DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0259-23**	**Applicant:**	**R Bratley (Quadring) Ltd.**
Proposal:	Proposed Development of 63 houses with vehicular access from Surfleet Road - approved under H14-0137-19. Modification of Conditions 3, 4, 6 & 8 relating to phasing scheme, remediation of contaminated land, construction management plan and foul water		
Location:	Land South Of Green Lane/ East Of Bacons Lane Pinchbeck		
Terminal Date:	7th July 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
12	Reserve Sites
17	Providing a Mix of Housing
18	Affordable Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
35	Delivering the Spalding Transport Strategy
APPENDIX 6	Parking Standards
APPENDIX 8	Developer Contributions for Education Facilities
APPENDIX 9	Developer Contributions for Health Care Facilities

National Guidance

National Planning Policy Framework 2021

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

Planning Practice Guidance

National Design Guide

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.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a section 73A application to allow changes to the conditions of the original planning approval reference H14-0137-19 which was granted planning permission on 15th July 2020.

No lawful start has been made on site, and if a lawful start is not made on 14th July 2023 the entire permission will lapse.

The proposed changes to the conditions modify the permission to allow a limited lawful start on site in order to preserve the permission but also limit the works to a specific initial phase whilst ensuring pre-commencement conditions on the remainder of the site (which contain contamination) are carried out prior to works beginning in these areas.

The changes affect multiple conditions associated with the original approval.

The original application was for the development of the site to provide 63 dwellings, with vehicular access from Surfleet Road.

The application was supported by a Planning Statement, Heritage Statement, Land Contamination Assessment and reports, Topographical Survey and Flood Risk Assessment and Drainage Strategy. A Phase 1 Desk Study & Phase 2 Ground Contamination Investigation Report were undertaken.

The application proposed a mix of detached and semi detached and terraced two storey dwellings and bungalows, providing 1 to 5 bedroom properties and 18 affordable dwellings (28.57% affordable housing contribution). The mix of dwellings was as follows: 2 x one-bedroom bungalows; 6 x two-bedroom bungalows; 15 x three-bedroom bungalows; 15 x two-bedroom two-storey dwellings; 12 x three-bedroom two-storey dwellings; 2 x four-bedroom two-storey dwellings; 11 x five-bedroom two-storey dwellings.

The homes conformed with the 'National Described Space Standards' applying to all units (market and affordable).

The affordable housing provision was 2 x one-bedroom bungalows, 11 x two-bedroom dwellings and 5 x three-bedroom dwellings, which represents a 28.57% affordable housing contribution.

Vehicular access to the site was proposed from Surfleet Road, with pedestrian links only to Green Lane, Bacons Lane and Surfleet Road.

Open space was proposed to provide a sensory garden, a children's play area and a smaller open space. The plans indicate a soft landscape edge around the site.

As well as a 28.57% affordable housing contribution, contributions were proposed to be paid for NHS provision (£41,580) and £15,000 for provision of cemetery facilities, with the latter payable to the Parish Council. These contributions were secured via a S106 legal agreement.

None of the above details are changed as a result of this section 73A application. All remain the same, and a Deed of Variation is proposed to secure the same contributions into a new planning permission.

Site Description

The application site is some 4.07 hectares of agricultural land and is accessed from Surfleet Road. It is located outside of, but adjacent to, the defined settlement limit of Pinchbeck. The southern boundary is marked by a drainage ditch. Beyond this lie houses facing Milestone Lane, and domestic gardens.

Open countryside lies to the north, and west. The B1356 Surfleet Road marks the eastern boundary, beyond which lies open countryside. The western boundary is Bacons Lane and the associated drainage ditch.

The application H14-0137-19 incorporated a smaller site of 2.235 hectares that already had approval in outline for a development of 40 dwellings (H14-0549-17- Approved 6 March 2019). That consent covered 55% of the application site relating to both H14-0137-19 and the current application.

The site is within Flood Zone 3, site investigations identified significant contamination on the site.

History

H14-0549-17 - Outline. 40 dwellings with access from Surfleet Road. Approved 6-3-19.

To give some context to application H14-0549-17, the grant of approval was justified at the time of agreement as it was not considered that there would be any adverse impacts that would significantly and demonstrably outweigh the benefits of delivering 40 dwellings in this location.

The outline permission granted a development of up to 40 dwellings, subject to a Section 106 legal agreement to secure 25% affordable housing provision, and no LCC contributions for education or the NHS. Neither bodies made a request for contributions at the time of consideration of the application.

H14-0137-19 - Full Proposed development of 63 houses with vehicular access from Surfleet Road - Granted 20 July 2020 subject to a Section 106 agreement.

Consultation Responses

Environmental Protection

The approach to letting the developer start on Phase 1 only is acceptable based on the information reviewed. The proposed conditions were generally acceptable subject to minor changes. Comments were made on landscaping, management of play area, and flood resilient construction. On a development like this, it is really important that all of these elements are considered as a whole.

Local Highway Authority and Lead Local Flood Authority

No objection. The highway authority has no objection to the amendments to Conditions 3, 4, 6 and 8 of H14-0137-19 being proposed in the Agent's letter, dated 17 March 2023, submitted in support of this Application. Conditions 3, 4 and 8 concern matters that are outside of the remit of the highway authority. Parts of the Construction Management Plan, which is the subject of Condition 6, relate to highway matters. The objective of the amendments that are being proposed for wording of Condition 6 is to allow discrete Construction Management Plans to be agreed for different phases of the Consented development, customised to the particular circumstances and characteristics of the ground within those phases, rather than having one single Construction Management Plan covering the whole development. The highway authority is satisfied that this can be done without surrendering control over matters that could compromise the safe operation of the public highway and therefore does not object to the grant of Consent for this Application. This is on the understanding that Phase 1 is undertaken on a very short term basis, to allow the developer to establish just a sufficient foothold on the consented development to keep alive the permission. The developer would be expected to concentrate their efforts on getting the foul and surface water drainage in, and enough of the adoptable estate road constructed using this temporary access, and not starting on the footings of the dwellings before all other conditions beyond Phase 1 are discharged.

Environment Agency

In the previous application the EA's response was:
This application is accompanied with a Phase I Desk Study and Phase 2 Ground Investigation Report dated July 2019 by Grange Geo Consulting Ltd. We have reviewed the report with regard to the potential risk posed to controlled waters only. Environment Agency position The previous use of Area 2 within the proposed development site as a landfill presents a risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is adjacent to surface water drains that potentially could flow towards the River Glen. The application's site investigation report demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority. In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework. Without these we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

In the case of the current application, EA's response is:
We have no objection to this application. We have reviewed condition 4 and have no concerns with the proposed variation to allow for the development of the access road.

Pinchbeck Parish Council

This location has already gained a planning approval - H14-0137-19. This will be very difficult to overcome should anyone wish to object to this. This application is for 63 dwellings, and a permission exists for 63 dwellings. We need to ensure the S106 agreement tied to H14-0137-19 is carried forward and tied into this development. This includes affordables, health, and a £15k contribution to burial facilities within Pinchbeck, to be earmarked for, and ring-fenced by, Pinchbeck Parish Council. It's not a development or location that we particularly like, but the permission exists, which is a huge hurdle to overcome. We saw this situation with the Milestone Lane application.

Planning Considerations

The principle of development has been established by the granting of H14-0137-19 which is still extant at the time of writing.

In the previous officer report it was noted that the application is outside of the settlement boundary and conflicted with the SELLP due to the site being in the countryside. It was recognised that the scheme would provide economic benefits, contribute to housing supply in a social sense and in

environmental terms its location next to the settlement limit to Pinchbeck means there are footways between the site and local shops, a school and other facilities, on a main bus route running between Boston and Spalding. Services and facilities are reasonably accessible by cycle, on foot and via public transport. Whilst on Grade 2 agricultural land is was noted that to deliver housing it is inevitable that some high-grade agricultural land will be lost, but the site is in poor condition with contamination. In the context of the presumption in favour of development, in principle, it was recognised that permission was acceptable and there were no significant adverse impacts that would demonstrably outweigh the benefits.

Previous Officer Report

Detailed matters relating to the acceptability of the scheme were discussed at length in the previous officer report.

The location, design quality and layout, open space provision, affordable housing (28.57%), level of developer contributions, impact on adjoining residents, highway matters, flooding and drainage, impacts on infrastructure, archaeology, the loss of agricultural land were considered acceptable.

The previous report recognised that a high level of remediation would be required, and detailed information and investigation was undertaken to support this. During investigations on the site landfill and fill materials were found including plastic, brick, concrete, ceramics, nylon, paper, metal, timber, asbestos, coal and building rubble. Environmental Health had no objections to the scheme subject to conditions to ensure the remediation works are carried out correctly, and that permitted development rights are removed.

For the sake of completeness, relevant sections of the previous report are included below (updated as necessary):

Sustainability

Paragraph 8 of the NPPF sets out the consideration of sustainable development and sets out the overarching economic, social and environmental objectives. Paragraph 8 also explains that there are three mutually dependant dimensions to sustainable development which are social, economic and environmental:

-An Economic Role: the proposal would make a contribution towards the local economy, both during the construction stage, and as a result of increased economic spend of future occupants to the local economy.

-A Social Role: the proposal would make a contribution towards the supply of housing required to meet the needs of present and future generations. There are footways between the site and the local shops, school and other facilities which are approximately 1 mile away using pedestrian routes. The site is also on a main bus service which runs between Boston and Spalding. Services and facilities are therefore considered to be reasonably accessible by cycle and public transport and on foot.

The application also proposes provision for NHS contribution and a payment of £15,000 to the Parish Council, which is discussed further below.

-An Environmental Role: The site is adjacent the defined settlement limit for Pinchbeck. Although currently agricultural land, the site is not large within the scale of modern agriculture. The land is grade 2 agricultural land. To deliver the Council's required housing need it is inevitable that some high-grade agricultural land will be lost, and the loss of this particular piece of land would be considered acceptable, especially given the poor quality of the site and the level of remediation that has been identified to clear the site of matter that has been disposed of on the site over the decades.

In the context of the presumption in favour of sustainable development, permission could be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Given that planning permission was granted initially, this is a material consideration in addition.

Location of the site and Impact on Pinchbeck

Pinchbeck is considered in the SELLP to be a Main Service Centre, where development will be

permitted that supports its role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. The inclusion of Pinchbeck as a Main Service Centre within the SELLP can also contribute to maintaining and improving service infrastructure outside Spalding. But the main justification for its inclusion as a Main Service Centre is that there are significant levels of development within the parish, the boundary of which adjoins the urban edge of Spalding. Whilst the settlement boundary for Pinchbeck will define the settlement it is clearly a location of significant existing service provision.

The site is located on the northern edge of Pinchbeck, and 1.2km from the centre of the settlement. It is accessible by a range of travel modes and is therefore well located for residential development. The following shows services are within acceptable walking distance of the site, and there are existing pedestrian infrastructure including footways. Large areas are contained within cycling distance and the existing cycle infrastructure, including off-road cycle routes are within easy cycle distance. In addition, there are good opportunities for public transport.

A regular bus service exists and there are 6 services to Spalding and Boston that have a variable frequency. The bus stops are 120m & 150m from the new central access of the site.

The B1356 Surfleet Road lies to the east of the site, and this connects to Spalding to the south and Surfleet to the north. This is a 50mph road but visibility splays have been maximised. To the east lies the A16, which runs between Boston to the north, and the Dogsthorpe interchange at Peterborough to the south. The A16 provides connections to the A52 to the north, the A17 towards Kings Lynn to the east, and the A47 and A15 near Peterborough to the south.

The site is sits outside, but adjoins the settlement boundary of Pinchbeck, and is bordered by roadways which separate the field from adjacent land. It is considered that the scheme of 63 dwellings could be accommodated without materially harming the character/appearance of this part of Pinchbeck. The number of properties proposed would enable the inclusion of a satisfactory landscaping scheme to integrate the development. The proposed development would therefore not have an adverse impact on natural, built or historic assets. There is a hedge around the site, but this can be retained and augmented within the final layout where appropriate.

Objections in the original application referred to urban sprawl. However, there is considered to be a sufficient gap between Surfleet and Pinchbeck to accommodate further growth. This site is a discrete parcel of land with clear boundaries. The site is adjacent the development boundary for Pinchbeck so would not look out of place due to its potential relationship with existing dwellings. The enclosure of the land means the land would not be a visual loss to the character of the countryside as there have generally been no views into the site. Some of the hedge is to be removed from the frontage to enable good visibility splays for safe entry and exit into the site, but most of the hedge will be retained.

It is accepted that the development of this greenfield site will result in a change in the character of the immediate area. However, there are not considered to be any significant or demonstrable adverse impacts in this respect that would warrant refusal of this proposal on the grounds of the potential for the coalescence of Pinchbeck and Spalding.

The application would round off the settlement along the line of a field edge and roads, although this is not a primary consideration when looking at the overall benefits of the development.

Design quality and layout

Although it is not a requirement of the SELLP at this location, the applicant has committed to construct the development (market and affordable) to the 'National Described Space Standards'. These standards exceed the former Housing Corporation Design and Quality standards. The house and bungalow designs would be of a traditional approach and would be in keeping with the character of Pinchbeck.

The layout of the proposed scheme sets a single vehicular access point from Surfleet Road, and seeks to provide a residential development where each dwelling fronts the roadway or a drive, and has on plot parking and a private garden.

Open Space Provision

Open space would be provided at the north eastern corner of the site as a play area, and a sensory

garden is proposed to the western boundary. A further, smaller open space is proposed to the south east of the site where a pathway would join Surfleet Road. The open space provision represents 16% of the site.

To ensure the provision of the open space and the maintenance and retention of the spaces, a condition is suggested below to require the approval of the details of on-going management arrangements.

Comments in relation to the current application from Environmental Health were made in relation to landscaping, management of the play area. The required changes were made to the conditions to ensure her comments were taken into account to allow phases beyond Phase 1 are considered in a holistic manner.

Affordable Housing

The application seeks to deliver a mix of detached and semi detached and terraced two storey dwellings and a 28.57% affordable housing contribution, in the form of 18 dwellings is proposed. The affordable housing provision would be 2 x 1 bed houses, 11 x 2 bed houses and 5 x 3 bed houses.

The application sets out that the homes are to be built to the 'National Space Standards' and these standards are to be applied to all units (market and affordable).

It is considered that the delivery of 18 affordable dwellings, as opposed to the 10 on the outline scheme, is a considerable benefit to Pinchbeck in particular and to the wider delivery of affordable dwellings within the District.

Developer Contributions

Policy 6: Developer Contributions, sets out the Council's expectations for contributions for proposals, being clear that

Developers will either make direct provision or will contribute towards the provision of local and strategic infrastructure and services required by the development, either alone or cumulatively with other developments. Contributions will be determined having regard to:
-the identified needs generated by the proposed development;
-the viability of the proposed development; and
-the priorities attached to meeting individual local and strategic infrastructure and service requirements.

The application also proposes provision for a NHS England contribution of £660 per dwelling, totalling £41,580. In comparison, at the time of the consideration of the outline permission (H14-0549-17) for 40 dwellings with access from Surfleet Road, Approved on 06-03-19, NHS England responded to the consultation exercise and did not seek any contribution as at that time no contribution was identified to be required. NHS England have now identified the need for a contribution and this application as resulted in a full contribution for the whole of the site being agreed; £41,580 for the provision of 63 dwellings, in comparison for £0 for 40 dwellings.

The LCC Education Planning Manager has confirmed that he has no request for a contribution for education services. For this reason it is not considered reasonable to require payment.

The Parish Council requested and the applicant has agreed to a payment of £15,000 to the Parish Council to partially fund the provision of additional burial facilities, for which the Parish Council has identified a need. The costed proposals would enable a significant contribution to the cemetery scheme, and would partially fund the provision of railings, pedestrian and vehicular gates, bollards, the installation of paths/access, a brick shed, signage, alteration to the road junction, a mains water supply, on-site electricity installation, lamp posts and landscaping. For the current scheme, the Parish Council reiterated that the contributions agreed on the original scheme should be carried over for the present scheme under consideration. This has been secured via a new S106 agreement. There is therefore no change to the previously agreed contributions.

The case officer considers that the payment and repayment clauses for this element of the contribution would need to be carefully considered, in order that the Parish Council is able to take full benefit of the contribution, given that the monies may not be spent within a standard repayment

period, as the cemetery would be provided incrementally.

It is considered that the contributions set out above are in accordance with the CIL regulations, in that the contributions are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Impact on Adjoining Residents

Area 2 of the site has a boundary with the gardens of dwellings within Milestone Lane. Nos 25, 27 and 29 Milestone Lane have back gardens to the boundary of the site, with mature landscaping. No 33 is a detached dwelling in a large garden area and is separated from the site. Between the site and the properties within Milestone Lane, is an IDB controlled drain. This drain requires an easement strip that has been designed in to the proposals.

The development proposes two detached bungalows (plots 24 and 25) in gardens to back on to the land adjacent to 33 Milestone Lane and to the rear gardens of Nos 25, 27, 2; these rear gardens are variously 5m deep (no25/25a), 7.5m deep (27/27A), and 7m (29/29A). The development would give rise to a variable building to building distance of approximately 15 - 17.5m at the closest points, the closest being 'New Plot 24 (2 rear bedroom windows, a kitchen window and a toilet window) to No 27a Milestone with a window to window distance of 17.5m. Plots 24 and 25 also have large side gardens of 11-12.5m width from the end wall , so plenty of space to offer a reasonable relationship with the existing Milestone Lane houses.

The boundary of the gardens of plots 24 and 25 are shown to be landscaped. it is not considered that the location and orientation of the bungalows would cause undue overlooking to the properties in Milestone Lane.

92 Surfleet Road is a detached bungalow, with a 10m deep back garden, located to the south of Area 1 of the application and shares a side boundary. Also along this southern boundary are the long plots associated with properties in Milestone Lane. The dwellings proposed along this boundary are on plots 7, 8, 9 and 10 are to be detached bungalows. The building to building distance to the side of No.92 would be 24m.

It is considered that the relationships that would be provided by this development would not impact upon the residential amenities of the existing dwellings.

There are dwellings within Bacon's Lane, that look towards the site across the carriageway of the road, which would not be materially impacted with regard to daylight, sunlight or overlooking as the properties are already separated from the site by the Bacon's Lane.

Agricultural land, Contaminated Land and Remediation

An objection was raised about the loss of agricultural land to housing. This site is Grade 2. Most land within the District is either Grade 1 or Grade 2. To deliver the Council's required housing need it is inevitable that some high-grade agricultural land will be used. 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 outweigh the benefits of housing development.

In order to bring this land in to use a high level of remediation would be required, and detailed information and investigation has taken place to support this. During investigations on the site landfill and fill materials were found including plastic, brick, concrete, ceramics, nylon, paper, metal, timber, a possible asbestos cement sheet, coal and building rubble. This soil of the application site specifically, is considered to be of poor quality due to the previous use of the land to dispose of these various materials, which has resulted in the contamination of the site.

As a result of the works undertaken to establish the level of contamination on the site and the remediation suggested, the Council's Environmental Protection Officer has no objections to this scheme, subject to conditions to ensure the remediation works being undertaken and the removal of permitted development rights.

Highway Matters

Concerns were raised about vehicular access into and out of the site due to an incline. However, County Highways have no concerns with regard to highway safety, subject to appropriate

conditions. In the absence of an objection from Highways, there is no justifiable reason for refusal on Highway safety grounds.

With regards to the current application, the changes to the conditions allowing a lawful start to Phase 1 only are acceptable to the Local Highway Authority. However, pre-commencement conditions beyond Phase 1 are still required to be agreed beforehand. The amended conditions and S106 agreement are considered to be sufficient to control the phasing in the manner proposed.

Flooding and Drainage

The application site is located within Flood Zone 3, and an exception case has been put forward, setting out that as a result of the nature of Pinchbeck and Spalding, it is not possible to find land for residential development in this locale that is not within Flood Zone 3. Officers contend however that there is allocated land within the District that is not Flood Zone 3, as allocated within the SELLP, that provides development opportunities for residential provision. For this reason the sequential test is not passed on that basis, however the planning history of this site, that 55% of the site already has an extent planning permission needs to be taken in to account.

In addition, the applicant has demonstrated that the development could take place and would be acceptable in flood risk terms, notwithstanding the fact that there are sequentially preferable sites in the SELLP.

In order for the Exceptions Test to be passed, it must be demonstrated that the proposed development would provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

It is accepted that the development would provide wider sustainability benefits to the community through its ability to help meet the housing need, and other benefits including generating employment during the construction period and the provision of public open space.

In terms of making the development safe, the Flood Risk Assessment provided within the application assessed that the ground floor level of proposed two story buildings should be at a minimum level of 3.85m AOD, which is an average of 500mm above existing ground levels. The ground floor level of any bungalows on the site with bedrooms on the ground floor should be at a minimum level of 4.35m AOD, which is an average of 1m above existing ground levels. This would be higher than existing houses on the adjacent development along Milestone Lane. This would be sufficient to mitigate against flood risk so long as an appropriate design and scale can be achieved.

The application of the Sequential Test is a known area of complexity in South Holland. However, on the basis on the above information and the position the Council finds itself with respect to the SELLP, it is considered reasonable to conclude that the Exceptions Test can be applied to this site in this instance.

The condition relating to Flooding has been adjusted to take into accounts from Environmental Health with regards to the current application. The Environment Agency has reviewed the suggested conditions for the current application and have no objection.

Infrastructure

At 3.5.5, the SELLP states: The provisions of the Local Plan will ensure that housing need within settlements is met. However, going forward the steer of national policy will need to be applied and future speculative and windfall proposals will be required to use a Borough or District wide search area when undertaking the sequential test. This will ensure that development is directed to areas at the lowest risk of flooding and that development in the highest risk areas only proceeds by exception (i.e. meeting the Exceptions Test). Policy 5 facilitates this approach and provides a framework against which future development will be considered. Further guidance on all aspects of development and flood risk can be found in the South East Lincolnshire Strategic Flood Risk Assessment. However, where development is proposed to satisfy an identified need it may be appropriate to reduce the search area to a particular catchment.

Policy 5 is has specific remit relating to the provision, and strain on existing, infrastructure (utilities, services and facilities) are noted. However, there have been no objections from infrastructure providers. Furthermore, contributions are being provided for NSH and Parish specific facilities are to

be provided by the developer.

Objections were received regarding the capacity of the water main and the electricity supply. These are matters that would be resolved in conjunction with the service providers. Anglian Water in particular have adopted zonal charging to the developer and assess the need for upgrading the existing Anglian Water system; Anglian Water have introduced this Variable Infrastructure Charge which is paid on every plot a developer builds.

The purpose of the Variable Infrastructure Charge fund is to ensure that Anglian Water has money available to upgrade their existing infrastructure when a new development puts additional pressure on or when they have insufficient capacity remaining in the system to deal with additional flows from new developments.

Archaeology

The assessment by Groundworks Archaeology has highlighted that the site is of overall low - moderate archaeological potential for features of low significance for all historical periods. This is except for the Medieval period where the potential is high for features of low to moderate significance. This is the period where exploitation of the area is likely to be at its greatest.

The LCC Historic Environment Officer confirms that based on the results of studies undertaken, no further archaeological input is required.

It is considered that all of the matters raised above are still relevant in concluding that the development remains acceptable. The application is identical to the above apart from changes to conditions and phasing which is discussed below.

Proposed Changes to the Conditions

For the current scheme under consideration, the conditions have been adjusted to ensure that the development of the site has been divided into five phases. Phase 1 represents the formation of the access and land to house the construction equipment and management area. Enabling Phase 1 to start allows the lawful start on site. Phase 1 only relates to land that has not been significantly contaminated and is on made ground. The contamination is further into the site.

Whilst the amended conditions allow Phase 1 to be constructed, all subsequent phases are subject to agreed pre-commencement conditions which means that construction beyond Phase 1 is not allowed until the relevant details for the pre-commencement issues have been discharged, including contamination. This is considered an acceptable way to control phasing beyond Phase 1. In addition, a legal agreement has been undertaken to ensure that work will stop at Phase 1. Other enforcement options would be available in addition, such as a Breach of Condition Notice, should the development continue to work beyond Phase 1 whilst not discharging the conditions. These safeguards are considered satisfactory as a result.

Conclusion

The conclusion of the original application H14-0137-19 was that the site is located outside the defined settlement boundary of Pinchbeck, a discrete parcel of land with clear boundaries. Taking into account the history of the site, sustainability, developer contributions, the design quality and proposed layout, open space provision, affordable housing, and the package of the remediation of the contaminated land, cumulatively was considered sufficient to be a material consideration outweighing the SELLP, providing an exception to the spatial strategy and distribution of housing policies (Policies 1, 10 and 11), when considered in conjunction with the wider benefits to be gained.

The existence of the permission is a material consideration to this application. The proposed changes to the conditions associated with the current application would not result in harm. The lawful start of Phase 1 of the application is limited in geographical area on an area of land which is made ground only, and not contaminated. This would allow the first portion of the access to the site off Surfleet Road to be constructed whilst not continuing the development without first making sure that all associated details are discharged via conditions controlling phases 2 to 5. As a result of these safeguards there would be no significant harm to justify refusal of the application and as a result approval, subject to conditions and a S106 agreement is recommended.

Additional Considerations

Public Sector Equality Duty

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.

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

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

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

Human Rights

In making 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).

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.

Recommendation

Grant permission subject to the applicant entering into a Section 106 agreement linking the previous S106 agreement for the provision of 18 units of affordable housing and financial contributions of £41,580 towards health provision and £15,000 to Pinchbeck Parish Council towards provision of additional burial facilities and conditions.