SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 14 November 2023**

(Author: **David Gedney - Senior Planning Officer)**

Purpose: **To consider Planning Application H11-0842-23**

Application Number:	H11-0842-23	**Date Received:**	21 September 2023
Application Type:	FULL		
Description:	Residential development comprising 48 dwellings - re-submission of H11-0994-22		
Location:	Land off Lime Walk Long Sutton Spalding		
Applicant:	PJK Magpie Close Ltd.	**Agent:**	PJK Magpie Close Ltd.
Ward:	Long Sutton	**Ward Councillors:**	Cllr A C Tennant Cllr J Tyrrell Cllr D J Wilkinson

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H11-0842-23

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application raises issues that warrant consideration by Planning Committee.

2.0 PROPOSAL

2.1 Full planning permission is sought for 48 dwellings (12 affordable), with associated infrastructure. It is a resubmission following the refusal of application H11-0994-22 for residential development comprising 56 dwellings.

2.2 The development would be served by a new adoptable road off Lime Walk and not via new development (70 dwellings) to the south-west presently under construction. Some of the properties would be located off private drives. The density would be approximately 31 dwellings to the hectare as opposed to 36 in respect of the previous scheme (ref. H11-0994-22).

2.3 The proposed housing mix would be as follows:
3 x one bedroomed dwellings,
19 x two bedroomed dwellings,
23 x three bedroomed dwellings, and
3 x four bedroomed dwellings.
Total 48.

2.4 The affordable housing proposed consists of 4 no. shared ownership properties (plots 24-25 and 31-32) and 8 no. rented properties (plots 19-23 and 37-39).

3.0 SITE DESCRIPTION

3.1 The application site (circa 1.53 ha) is agricultural land situated on the eastern side of Lime Walk.

3.2 A house (Four Acres, 36 Lime Walk) is situated immediately to the north-west and frontage residential/commercial on the opposite side of Lime Walk. A scheme of 70 dwellings is currently under construction to the south-west, on the opposite side of a LCC public footpath. An estate (Anfield Road/Magpie Close) is located beyond. A play area is situated to the south-east and thereafter residential properties off John Swain's Way. Agricultural land is located to the north-east and rear (east).

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

Policy 1 - Spatial Strategy;
Policy 2 - Development Management;
Policy 3 - Design of New Development;
Policy 4 - Approach to Flood Risk;
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 28 - The Natural Environment;
Policy 30 - Pollution;
Policy 36 - Vehicle and Cycle Parking.

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.

National Guidance

National Planning Policy Framework (NPPF), 2023

Section 2 - Achieving Sustainable Development;
Section 4 - Decision Making;
Section 5 - Delivering a Sufficient Supply of Homes;
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.

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 Site

5.2 H11-0994-22 - Full - Residential development comprising 56 dwellings - Refused 9 June 2023. Appeal pending.

5.3 Neighbouring site to the south-west

5.4 H11-1264-18 - Outline - Proposed residential development (up to 70 dwellings) - Approved 7 November 2019.

5.5 H11-0552-22 - RM - Erection of 70 dwellings - outline approval H11-1264-18 - Approved 16 December 2022.

5.6 H11-0196-23 - Cond Comp - Details relating to contamination & drainage - (Conditions 6, 7 & 12 of H11-1264-18 and construction management plan (Condition 5 of H11-0552-22) - Approved 4 August 2023.

5.7 H11-0383-23 - S73 - Proposed Residential Development - up to 70 dwellings - approved under H11-1264-18. Modification of Condition 11 to allow for a temporary access road into the site for construction traffic & deliveries rather than only the first 60 metres of estate road to be constructed before any dwelling is commenced - Awaiting completion of Deed of Variation.

5.8 H11-0563-23 - Modified Agreement - Modification of 106 Agreement relating to Affordable Housing (planning approval H11-1264-18) - Under consideration.

6.0 REPRESENTATIONS

6.1 Long Sutton Parish Council

Re-iterate previous objections relating to this and other recent applications in relation to overdevelopment. No improvements in local infrastructure, lack of school places, lack of doctors appointments, no investment in sewerage, no financial benefit to the community, no access to S106 funding, loss of agricultural land, traffic increases on busy road. Request for a review of CIL funding.

6.2 Local Highway and Lead Local Flood Authority

The proposed road layout for this development is acceptable in highway terms. The principle of a junction into this site, directly from Lime Walk, is also acceptable in highway terms. It is noted that the submitted layout does not include any vehicular connection between the proposed development and the Consented residential development on the land immediately to the south - even though a spur into this Application Site has been included on the adjacent development. Whilst it would be the preference of the highway authority for this vehicular connection to be included within the layout, its omission is not considered to be sufficient cause for withholding the grant of Consent on highway grounds. There is a footway on the west side of Lime Walk and the vehicle activity along this road is not so frequent that it would be unsafe to cross the road between that footway and the proposed development. More use of source control SuDS features such as roadside swales would have been preferred but the drainage strategy does include an on-line balancing lagoon that would provide some conditioning of the surface water run-off before it is discharged into the IDB watercourse running along the east side of Lime Walk. It is unlikely though that the IDB would want the connection into their culvert to be a basic saddle joint under the carriageway.

The part of the submitted layout that is not acceptable to the Authority's Countryside Team is the manner in which the Long Sutton Public Footpath 6 that runs through the site is proposed to be managed.

-The current legal alignment of Long Sutton Public Footpath No. 6 will require diverting. Whilst it would make sense to divert the route onto the alignment which is currently walked by members of the public, the applicant will need to consider the whole route of the public footpath. No development should take place on site until the public footpath diversion has been completed. It would be desirable to incorporate the route into a green corridor and the use of fencing on either side of the diverted section of public footpath is to be discouraged.

-The alternative route should be surfaced in recognition that the route will be predominantly used for utility journeys. Further discussion required.

-The provision of pedestrian links from the proposed development onto the diverted footpath is to be welcomed as this will provide pedestrian access into Long Sutton. Is the route from the south-eastern corner of the site also intended to be a pedestrian link? Will the link paths be tarmacked?

-Technically the current legal alignment will need to be temporarily closed for the duration of the development.

6.3 South Holland Internal Drainage Board

Formal response awaited.

6.4 Environmental Protection

Ref. H11-0994-22 - Have reviewed the Phase I Land Contamination Assessment by Brown Fisher Environmental dated 27 June 2022. Due to the scale of the development and the previous agricultural use of the land, recommend that a Phase II investigation is carried out for site to ensure a safe development and protect end users. Therefore, request Parts ii, iii and iv of the standard contamination condition.

Response awaited in respect of the current application.

6.5 Housing Strategy

The Design and Access Statement indicates that "the affordable housing requirement will be met. Plots 24-25 and 31-32 will be provided as shared ownership properties with plots 19-23 and 37-39 as rented properties."

The scheme therefore suggests a total of 12 affordable units out of a proposal of 48 in total. The proposed 12 units meets the policy requirement of on-site provision of 25% of the total as a minimum affordable homes provision. The proposal is therefore acceptable, but the shared ownership tenure suggested must be First Homes as required by Government guidance and not shared ownership. The rented units should be affordable rent.

Should be secured by way of a S106 agreement.

6.6 NHS Lincolnshire

Request contribution of £31,680 (£660 x 48 dwellings).

6.7 LCC Education

Recommend contribution of £178,521.

6.8 Environment Agency

Recommend condition relating to finished floor levels and flood resilient construction.

6.9 Anglian Water

The foul drainage from this development is in the catchment of Sutton Bridge Water Recycling Centre that will have available capacity for these flows.

6.10 Lincolnshire Police

No objections. Recommend crime prevention measures.

This application has made use of a cul-de-sac style layout. This has been proven to help reduce crime and anti-social behaviour and enhance community cohesion. Where footpaths are deemed necessary, they should benefit from being overlooked by surrounding properties, devoid of hidden recesses, be well lit and should be at least 3m in width and straight. It is also important that the ongoing maintenance of the footpath and surrounding areas is incorporated into the future planning and overall maintenance of the development. It is preferable that footpaths are not placed to the rear of properties or provide such access, if deemed essential they should be securely gated. The gates should be placed to the front of the building line and suitably illuminated with a key operated lock from both sides of the gate.

Have some concerns regarding the inclusion and layout of the 'informal walking routes' (or Potential Footpath) indicated on the plans and ask that this is reconsidered. The path as indicated would provide unrestricted and anonymous access to the cul-de-sac.

6.11 LCC Historic Environment Officer

Previously recommended no archaeological input (ref. H11-0994-22).

6.12 Public

Objections/concerns from nearby residents (summarised):
- Overdevelopment. Exceeded number of properties originally proposed.
- Affect character of the area.
- Loss of agricultural land.
- Excessive demand on infrastructure and services (schools, doctors, dentists, etc), which are already under strain.
- Overbearing for nearby residents.
- Overshadowing.
- Lack of privacy.
- Noise, disturbance and vibration from development presently under construction.
- Increased traffic/congestion where very people concerned about speed limit.
- Parking issues.
- Drainage concerns.
- Impact on Conservation Area/wildlife.
- Footpath issues.
- Open space/play area.
- Affordable housing.
- Recommend mini roundabout at junction with Gedney Road.

7.0 CONSIDERATIONS

7.1 Planning Considerations

The main issues and considerations in this case include the following:

- Principle of Development and Sustainability.
- Layout, Design and Impact on the Character and Appearance of the Area.
- Impact on Neighbouring Residents/Land Users.
- Highway Safety and Parking.
- Flood Risk and Drainage.
- Contamination Issues.
- Ecology/Biodiversity.
- Developer Contributions.

7.2 Evaluation

7.3 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

7.4 In this case, the South East Lincolnshire Local Plan (SELLP) 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

7.5 The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

7.6 Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted. The Authority is able to demonstrate a supply of deliverable sites in excess of 5 years (6.0 years) through the latest Housing Land Supply Assessment (31 March 2023).

7.7 Principle of Development and Sustainability

7.8 The South East Lincolnshire Local Plan (SELLP) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst

protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

7.9 Policy 1 (Spatial Strategy) of the SELLP sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in terms of sustainability.

7.10 The site is inside Long Sutton Settlement Limit as defined in the SELLP. Policy 1 indicates that within the settlement boundaries of the Main Service Centres, including Long Sutton, development will be permitted 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.

7.11 Moreover, the site is allocated for housing (ref. Los008). Policy 11 of the SELLP indicates that the amount of new housing on the site should be approximately 34. However, it should be noted that explanatory text accompanying Policy 11 states that "the housing site allocations for each settlement identified by Policy 11 indicate the capacity of the sites shown on the Inset Maps. This is only a broad indication based upon 30 dwellings per hectare for sites within the Boston urban area and Spalding, and 20 dwellings per hectare for all the Main and Minor Service Centres. The settlement-specific Housing Papers will highlight those few sites where this assumed ratio of dwellings per hectare is different. The stated capacity is not necessarily a maximum or, in some cases, a minimum capacity that would be expected on each site; viability, design, constraints and the most efficient use of land in delivering new homes should be the primary considerations in meeting housing needs." Consequently, proposed allocated sites should be assessed on their own planning merits.

7.12 Having regard to the above, no objections are raised in principle to residential development upon the site, subject to other material considerations.

7.13 Policy 17 of the South East Lincolnshire Local Plan stresses that providing a mix of property types is important in meeting housing needs, as well as delivering sustainable development for the community. The proposal includes 1, 2, 3 and 4 bed properties and is satisfactory in this respect.

7.14 Layout, Design and Impact on the Character and Appearance of the Area

7.15 Section 12 of the National Planning Policy Framework (2023) specifically relates to 'Achieving well-designed places' and details that "the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

7.16 Paragraph 130, contained within section 12 of the Framework, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. It goes on to state that new development should be sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

7.17 Proposals for new development would therefore require the aforementioned considerations to be adequately assessed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

7.18 Likewise, Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019, amongst other matters, seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. Policy 2 outlines sustainable development considerations for development proposals, including in relation to size, scale, layout, density, and impact upon the amenity, trees, character and appearance of the area and the relationship to existing development and land uses. Policy 3 states that all development should create distinctive places through the use of high quality and inclusive design. Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. It requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

7.19 In summary, therefore, these policies accord with the provisions of the Framework and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

7.20 The site is located on a soft, green, rural edge of the town where it borders the countryside. It is at a transitional point where there is a substantial change in character from more urban development to the south-west to more loose knit development within the rural landscape or countryside. Development upon the site should reflect this fact.

7.21 The proposed scheme is for 48 dwellings at a density of approximately 31 dwellings per hectare. This is still high given the location of the site and far exceeds the figure of 34 dwellings for the site referred to within Policy 11 of the SELLP which, albeit notional, is based upon 20 dwellings per hectare for all the Main and Minor Service Centres. Moreover, the general layout, spacing and design of some of the properties would give it an urban appearance. Further, there is little scope for a significant landscape belt along the whole of the exposed boundaries (north-eastern in particular) to help integrate the development within the landscape and soften its impact.

7.22 The proposal would therefore cause an adverse impact to the character or appearance of the area and would be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework, 2023.

7.23 In terms of general layout and design, there are some concerns in relation to the public footpath running along the south-western boundary. The applicant has indicated that the alignment of the existing public footpath is accommodated within the layout, ensuring an adopted right of way with no gardens transecting it. That said, however, it mainly adjoins rear or side gardens with 1.8m high living screen fencing/hedging along the boundary, creating a tunnel effect and a general lack of natural surveillance from nearby properties along a significant proportion of its length, especially at the rear of plots 31-39. This would be further accentuated if future residents decided to erect 1.8m close boarded fencing instead at a subsequent date. This is contrary to advice within the Framework. Paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

7.24 A previous scheme for 56 dwellings (H11-0994-22) was refused by the Planning Committee (appeal pending) for the following reason in June 2023:

The proposed density of the development, at 56 dwellings on a site allocated for 34 dwellings, combined with the poor design and layout, results in a development that is unacceptable in terms of the visual impacts on the character and appearance of the area. The site is on the soft, green rural edge of the town and the proposals do not function well within the location, they do not create a high quality development in either design or layout, and are out of character with the rural setting of the site on the edge of the settlement.

The proposals are considered to be over-development of the site resulting in unacceptable harm to the character and appearance of the area by introducing a high density, urban style development of poor design quality.

7.25 The scheme that has now been submitted is for less dwellings than the previously refused

scheme. It also includes alterations to layout and design. However, fundamentally it is considered that the proposal does not address the clear reasons for refusal by the Committee on the previous scheme.

7.26 The proposals are therefore contrary to Policies 1 and 3 of the South East Lincolnshire Local Plan, 2019 and to the guidance within the National Planning Policy Framework, 2021 particularly Section 12 - Achieving Well-Designed Places.

7.27 Impact on Residential Amenity/Land Users

7.28 Paragraph 130 of the National Planning Policy Framework (2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

7.29 Policies 2 and 3 of the SELLP set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

7.30 Existing ground levels on the site generally vary between 2.5-2.75m aOD. The western boundary adjoining no. 36 Lime Walk varies between 2.6m and 2.87m aOD approximately. According to the submitted Drainage Strategy Plan, finished floor levels would be set between 3.40m aOD along the north-western boundary to a maximum of 3.80m aOD along the south-eastern (rear) boundary to utilise gravitational drainage. Presumably, ground levels would be 150mm below this point, similar to the development to the south, although no details appear to have been provided in this respect. The Environment Agency has recommended that finished floor levels be set no lower than 3.4m aOD for flood risk reasons.

7.31 The nearest residential property is Four Acres (No. 36 Lime Walk) to the west. The nearest houses to No. 36 are detached properties on plots 45- 48.

7.32 The details are outlined below:

7.33 Plot 45
FFL 3.40m aOD
Existing boundary ground level = 2.7m aOD
Height of FFL above existing boundary ground level = 0.7m

7.34 Plot 46
FFL 3.40m aOD
Existing boundary ground level = 2.8m aOD
Height of FFL above existing boundary ground level = 0.6m

7.35 Plot 47
FFL 3.40m aOD
Existing boundary ground level = 2.86m aOD
Height of FFL above existing boundary ground level = 0.54m

7.36 Plot 48
FFL 3.4m aOD
Existing boundary ground level = 2.87m aOD
Height of FFL above existing boundary ground level = 0.53m

7.37 As indicated above, FFLs of plots 45-48 would be in the region of 0.6m above existing ground levels at the point where the present boundary fence is located. The nearest properties to the boundary would be plots 45 and 48, which would be in the region of 9-10 metres at the mid-point, with plot 48 at an angle. Plots 45-48 are detached houses with bedroom, bathroom and landing (plots 45 and 48) windows facing Four Acres. The general relationship of the properties to No. 36 Lime Walk and the separation distances involved are such that the amenity of occupiers of No. 36 would not be materially harmed in terms of overlooking/lack of privacy,

subject to satisfactory boundary screening. This should consist of 1.8m fencing set on a 600mm retaining wall for example.

7.38 In terms of overbearing effect, the properties are positioned an acceptable distance from No. 36 Lime Walk. Concerning overshadowing, No. 36 may suffer some blockage of sunshine during the morning, especially during the winter months. However, the separation distances are such that this would not be significant and not considered to be such as to justify refusal.

7.39 Regarding noise/disturbance, No. 36 would be most affected. However, it would not be significant given that the main access point is within the north-western corner. A construction management plan is recommended to alleviate disruption to existing residents. This could be addressed by means of a condition if permission was forthcoming.

7.40 Concluding, therefore, it is considered that the proposal would not materially harm the amenity of neighbouring residents in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc, subject to mitigating conditions. The proposal therefore accords with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 on amenity grounds and is consistent with advice within the National Planning Policy Framework (2023).

7.41 Highway Safety/Parking

7.42 Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the Framework advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

7.43 In respect of highway matters, Policy 2 of the SELLP details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

7.44 Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

7.45 The current scheme includes a dedicated vehicular access from Lime Walk, rather than relying on access through the adjacent approved scheme. According to the applicant, this ensures that the scheme can be delivered and also addresses concerns raised about the quantum of development served from a single access.

7.46 The road would be constructed to adoptable standards, other than small sections of private drive where refuse collection points will be necessary. On site parking facilities are generally in accordance with the requirements of Appendix 6.

7.47 The County Highways Authority considers that the proposal is acceptable on highway safety grounds. The proposed layout is acceptable, along with the junction directly onto Lime Walk. There is a footway on the west side of Lime Walk and County Highways consider that vehicle activity along the road is not so frequent that it would be unsafe to cross the road between the footway and the proposed development.

7.48 The proposal therefore generally accords with Policies 2, 3 and 36 of the SELLP and is consistent with advice within the Framework in relation to highway safety/parking requirements.

7.49 Concerns relating to the right of way are covered above.

7.50 Flood Risk/Drainage

7.51 Section 14 of the Framework requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

7.52 Paragraph 162 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this. It is important to note, however, that the Sequential Test does not specifically mean that such sites cannot be developed, rather that sites at less risk should be developed first.

7.53 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.

7.54 Policy 4 of the South East Lincolnshire Local Plan is consistent with the above and indicates that development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

7.55 The site is within Flood Zone 3 of the Environment Agency's flood zone maps and within an area designated as "Danger for Most" within the South East Lincolnshire Strategic Flood risk Assessment. The sequential test therefore needs to be applied. In this case, however, such a test has already been undertaken because it is an allocated housing site (ref. Los008).

7.56 Applying the Flood Risk Vulnerability Classification in Table 2 of the Framework, the proposed use of the land and buildings for residential use falls within the 'More Vulnerable' uses of land. The Exceptions Test is therefore required. In this respect, there is an identified need for housing development in this location. In terms of part 2, the Environment Agency has recommended that finished floor levels be set no lower than 3.4m aOD, plus flood resilient measures. The scheme complies in this respect.

7.57 In terms of drainage, Policy 4 of the SELLP indicates that new proposals should incorporate the use of Sustainable Drainage Systems (SUDs) unless it is demonstrated that it is not technically feasible.

7.58 Regarding foul drainage, it is proposed to connect to an existing Anglian Water sewer located along Lime Walk. Anglian Water has indicated that the foul drainage from the development is in the catchment of Sutton Bridge Water Recycling Centre which has available capacity for these flows.

7.59 A SUDS scheme would be utilised to dispose of surface water in accordance with Government advice relating to a development of this scale. This includes an attenuation basin with an outfall to the frontage drain (discharge restricted to 5 l/s). According to the South Holland Internal Drainage Board, this would need to be via a new inspection chamber. It should be noted that separate drainage consent would be required from the Board for discharge of surface water to a watercourse, plus works within 9 metres of a watercourse.

7.60 Contamination

7.61 The submitted Phase I report indicates that "no evidence has been found to suggest that potentially contaminative materials are present beneath the site to deleteriously affect its development and future use. As such, no further investigation of the site is considered necessary at this stage."

7.62 Nevertheless, Environmental Protection have previously reviewed the Phase I Land

Contamination Assessment in relation to application ref. H11-0994-22 and recommended that, due to the scale of the development and the previous agricultural use of the land, a Phase II investigation should be carried out to ensure a safe development and protect end users. This could be addressed by means of a condition if permission was forthcoming.

7.63 Ecology

7.64 Policy 2 of the South East Lincolnshire Local Plan (SELLP), 2019 states that sustainable development considerations should be met in relation to such matters as impact or enhancement for areas of natural habitats. Policy 3 indicates that development proposals should, where relevant to the proposal, include the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity.

7.65 Policy 28 indicates that all development should provide an overall gain in biodiversity. The explanatory text sets out that development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species, such as, the use of bat roost boxes, green roofs or walls, and integrating nesting opportunities into buildings and green infrastructure.

7.66 Paragraph 174 of the National Planning Policy Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

7.67 The site is currently agricultural land and presently has low ecological value. There are limited opportunities to support protected and/or notable species. The application is accompanied by a Preliminary Ecological Appraisal which indicates that development of the site is likely to be inconsequential for protected species.

7.68 The proposal is also accompanied by a Biodiversity Net Gain Assessment which indicates that the proposal results in more than the 10% target of biodiversity net gain for both habitat and hedgerow units. This matter could be dealt with by means of a condition if planning permission was forthcoming.

7.69 S106 Contributions

7.70 Policy 18 of the SELLP indicates that sites such as this should include 25% as affordable housing.

7.71 The scheme therefore includes a total of 12 affordable units out of a total of 48. This meets the policy requirement of on-site provision of 25% of the total as a minimum affordable homes provision. The affordable housing proposed consists of 4 no. shared ownership properties (plots 24-25 and 31-32) and 8 no. rented properties (plots 19-23 and 37-39). However, Housing Strategy has indicated that the shared ownership tenure suggested must be First Homes as required by Government guidance and not shared ownership. The rented units should be affordable rent. This could be addressed under the terms of a S106 planning obligation if permission was forthcoming.

7.72 Education/healthcare facilities contributions are required in accordance with details below and can also be dealt with under the terms of the S106 planning obligation.

7.73 Education Contribution - Lincolnshire County Council has requested a sum of £178,521 (£153,018 Secondary and £25,503 Sixth-form).

7.74 Health Care Contribution - NHS Lincolnshire has requested £31,680 (£660 x 48 dwellings).

7.75 Other Matters

7.76 Concern has been raised about the loss of high-quality agricultural land to housing. However, the majority of land within South Holland is either Grade 1 or Grade 2. In order to deliver the

Council's required 'objectively assessed housing need,' as per the provisions of the Framework, it is inevitable that some high-grade agricultural land will be lost. Given this context, it is not considered that the loss of this amount of agricultural land in this location is an issue that would significantly and demonstrably outweigh the benefits of housing development, and thus represent a valid reason for refusal in this instance.

7.77 In terms of public open space, an integral area (0.22 ha) has been provided. Access can also be gained to a play area associated with the new development under construction to the south, plus an existing play area to the south-east off John Swain's Way via the existing public footpath. It is therefore considered that there is satisfactory provision. The Design and Access Statement also indicates that the applicant proposes to contribute £10,000 to the Parish Council for play equipment.

7.78 Planning Balance

7.79 The site is inside Long Sutton Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019 and is allocated for housing (ref. Los008). The proposal would deliver new housing within the district and there are no objections in terms of its impact upon the amenity of neighbouring residents, or on highway, flood risk, drainage, biodiversity grounds, etc, subject to conditions.

7.80 However, the proposed scheme is for 48 dwellings at a density of approximately 31 dwellings per hectare. This is still high given the location of the site and far exceeds the figure of 34 dwellings for the site referred to within Policy 11 of the SELLP which, albeit notional, is based upon 20 dwellings per hectare for all the Main and Minor Service Centres. Moreover, the general layout, spacing and design of some of the properties would give it an urban appearance. Plus, there is little scope for a significant landscape belt along exposed boundaries, the north-eastern in particular, to help integrate the development within the landscape and soften its impact.

7.81 The proposal would therefore materially harm the character and appearance of the area. Moreover, the general layout and design is such that a significant proportion of the public footpath running along the south-western boundary would have a general lack of natural surveillance from nearby properties. These concerns are of such weight as to outweigh other factors in favour of the scheme.

7.82 The scheme that has now been submitted is for less dwellings than the previously refused scheme. It also includes alterations to layout and design. However, fundamentally it is considered that the proposal does not address the clear reasons for refusal by the Committee on the previous scheme.

7.83 **Additional Considerations**

7.84 Public Sector Equality Duty

7.85 In making this decision the Authority 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.

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

7.87 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. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

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

7.89 Human Rights

7.90 In making a decision, the Authority 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. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

7.91 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 public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

7.92 **CONCLUSION**

7.93 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

7.94 For the reasons outlined above the proposal is contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and to the guidance within the National Planning Policy Framework, 2023, particularly Section 12 - Achieving Well-Designed Places.

8.0 RECOMMENDATIONS

8.1 Refuse permission for the reasons outlined within Section 9 of this report.

9.0 CONDITIONS

1. The proposed density of the development, at 48 dwellings on a site allocated for 34 dwellings, combined with its layout and design, results in an urban development that is unacceptable in terms of visual impact and its affect upon the character and appearance of the area. The site is on the soft, green, rural edge of the town and the proposal does not create a high quality development in terms of layout or design and is out of character with the rural setting of the site on the edge of the settlement.

   The proposal is therefore considered to be over-development of the site resulting in unacceptable harm to the character and appearance of the area by introducing a high density, urban style development. Moreover, the general layout is such that a significant proportion of the public footpath running along the south-western boundary would have a general lack of natural surveillance from nearby properties.

   The proposal is therefore contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and to the guidance within the National Planning Policy Framework, 2023, particularly Section 12 - Achieving Well-Designed Places. Policies 2 and 3 indicate that development which is not sustainable and is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Paragraph 130, contained within Section 12 of the Framework, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. It goes on to state that new development should be sympathetic to local character and history including the surrounding built environment and landscape setting. It also stresses that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

2. 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. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reasons for the refusal, that approval has not been possible.

   This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

3. The determined plans are:
   AS2602/1 Rev A1
   LWLS-SH-PD-LP-1000 A
   LWLS-SH-PD-SL-1001 B
   LWLS-SH-PD-SIP-1002
   LWLS-SH-PD-BLP-1004 A
   S153 01A
   S213 01
   S213 01B
   HT S301V2 01
   S303 & S319 01
   S303 & S319 02
   S305 01A
   S306 01A
   S318 & S319 01
   S318 & S319 02A
   S409 V2 01B
   S430 02
   Drainage Strategy (Ref. 12700-WMS-ZZ-XX-D-C-39201-S8-P4) dated August 2023
   Drainage Statement (Ref. 12700-WMS-ZZ-XX-T-C-39201-S8-P3) dated August 2023
   Phase 1 Land Contamination Assessment by Brown Fisher Environmental (Ref. 225773CLR) dated 27 June 2022
   Preliminary Ecological Appraisal by Arbtech dated 6 September 2023
   Biodiversity Net Gain Assessment by Arbtech dated 20 September 2023
   Pre-Development Tree Survey BS5837:2012 by Brown Fisher Environmental (Ref. 225773ARB) dated 27 June 2022
   Flood Risk Assessment by H A Architectural dated October 2022
   Planning, Design and Access Statement prepared by Barmach Ltd dated September 2023

Background papers:- Planning Application Working File

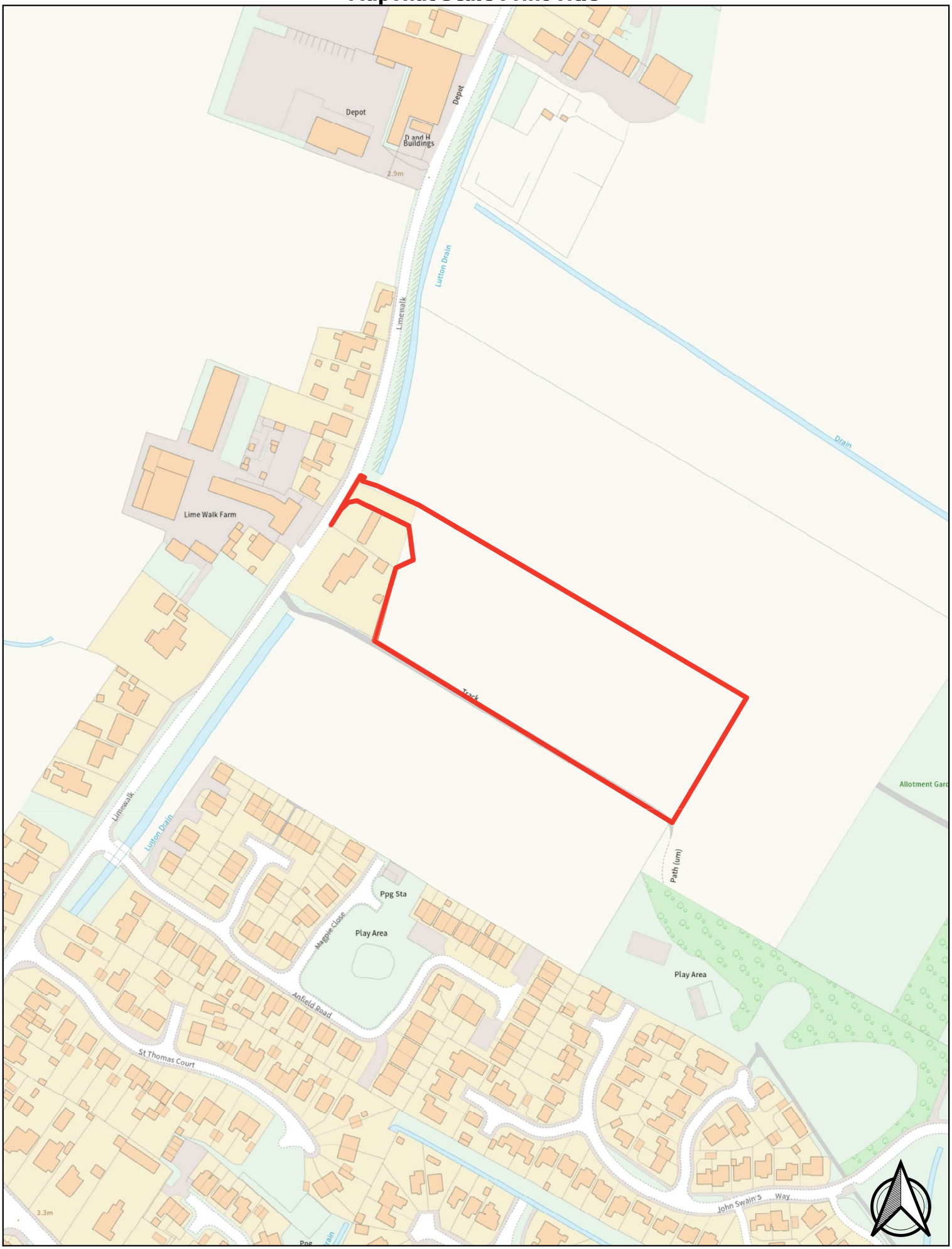
Lead Contact Officer

Name and Post:	Mark Simmonds; Development Manager (Interim)
Telephone Number:	01775 764444
Email	mark.simmonds@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

© Crown copyright and database rights 2022 Ordnance Survey 100018351.

MAP SCALE 1:2500
CREATED DATE: 02/11/2023
PHOTOGRAPHIC COPY LIABLE TO DISTORTION IN SCALE