SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 10 January 2024**

(Author: **Dan Allen - Principal Planning Officer)**

Purpose: **To consider Planning Application H13-0954-23**

Application Number:	H13-0954-23	**Date Received:**	26 October 2023
Application Type:	FULL		
Description:	Change of use of area of park land to public open space/recreational ground		
Location:	Moulton Park High Road Moulton		
Applicant:	Moulton Parish Council	**Agent:**	J C Architectural Consultant
Ward:	Cowbit, Weston and Moulton	**Ward Councillors:**	Cllr T E Sneath Cllr A Casson Cllr A R Woolf

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H13-0954-23

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application site comprises land of interest to the Council and Moulton Parish Council have a lease on the land.

2.0 PROPOSAL

2.1 The proposal seeks full planning permission for the change of use of an existing area of park land to public open space/recreational land, comprising approximately 1/3 of an acre.

2.2 The proposal does not seek permission for any stand-alone structures or further development in the nature of physical built form, with the change of use of land, erection of a perimeter fence comprising a stock fence at approximately 4ft in height, and replacement access gate being the only development hereby proposed.

2.3 The access to the site will be via an existing access point along Bell Lane, which currently comprises a 12ft field gate. This existing gate is to be removed, with a new double gate installed to allow for public access using one side of the gate. No vehicular access will be available, unless for maintenance vehicles.

2.4 The accompanying planning statement, submitted with the application details that "Moulton Parish Council have a lease on the land that is subject to this application and have extensively explored options to make use of the area without impacting it's setting".

2.5 No trees are proposed to be removed as a result of this proposal.

3.0 SITE DESCRIPTION

3.1 The application site comprises approximately 1/3 of an acre of existing park land, which forms part of the wider park land known as Moulton Park. The application site lies to the western boundary of this wider park land, adjacent Bell Lane and is predominantly undeveloped.

3.2 The site lies within Moulton Conservation Area and lies within relatively close proximity to a number of listed buildings (Grade I and Grade II). The site, Moulton Park, is a Local Wildlife Site.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

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

South East Lincolnshire Local Plan, March 2019 (SELLP)

Policy 1 - Spatial Strategy
Policy 2 - Development Management
Policy 3 - Design of New Development
Policy 4 - Approach to Flood Risk
Policy 28 - The Natural Environment
Policy 29 - The Historic Environment
Policy 32 - Community, Health and Well-being
Policy 36 - Vehicle and Cycle Parking
APPENDIX 6 - Parking Standards

4.2 **National Planning Policy Framework (NPPF), 2023**

Section 2 - Achieving sustainable development
Section 4 - Decision-making
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

4.3 **Planning Practice Guidance (PPG)**

5.0 RELEVANT PLANNING HISTORY

5.1 No relevant recent planning history for the site, or on the wider 'Moulton Park' site.

5.2 It is noted that more historical planning applications have been proposed on site; however, these do not have a material imapct on this application.

6.0 REPRESENTATIONS

6.1 This application has been advertised in the local press and a site notice was displayed immediately adjacent the site. In addition, internal and external consultees have been consulted by individual letter or email. As a result, the following responses have been received:

6.2 Moulton Parish Council

No comments received.

6.3 Environmental Protection

No comments to make.

6.4 Lincs Wildlife Trust

No comments received.

6.5 Conservation Officer

No objections: Moulton Park is an exceptionally important piece of historic parkland, originally associated with Park House to the North and included in the Lincolnshire HER, under entry no. MLI92280. As such, and as the entirety of the park is situated within a conservation area, it is of paramount importance that the open character of the parkland is retained and preserved. In this instance, the only physical alterations to this small portion of the site would be the erection of a 4ft stock fence, the replacement of the existing fence, and the addition of a very small hardstanding access splay between the proposed replacement gate and the highway edge.

It is considered that the proposed fence represents the most major visual alteration of the site and is judged to not substantially impinge upon the open character of the site, resulting in no material or harmful impact upon the overarching visual theme of the setting and thus the wider historic environment.

Overall, this proposal is considered to be exceptionally minor in terms of visual and character impact.

6.6 Lincolnshire County Council Highways & SUDS

No objection: The proposed use was discussed by the highways officer and a representative of the Parish Council, on site, on 19 October 2023, when it was explained that the land would be accessed only on foot by residents of the village and that the only vehicular access would be for very occasional maintenance purposes.

That being the case, the site's existing, although long-abandoned, access arrangements would be suitable for the use being proposed in this Application. These access arrangements could be improved/upgraded should the scale of use or the extent of the site be increased at some future date.

In consideration of the above and having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and therefore does not wish to object to this planning application.

6.7 **Public Representation**

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, three letters of representation have been received.

These can be summarised as follows:
- Highway safety.
- Increase in vehicle movement.
- Lack of parking provision.
- Lack of pavement or footpath near the park.
- Parking on nearby roads.
- Pedestrian safety, with particular concern regarding the need to cross Bell Lane.

7.0 CONSIDERATIONS

7.1 **Planning Considerations**

Key Planning Considerations

7.2 The main issues and considerations in this case are (but are not limited to):

7.3 - Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flood Risk Considerations
- Historic Environment
- Biodiversity and Protected Species

Evaluation

7.4 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.

7.5 In this case, the adopted South East Lincolnshire Local Plan 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.

7.6 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.

7.7 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.

7.8 Principle of Development and Sustainability

7.9 The South East Lincolnshire Local Plan 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.

7.10 Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

7.11 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.

7.12 Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Minor Service Centres, 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. This policy goes on to detail that development within Minor Service Centres will normally be limited to Allocated and Committed sites and infill.

7.13 The application site in this instance lies within a postal area of Moulton, a settlement that is identified as a Minor Service Centre within Policy 1 of the South East Lincolnshire Local Plan. However, the site itself lies outside of the main built-up area and lies beyond the clearly

identified settlement boundaries for this settlement, as specified within Policy 1.

7.14 Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". The site is located outside the Moulton Settlement Limits, as defined within the South East Lincolnshire Local Plan. It is therefore regarded as being within the countryside in policy terms. As such, the application site falls to be assessed as a 'Countryside' location, as detailed by this spatial policy.

7.15 Development within the countryside is limited to that where it "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".

7.16 The proposal in this instance comprises the change of use of a small parcel of land within its wider park land setting, which is currently largely undeveloped parkland (of importance by way of numerous factors as will be expanded upon within the report below), to public open space/recreational land. The proposal does not seek permission to erect additional built form or structures, with the purpose of the proposal being to change the use of park land to enable its use by the public. The single 'development' taking place within this change of use is the erection of fencing.

7.17 As such, given the nature of the proposal, the proposed development would not result in the development of additional built form or structures and comprises little by way of development beyond the change of use outlined. The erection of the fencing (to be discussed in detail below) and the change of use is considered to be acceptable in principle, providing a social and publicly available use within the small parcel of land that is currently unused in the main. Furthermore, the proposal comprises an additional provision of recreational open space for the local area.

7.18 Section 8 of the National Planning Policy Framework, relating to 'Promoting healthy and safe communities', details that planning decisions should "aim to achieve healthy, inclusive and safe places which" amongst other matters "promote social interaction". Paragraph 96 of the National Planning Policy Framework goes on to state that "Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities".

7.19 Furthermore, Policy 32 of the South East Lincolnshire Local Plan, which relates to 'Community, Health, and Well-being', expresses that "Development shall contribute to: the creation of socially-cohesive and inclusive communities; reducing health inequalities; and improving the community's health and well-being". This policy goes on to detail that:

7.20 "The redevelopment or change of use of an existing community facility will be permitted only if:
1. an assessment has been undertaken which has clearly shown that the facility is:
a. surplus to requirements; or
b. not economically viable; or
c. unfit for purpose; and
d. in the case of recreational open space, does not make an important contribution in amenity, visual or nature conservation terms; or

2. the loss resulting from the proposed redevelopment or change of use will be replaced by equivalent or better provision (in terms of quantity and quality) in a suitable nearby location; or

3. (in the case of sports facilities or recreational open space) the redevelopment or change of use is for alternative sports or recreational provision, the need for which clearly outweighs the loss.

7.21 The development of new community facilities will be supported, provided that they are located so as to be:
1. as close as possible to the community they will serve;
2. readily accessible by public transport, on foot, and by bicycle;
3. compatible with nearby uses and the character and appearance of the neighbourhood; and
4. located and designed to enable (where possible) shared use with other services/facilities".

7.22 The proposal hereby proposed would not result in the loss of existing facilities or provision of Open/Recreational Space. As such, the proposal would, fundamentally, provide a new recreational space for the settlement and community, as the proposal would result in the change of use of the park land to a more community useable parcel of land; albeit comprising a small parcel of the wider site. Whilst the site is currently a park land, the site is not useable by the local community and as such, the use of this small parcel of the wider site is considered to be acceptable, promotes social inclusion and supports social sustainability.

7.23 Assessing the points of 1-4 listed above, the following can be viewed:

1. While the site lies outside of the defined settlement boundaries, the application site lies immediately adjoining this boundary and lies adjacent to existing residential properties; being within close proximity to the community it would seek to serve.

2. The site, whilst not comprising a footpath immediately along Bell Lane to the side of the application site, would be accessible by foot from within the community itself, with a footpath existing to the western side of Bell Lane. Furthermore, a bus stop is located within close proximity to the site entrance, to the north.

3. The existing site, whilst not useable by the public, comprises a park land which is of importance both historically and as a Local Wildlife site; together with the wider area of Moulton Park. The use of a small parcel of this land would not give rise to a conflict of uses.

4. The site is a small parcel of land that itself seeks to function as a recreational space. The proposal does not seek any particular structures or features within the site through this proposal, with conditions being recommended to control this further. Therefore, given the nature of the proposed use, although not being directly designed to be shared with other services or facilities, the proposal is not considered unacceptable as a result.

7.24 As such, whilst the proposal is not in strict accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan, the development of this small parcel of land is considered to be acceptable for the nature of development proposed, when viewed in principle and the proposal would be in accordance with Policy 32 of the South East Lincolnshire Local Plan. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety, impact upon the historic environment and impact upon biodiversity, which are discussed in turn as follows.

7.25 **Layout, Design and Consideration of the Character and Appearance of the Area**

7.26 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.

7.27 Paragraph 130, contained within Section 12 of the National Planning Policy Framework (2023), 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 and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

7.28 Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, among other considerations.

7.29 Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy

Framework, in that 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. These policies accord with the provisions of the National Planning Policy 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.

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

7.31 In addition to this, the site lies within the designated Moulton Conservation Area and lies within relatively close proximity, particularly when viewed together with the wider site to which it relates, to a number of listed buildings. These nearby listed buildings are identified within the submitted supporting statement as comprising:
- Church of All Saints (Grade I);
- The Old Vicarage, Church Lane (Grade II);
- The Goddards, Church Lane (Grade II);
- 2 Bell Lane (Grade II); and
- Manor House, Bell Lane (Grade II).

7.32 In this regard, South Holland's Conservation Officer has stated that "Moulton Park is an exceptionally important piece of historic parkland, originally associated with Park House to the North and included in the Lincolnshire HER, under entry no. MLI92280. As such, and as the entirety of the park is situated within a conservation area, it is of paramount importance that the open character of the parkland is retained and preserved".

7.33 Policy 29 (The Historic Environment) of the South East Lincolnshire Local Plan states amongst other matters that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the National Planning Policy Framework. Development proposals will expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, Conservation Areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.

7.34 This goes on to detail that "Proposals within, affecting the setting of, or affecting views into or out of, a Conservation Area should preserve (and enhance or reinforce, as appropriate) features that contribute positively to the area's character, appearance and setting". With proposals needing to retain street patterns buildings, historic building lines and architectural features that contribute to the area; retain and reinforce local distinctiveness; assess and mitigate against any negative impact the proposal might have on the townscape, roofscape, skyline and landscape; and should aim to protect trees, or where losses are proposed, demonstrate how such losses are appropriately mitigated against. Further, "Proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building".

7.35 In respect of any buildings or other land in a Conservation Area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990. Furthermore, in assessing proposals of this nature, the Local Planning Authority must ensure special regard to preserving the Listed Buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). No harm should be caused with the historical assets and their surroundings requiring to be preserved or enhanced.

7.36 The National Planning Policy Framework (NPPF) expresses the importance of considering the impact of development on the significance of designated heritage assets; advising that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

7.37 Section 16 of the National Planning Policy Framework (2023) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

7.38 The proposed development comprises a change of use of existing park land to a recreational area, which would not result in the erection of additional built form, with the replacement of an existing access gate and the erection of stock fencing to the perimeter of the site, being the only further development proposed.

7.39 Whilst it is noted that the site would be utilised to an increased extent to that of its current form, given that the resultant development would allow for increased access by the local community, it is considered that the proposed development due to its minor scale in respect of both the overall development and the scale of the application site, is of such that no unacceptable impact would be caused to the character or appearance of the area.

7.40 The use itself, which increases the recreational land available within the area, promotes social inclusion and health and well-being, in accordance with both Policy 32 of the Local Plan and Section 8 of the NPPF. This use, as a recreational area, is not considered to give rise to an unacceptable impact upon the character.

7.41 In addition to the above, as highlighted within the report, the site lies within Moulton Conservation Area and the wider site lies within close proximity to a number of listed buildings. South Holland's Conservation Officer has highlighted that "Moulton Park is an exceptionally important piece of historic parkland, originally associated with Park House to the North and included in the Lincolnshire HER, under entry no. MLI92280". As such, it is of paramount importance that the open character of the parkland is retained and preserved.

7.42 In this respect, beyond the change of use proposed the proposal only comprises the erection of the aforementioned replacement gate and perimeter fencing, with the change of use itself relating to a small parcel of the wider Moulton park area. It is considered that the proposed fence represents the most major visual alteration of the site and is judged to not substantially impinge upon the open character of the site, resulting in no material or harmful impact upon the overarching visual theme of the setting and thus the wider historic environment.

7.43 Notwithstanding this, the details of the replacement gate and fencing are somewhat lacking, with the fencing in particular being referred to within the supporting Ecological Appraisal. Details such as fencing can provide a valuable contribution to the design and overall appearance of a site and as such, it is important to ensure that these details are appropriate in respect of both visual impact and ecological benefit. Therefore, conditions have been recommended that require the submission of details in relation to these aspects of the development.

7.44 However, subject to these details, given the scale, extent of resultant development and the separation distances to nearby heritage assets, the proposed development is not considered to adversely impact upon the character of the area or Moulton Conservation Area and the development is not considered to result in an unacceptable impact upon the open and spacious character of Moulton Park. As such, there is not considered to be any harm caused by the development to the Conservation Area or nearby listed buildings.

7.45 Given the ownership and lease that is identified within this application, it is noted that there would be the opportunity for further development through permitted development rights contained within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Specifically prevalent to this site given its proposed use and lease identified within the application, would be Part 12 which allows permits 'local authorities' to carry out particular development, subject to the limitations outlined. In the context of the GPDO, 'local authority', includes Parish Councils and as such, it is recommended that permitted development rights extended through Part 12 of the GPDO are removed for this parcel of land, with express planning permission then being required for any further development of this nature. This is to ensure that the character and appearance of the area is not detrimentally impacted, to ensure that the Conservation Area is not harmed and to ensure that the extent of the sites use would not be detrimental to the surrounding area or residents.

7.46 Taking account of the nature of the development, coupled with the small scale and minimal physically built development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and the proposal is not considered to cause harm, neither substantial or less than substantial harm, to the Conservation Area it lies within or nearby listed buildings. as such, the proposal would therefore be in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan and Section 12 and 16 of the National Planning Policy Framework.

7.47 **Impact on Residential Amenity/Land Users**

7.48 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.

7.49 Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

7.50 The application site lies towards the western boundary of Moulton Park, immediately adjoining Bell Lane. The site therefore lies adjacent to residential properties residing along both Bell Lane and Burnstone Gardens. These properties, which vary in design and scale but predominantly comprise detached two-storey dwellings, lie to the western side of the Highway and beyond, and as such, are afforded an adequate degree of separation from the site.

7.51 The proposal, given that it would provide access and usability to the community and public, would result in a marked increase in use of the site, along with increased movements to and from the site. This being said, the resultant development would provide a recreational space for the benefit of the local community, with minimal physical alterations and no development of built form. Furthermore, the application site comprises a small area of the overall park land, consisting of 1/3 of an acre and as such, this would reduce any potential impact. The separation distances between the small area of land subject to this application and the adjacent residential dwellings, coupled with the overall scale of the proposal, is such that it is not considered that the proposed development would result in an unacceptable adverse impact to the residential amenities of these neighbouring occupiers.

7.52 The development would not result in an unacceptable loss of privacy, overlooking or comprise development that would be dominant or oppressive in nature. As such, it is considered that the proposed development is acceptable in this regard.

7.53 As detailed above, the scale and nature of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

7.54 **Highway Safety and Parking**

7.55 Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) 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".

7.56 In respect of highway matters, Policy 2 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.

7.57 It is noted that a number of concerns have been raised by interested residents in respect of highway safety, parking and the need to cross Bell Lane in its current form.

7.58 Lincolnshire County Council, as Local Highway Authority, have highlighted that they took part in a site visit to the development site to discuss the proposal with a representative of the Parish Council. Within these discussions, it was expressed that "the land would be accessed only on foot by residents of the village and that the only vehicular access would be for very occasional maintenance purposes".

7.59 In light of this, the Highway Authority have stated that "the site's existing, although long-abandoned, access arrangements would be suitable for the use being proposed in this Application. These access arrangements could be improved/upgraded should the scale of use or the extent of the site be increased at some future date".

7.60 As such, it was concluded that Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) had no objections to the proposal as, "the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and therefore does not wish to object to this planning application".

7.61 It is noted that the site could be utilised by residents of the wider community, outside of Moulton, with there being no realistic opportunity being put before the Planning Authority that would prevent this suitably. As such, this has been taken into consideration.

7.62 Notwithstanding this, nor that the proposal would only allow vehicular access for maintenance purposes and as such would be solely accessed via foot, it is considered that given the small scale of the proposed development, the resultant recreational area would not result in an unsuitable increase in vehicular activity to and from the site. This, coupled with the comments raised by Lincolnshire County Council, ensure that the proposal would be acceptable on highways matters.

7.63 The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

7.64 **Biodiversity and Protected Species**

7.65 Policy 28 outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly greenspace will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposals shall provide an overall net gain in biodiversity.

7.66 Section 14 of the National Planning Policy Framework (2023) states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'. Section 15 goes on to express that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, whilst minimising impacts on and providing net gains for biodiversity.

7.67 The application site comprises a Local Wildlife Site and is therefore of local importance. This has been highlighted within the supporting statement and the application has also been accompanied by an Ecological Appraisal. This appraisal highlights the presence of some protected species within the wider or surrounding area, whilst also providing detail in respect of the potential for protected species to be encountered within the application site, along with the potential habitat value of the site for different species.

7.68 It is noted that consultation responses have not been received from Lincolnshire Wildlife Trust. Notwithstanding this, the submitted appraisal appropriately identifies the potential and value of

the application site, whilst offering recommendations and mitigation for the development. Amongst these, whilst not limited to this, is the recommendation that further surveys or mitigation measures would be required should the wider site be further developed or should the application site be developed to a further extent. As such, as noted within the character section above, the removal of some permitted development rights has been recommended to ensure that further development would require express planning permission. Likewise, the appraisal also identifies the value and harm that fencing can cause; as such, the fencing details have been required by condition with permitted development rights in this regard having also been recommended for removal to ensure that any new or replacement fencing shall take these matters into consideration.

Overall, the proposal, subject to the recommended conditions and submission of appropriate details, is considered to accord with the Local Plan and National Planning Policy Framework in this regard.

7.69 However, it is also noted that the submission fails to offer a biodiversity net gain. This, as highlighted above, is a requirement of both Local Plan Policy 28 and is also highlighted within Section 15 of the National Planning Policy Framework. As such, a suitably worded condition has also been recommended to ensure that this is provided.

7.70 Overall, when assessing the development, the importance of the site is apparent given that is comprises a Local Wildlife Site and has the potential to support biodiversity and habitats for protected species. However, given the nature of the proposal; coupled with the mitigation measures expressed and the conditions recommended to be attached, it is considered that the proposal would be in accordance with Policy 28 of the South East Lincolnshire Local Plan and Sections 14 and 15 of the National Planning Policy Framework.

7.71 **Planning Balance**

7.72 As detailed above, 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.

7.73 Whilst located outside the settlement boundaries of Moulton, the proposal represents appropriate development that comprises increased social inclusion and activity, whilst providing an increase in provision of recreational land. In addition, the development hereby proposed does not materially harm the character or appearance of the locality, harm the historic environment to an extent that is not outweighed by public benefit, or impact upon the amenity of nearby residents, and does not result in an unacceptable impact upon highway safety, whilst conforming with the South East Lincolnshire Local Plan in the majority of instance and the provisions of the National Planning Policy Framework when viewed as a whole.

7.74 In this instance, notwithstanding the minor conflict with Policy 1 of the South East Lincolnshire Local Plan, the resultant development is considered to be of an acceptable nature when viewed in principle, with no significant adverse impacts being caused as a result that would warrant the refusal of planning permission, when assessing the relevant material considerations that could weigh against the proposal. As such, it is considered that the planning balance is in favour of the development.

7.75 **Additional Considerations**

7.76 Public Sector Equality Duty

7.77 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.

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

7.79 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.

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

7.81 Human Rights

7.82 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).

7.83 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.

7.84 **Conclusion**

7.85 Taking into consideration these factors, the proposal is considered to comply with Policies 2, 3, 4, 28, 29, 32 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPFF) (2023). Notwithstanding the aforementioned minor conflicts in respect of Policy 1, there are no significant factors in this case that would outweigh the benefits of the proposal; therefore, in considering all the matters raised above, as expressed within the planning balance section above, the planning balance is in favour of the proposal.

8.0 RECOMMENDATIONS

8.1 **It is recommended, due to the detailed assessment above, that this application is approved subject to those conditions listed at Section 9.0 of this report.**

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

   Reason: As required by Section 91 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 and/or documents:

Application Form
Site Location Plan
Planning Statement, prepared by JC Architectural Consultants
Preliminary Ecological Appraisal, prepared by CGC Ecology (dated November 2022)

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

3. Notwithstanding the details hereby submitted or stated, 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. The details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Note: The details shall incorporate the recommendations contained within the Preliminary Ecological Appraisal, prepared by CGC Ecology (dated November 2022).

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.

4. Notwithstanding the details stated within this submission, details of the access gate shall be submitted to and approved in writing by the Local Planning Authority, prior to its installation. the details shall include the heights, materials, and means of securing the closure of the access gates.

The details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

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.

5. Prior to the development hereby permitted being brought into use, details of any external lighting shall be submitted to and approved in writing, by the Local Planning Authority. There shall be no external illumination other than that so approved.

Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

6. The access to the site from Bell Lane shall be by foot only and no vehicular access shall be permitted, with the exception of maintenance purposes.

Reason: To reduce to a minimum the vehicular access and movement, to accord with the comments raised by the Local Highway Authority.
This Condition is imposed in accordance with Policy 2 and 3 of the South East Lincolnshire Local Plan, 2019.

7. The development hereby permitted shall be carried out in accordance with the recommendations contained in the Preliminary Ecological Appraisal prepared by CGC Ecology (dated November 2022), including the need for further surveys to be carried out should tree works be proposed through a Section 211 notice.

Should any protected species be identified, or matters arise that were not otherwise previously encountered through the Ecological Appraisal, works shall stop and a detailed mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to works recommencing.

Reason: In the interests of the protection of local wildlife and in the interests of its visual amenity and that of the area in which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and the Environment Act 2021.

8. Prior to the occupation of the development hereby permitted, a scheme shall be submitted to and agreed in writing by the Local Planning Authority for the location of bat and bird boxes to encourage wildlife development. The agreed scheme shall be implemented prior to the completion of the development.

Reason: In the interests of the protection of local wildlife.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019.

9. During the carrying out of development, no site clearance shall take place between March and September (inclusive of both months stated) and no such works shall take place should the presence of bird nesting be found.

Reason: To ensure that birds and their nests are protected during the nesting season.
This Condition is imposed in accordance with national guidance contained in Section 15 of the National Planning Policy Framework, 2023.

10. Prior to the commencement of the development hereby permitted beyond oversite, a Biodiversity Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. This shall set out how the biodiversity enhancements and recommendations contained within the Preliminary Ecological Appraisal prepared by CGC Ecology (dated November 2022) will be managed and monitored for the lifetime of the development.

Reason: To ensure that the development does not adversely impact upon biodiversity and to ensure the development complies with the recommendations contained within the Preliminary Ecological Appraisal.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2023.

11. No Local Area of Play or play equipment shall be installed within the application site, without gaining express planning permission from the Local Planning Authority.

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

12. Notwithstanding the provisions of Schedule Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), no walls, fences or other means of enclosure other than those illustrated on the plans forming part of the application hereby approved shall be erected on the site.

Reason: To ensure that the Local Planning Authority retains control over means of enclosure, in the interests of the appearance of the development and the visual amenity and character of this part of the Conservation Area within which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2023.

13. The existing hedge(s) along the western boundary of the application site shall be retained and maintained. In the event of the existing hedgerow being removed or dying, it shall be replaced to a specification that shall first have been approved in writing by the Local Planning Authority. The new hedgerow plants 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.

Reason: To ensure the protection of the existing hedges on the site, in the interests of the visual amenity of the locality. 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 and national guidance contained in Section 15 of the National Planning Policy Framework, 2023.

14. Notwithstanding the provisions of Schedule 2, Part 12, Class A of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the following developments or alterations shall be carried out other than those expressly authorised by this permission, without express planning permission first having been granted by the Local Planning Authority.

i) the erection of any small ancillary building, works or equipment; or
i) the erection of any wall, fence or other means of enclosure.

Reason: To ensure that the Local Planning Authority retains control over means of enclosure and further built form, in the interests of the appearance of the development and the visual amenity and character of this part of the Conservation Area within which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2023.

Background papers:- Planning Application Working File

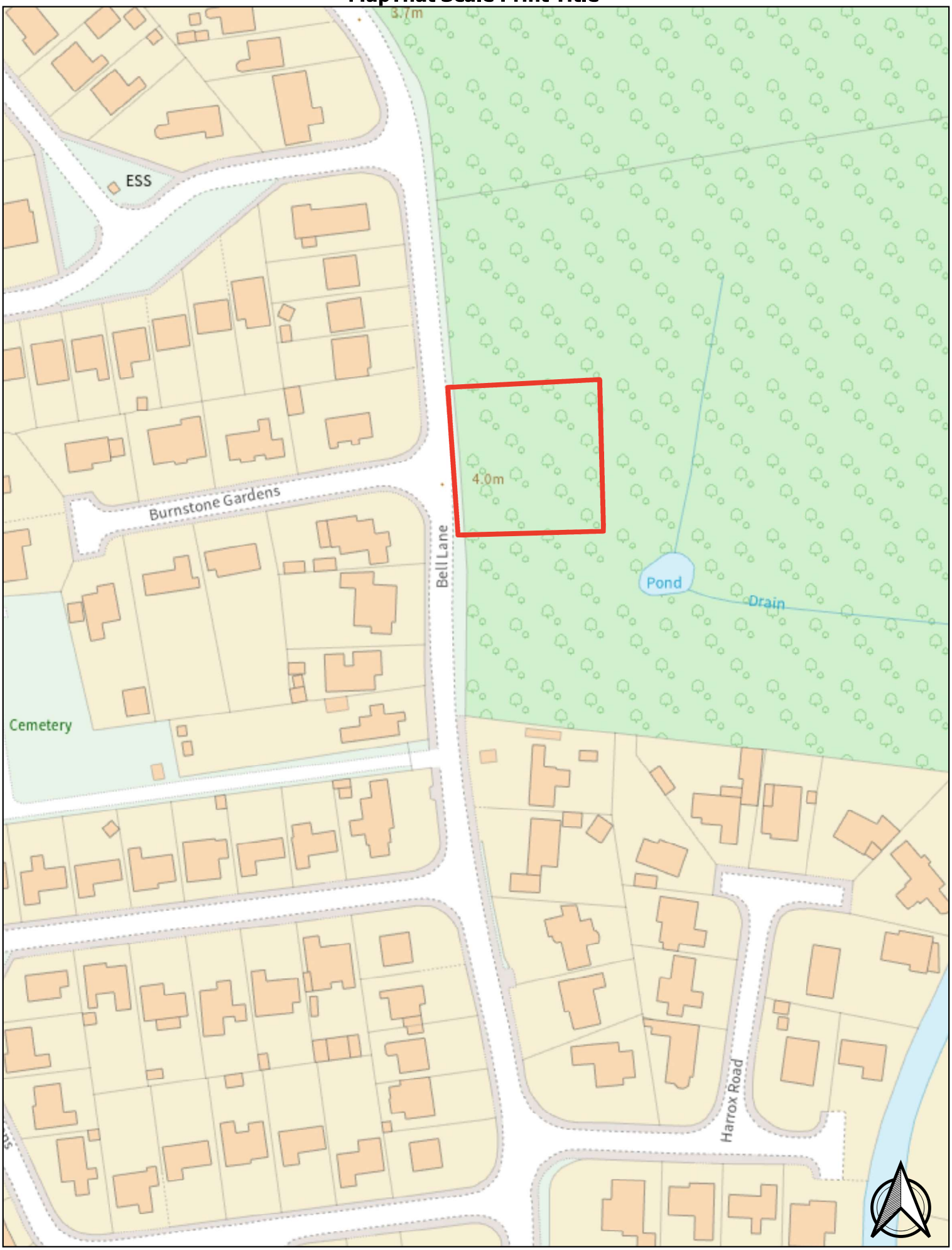
Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

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MAP SCALE 1:1250
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