage Strategy (Revision C) which currently appears to observe the Board's nine metre byelaw distance.

Previous comments were:

The Board's Picks Home Farm drain runs within the southern corner of the proposed site and is afforded the protection of a 9 metre byelaw. On the submitted site plan, reference 739-19_OP-SP03, the 9 metre byelaw is being contravened with dwellings being placed almost on the brink of the drain. This should be addressed by revising the current layout to move these dwellings outside the 9 metre easement at full or reserved matters stage to prevent an objection from the Board.

As the length of Picks Home Farm drain situated within the site boundary appears to be detailed as being filled in, this will require an application to alter a watercourse being submitted to the Board in advance and agreement of technical details.

Note from the Flood Risk Assessment and Drainage Strategy that surface water will be attenuated on site via various means with a flow control device then limiting the flow to a maximum 7 litres per second. This is acceptable in principle to the Board, subject to an application for consent to discharge surface water, agreement of technical details and payment of a development contribution. The Board's development contributions have recently changed and an estimated contribution required can be supplied on request.

Any outfall into the Board's Picks Home Farm dyke should be kept as high as possible to reduce the duration of submergence during wet times.

6.6 Anglian Water

The foul drainage from this development is in the catchment of DEEPING ST NICH - WREN CL Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission.

The sewerage system at present has available capacity for these flows.

The proposed method of surface water management does not relate to Anglian Water operated assets. As such are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board.

6.7 LCC County Highways and Lead Local Flood Authority

Requests that any permission given shall include conditions.

6.8 LCC Strategic Development Officer

As the development would result in a direct impact on local schools, request a Section 106 contribution, which would be used towards a fourth classroom at Deeping St Nicholas Primary and towards an extension at The Deeping Secondary. The level of contribution sought is £605,392 (Primary - £157,870; Secondary - £373,812; Sixth Form - £73,710), although as this is an outline application a formulaic approach would be taken. Request that payment be made at the halfway stage of the development.

6.9 LCC Historic Environment

These amendments do not alter this office's previous advice that an archaeological evaluation is required, which remains outstanding as it has not been addressed by the developer. Those comments were:

Although there is no site specific information that the site does have archaeological potential. The site lies within an area of known Iron Age - Roman settlement.

Further information is required from the applicant in the form of an archaeological evaluation to be considered alongside the application. This evaluation should provide the local planning authority with sufficient information to enable it to make a reasoned decision on this planning application. The site should be assessed for its suitability for geophysical survey which should then be followed by a programme of trial trenching.

6.10 Lincolnshire Police

No objections.

6.11 NHS England

Did not respond to the latest consultation, but previously requested a contribution for the development of £53,280 (when contributions were £444 per dwelling)

NHS contributions have subsequently increased to £666 per dwelling, so for 120 dwellings contribution should be £79,920.

This is the figure that has been used in the viability assessments.

6.12 Public

Five representations received from local residents. Three objecting, one making comments and one in support.

The objections are as follows:

My concern is the impact this will have on traffic through the village, this will be greatly increased with the increase of new housing. Speeding through the village has increased dramatically and with additional traffic it is a serious accident waiting to happen. Is there any proposal for school children or mother's and toddlers to assist with crossing the road?

These concerns are more important than receiving a free village hall as an incentive to allow non required additional housing.

We have a beautiful country village let's not spoil it.

How can you suggest building 120 more houses on a main road, where nothing is done to control speeding traffic and HGV's currently. Its already dangerous getting on and off the main road in this area. Further traffic enforcement, reduced speed limit and alternative routes for HGV's would need to be addressed before adding to the congestion. Introducing more traffic entering and leaving the road, it would only be a matter of time before a serious accident. This is already an extremely busy and dangerous road.

The proposed amended flood and drainage strategy makes reference to connection to an existing man hole (3502) on Haywain Drive. The illustration equally highlights this passing across shared access driveways to the man hole for what appears to be the outlet flow for 2 properties. Am extremely concerned about the subsequent impact of the foul flow from a development of 120 properties connecting into the end of a system that currently has what appears 2 properties connected. Any issue at this point in the system presents significant risk of foul water escaping the system and entering residential property. Furthermore, there is no consideration or proposal at how the disruption of such connection work would have on those requiring access to their property. The decision making and any recommendations from Anglia water are not evidenced to have considered alternative options that do not

impact existing residents. It would appear the developer is relying on Anglia water being obliged to accept their connection without considering alternatives, impacts on existing infrastructure or residents. Surely the developer is obliged to present plans that do not impact on neighbouring properties, or at least consult and make considered proposals of how the innate disruption and damage from their proposals will be fully addressed, minimised and rectified as opposed to assuming acceptance.

Look forward to the above comments being addressed in the developers amended proposals.

Another local resident comments:

In one the of the supporting documents it mentions "a village shop within the local pub". Don't know how the 'pub' as been shut for but it hasn't been open for the 4 years that I have lived in the village. Don't think it's proximity to a closed 'pub' shouldn't be used in justification of its site within the village. Perhaps 'former pub' would have been more accurate.

In support of the application the Secretary of the Community Trust Committee, a body initially set up by Deeping St Nicholas Parish Council to enable the provision of a village hall in Deeping St Nicholas, and also of Deeping St Nicholas Village Hall, registered charity no 1184130, created to establish and run a village hall. We believe that this proposal has the potential to provide a much-needed asset for the village, in a location which meets with the approval of residents.

We have carried out a great deal of work to determine the needs of the village for a hall, as detailed in our business plan.

We also have certain aspirations for the proposed hall, including environmental, accessibility and sustainability criteria.

It was on this basis that we indicated our support to Deeping St Nicholas Parish Council for the Home Farm proposal, and our support for this proposal is conditional on this involvement. We therefore seek reassurance that committee members will be fully involved with the design and specification of the hall.

7.0 MATERIAL CONSIDERATIONS

7.1 The key material issues for consideration in this application are:

- Principle/Policy;
- The impact of the development upon residential amenity;
- Highway and Access;
- Flood Risk and drainage.
- The provision of contributions including the Village Hall and viability.
- Other matters.

7.2 Principle/Policy

7.3 There is a key difference from when the application was previously considered by the Planning Committee in January 2018 and that is the adoption of the South East Lincolnshire Local Plan in March 2019. The site is located partly inside of the defined settlement limits of Deeping St Nicholas as outlined in the South East Lincolnshire Local Plan 2019. The remainder of the site is located outside of the settlement boundary and is, therefore, classed as being in the countryside.

7.4 Policy 1 Spatial Strategy of the SELLP ranks settlements deemed to be the most sustainable in descending order. Deeping St Nicholas is a Minor Service Centre where within the settlement boundaries development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or help meet the service needs of other local communities. Development will normally be limited to allocated and committed sites and infill.

7.5 It also states that development in the countryside will only be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

7.6 The original Committee resolution to approve was taken well before the South East Lincolnshire Local Plan was adopted and before the 5 Year Housing Land Supply was declared. The latest

available Housing Land Supply from March 2020 is 9.1 years.

- 7.7 The application for the dwellings was first presented to Planning Committee in January 2018 and at that time the Council did not have an up to date Local Plan or a 5 Year Housing Land Supply and it was clearly at that time a site the Council could support under the National Planning Policy Framework guidance at that time (para 49).
- 7.8 In terms of the 3 dimensions of sustainable development referenced in the policy wording, the below points are considered pertinent:
- An economic role:
The development may support the local economy through employment opportunities associated with construction and future occupants may work locally and support local services.
 - A social role:
The provision of a village hall would support the community of Deeping St Nicholas by providing a needed local facility which would provide an accessible service and support the communities' well-being. The proposal would make a contribution towards housing supply (including affordable housing) in the district. Open space would be provided within the development which will contribute to health and well-being.
 - An environmental role:
It would remove large agricultural buildings and agricultural activity close to residential properties. Flood risk is also an environmental consideration. This matter is discussed in further detail later in the report, but for the purposes of this particular section the proposal satisfies the flood risk sequential test as the development through the provision of the village hall would provide wider sustainability benefits to the community and be safe for its lifetime.
- 7.9 Policy 1 allows for development within the settlement boundaries of Minor Service Centres, such as Deeping St Nicholas "that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities". It is considered the proposed development would meet this requirement, providing housing and a valuable community facility. Policy 1 also allows for the provision of development outside settlement boundaries "that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits". The proposed housing would enable the provision of a valuable community facility, as well as meeting a need for new homes. It is considered that the proposed development would meet this requirement. As such, the proposals would comply with Policy 1, and there would be no conflict in principle with the development plan.
- 7.10 The impact of the development upon residential amenity
- 7.11 As the proposal is in outline form only, the layout of the plots and scale of the development illustrated on the plan is considered acceptable in principle with all matters reserved. Actual details of design, house types, landscaping and appearance are yet to be confirmed and formally considered by the Local Planning Authority.
- 7.12 The number of units proposed would result in a development of approximately 27 dwellings to the hectare. This is considered to be appropriate for this location. It is felt that the proposal is of relatively low density which reflects the character of the surrounding area. This will allow for amenity and outlook to be well preserved for both the new development and the existing.
- 7.13 The proposed development is well located despite falling just outside defined settlement limits, and is not considered to result in an unacceptable impact upon the residential amenity and landscape character of the area.
- 7.14 The illustrative layout demonstrates that the development can comfortably accommodate 120 dwellings without interfering with the outlook and privacy of residents at Hay Barn Road and Haywain Drive. There is a significant gap of open land between the existing and proposed development with one way in and out from Littleworth Drove.

- 7.15 Concerns relating to the pressure and strain of existing infrastructure (utilities, services and facilities) are noted. However, developer contributions towards building the capacity of local services would be expected to be delivered through a S106 Agreement.
- 7.16 With regard to foul capacity Anglian Water do not object but point out there is currently insufficient capacity but they would be obligated to accept the flows and would address this.
- 7.17 Highway and Access
- 7.18 Resident concerns regarding Highway safety, access to and from the site has been raised. The County Highways Authority recommends that permission be granted subject to preoccupation conditions relating to the completion of carriageways and footways, junctions with the main road, as well as the submission of a comprehensive surface water drainage scheme.
- 7.19 The Highways Authority have raised no concerns regarding the proposed access or safety issues associated with this development.
- 7.20 Flood Risk and Drainage (foul and surface water)
- 7.21 The National Planning Policy Framework (2019) (Section 14) requires the application of the Sequential Test to steer new development to areas with the lowest probability of flooding. If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate. Furthermore, Part 1 of Policy 4 of the Local Plan requires it to be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed).
- 7.22 The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding. As such, the document outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology it is possible to use the information to steer development towards the areas of lower flood risks as advised within Section 14 of the NPPF.
- 7.23 The Local Plan has allocated sequentially preferable sites in terms of flood risk that are capable of meeting the identified housing targets for individual settlements. Although the application site is not a housing allocation within the Local Plan, the site does partially lie within the settlement boundary for Deeping St Nicholas. In general, there is a presumption in favour of sustainable development within settlement boundaries and windfall sites are expected to have a contribution towards housing supply (and maintaining the 5-year supply of deliverable sites) in the district. As such, one could argue that, should the site be acceptable in all regards, and if the Exceptions Test is successfully passed, that the site is acceptable in flood risk terms, notwithstanding the fact that there are sequentially preferable allocated sites in the adopted Local Plan.
- 7.24 In order for the Exceptions Test to be passed, it must be demonstrated that the proposed development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.
- 7.25 With regard to the above, the development would provide some wider sustainability benefits to the community through the provision of a community building, a contribution towards housing supply, and other benefits including generating employment during the construction period. It would also remove a potentially conflicting agricultural use from a residential area.
- 7.26 A Flood Risk Assessment and Drainage Strategy was submitted with the application.
- 7.27 The proposed development will introduce impermeable areas in the form of buildings and roads.

This will result in an increase in surface water runoff. In order to ensure the increase in surface water runoff will not increase flood risk elsewhere, flow control will be used and attenuation provided to accommodate storm events up to and including the 1 in 100 year plus 40% climate change event.

- 7.28 Previous results indicate that infiltration techniques would not be viable for the discharge of surface water. Discharge of surface water to the adjacent Picks Home Farm Dyke is the most practical option. This land drain falls within the Welland and Deepings IDB area. The IDB requires discharge rates are restricted to 1.4 litres per sec/hectare.
- 7.29 The Internal Drainage Board have been consulted and accepts that the proposal meets the Board's accepted Greenfield run off rate.
- 7.30 Overall, officers consider that it has been demonstrated that the development would be safe, without increasing flood risk elsewhere, and that a positive reduction in flood risk would be achieved through the inclusion of surface water flow control and attenuation within SUDS features. The development therefore satisfies the requirements stipulated in the NPPF.
- 7.31 The recommendations made within the FRA relating to undertaking detailed drainage designs, making provision within the site layout for a 9m standoff from the existing Picks Home Farm Dyke situated at the southern end of the site, raising floor levels above surrounding ground levels and sequentially locating all dwellings outside of the flood extent and using flood resilience measures, are all workable and is not considered to result in any detrimental harm upon the residential amenity of adjacent occupiers.
- 7.32 The Environment Agency do not object on flood risk grounds.
- 7.33 It is considered that the proposal is acceptable in this regard.
- 7.34 With regard to Foul Water disposal, Anglian Water cannot identify capacity currently but have confirmed that they consider the matter is their responsibility to ensure there is capacity for all new residential developments.
- 7.35 Viability
- 7.36 Paragraph 3.7.11 of the supporting text to Policy 6 (Developer Contributions) states that:
The policy implications of this Local Plan, including those matters to be sought by developer contributions, have been subject to a Whole Plan Viability Assessment to ensure that the cost would not adversely impact upon the viability of development in South East Lincolnshire. As such, it is expected that the costs of developer contributions are factored in when land is purchased. In exceptional circumstances, where applicants state that financial viability prevents the delivery of some or all developer contributions, a financial appraisal should be submitted... Each Local Planning Authority's independent valuer will consider the assessment.
- 7.37 Furthermore, Policy 18 of the Local Plan states that:
The proportion of affordable housing that can be provided on market housing sites may vary according to the site specific considerations such as viability.

This has been the subject of ongoing discussion, which resulted in the submission of a revised appraisal from the applicant, which was subsequently independently assessed. Eventually the applicant accepted the revised CP Viability assessment that the application would be viable whilst providing the following contributions:

- Provision of 11 on-site affordable dwellings (8 affordable rent and 3 shared ownership);
- Provision of the community centre;
- Education at £605,390;
- Open space provision on the site;
- NHS at £79,920.

The applicant's latest viability appraisal is included as Appendix C with CP Viability's updated appraisal at Appendix D. Member's will note that the applicant was proposing that only 6 affordable dwellings be provided. Given this rather than put forward options for Member's to

consider it is officers' view that the package now put forward, which would deliver the village hall, policy compliant health and education financial contributions, plus 11 affordable dwellings provides an acceptable range of contributions, which would merit supporting the approval of the application.

7.38 Other Matters

7.39 Archaeology

7.40 LCC Historic Environment recommend that an archaeological evaluation be undertaken prior to the determination of the application. As has been the case on some other sites, given the costs and potential disruption of such an evaluation to agricultural activities with it is considered appropriate that the resolution to approve be subject to this evaluation being undertaken.

7.41 Ecology

7.42 An extended phase 1 habitat survey and protected bat roost survey were submitted with the original application and found that the site has low ecological value. The proposal through the drainage solution and provision of open space together with the provision of bird boxes would enhance the biodiversity potential of the site over the current agricultural use.

7.43 Planning Balance

7.44 There is a clear balance to be made in the consideration of this application. Only part of the site is within the settlement boundary and it is not allocated for development in the South East Lincolnshire Local Plan. The Local Plan in Policy 11 stipulates 80 dwellings for Deeping St Nicholas. There is the planning permission for Caultons Field of 66 dwellings, which is currently under construction. This would provide policy compliant 25% affordable housing, plus a health contribution, but no education contribution or contribution to community facilities. Policy 12 includes a reserve housing site at land off New Road. This has an area of 1.9 Hectares and a stated capacity of 38 dwellings. Thus the proposal does not accord with the Local Plan provisions for Deeping St Nicholas in terms of the number of dwellings proposed and outside the settlement boundary. However, balanced against this is other sustainable development needs. Paragraph 12 of the NPPF does allow Local Planning Authorities to make decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Key to this are paragraphs 83, 91 and 93 which support the development of accessible local services and community facilities, provide social interaction and that Local Planning Authorities should plan positively for the provision of community facilities to enhance the sustainability of communities and residential environments. Further it is considered that in terms of flood risk the development would pass the sequential test in that the majority of the site is within Flood Zone 2 (the same as the reserved site) with dwellings outside of the hazard zone and the exception test as it would provide wider sustainability benefits to the community and be safe for its lifetime.

7.45 **Additional Considerations**

Public Sector Equality Duty

In making your decision you must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149 is only one factor that needs to be considered, and may be balance against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights.

You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

7.46 Conclusion

7.47 As set out above in the Planning Balance, the proposal does conflict with the provisions of the Local Plan, but on balance the benefits of the scheme would result in a sustainable development which would have wider community benefits which in this case are considered sufficient to outweigh other material considerations.

8.0 RECOMMENDATIONS

8.1 **That permission be granted, subject to the applicant entering into a Section 106 agreement to secure the provision of a village hall prior to completion of 50% of the dwellings and transfer to the Parish Council or other appropriate community organisation, financial contributions to health and education and the undertaking of an archaeological evaluation first being carried out to the satisfaction of LCC Historic Environment and the conditions listed in Section 9.0 of this report.**

9.0 CONDITIONS

1. Application for approval of reserved matters must be made not later than three years beginning with the date of this permission, and the development must be begun before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Geoenvironmental Report
Phase 1 Desk Study Report
Protected Species Report
70_ISP_01
Flood Risk Assessment and Drainage Strategy Revision C

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

3. No development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:
- i) the layout, scale and external appearance of the building(s) (including a schedule of external materials to be used);
 - ii) the means of access to the site; and
 - iii) the landscaping of the site (including boundary treatment).

The development shall be carried out as approved.

Reason: To meet the requirements of Section 92 of the Town and Country Planning Act 1990.

4. A detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by the Local Planning Authority before the development commences and the construction process shall be carried out in accordance with the scheme so approved. It shall also include a method statement, detailing how construction traffic, site personnel vehicles, materials deliveries and site accommodation will be managed to safeguard highway safety, free passage along Littleworth Drove and residential amenity.

Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5. Details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction of the development shall be submitted to and approved in writing by the Local Planning Authority before the development commences. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before commencement of the construction of the development and be kept available and in full working order until such time as the Local Planning Authority agrees in writing to their withdrawal or the completion of the development.

Reason: In the interests of highway safety during the construction process. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works. This Condition is imposed in accordance with Policy 3 of the South East Lincolnshire Local Plan, 2019.

6. Prior to the commencement of the first use of the development hereby permitted details of provision for the storage/parking of at least 2 bicycles for all approved dwellings shall be approved in writing by the Local Planning Authority.

Reason: To ensure that adequate secure facilities are provided for cyclists using the site. This Condition is imposed in accordance with Policy 36 of the South East Lincolnshire Local Plan, 2019.

7. Before each dwelling (or other development as specified) is occupied, the roads and footways providing access to that dwelling, for the whole of its frontage from an existing public highway, shall be constructed to a specification to enable them to be adopted as Public Highway, less the carriageway and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling (or other development as specified).

Reason: To ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development and that the roads and footways are completed within a reasonable period following completion of the dwellings. This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

8. No dwelling (or other development as specified) shall be commenced before the first 50 metres of estate road from its junction with the public highway, including visibility splays, have been completed.

Reason: To ensure construction and delivery vehicles, and the vehicles of site personnel may be parked and/or unloaded off the existing highway, in the interests of highway safety and the amenity of neighbouring residents.

This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

9. Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.

This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

10. The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority.

The scheme shall:

- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second;
- provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

No dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2019.

11. When application is made to the Local Planning Authority for approval of reserved matters, that application shall be accompanied by a scheme of landscaping and tree planting indicating, inter alia, the number, species, heights on planting and positions of all trees in respect of the land to which that application relates, together with details of post-planting maintenance and such a scheme shall require the approval of the Local Planning Authority before any development is commenced. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Note: The applicant is recommended to employ a qualified and experienced landscape designer to produce a landscaping scheme for the development.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

12. Prior to the commencement of the development hereby permitted beyond oversight, a plan illustrating all areas of publicly accessible open space shall be submitted to and approved in writing by the Local Planning Authority. The areas so approved shall be laid out and made available for use in accordance with a specification and phasing that shall first be agreed in writing by the Local Planning Authority, and shall thereafter be so maintained.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.

This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

13. A management plan for the areas of publicly accessible open space and any outdoor play areas, including management responsibilities and maintenance schedules, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted beyond oversight. The management of these areas shall be carried out in accordance with the details so approved.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.

This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

14. The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters and private water supply has been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures:
- i) if identified as being required following the completion of the desk-top study, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters and private water supply. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
 - ii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters and private water supply affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA 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 by the LPA.
 - iii) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Note

The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

The applicant's attention is also drawn to the document entitled "Developing Land Within Lincolnshire - A guide to submitting planning applications to develop land that may be contaminated", which can be obtained through the Local Environmental Health Department.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

15. The development permitted by this planning permission shall be carried out in accordance with the approved flood risk assessment (ref: 18706/FRA and DS, Rev. C) dated 02 September 2020 and the following mitigation measures detailed within the FRA:
- Finished floor levels within the hazard extent and Flood Zone 3 shall be set a minimum of 300mm above existing ground level as shown on the Preliminary Drainage Strategy drawing (ref:18706-LEBC-5-SK002)

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.

This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2019.

16. Before the commencement of the development hereby granted, details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained and to avoid pollution.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

17. Prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

18. The water consumption of each dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan, 2019). The person carrying out the work must inform the Building Control Body that this duty applies. A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.

Reason: To protect the quality and quantity of water resources available to the district.
This Condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan, 2019.

19. Details of the design and positions of all external boxes for gas and electricity supplies and of any gas flues and soil vent pipes shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and there shall be no variation from the details so approved.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the character and appearance of the development and the visual amenity of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

20. Prior to the commencement of the development hereby permitted, details of a scheme for the provision of bird and bat boxes to be installed on dwellings within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the completion of the development hereby approved, and shall thereafter be retained.

Reason: To enhance the potential for the site to be used by species such as roosting bats and nesting birds.
This Condition is imposed in accordance with Section 15 of the National Planning Policy Framework, 2019.

21. No dwelling shall be occupied until a scheme for the provision of infrastructure to ensure the availability of water supplies to the Fire Service in the event of an emergency, have been submitted to and approved in writing by the Local Planning Authority. The details as approved, including timings, shall be fully implemented before any dwelling is occupied and shall be retained thereafter.

Reason: In the interests of fire safety. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 5 of the South East Lincolnshire Local Plan, 2019.

22. Any conditions recommended by LCC Historic Environment following completion of the archaeological evaluation.

23. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.
- This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>
24. This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 dated ***** and can only be implemented as a consequence of meeting the provisions of that Agreement
25. All roads within the development hereby permitted must be constructed to an engineering standard equivalent to that of adoptable highways. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. In all cases, the developer is advised to undertake early discussions with statutory undertakers to co-ordinate the laying of utility services under the highway.

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

Appendix B 10 January 2018 Planning Committee Report

**Appendix C JLL Development Appraisal (on behalf of the applicant)
dated 9 March 2021**

**Appendix D CP Viability Ltd Development Appraisal dated 17 March
2021**

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