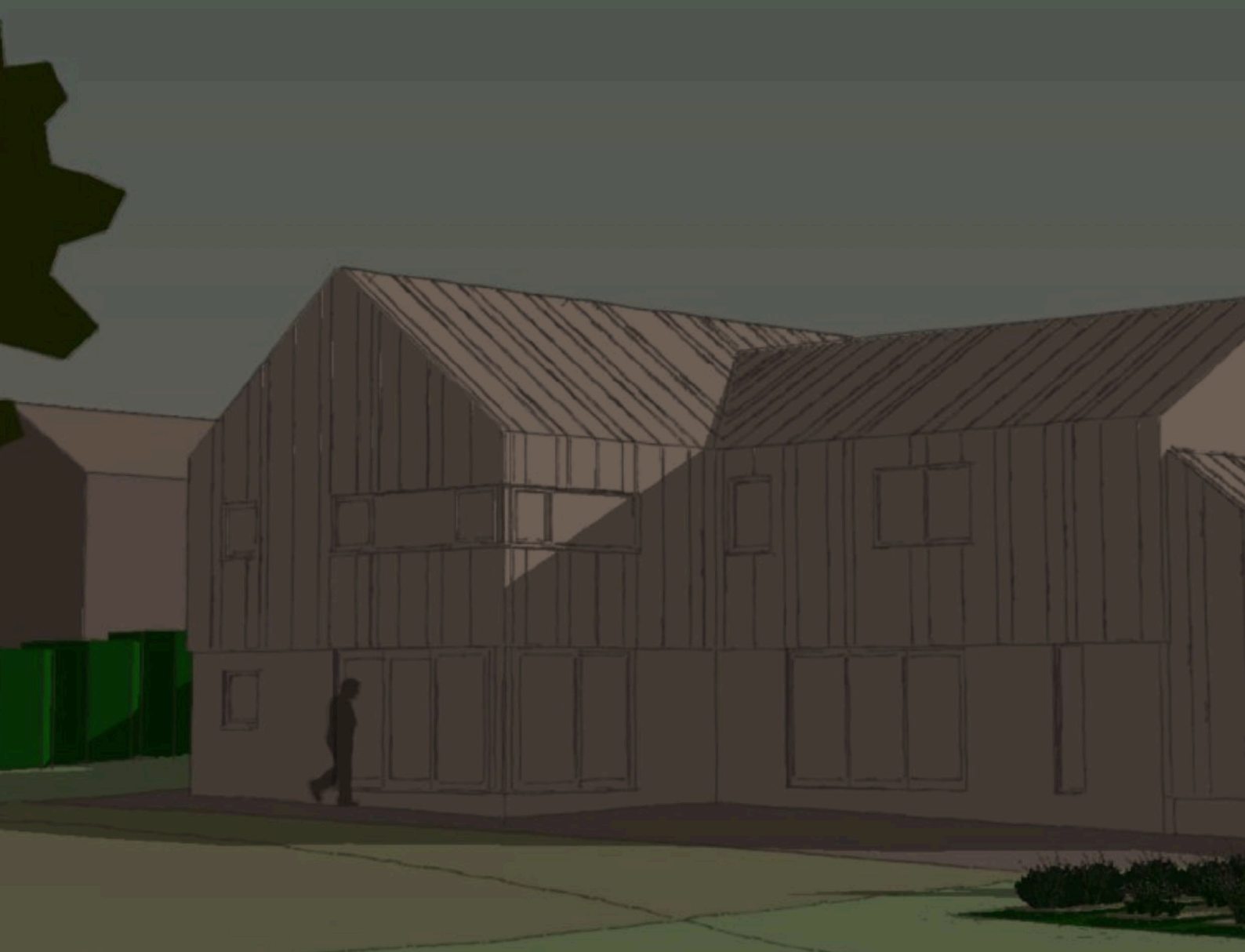




Supporting Planning Statement

Proposed New Self-Build, Zero Carbon Dwelling
Glenside North, West Pinchbeck

May 2022
Revision A

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1 Introduction

- 1.1 This Supporting Planning Statement accompanies a planning application by Mr and Mrs Thomas (hereafter referred to as the Applicants), for a new dwelling at land off Glenside North, West Pinchbeck. This is a resubmission of a planning application, which was submitted in December 2021 and refused planning permission in February 2022 (reference H14-1299-21). The resubmission includes revised plans of a zero-carbon, self-build home, designed specifically to the Applicant's requirements. It would be an exemplar project, of a highly sustainable, self-sufficient family home.
- 1.2 The application site lies outside but in close proximity to the large village of Pinchbeck, and the District's largest settlement, Spalding. Policy 1 of the South-East Lincolnshire Local Plan permits development in the countryside where it can be demonstrated that the proposals meet the sustainable development needs of the area. We demonstrate throughout this statement and the accompanying documents that the proposed development would meet the requirements of this policy.
- 1.3 The new house would be for the enjoyment of the Applicants and would be a self-build project. The Applicants are on the Council's Self-Build and Custom Housing Register, and the provision of this house would meet the Council's statutory duty to provide a plot for them. This is a material consideration which weighs heavily in favour of the application proposals.
- 1.4 The application proposals are accompanied by a Section 106 agreement that would require the Applicants both to build a self-build home that meets the definition set out in the Self-Build and Custom Housebuilding Act 2015, and for this to be a zero-carbon, as defined by the Zero Carbon Hub. It also requires the provision of an electric vehicle within the site, ensuring that its occupiers would always have access to a sustainable form of transport. The provisions of the S106 would ensure a highly sustainable development in terms of its energy consumption and environmental impact. This would be a truly exemplar development, which would not generate carbon emissions through its operation, or travel by electric vehicle. It can point the way for other developments in this area and nationally.
- 1.5 The house has been carefully designed to respect its rural location and surroundings. The proposals would respond positively to the agricultural character of the area, and fit in well within the local landscape. The site previously accommodated a building, and in terms of its character, it is a logical location for infill development such as that proposed. The Landscape and Visual Appraisal which accompanies the application confirms that the proposed house would not materially change the key landscape characteristics, and it would make a positive contribution to the character of the local landscape, by introducing a high quality contemporary design. It also confirms that the proposed landscaping would make a positive contribution to the site and wider landscape.
- 1.6 Throughout this planning we respond to the Council's reasons for refusal, and set out how we consider that the proposals are entirely acceptable in planning terms, and that they accord with the policies of the development plan. As such, they also benefit from the presumption in favour of sustainable development as set out in national planning policy. This directs that planning permission should be granted, provided that there would be no adverse effects

which would significantly and demonstrably outweigh the benefits of the proposal. We explain throughout this statement that there would be no such adverse impacts, and we consider that planning permission should be granted.

2 Contextual Appraisal

The Site's Location

- 2.1 The application site is located a short distance to the west of the village of Pinchbeck, which is itself immediately north of Spalding. Spalding is the largest settlement within the District, and it is identified by the adopted South-East Lincolnshire Local Plan as a Sub-Regional Centre. Together, Spalding and Pinchbeck contain a very wide range of services and facilities, and Spalding has a railway connection to Peterborough and London. Spalding is the best connected and most sustainable location for development in the District, and it is the focus for much of the development allocated by the adopted Local Plan.

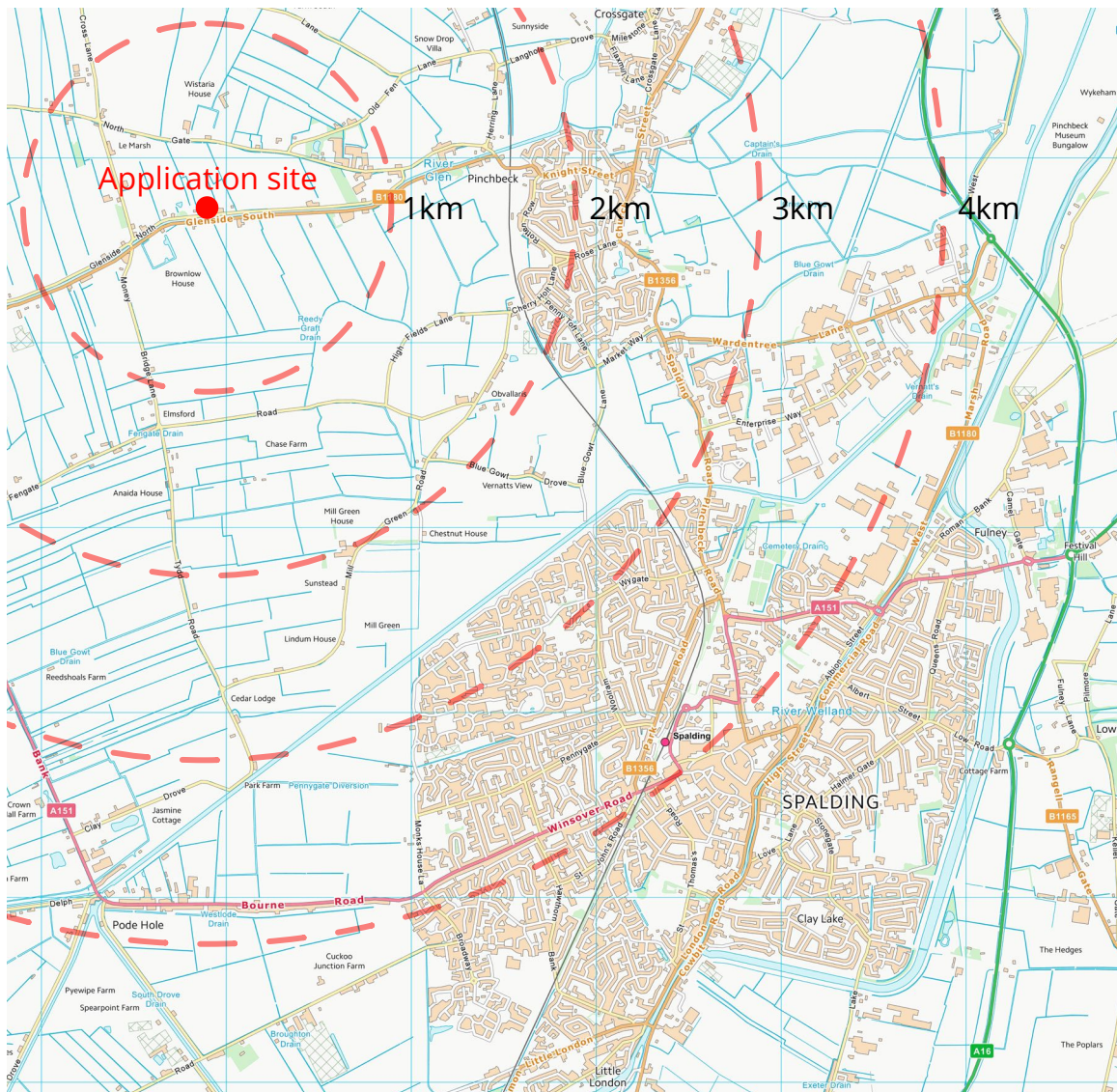
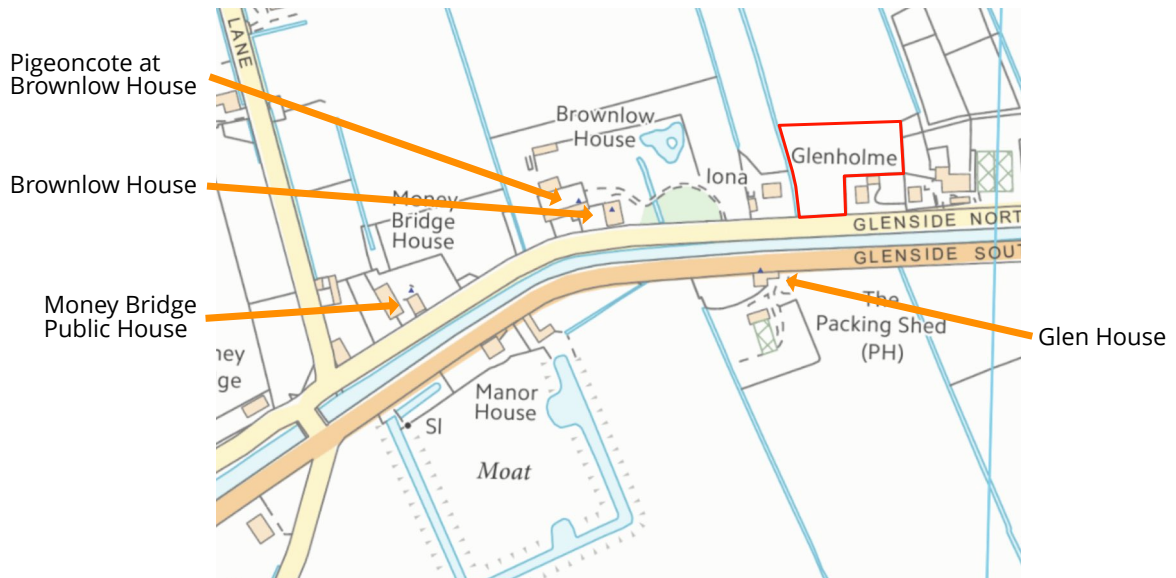


Figure 1: The site's location in relation to local services and public transport connections

- 2.2 From the application site, a wide range of sources of employment, shops, services and transport connections are close at hand. Whilst it would be necessary to travel by car,

journeys are likely to be short. The site's location is not dissimilar in these regards to many other locations on the outskirts of Spalding, such as in relation to the proposed developments to the west of the town, which are intended to fund the new Spalding Western Relief Road. The purpose behind the Local Plans allocation of a large amount of development in this location is in large part to minimise carbon emissions generated through transport.

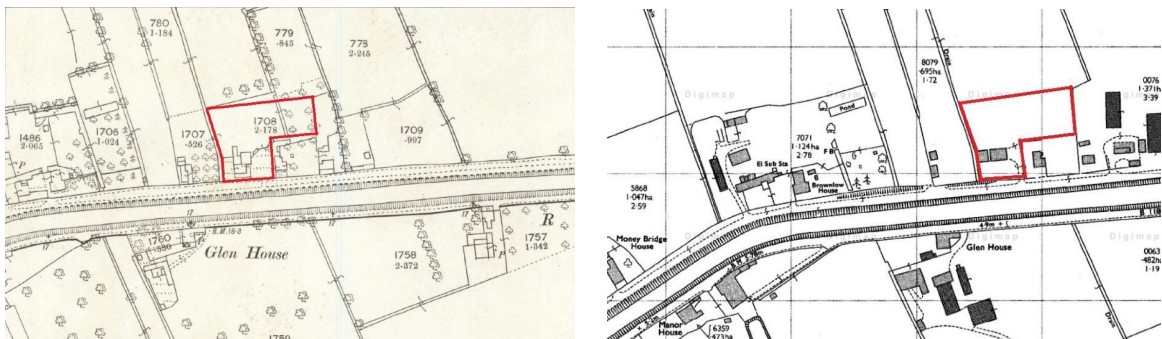
- 2.3 The application site is close to a few Grade II listed buildings, and the site of a historic moated manor house. The listing descriptions for the listed buildings are included at Appendix 1, and their locations are shown in the plan below. The effect on these heritage assets is considered in Section 5 below.



Heritage assets close to the application site.

The Application Site

- 2.4 The application site is a plot of land, of approximately 0.43 hectares in area. It is located between houses which follow the road at Glenside North, and it has the appearance of a classic infill plot. The land previously contained buildings, which were shown on historic maps, as can be seen below.



Historic maps showing the site in 1888 and 1970 clearly demonstrate the presence of buildings

- 2.5 The above maps, and a further map from 1995 are included within the Design and Access Statement which accompanies this application. We understand that the buildings which were once within the site were demolished in the 1990s, but remnants of them remain. Their

presence further illustrates that the site is a logical location for infill development, meaning that it would not at all be out of place in this context.

- 2.6 The site is today used as agricultural land, and farmed intensively. Whilst it is flat and open, its character is strongly influenced by the development to either side of it. The site's character in landscape and visual terms is discussed in the Landscape and Visual appraisal which accompanies this application.

Planning History

- 2.7 This planning application is a resubmission of a scheme that was refused planning permission in February 2022 (application H14-1299-21). The Council's single reason for refusal focus mainly on the site's location, and the development's impact upon the character and appearance of the area and matters of sustainable development, as follows:

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

The site is not located within any defined settlement boundary as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). As per Policy 1 of the SELLP it is classed as being in the 'Countryside' in planning policy terms. Policy 1 states that development in the Countryside will only be "permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits".

It is accepted that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area, and that there is demand for such plots in the area. However, it is not considered that open market housing, which self-build housing is considered to be, is a type of development that requires a countryside location. This is particularly the case in this instance where the Council has a development plan in place with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (8.5 years as of 31st March 2021).

Furthermore, although its design would have a "zero carbon" footprint and may also bring small economic benefits to the area, these factors are outweighed by the harm that the proposal would cause in terms of other social and environmental factors such as the site's unsatisfactory relationship to local services and facilities and the development's effect upon the character and appearance of the countryside.

The site is a managed parcel of agricultural land that has a distinctly rural feel, which contributes to the character of the countryside. The proposal would further intensify the existing cluster of built development in this part of the countryside and would domesticate and materially change the rural character of the site to the detriment of the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. These policies are in general conformity with Sections 12 and 15 of the National Planning Policy Framework (2021) (NPPF). It would therefore be contrary to both local and national policy in this regard.

Moreover, the site is approximately 2km from the built-up area of Pinchbeck and there are no footpaths, street lighting or bus stops served by a regular bus service nearby. Pedestrian access would therefore potentially be hazardous due to the lack of footpath connection from the site as well as street lighting and Glenside North being subject to the national speed limit. The site is a comparable distance to West Pinchbeck in the other distance, which has no services or facilities. It is, therefore, considered that the proposal would be contrary to Paragraph 110 of the NPPF which states that it should be ensured that safe and suitable access to the site can be achieved for all users, and Paragraph 112 which states that priority should be given to pedestrian (and cycle) movements and that the scope for conflict between pedestrians and vehicles should be minimised.

The proposal also does not comply with any of the exceptions for new dwellings in the countryside defined under Policies 19, 20, 22 or 23 of the SELLP.

Paragraph 80 of the NPPF exceptionally makes provision for isolated homes in the countryside where they area of exceptional design and the proposal would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. However, the design of the dwelling is not considered to be truly outstanding. Moreover, the proposal would harm the character of the immediate area for the reasons identified above.

In conclusions, therefore, the adverse impacts of granting permission would demonstrably outweigh the benefits, when assessed against the policies in the Development Plan and National Planning Policy Framework taken as a whole.'

- 2.8 There are fundamental flaws in the Council's reason for refusal, such as in relation to the interpretation of the weight that should be given to the provision of self-build and custom housebuilding in the planning balance. We discuss this in Section 5 of this Statement.

3 The Proposed Development

- 3.1 This application seeks full planning permission for a new self-build, zero-carbon, two storey house with a detached car port. The new house would be positioned on the site's street frontage, directly between the housing which sits to either side of it. Its position would fit in with the essential character of the other properties which face Glenside North, and it would be consistent with the prevailing building line, and in a similar position of the buildings which previously sat on the site (shown by dashed lines on the site plan below).



Extract of the proposed site plan, drawing 542.PD.02

Layout

- 3.2 The previous scheme had an integral garage. The revised layout has separated the garage from the house by providing a flat roofed car port detached from the house. This has reduced the overall width of the house increasing the separation distance from the neighbouring properties, particularly to the east, and allowing space for new planting and landscaping on the western boundary. This responds to the recommendation set out in the Delegated Officers Report for planning application H14-1299-21.
- 3.3 Access would be via a single driveway, which would enter the site, and then bend as it ran towards the car port, positioned to the front of the house. The car port would be a single storey building, with a flat green roof. The site's frontage would accommodate new shrub and

tree planting, which would enhance its character and frame views of the building. The garden to the north would in large part be planted as a meadow, and it would also accommodate further tree planting.

- 3.4 Space would be provided within the site to accommodate the parking of 4 cars, within the car port and on the driveway. In addition, electricity would be generated within the site via solar photovoltaic panels, and an electric vehicle would be kept on site; these matters would be guaranteed by a s106 legal agreement, and they are further explained in Section 5 below.

Design



South Elevation



East Elevation



North Elevation



West Elevation

Images of the proposed house, taken from the application drawings

- 3.5 The house has been designed to have an attractive appearance. Its form is inspired by the shape and scale of buildings in the local area, to ensure it would sit comfortably within its context. Its materials and appearance have been given contemporary twists, and there would be a number of attractive architectural details, such as the innovative use of hit-and-miss brickwork in the wall of the carport and at the top of the chimney, which would add visual interest. This would be a house which would very clearly be of a high quality, and it would be the latest in a number of excellent designs by Studio11 Architecture, some of which have won awards, or also found acclaim both from South Holland Council's Planning committee (who have previously granted permission for a house on the basis of exceptional design – see application H02-0968-15) and on the Grand Designs television programme. We consider that the building's exceptional quality is a factor which indicates it should be granted planning permission, as was the case with these other examples, and we discuss this further below.

Custom and Self-Build Housing

- 3.6 The proposed house would meet the definition of custom and self-build housing, meaning essentially that it has been designed to the Applicants' specifications and to meet their unique requirements. The Council have a Duty to provide custom and self-build housing plots to meet the demand demonstrated on its Custom and Self-Build Housing Register. The Council are failing to meet this need, and national guidance clarifies that this is a material consideration which weighs in favour of granting planning permission. This is also discussed further below.

Environmental Sustainability

- 3.7 The house itself would also be built to a very high standard of environmental sustainability. It would meet the definition of Zero Carbon housing set out by the Zero Carbon hub, as follows:

- a) *"The fabric performance of the home must at a minimum, comply with the defined standard known as the Fabric Energy Efficiency Standard (FEES); and*
- b) *Any CO2 emissions that remain after consideration of heating, cooling, fixed lighting and ventilation, must be less than or equal to the Carbon Compliance limit established for Zero Carbon homes, and*
- c) *Any remaining CO2 emissions, from regulated energy sources (after requirements a and b have been met), must be reduced to zero.*

Requirement c may be met by either deliberately 'over performing' on requirements a and b so there are no remaining emissions, or by investing in Allowable Solutions.

The Standard Assessment Procedure 2012 will be the base calculation used to demonstrate compliance with Zero Carbon."

- 3.8 The draft s106 legal agreement put forward by the Applicants with this application would commit them, and any future occupants of the proposed house, to meeting this definition, and also to the following related requirements:

- For the house to be powered by electricity generated within the site;
- For this electricity to be stored on site in an electric battery facility;

- For two electric vehicle charging points to be provided within the site;
 - For an electric vehicle to be provided with the house, and to be kept with an up to date MOT, road tax and insurance, whilst the house is occupied - and for the Council to have access to check on the presence of the vehicle, and for documentary evidence that it is legally roadworthy.
- 3.9 These measures would together ensure that the house would not lead to a net increase in carbon emissions in the atmosphere through its future operation, or through the transport relating to the use of the electric vehicle. This would be one of, and possibly the most environmentally “sustainable” home in the District. It would very significantly out-perform any new home built to modern building regulation standards, even if this were to be located in Spalding town centre. These matters are discussed further in Section 5 below.
- 3.10 A range of measures are proposed to enhance biodiversity within the site. This would include a range of new landscape planting in native species, bird and bat boxes, and the provision of a large area given over to a meadow. These improvements would provide a significant net gain in biodiversity. Details are set out in the Design and Access Statement, and on the Ecology Measures drawing (542/PD/04).

Refuse Collection

- 3.11 It is proposed that refuse and recycling would be collected at the kerbside by the Local Authority. However, the property would also be provided with a home composting bin of a minimum capacity of 900 litres to reduce the amount of food and garden waste that would be sent away to landfill.

4 Planning Policy Review

- 4.1 Planning law requires that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the South Holland District is made up of the South-East Lincolnshire Local Plan (March 2019) and the Lincolnshire Minerals and Waste Plan. In addition, the policies of the National Planning Policy Framework (NPPF) 2021, Government guidance and related Acts constitute important material considerations.

South-East Lincolnshire Local Plan (SELLP) March 2019

- 4.2 Policy 1 sets out the spatial strategy in relation to the location of new development. Firstly, development is directed to the Sub-Regional Centres, Boston and Spalding. Followed by the Main Service Centres. Part D of the policy concerns the Countryside, policy 1 states the following:

“The rest of the Local Plan area outside of 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.

In the Countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.” [Our emphasis]

- 4.3 Policy 2 states the following:

“Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:

- 1. Size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses;*
- 2. Quality of design and orientation;*
- 3. Maximising the use of sustainable materials and resources;*
- 4. Access and vehicle generation levels;*
- 5. The capacity of existing community services and infrastructure;*
- 6. Impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;*
- 7. Sustainable drainage and flood risk;*

8. *Impact or enhancement for areas of natural habitats and historical buildings and heritage assets; and*

9. *Impact on the potential loss of sand and gravel mineral resources."*

4.4 The proposed development has been designed with careful regard to these requirements, and further details are set out in the Design and Access Statement.

4.5 Policy 3 concerns the design of new development; it states that *"all development will create distinctive places through the use of high quality and inclusive design and layout and, where appropriate, make innovative use of local traditional styles and materials. 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"*. The proposed development seeks to meet a high standard of design, with a strong ambition to provide a highly sustainable, eco-friendly house. All matters of design are considered and set out in the accompanying Design and Access Statement.

4.6 Policy 17 concerns the need to provide a mix of housing; this policy notes that amongst other types of housing the Local Plan will seek to meet the housing needs of custom and self-builders. However, the Plan contains no policies which would actually provide a supply of this type of housing, to accord with the Council's duties under the Act.

4.7 Policy 31 relates to climate change, and renewable and low carbon energy. As we have noted in Section 3 above, the proposed development would be built to a very high standard in this regard, and it would significantly exceed this policy's requirements.

National Planning Policy Framework (July 2021)

4.8 Paragraph 8 sets out the three aspects of sustainable development, which include economic, social and environmental objectives. The social objective includes a requirement *"to support strong, vibrant and healthy communities, by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations"*. The environmental objective includes a requirement to make *"effective use of land"*.

4.9 Plans and decisions are required to apply a *"presumption in favour of sustainable development"*. This is set out at paragraph 11. For decision taking this means:

c) *"approving development proposals that accord with an up-to-date development plan without delay; or*

d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

- 4.10 Footnote 7 clarifies that the policies referred to in d(i) are only those in the NPPF, and not those in development plans. It also clarifies that these are policies relating to various matters, including Green Belt land, Local Green Space, Areas of Outstanding Natural Beauty, irreplaceable wildlife habitats, designated heritage assets and areas at risk of flooding. None of these matters relate to this application.
- 4.11 Paragraph 38 states that *“local planning authorities should approach decisions on proposed development in a positive and creative way”,* and that they *“should seek to approve applications for sustainable development wherever possible”.*
- 4.12 Paragraph 60 states that *“to support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without necessary delay”.*
- 4.13 Paragraph 62 requires local policies to recognise the need for the variety of housing needed for different groups in the local community, including *“people wishing to commission or build their own homes”.* The associated footnote (28) notes that local authorities are advised to keep a register of those wishing to build their own homes and are required under sections 2 and 2A of the Self Build and Custom Housebuilding Act 2015 to *“give enough suitable development permissions to meet the identified demand”.*
- 4.14 Paragraph 105 states that *“The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making”.*
- 4.15 Paragraph 126 outlines that the *“creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve”* and that *“good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*
- 4.16 Paragraph 130 sets out requirements for planning policies and decisions, with regard to the design of new development. This states that decisions should ensure certain design fundamentals are achieved which include ensuring that developments are *“visually attractive as a result of good architecture, layout and appropriate and effective landscaping”,* are *“sympathetic to the local character... while not preventing or discouraging appropriate innovation or change”,* *‘optimise the potential of the site’,* and *“create places that are... inclusive, accessible and which promote health and well-being, with a high standard of amenity for existing and future users”.*
- 4.17 Paragraph 152 states that *“the planning system should support the transition to a low carbon future in a changing climate”.*

The Definition of Custom and Self-Build Housing

- 4.18 The Self-Build and Custom Housebuilding Act 2015, as amended by the Housing and Planning Act 2016, defines this type of housing as follows:

- (A1) *“In this Act “self-build and custom housebuilding” means the building or completion by –*
(a) individuals,
(b) associations of individuals. Or
(c) persons working with or for individuals or associations of individuals.
- (A2) *But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.”*

- 4.19 The definition is also summarised in the PPG, as follows:

“In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.

Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing.”¹

Local Authorities' Duties Under the Act

- 4.20 The Act contains two duties for local authorities. The first *“Duty as regards registers”* requires them to keep a register of people who are seeking land to construct their own self-build homes. The second *“Duty to grant planning permission etc”* requires local planning authorities to grant planning permission for sufficient plots for custom and self-builders to meet the level of demand. This is established by the number of people registering for plots, and the level of demand in each 12-month period must be met within the following 3 years. It specifically requires the following:

“An authority to which this section applies must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.”

- 4.21 The Act requires local planning authorities to have regard to guidance provided by the Secretary of State, namely the NPPF and PPG. We have noted above the requirement set out within the NPPF to provide custom and self-building housing, which includes a reference at footnote 28 to the duty placed on local authorities. The PPG also clearly sets out this duty, and notes the following²:

“What does having ‘a duty as regards registers’ mean?”

¹ National Planning Practice Guidance, reference ID 57-016-20210208.

² National Planning Practice Guidance, reference ID 57-029-20210508.

Section 2(1) of the Self-build and Custom Housebuilding Act 2015 places a duty of relevant bodies to have regard to each self-build and custom housebuilding register, including Part 2 of the register (where a register is in two parts), that relates to their area when carrying out their planning, housing, land disposal and regeneration functions.

The following guidance suggests ways in which the duty may be demonstrated in carrying out each function:

(i) Planning

The registers that relate to the area of a local planning authority – and the duty to have regard to them – needs to be taken into account in preparing planning policies, and are also likely to be a material consideration in decisions involving proposals for self and custom housebuilding.

(Our emphasis)

- 4.22 It is clear that local authorities must take into account whether they have issued a sufficient number of permissions for self-build and custom housebuilding plots to meet the local demand when determining proposals for new self-build and custom build plots. The location in which people wish to live is also relevant. The Council's duty to meet such demand is a material consideration relevant to the determination of this application.

5 Material Planning Considerations

The Demand for Custom and Self-Build Housing Plots

- 5.1 The Government now recognises the particular aspect of housing need which people wishing to build their own home represent. Paragraph 61 of the NPPF requires local planning authorities to assess and identify the size, type and tenure of housing needed for different groups in the local community including people wishing to build their own homes.
- 5.2 Further to this, the Self-Build and Custom Housebuilding Act 2015 (as amended) requires planning authorities to keep a register of people who wish to purchase a self-build plot, including their location preference. The Council should be guided by these preferences when deciding how to meet the need for self-build plots, and they are required to meet a “duty” to provide such plots within 3 years of each 12-month base period. The Council’s progress in complying with this duty is therefore highly relevant to this planning application. The Government’s Planning Practice Guidance (PPG) states the following:

“What does having a ‘duty to grant planning permission etc’ mean?

‘Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority’s register during a base period...’

At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period.”³

“What does having a ‘duty to registers mean?...’

(i) Planning

The Registers that relate to the area of a local planning authority – and the duty to have regard to them – needs to be taken into account in preparing planning policies, and are also likely to be a material consideration in decisions involving proposals for self and custom housebuilding.”⁴

- 5.3 We previously wrote to the Council on this subject in 2018, and we received a response (see Appendix 2) which stated that, as of September 2018, there were 42 people of the self-build and custom housebuilding register. We asked the Council for an update on this matter in late 2020, and the response we received in February 2021 (Appendix 3) stated that there were at that time 63 individuals and 2 groups on the register, as of the end of October 2020. The Council have since confirmed in a separate e-mail (Appendix 4) that a further 6 individuals and another 2 groups have registered in the period between October 2020 and June 2021. We

³ National Planning Practice Guidance, reference ID 57-023-201760728.

⁴ National Planning Practice Guidance, reference ID 57-014-20210508.

have requested more up to date figures from the Council, but at the time of writing these have not been received, however the Delegated Officer's report for planning application H14-1299-21 stated that *"The Council currently has 81 entries on its register, 77 of these being for individual plots and 4 groups seeking 10 plots"*; this was the Council's position on the 10th February 2022. The Report also confirms that the Applicants are on the register.

- 5.4 As such, the most up to date position which we have been able to ascertain from the Council is that the current requirement is for **77 individuals and 4 groups seeking 10 plots**. Our understanding of the identified demand, and the period in which it arose is set out in the table below. Please note that 4 of the total registrations relates to groups of individuals that are seeking a total of 10 plots, so our understanding of the total self-build and custom housebuilding plots sought in the district is currently **87, rather than 81**.

Base Period	Period Covered	New Registrations
1.	April 2016 – October 2016	22
2.	November 2016 – October 2017	13
3.	November 2017 – October 2018	7
4.	November 2018 – October 2019	10
5.	November 2019 – October 2020	13
6.	November 2020 – February 2022	16
Total		81

- 5.5 The application proposals would be a self-build project for the Applicants. They are registered on the South Holland Custom and Self-Build Register, and granting planning permission would allow the Council to discharge their Duty to the Applicants under the Act, to provide them with a plot of land. As the Government's Planning Practice Guidance clarifies, this is a material consideration which weighs in favour of granting planning permission in this instance.

Relevant Appeal Decisions – Custom and Self-Build Housing

- 5.6 Below we have summarised two appeal decisions that relate to the provision of Custom and Self-Build housing. The appeal decisions are also included for convenience with this statement at Appendices 5 and 6.

Land Off Hepworth Road, Woodville

- 5.7 This decision relates to two conjoined appeals, relating to land at Hepworth Road, Woodville⁵. These appeals were for 30 custom and self-build houses, and a related s106 agreement. The appeal site was outside but adjacent to the edge of the settlement boundary, in a location where it was identified as countryside, and there was an acknowledged conflict with the development plan.
- 5.8 The decision letter records that there were 54 individuals on the Council's self-build and custom housebuilding register. The Council had granted planning permission for only 4 custom and self-build plots, and in addition they had granted consent for 133 single-plot dwellings; however, the Inspector noted the following (at paragraph 22):

⁵ APP/G2435/W/18/3214451 and APP/G2435/Q/18/3214498.

"The Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding Act 2015 (as amended).

To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S. 106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council's Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District."

- 5.9 The Inspector also reflected on the Council's progress in responding to the demand arising in each base period, commenting as follows:

*"The deadline for granting planning permission for enough serviced plots to meet the demand arising for base period 1 is 30 October 2019. As such there remains a residual requirement to grant consent for at least 5 serviced plots by 30 October 2019. Consequently, the ability of the appeal proposal to address the unmet demand for serviced plots that arose in base period 1, base period 2 and part of base period 3, in a comprehensively planned manner, **is a material consideration that weighs strongly in favour of the appeal proposal**. The appeal proposal would meet the majority of the current demand by delivering 30 serviced self-build or custom-build plots and this would accord with advice in paragraphs 59 and 61 of the NPPF and other Government guidance."*
[Our emphasis]

- 5.10 With regard to the planning balance, the Inspector concluded that due to being located outside the settlement boundary, the proposed development did not accord with the development plan taken as a whole. However, the proposals were considered to make a positive contribution towards the three elements of sustainable development, set out at paragraph 8 of the NPPF (as we consider is also the case in this instance). In addition:

"In terms of the social benefits, the proposal would be able to meet most of the current demand for self and custom-build plots in the District. The appeal proposal does not represent unnecessary development because it would greatly assist NWLDC to meet its statutory obligations with respect to providing serviced plots for self-build and custom-build housing. This would ensure that the proposed development plays a major role in meeting an evidenced housing need in North West Leicestershire."

- 5.11 The Inspector concluded overall that the benefits would outweigh the conflict with the development plan, and the appeal was allowed.

Green End / Heath Road, Gamlingay

- 5.12 This appeal related to an outline application with all matters reserved, for up to 9 custom and self-build homes at Green End and Heath Road, Gamlingay⁶. The appeal site was located outside of the defined settlement boundary. A new Local Plan had been adopted a year prior to the appeal being determined, and the Council were able to demonstrate in excess of a 5-year supply of deliverable housing land. The Local Plan's policies preclude development outside settlement boundaries, other than for rural exceptions affordable housing. It was agreed that the appeal proposals represented a departure from the development plan. The Inspector put the case simply, as follows:

10. *"The appellant has put forward evidence relating to a shortfall in the delivery of self-build housing, which is uncontested by the LPA. This shortfall is significant. The Parish Council confirm there is demand within the village for this type of development. I therefore give significant weight to this factor.*
11. *The DP policies, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Despite the LPA ability to demonstrate a five-year housing land supply, this must be recognised as a minimum figure in light of the National Planning Policy Framework (the Framework), which encourages significantly boosting the supply of new homes.*
12. *The proposal would make a modest contribution of up to 9 self-build dwellings towards the shortfall. Whilst the appeal site would be on the edge of the village, it is within walking distance to the village centre and public transportation operated nearby. Shops, services and employment are therefore accessible. Therefore, there are economic, social and environmental sustainability benefits attributable to the development.*
13. *The appellant has submitted a unilateral undertaking, which would limit the appeal development to self-build housing. On this basis and for the reasons outlined above, in this instance there are considerations that weigh heavily in favour of the development, that would justify departing from the development plan in this regard."*

Conclusions on these Appeal Decisions

- 5.13 Both of these appeal decisions make the following points clear:
- The need to meet the demand for custom and self-build housing relates to the duties in the Act. It is separate to normal housing need, and the two should not be confused.
 - In practical terms, for the determination of planning appeals such as this, the essential difference between open market housing and custom and self-build housing is a legal agreement which guarantees the plots would be used for that purpose.
 - The wider 5-year supply of housing land is a separate matter to the provision of self-build and custom house building plots, as required under the Act.

⁶ APP/W0530/W/19/3230103.

- Meeting an identified demand for custom and self-build housing can justify a departure from the policies of an up-to-date and newly adopted development plan, including locating housing outside of a defined settlement boundary, even where there is a surplus in the 5-year housing land supply.
- 5.14 Alongside this planning application we have submitted a draft legal agreement that states that the dwelling will be constructed pursuant to the planning permission and will meet the definition of a self-build home under the Act. In considering the appeal decisions set out above, it is clear that these proposals would provide one new home that would contribute to the Council meeting its duty to provide custom and self-build plots. Furthermore, the need to meet this demand can justify locating housing outside of a defined settlement boundary.

Further Appeal Decisions in South Holland

- 5.15 The Delegated Officer's report for the refused planning application H14-1299-21 draws attention to three recent appeal decisions relating to custom and self-build housing in South Holland District (APP/A2545/W/21/3270308, APP/A2545/W/21/3270402 and APP/A2545/W/21/3270404). In each of these cases the appeals were dismissed, with the Inspector concluding that each of the proposed developments would lead to *"significant harm to the character and appearance of the area"*; the fact that these appeals were refused relates in large part to the Inspector's views on the sites in question, and not to the principle of locating custom and self-build housing outside defined settlement boundaries. However, the Inspector also considered each appeal in relation to Policy 1 of the adopted South East Lincolnshire Local Plan. As we have noted in Section 4 above, this states the following:

"In the Countryside development will be permitted that is necessary to such a location and/or were it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits." **[Our emphasis]**

- 5.16 In consideration of this policy, the Inspector commented in all three appeals with similar wording, as follows⁷:

"The appeal site is outside the defined settlement boundary and is therefore considered to be within the countryside under Policy 1 of the Local Plan. The appellant refers to the community benefits arising from the proposal. However, it has not been demonstrated that this development is necessary to this location as referred to in Policy 1(D). Moreover, due to the harm I have identified in respect of character and appearance, the proposal would also not provide the environmental benefits required by Policy 1."

- 5.17 The Inspector clearly concluded that, as he considered a need had not been demonstrated for the development to be in that particular location, it was contrary to Policy 1. He also concluded that it failed to comply with Policy 1 because he did not consider it would provide environmental benefits. However, the Inspector very clearly misread the policy, and specifically missed its inclusion of the word *"or"* in two places within the policy, as we have highlighted above. In other words, the Inspector found that the appeal proposals failed to accord with the policy due to their not meeting all of its criteria, whereas the policy's wording

⁷ This paragraph was included in appeal decisions APP/A2545/W/21/3270308 and APP/A2545/W/21/3270404, whilst the wording in decision APP/A2545/W/21/3270402 was similar, but slightly different, due to the nature of that site.

allows for a proposal to meet only one criteria, and still accord with the policy as a whole. So, a proposal could for instance be acceptable within the countryside if it brought particular social or economic benefits.

- 5.18 In light of this, the Inspector's dismissal of these appeals was clearly flawed, due to a misreading of the relevant policy. It certainly does not imply a need to dismiss further proposals for custom and self-build housing on the basis that they fail to comply with Policy 1.
- 5.19 It is also important to note that this Inspector considered the two appeal decisions that we have highlighted above, relating to the sites in Woodville and Gamlingay. He commented as follows in relation to these decisions:

"I have also had regard to the appeal decisions which were referred to by the appellant, both of which represented departures from the development plan. However, in both cases, the Inspector concluded that the proposal would not harm the character and appearance of the area, which differs from my conclusions on the appeal before me. One of the appeals also consisted of a significantly greater number of self-build and custom-build plots. The circumstances of those appeals are therefore materially different to the appeal before me, which I have determined on its own merits."

- 5.20 The clear implication of this paragraph is that these appeal decisions can potentially justify custom and self-build housing outside of a defined settlement boundary, in circumstances where 1) the decision-maker does not consider there would be significant harm to the character and appearance of the area, and 2) the decision maker reads Policy 1 correctly.

Provision of Custom and Self-Build Housing Plots

- 5.21 The Council's response at Appendix 3 also provides information with regard to the number of Custom and Self-build plots that have been granted permission in the District. The Council have previously stated that during the period of October 2019 to October 2020, 41 suitable custom and self-build development permissions were granted. However, we understand that these planning permissions are not specific to self-build and custom housing, but they instead relate to planning permissions for housing, which are not restricted to this particular type of housing. They would not satisfy the requirements set out in relation to the above-mentioned appeal decisions, as there is no guarantee that they would meet the need for self-build and custom housing.
- 5.22 We also note that when we wrote to the Council on this subject, in 2018, we received a response that stated *"The council does not monitor custom and self-build plots available for sale in the district"* (Appendix 2). We understand that the Council have, for around the past year or so, begun to ask applicants whether they are seeking permission for self-build and custom housing, but they have to date not provided any information on the specific permissions which they can demonstrate will be delivered as this type of housing.
- 5.23 The Council's letter to us in February 2021 (Appendix 3) confirms that only a single site within the District has been granted planning permission for custom and self-build housing, in a manner which accords with the above appeal decisions. This relates to a site at James Road, Crowland, an application which is discussed further below. This application was approved with an accompanying Section 106 legal agreement which required the homes to be specifically for custom and self-build occupants, as defined under the Act.

- 5.24 Whilst we understand that these plots are not yet available to the market, even if they were, in light of the information on supply noted above, the current level of unmet need would be for at least **71 individual plots, and 4 group schemes**. The application proposals would make a valuable, and rare, contribution towards addressing this need by providing a custom/self-build plot for one individual on the register.
- 5.25 We also note that the first three base periods expired over 3 years ago. They represent an unmet requirement for 42 plots. It is clear that the Council have so far comprehensively failed in their duty to provide plots to meet the recorded demand, despite having now had several years to address the matter.
- 5.26 Within the reasons for refusal of the previous planning application, the Council stated that *“it is not considered that open market housing, which self-build housing is considered to be, is a type of development that requires a countryside location. This is particularly the case in this instance where the Council has a development plan in place with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (8.5 years as of 31st March 2021)”*. Here, the Council have clearly failed to recognise that the wider 5-year supply of housing is a separate matter to the provision of self-build and custom housing plots. This is set out above in the appeal decisions at Woodville and Gamlingay; they both demonstrate the importance of providing self-build and custom housebuilding plots, and the distinction from the general housing need. The fact that the Council can demonstrate a 5-year housing land supply should not alter the weight that should be afforded to the provision of custom and self-build housing, especially when there is clear demand and there has been a consistent failure to meet the demand for this type of housing in the district. Furthermore, as seen in the Gamlingay appeal, meeting an identified demand for custom and self-build housing can justify a departure from the policies of an up-to-date development plan, even where there is a surplus in the 5-year housing land supply. The provision of this type of housing can also meet the type of need for development in the countryside which is envisaged by the wording of Policy 1.

Environmental Sustainability

The House and Garden

- 5.27 As well as building their own home, it is the Applicants' aspiration to build a highly sustainable eco home, and reduce their family's carbon footprint. With this in mind, the draft legal agreement submitted with this application supports the Applicants' commitment to providing a zero-carbon eco home. The draft legal agreement states that the proposed home would meet the definition of 'Zero Carbon' as outlined in the Zero Carbon Hub; this is included within the draft s106 legal agreement which accompanies this application, and the wording is also set out in Section 3 above.
- 5.28 It is envisaged that this house would be powered by electricity generated on site by an array of photovoltaic solar panels that would be installed within the rear garden. A battery system would also be provided within the site to store electricity for use by the home in high demand times, with any excess being sold back to the national grid. Both provisions are included in the draft Section 106.

- 5.29 In addition, it is proposed that the home would be installed with 100% low-energy lighting, mechanical ventilation heat recovery and a ground source heat pump. The house would also be designed to make best use of passive solar gain, and it would be highly insulated, with building airtightness significantly beyond current building regulation requirements. It is envisaged that it would use less energy than it would generate. The Applicants are committed to building a family home that is of a highly environmentally sustainable nature, and further information is available within the Design and Access Statement and SAP calculations have been provided to demonstrate the energy efficiency of these proposals.
- 5.30 The use of water would be limited by the installation of low consumption appliances and technology. The house would be designed to limit water consumption to 80 litres per person per day, equivalent to the level required by Level 6 of the Code for Sustainable Homes. It is also proposed that rainwater would be harvested on site and grey-water recycling would be used for irrigation watering in the garden, washing cars and flushing toilets.
- 5.31 In terms of waste, the proposals have sought to design out the on-site production of waste as much as possible. The home will be provided with internal bins to separate out recyclable, kitchen waste and land-fill waste. Recyclable and land-fill waste would be collected by the local authority and the kitchen and garden waste would be transferred to a compostable bin on site.
- 5.32 The Applicants also wish to grow their own food, and space is provided on site for a kitchen garden and the compost could be used to cultivate their own fruit and vegetables. The kitchen garden would also bring biodiversity gains to the site, along with the installation of bird boxes, bat boxes, an insect hotel, log pile habitats and the proposed wild flower meadows and other landscape enhancements. It is envisaged that matters relating to landscaping and biodiversity improvements could be controlled by suitably worded planning conditions.

Transport

- 5.33 The Council raise the lack of footpaths, street lighting and access to public transport as a reason for refusal of the previous application. However, we refer to paragraph 105 of the NPPF which refers to the benefit of locating development in areas “*which are or can be made sustainable*”. With this in mind, the legal agreement which accompanies this application proposes the permanent provision and upkeep of an electric vehicle at the new dwelling, for use of its residents. The draft legal agreement states the following:
3. *“The new dwelling shall be powered by electricity generated on site through renewable technologies with any surplus sold back to the National Grid.*
 4. *The new dwelling shall be provided with on site electrical battery storage to a standard to be agreed in writing with the Council, the approval of the Council to the standard shall not be unreasonably withheld or delayed.*
 5. *The new dwelling shall be provided with an on-site electric vehicle charging point with minimum capacity to charge two vehicles.*
 6. *The new dwelling shall be provided with an electric vehicle as part of the fixtures to the property. The vehicle shall have an MOT and be fully taxed and insured at all times whilst the dwelling is occupied.*

The occupier of the dwelling shall within 48 hours notice from the Council provide copies of all documentation outlined above or provide access to the Council to inspect both the electric vehicle and documentation on site."

- 5.34 In rural locations like the development site, it is not unusual for there to be no pedestrian footpath, however the applicants do currently walk past the site, and it is possible to cycle there. A regular bus service does not pass the site, and it is expected that the applicants would prefer to use a private car for longer journeys. As such the above wording within the legal agreement would ensure that an electric car (with low or ultra-low emissions) is kept at the premises for this purpose. This would be a sustainable modes of travel, and arguably one which would be more sustainable than a diesel-powered bus would provide.
- 5.35 It can be guaranteed that energy will be generated and stored within the site, and that this can be used to power an electric vehicle, which will itself also be available for the residents' use. The availability of an electric vehicle, with an up-to-date MOT, tax and insurance, are all matters which could easily be verified by the Council at any time in the future, should they wish to check. The facility to charge an electric vehicle at the property, using electricity generated on site by the photovoltaic solar panels, is also something which could be verified at the Council's request.
- 5.36 The glossary to the NPPF defines "*Sustainable transport modes*" as "*Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, low and ultra low emission vehicles, car sharing and public transport*". We consider that an electric vehicle that is charged by electricity generated at the site is a highly energy efficient, ultra-low emission vehicle and it would meet the definition of a sustainable transport mode as set out in the NPPF.
- 5.37 The vast majority of the vehicle trips from the site would be made by its inhabitants. Whilst it would not be possible to ensure that they always used the electric vehicle to travel, its constant and verifiable presence would nevertheless mean that this location would have been made "*sustainable*", in a way which reflects NPPF paragraph 105. This would be the equivalent of a site with easy and convenient access to a sustainable mode of transport, such as in a town centre; this would be considered a sustainable location, and a favourable one in which to locate new housing, irrespective of the fact that residents could still chose to use a private car in preference to public transport options. In terms of planning control, the relevant issue is the availability of a realistic option for sustainable travel.
- 5.38 As we have noted in Section 2, the site is close to the largest settlement in the District, Spalding, and also close to the edge of the village of Pinchbeck. This means that the majority of vehicle trips are likely to be short. In addition, home deliveries of goods and items such as supermarket shopping would not involve a trip of any materially greater length than would be the case for a home located in Pinchbeck or Spalding.

Conclusions on Environmental Sustainability

- 5.39 In light of our comments above, it is clear that this planning application cannot be refused simply on the basis of the carbon emissions which would be generated through future transport. When these emissions, and those from the operation of the building, are compared with a new home, even if this were to be located in Spalding or Pinchbeck, it is clear that this would be a far, far more sustainable form of development, which would generate a fraction of the carbon emissions. This would be an inherently environmentally sustainable development,

and the Council could use it as an example to encourage more sustainable development in other new developments.

- 5.40 In addition, this would be a development which would show what could be achieved in terms of minimising carbon emissions. It would be an exemplar project, which could help to inspire others looking to reduce their carbon footprint, and live a sustainable lifestyle. There is a good prospect that it will lead to further housing of a similarly high environmental standard.
- 5.41 The proposed development would also provide further environmental benefits, in terms of biodiversity net gain, and improvements to the site's landscape character. These and the other matters above all weigh in favour of approving the proposed development.

Economic Sustainability

- 5.42 Housing development is vital to sustain the local economy and to encourage growth and innovation. National planning policy repeatedly equates the provision of housing with sustainable economic growth, recognising that it is a key driver for the economy. National policy seeks the provision of a full range of housing including meeting the demand for people looking to building their own home; there there is a shortage of suitable housing, of any type, this can form an impediment to economic growth, as is recognised by paragraph 82 of the NPPF.
- 5.43 In addition, the proposed house would also generate employment during its construction. This likely to be for a local builder, and it would create around 3 jobs for the period of a year. In the future the site's residents would also generate demand for local shops and services, helping to maintain their viability. These are all economic benefits which weigh in favour of the application proposals.

Social Sustainability

- 5.44 National policy supports the provision of housing to meet social needs, and the need for a suitable amount and range of types of housing is prominent throughout the guidance within the NPPF. These proposals would meet the specific needs of the Applicants, by providing a self-build house that would be built to their specifications and requirements. This would provide an important social benefit, which national guidance and past appeal decisions confirm would be an important material consideration weighing in favour of approving this application. Moreover, this would be a social benefit which would meet the requirement within Policy 1, and ensure that the development complied with the development plan.

Design and Response to the Character of the Local Area

Appearance

- 5.45 The aim of the proposed design is to fit in well with the character of the local area. The Design and Access Statement states the following:

"The design philosophy underpinning the proposals aims to ensure that the development has a clear affinity with the site's location. West Pinchbeck and its surrounding area has an architectural mix of agricultural holdings and linear domestic development to main roads

into the settlement. The proposals seek to follow the general form of linear development whilst also using materials reflect the area and enhance the look of the building."

- 5.46 The house would be an attractive addition to the area, which would be of a notably high quality design, and which would use correspondingly fine materials, as we have noted in Section 3 above. Developments such as this can help to raise the bar for new homes in the area, and improve the standard of design in other new proposals. We are aware that this is a matter over which the Council have previously expressed concern, and the quality of the design in this instance is a matter which weighs heavily in favour of granting planning permission.

Relationship with the Landscape

- 5.47 The Council state within their reason for refusal of the previous application that the *"the site is a managed parcel of agricultural land that has a distinctly rural feel, which contributes to the character of the countryside. The proposal would further intensify the existing cluster of built development in this part of the countryside and would domesticate and materially change the rural character if the site to the detriment of the character and appearance of the locality"*. This opinion is at odds with the views of the Chartered Landscape Architect whose assessment was set out in the Landscape and Visual Appraisal by Briarwood Landscape Architecture, which accompanied that application. An updated Landscape and Visual Appraisal accompanies the current application, and this states the following:

"The proposed development envisages the creation of a new four bedroom detached residential dwelling the site with separate car port. The new building has been designed to reflect and reference the local vernacular through the use of traditional brickwork but with a more contemporary zinc metal roof (referencing local agricultural buildings).

The proposed development would not materially change the key landscape characteristics or elements and features, identified in either the published landscape character assessment or the author's own assessment for the local landscape. The existing pattern of geometric fields and linear water and vegetative features, would continue with the proposals in place.

The proposed development would positively contribute to the character of the local landscape by introducing a style of residential development, in the form of a new residential dwelling which would represent high quality contemporary design. Through reference to the local and agricultural vernacular and the use of appropriate materials and landscaping, the proposals, it is considered, would both conserve and enhance the rural surroundings in accordance with national and local policy.

The proposals would be detailed so as to respond to the existing level landform and largely open nature of the site so these elements would continue to be evident. The existing vegetation along the site's boundaries would be retained as part of the proposals and would continue to help provide a degree of visual enclosure to the proposed development. The existing vegetation along the site's boundaries would be reinforced and enhanced through new planting. Once established, this new planting would begin to make a positive contribution to the site and the wider landscape.

Overall, the physical characteristics of the surrounding wider landscape beyond the site and its predominantly rural, farmed, nature would be materially unchanged with the proposed residential development in place. The landscape is accommodating of a wide

variety of human influences including infrastructure and settlement but retains a rural agricultural nature. In this context, the sight of the proposed development would not unduly affect the visual experience and perception of the landscape's character. The existing strongly and linear pattern and geometric landcover of the landscape comprising isolated properties and settlements over a level topography would all continue with the proposed residential in place.

The opportunity to view the site and the proposed development from publicly accessible locations in the wider landscape is limited and restricted mainly to the public highway. Such views that are afforded are typically at a close to medium distance from the site boundary, where the proposals would not typically be seen in isolation but as a relatively small component of a more expansive view.

In general, the proposed development, even from publicly accessible locations would typically be seen only as a discrete element. The proposal would enable the integrity, quality and key characteristics of the landscape to be maintained and to continue to prevail visually."

- 5.48 This clearly demonstrates that the proposed development would not lead to any unacceptable adverse impacts on the character of the local landscape, and that it could indeed make a positive contribution to that character.

Effect on Designated Heritage Assets

- 5.49 We have noted in Section 2 that there are a few Grade II listed buildings relatively close to the application site. Their listing descriptions are included at Appendix 1. The significance of all of these designated heritage assets rests in their age, attractive appearance and fine condition, combined with the fact that they appear to have been largely unaltered in modern times, and they retain much of their original fabric.
- 5.50 All of these listed buildings are seen in the context of a small rural settlement, characterised by linear housing following the line of Glenside North. The application site previously contained buildings, which were in a similar position to the proposed house. By locating a new house in this position, the application proposals would not cause any inherent harm to the setting or significance of the listed buildings. There would be limited inter-visibility between the proposed house and the listed buildings, and even where there were views of the two together, the house would not have an adverse effect on such views, by virtue of its high quality design and sympathetic form. We do not consider that there would be any harm in heritage terms, and the proposed development would comply with local and national policy in this regard.

Conclusions on Design Matters

- 5.51 It is proposed to provide a new home which would be of a high quality design, built of high quality materials, and accompanied by suitable new landscape planting. Both the design of the house and the proposed planting would make a positive contribution to the character of the area. National policy encourages the provision of development of a high quality, which would contribute to the creation of beautiful places. It is clear that the proposals would accord with the relevant local policies, and national policy. These matters all weigh in favour of granting planning permission.

Policy 1 of the South East Lincolnshire Local Plan

- 5.52 We have shown above that Policy 1 does not necessarily restrict new development within the countryside, and indeed it is not written in negative terms. Development can take place where it is either necessary for it to be in that location, or where it meets an identified need for development. In the case of the application, it is clear that the proposed custom and self-build housing would respond to an identified need, as we have noted above. Meeting that need would provide clear community benefits.
- 5.53 We have also demonstrated the ways in which the application proposals would provide sustainable development in light of economic, social and environmental objectives, as set out in paragraph 8 of the NPPF. We consider that the clear social and economic benefits the proposed home would bring means that it would be entirely compliant with NPPF paragraph 8, particularly the need “to support strong, vibrant and healthy communities, by ensuring that a sufficient number and **range** of homes can be provided to meet the needs of present and future generations...” (**our emphasis**). In addition, the type of house proposed, a zero-carbon home, with guaranteed access to an electric vehicle, would ensure that the proposals would respond particularly positively to the environmental element of sustainable development. As such these proposals would meet “the sustainable development needs of the area” in a number of ways, and they would accord with Policy 1.

Previous Permission for a Self-Build Development in South Holland

- 5.54 The Council have previously granted planning consent for what was described as a development of “6 self-build eco-homes”, on a site on the edge of Crowland (application H02-0669-19). The application site in that case was not adjacent to the settlement boundary, but in the countryside. Under the heading ‘notes’, at the end of the Council’s decision notice, it stated the following:

“The Local Planning Authority has acted proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, Members of the Planning Committee, which took the decision to grant planning permission, as the Planning Committee felt that the social and economic benefits of delivering a small number of eco self build/custom-build properties in this location outweighed the policy requirements of the South East Lincolnshire Local Plan, and consequently, the presumption in favour of sustainable development was considered to apply in this instance. With regard to the issue in relation to flood risk, the site could be made safe through the use of appropriate mitigation measures.”

- 5.55 As this indicates, the decision was taken by the Planning Committee to overturn a recommendation for refusal by Officers. Despite the Officers’ advice that the proposals were contrary to the policies of the Local Plan, the Committee considered that material considerations (social and economic benefits) outweighed any apparent conflict with the development plan. It is clear that the Planning Committee recognised the benefits of providing custom and self-build housing on a site beyond the settlement boundary of Crowland, and that this would benefit from the presumption in favour of sustainable development. We consider that the same is true of the current application.

Presumption in Favour of Sustainable Development

- 5.56 We have explained throughout this Statement that the proposed development accords with the policies of the development plan, including Policy 1. The proposals would also bring a range of benefits, and they would in our view clearly comply with the development plan taken as a whole. In these circumstances, paragraph 11(c) of the NPPF applies, and the proposed development should be approved without delay, in accordance with the presumption in favour of sustainable development.
- 5.57 However, if the Council were to conclude that Policy 1 did not allow for the provision of self-build and custom housing, there would in that case be no policy within the Local Plan that would allow for this type of housing, in circumstances where there is a shortfall in its supply, as there is now. In that case, there would be no relevant development plan policies, and paragraph 11(d) of the NPPF would apply, engaging the tilted balance of the presumption in favour of sustainable development. In this case, we note that there are no other footnote 7 matters which are relevant to this application. Accordingly, the application would need to be considered in light of paragraph 11(d)(ii), and planning permission should be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*. There would be no adverse impacts which would meet this high test.
- 5.58 We consider that it is clear planning permission should be granted for the proposed development, in accordance with the presumption in favour of sustainable development.

6 Conclusions

- 6.1 This planning application seeks permission for a new family house, which would be a self-build, zero-carbon home. The Self-Build and Custom Housebuilding Act 2015 (as amended) places a duty on local planning authorities to keep a register of people who are seeking land to construct their own self-build homes, and also provide plots for those on the register. The Council is failing under its duty to provide a suitable supply of self-build and custom housing plots. The Government's planning practice guidance clarifies that this is a material consideration which weighs in favour of the application proposals. Previous appeal decisions have also clarified that this is a matter of great importance, which can even outweigh conflicts with a newly adopted development plan. They have also clarified that the need for this type of housing is separate from standard housing, hence the need for a separate Act of Parliament concerning self-build and custom housing. The proposed development would clearly help meet existing demand within the District, helping the Council to discharge its statutory duties in this respect.
- 6.2 The Applicants are on the Council's Self-Build and Custom Housing Register, and approving this application would help the Council to discharge their duty to provide them with a plot on which they can build their own home. This planning application is accompanied by a draft Section 106 legal agreement, which covenants the Applicants to provide only a custom or self-build home, and ensures that this need would be met.
- 6.3 The draft legal agreement also covenants the Applicants to build a zero-carbon eco home. This would ensure that the proposed house would be built to a very high eco-friendly standard, meeting the definition of Zero-Carbon set out by the Zero-Carbon Trust. This house could become an exemplar project, which could help to raise the standard of sustainable design in other similar projects in the local area.
- 6.4 The draft legal agreement also requires the maintenance and upkeep of an electric vehicle, and the provision of charging points for the use of the residents. Electricity for charging the vehicle would be generated on the site. This would ensure that residents would have easy access to a sustainable mode of transport, on demand. It would effectively ensure that the site would be a sustainable location, akin to a town centre location with good access to public transport. This would accord with the aims of national policy, which seeks to position new homes in locations which are or can be made sustainable (NPPF paragraph 105).
- 6.5 The proposals also include many biodiversity improvements to the site, such as bird and bat boxes, and bug hotel, and wild flower meadows. This would provide a notable net benefit to local biodiversity.
- 6.6 The proposals have also been carefully designed to respect the character of the local area, whilst providing a modern and contemporary dwelling, that would provide a highly desirable place to live for Applicants. This would be a building of a high quality, both in its design, appearance and finish. The Landscape and Visual Appraisal which accompanies the application finds that the proposed house and landscaping could make a positive contribution to the character of the local area.

- 6.7 The proposed house would accommodate a local family, who would make a positive contribution to the local community, engaging socially and providing trade for local shops and services. It would also generate employment for local people during its construction period.
- 6.8 We consider that it would comply with Policy 1 of the Local Plan, which allows for development which meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The proposed development would very clearly provide all of these benefits. It would also comply with the development plan as a whole. This automatically engages the presumption in favour of sustainable development, in accordance with NPPF paragraph 11(c).
- 6.9 If the Council were to conclude that Policy 1 did not allow for the provision of self-build and custom housing, there would in fact be no policy within the Local Plan that would allow for it in circumstances where there is a shortfall in its supply, such as there is now. In that case, there would be no relevant development plan policies, and paragraph 11(d) of the NPPF would apply, engaging the tilted balance of the presumption in favour of sustainable development. In addition, the relevant development plan policies, which were seen to restrict this type of development, would also be rendered out of date, and they would be accorded less weight in the planning balance.
- 6.10 This application follows the grant of planning permission for 6 self-build eco-homes on land beyond the settlement boundary of Crowland. That development was permitted by the Planning Committee on the basis of its social and economic merits, and they also concluded that that development benefitted from the presumption in favour of sustainable development. We consider that the current application should be treated in a similar way.
- 6.11 The proposed development benefits from the presumption in favour of sustainable development, and we consider that it should be approved without delay.

Appendix 1

BROWNLOW HOUSE

BROWNLOW HOUSE, GLENSIDE NORTH

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 Overview

 Official List Entry

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Official list entry

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1359315
Date first listed:	07-Feb-1967
Date of most recent amendment:	13-Jan-1988
Statutory Address 1:	BROWNLOW HOUSE, GLENSIDE NORTH

Location

Statutory Address: BROWNLOW HOUSE, GLENSIDE NORTH

The building or site itself may lie within the boundary of more than one authority.

County:	Lincolnshire
District:	South Holland (District Authority)
Parish:	Pinchbeck
National Grid Reference:	TF 21708 25691

Details

PINCHBECK GLENSIDE NORTH TF 22 NW 7/88 Brownlow House (formerly listed as Money Bridge Farm 7.2.57 and dovecote and under Money Bridge) G.V. II House. Early C18. 1772, altered mid C19. Red brick in Flemish bond, painted ashlar dressings, Westmorland slate roof, C19 gable stacks, partly set on stone corbels. T-plan. 2 storey plus attics, 5 bay front with plinth and central 6 panel door, panelled reveals, with plain pilastered surround, triglyph frieze, dentillated pediment, flanked by pairs of plain sashes. To first floor are 5 similar windows. All windows have segmental brick heads with keyblocks. Above the door a square ashlar plaque bears the Brownlow cypher and the date 1772. A similar plaque is located over the rear door. Interior retains turned and knopped baluster stair with raised and fielded side panels and carved string.

Listing NGR: TF2170825691

Legacy

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Legacy System number:	198202
Legacy System:	LBS

Legal

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.



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BROWNLOW HOUSE

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Overview



Official List Entry



0 Comments and Photos

Overview

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1359315
Date first listed:	07-Feb-1967
Statutory Address:	BROWNLOW HOUSE, GLENSIDE NORTH



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GLEN HOUSE

GLEN HOUSE, GLENSIDE SOUTH

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 Overview

 Official List Entry

 Comments and Photos

Official list entry

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1359276
Date first listed:	13-Jan-1988
Statutory Address 1:	GLEN HOUSE, GLENSIDE SOUTH

Location

Statutory Address: GLEN HOUSE, GLENSIDE SOUTH

The building or site itself may lie within the boundary of more than one authority.

County:	Lincolnshire
District:	South Holland (District Authority)
Parish:	Pinchbeck
National Grid Reference:	TF 21822 25648

Details

PINCHBECK GLENSIDE SOUTH TF 22 NW 7/92 Glen House II House. Late C18 with minor C19 alterations. Red brick in Flemish bond, slate roof, 2 brick gable stacks. L-plan. 2 storey, 3 bay front having central 4 panel door with overlight, with plain pilastered surround with quatrefoils to the angles, flanked by single glazing bar sashes with segmental brick heads. To first floor 3 glazing bar sashes to eaves.

Listing NGR: TF2343426062

Legacy

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Legacy System number:	198206
Legacy System:	LBS

Legal

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GLEN HOUSE

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 Overview

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Overview

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1359276
Date first listed:	13-Jan-1988
Statutory Address:	GLEN HOUSE, GLENSIDE SOUTH



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MONEY BRIDGE PUBLIC HOUSE

MONEY BRIDGE PUBLIC HOUSE, GLENSIDE NORTH

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 Overview

 Official List Entry

 0 Comments and Photos

Official list entry

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1146821
Date first listed:	13-Jan-1988
Statutory Address 1:	MONEY BRIDGE PUBLIC HOUSE, GLENSIDE NORTH

Location

Statutory Address: MONEY BRIDGE PUBLIC HOUSE, GLENSIDE NORTH

The building or site itself may lie within the boundary of more than one authority.

County:	Lincolnshire
District:	South Holland (District Authority)
Parish:	Pinchbeck
National Grid Reference:	TF 21557 25626

Details

PINCHBECK GLENSIDE NORTH TF 22 NW Money Bridge 7/87 Public House II Former public house, now empty. C18, altered mid C19. Red brick in Flemish bond, Welsh slate roof, brick coped gables and kneelers, 2 brick gable stacks. 2 storey, 4 bay front with first floorbrick band. Central panel door with fan circle and plain overlight, set in projecting C19 flat roofed brick porch. To right a C19 canted bay window, to left 2 glazing bar sashes. To first floor 4 similar windows. All have cambered brick heads.

Listing NGR: TF2155725626

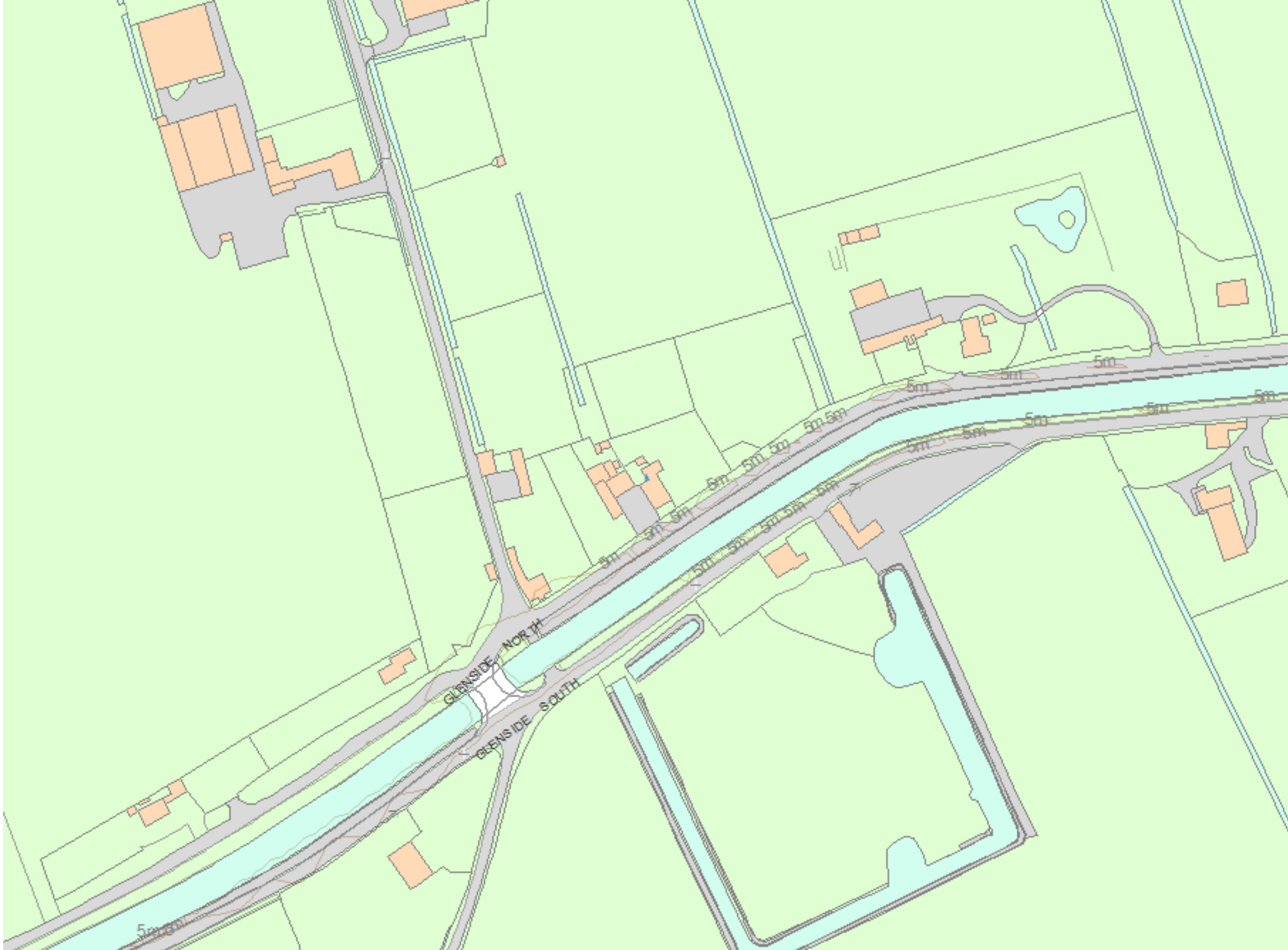
Legacy

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Legacy System number:	198201
Legacy System:	LBS

Legal

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MONEY BRIDGE PUBLIC HOUSE

MONEY BRIDGE PUBLIC HOUSE, GLENSIDE NORTH

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Overview



Official List Entry



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Overview

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1146821
Date first listed:	13-Jan-1988
Statutory Address:	MONEY BRIDGE PUBLIC HOUSE, GLENSIDE NORTH



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PIGEONCOTE AT BROWNLOW HOUSE

PIGEONCOTE AT BROWNLOW HOUSE, GLENSIDE NORTH

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 Overview

 Official List Entry

 0 Comments and Photos

Official list entry

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1146855
Date first listed:	07-Feb-1967
Date of most recent amendment:	13-Jan-1988
Statutory Address 1:	PIGEONCOTE AT BROWNLOW HOUSE, GLENSIDE NORTH

Location

Statutory Address:	PIGEONCOTE AT BROWNLOW HOUSE, GLENSIDE NORTH
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The building or site itself may lie within the boundary of more than one authority.

County:	Lincolnshire
District:	South Holland (District Authority)
Parish:	Pinchbeck
National Grid Reference:	TF 21682 25697

Details

PINCHBECK GLENSIDE NORTH TF 22 NW 7/89 Pigeoncote at Brownlow House (formerly listed 7.2.67 as Money Bridge Farm and dovecote and under Money Bridge) G.V. II Pigeoncote. Late C18. Red brick, pantile roof, raised brick coped tumbled gables, timber turret, shaped lead roof, wrought iron weather vane. 2 storey, single bay front having planked door with to right a fixed glazing bar light with segmental brick heads. In the right side a blocked door at first floor level. The turret has 2 tiers of flight holes.

Listing NGR: TF2168225697

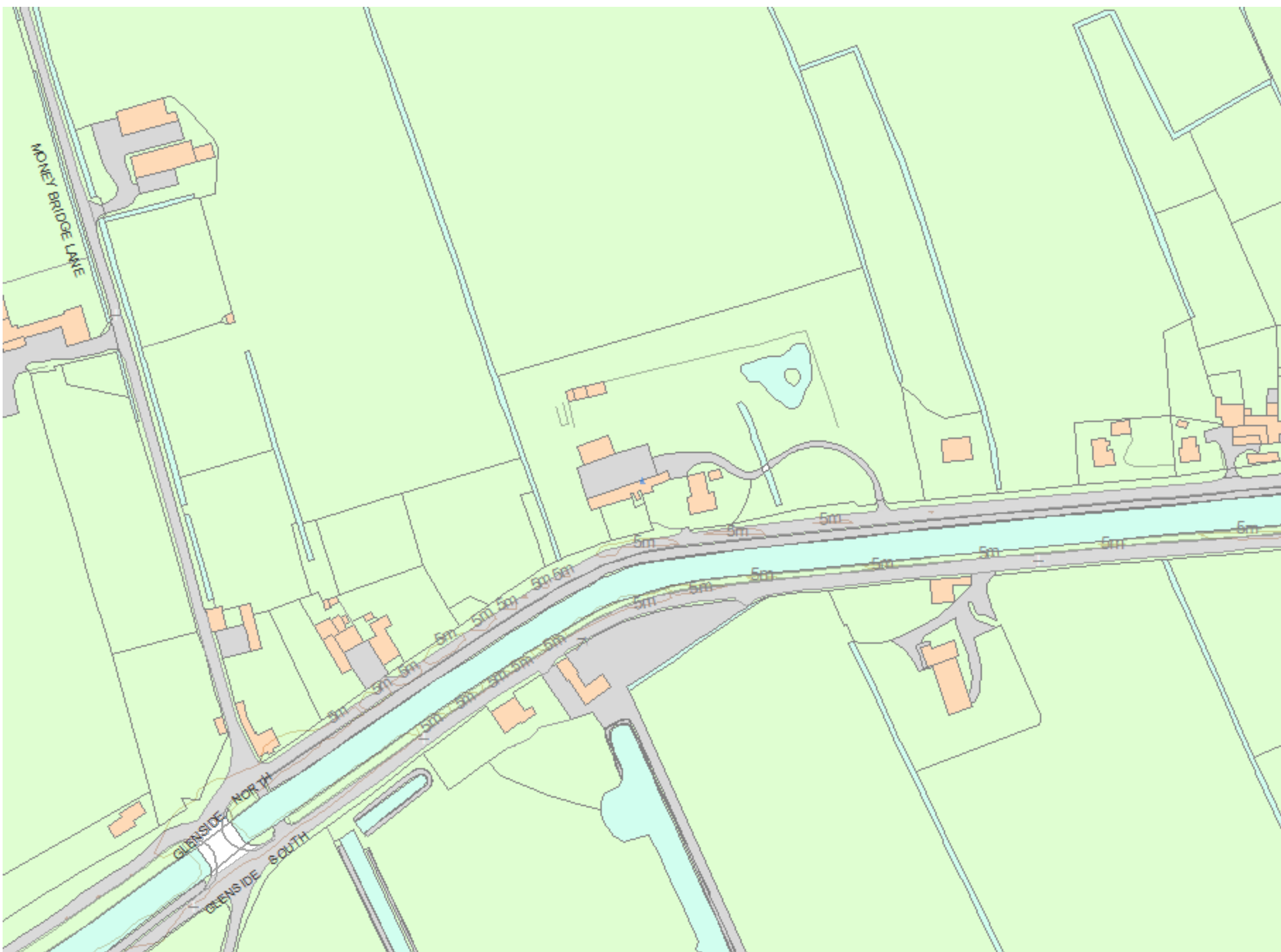
Legacy

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Legacy System:	LBS

Legal

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PIGEONCOTE AT BROWNLOW HOUSE, GLENSIDE NORTH

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Overview



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Overview

Heritage Category:	Listed Building
Grade:	II
List Entry Number:	1146855
Date first listed:	07-Feb-1967
Statutory Address:	PIGEONCOTE AT BROWNLOW HOUSE, GLENSIDE NORTH



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Appendix 2

Date: 10/09/18

Our reference: SFOI-005866

Your reference:

Mr Akehurst

Council Offices

Priory Road

Spalding

Lincolnshire PE11 2XE

tel: 01775 761161

fax: 01775 711253

www.sholland.gov.uk

Dear Mr Akehurst

SHDC FOI RE - Self Build Ref: SFOI-005866

Your request for information has now been considered and South Holland District Council's response is below.

1. The number of self-build sites available in South Holland as of today

The council does not monitor custom and self-build plots available for sale in the district.

2. The number of people on the self-build register.

There are 42 people on the register.

If you require any further information, or are not happy with the information that you have been provided with or if you are not happy with the way that your request has been handled you may request an internal review.

If you have any queries or concerns then please contact us at:

Freedom of Information Team

Council Offices

Priory Road

Spalding

Lincolnshire

PE11 2XE

FOI@sholland.gov.uk

Further information is also available from the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

The link below will refer you to the ICO website, which may be of use:

www.ico.org.uk

Yours sincerely

Diana Bowie
Statutory Information Officer
South Holland District Council
01775 761161



Appendix 3

Date: 02/02/21

Our reference: SFOI-010012

Your reference:

Mr Waller
By email

Council Offices

Priory Road

Spalding

Lincolnshire PE11 2XE

tel: 01775 761161

fax: 01775 711253

www.sholland.gov.uk

Dear Mr Waller

Custom and Self-Build Housing Register Ref: SFOI-010012

Your request for information has now been considered and South Holland District Council's response is below.

RESPONSE DETAIL

Total on register = 65

Number of persons = 63

Number of groups = 2

Numbers joined base period 1 31.3.16-30.10.16 = 22 Numbers joined base period 2 31.10.16-30.10.17 = 13 Numbers joined base period 3 31.10.17- 30.10.18 = 7 Numbers joined base period 4 31.10.18- 30.10.19 = 10 Numbers joined base period 5 31.10.19- 30.10.20 = 13

You have previously been provided with a list of all the single plot planning permissions granted, which are considered to contribute to the demand for self/custom build housing. However, it is correct that none of these permissions specifically require the dwellings to be custom or self-built either by condition or Section 106 agreement.

Outline planning permission H02-0669-19 granted on 3 April 2020 for up to 6 self-build eco homes on land north of the former Crowland Garden Centre, James Road, Crowland is the only permission with a Section 106 agreement specifically for custom and self-build

If you require any further information, or are not happy with the information that you have been provided with or if you are not happy with the way that your request has been handled you may request an internal review. Please contact the Freedom of Information Team at:

If you have any queries or concerns then please contact us at:

Freedom of Information Team
Council Offices
Priory Road
Spalding
Lincolnshire

PE11 2XE

feedback@breckland-sholland.gov.uk

Further information is also available from the Information Commissioner at:
Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

The link below will refer you to the ICO website, which may be of use:

www.ico.org.uk

Yours sincerely

Richard Fidler
Development Manager
South Holland District Council
01775 761161

Appendix 4

Subject: FW: Self-build Register
Date: Monday, 28 June 2021 at 14:23:36 British Summer Time
From: Tim Waller
To: Christine Thomson
Attachments: image001.png

From: Kris Baxter <kris.baxter@studio11architecture.co.uk>
Date: Monday, 28 June 2021 at 14:18
To: Tim Waller <tim@wallerplanning.com>
Subject: FW: Self-build Register



Kris Baxter MCIAT, C.Build E FCABE, ICIQB, OCDEA, A&PS
Founder & Creative Director

T:01553 970033

King's Lynn Innovation Centre
Innovation Drive
King's Lynn
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From: Doherty, Angela
Sent: Friday, June 25, 2021 1:19 PM
To: Kris Baxter <kris.baxter@studio11architecture.co.uk>
Subject: RE: Self-build Register

Hi Kris,

All well here thank you, and hope the same for you.

In terms of the Custom and Self-build Register there are currently 73; 69 individuals and 4 groups.

For permissions for the period 31 October 2019- 30 October 2020 there were 13 recorded entries to the CSB register and 41 suitable CSB development permissions granted during that time.

Hope this assists.

Angela

Angela Doherty | Housing Strategy & Enabling Officer | **South Holland District Council**
DDI: 01775 764630 | Mobile: 07816227801
www.sholland.gov.uk

From: Kris Baxter <kris.baxter@studio11architecture.co.uk>
Sent: 24 June 2021 17:18
To: Doherty, Angela <adoherty@sholland.gov.uk>
Subject: Self-build Register

This message originated from outside your organization

Hi Angela,

I hope you are well? Would it be possible to let me have the latest total number of people on the SHDC self-build register? And also the total number of dwellings given permission for self-build only?

Many thanks,



Kris Baxter MCIAT, C.Build E FCABE, ICIOB, OCDEA, AdPS
Founder & Creative Director

T:01553 970033

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Appendix 5



Appeal Decisions

Site visit made on 4 June 2019

by Harold Stephens BA MPhil DipTP MRTPI FRSA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2019

Appeal Ref: APP/G2435/W/18/3214451 (Appeal A)

Land off Hepworth Road, Woodville DE11 7DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Lauren Land Developments Ltd against the decision of North West Leicestershire District Council.
- The application Ref 16/01191/OUTM, dated 11 October 2016, was refused by notice dated 16 May 2018.
- The development proposed is self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline – access and layout included) at Land Off Hepworth Road, Woodville, Swadlincote.

Appeal Ref: APP/G2435/Q/18/3214498 (Appeal B)

Land off Hepworth Road, Woodville DE11 7DW

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a refusal to discharge a planning obligation.
- The appeal is made by Lauren Land Developments Ltd against the decision of North West Leicestershire District Council.
- The development to which the planning obligation relates is Part Three of the Schedule to the 2004 Section 106 Agreement (dated 3 June 2004) relating to application 02/01416/OUT.
- The planning obligation, dated 3 June 2004, was made between South Derbyshire District Council, North West Leicestershire District Council, Derbyshire County Council, Leicestershire County Council, Tapton Properties Limited, the Governor and Company of the Bank of Scotland and George Wimpey North Midlands Limited.
- The application Ref 16/01191/106A, dated 11 October 2016, was refused by notice dated 7 August 2018.
- The application sought to have the planning obligation discharged.

Decisions

1. **Appeal A** is allowed and planning permission is granted for self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure (outline – access and layout included) at Land Off Hepworth Road, Woodville, Swadlincote in accordance with the terms of the application, Ref 16/01191/OUTM, dated 11 October 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

2. **Appeal B** is allowed. The planning obligation, dated 3 June 2004, relating to Part Three of the Schedule to the 2004 Section 106 Agreement, no longer serves a useful purpose and is discharged.

Background and Planning History

3. Appeal A and Appeal B both relate to the same site. There is a close relationship between the two proposals. For the purposes of clarity I shall refer to the S78 appeal against the refusal of outline planning permission for a self and custom-build residential development consisting of 30 plots with a new access and supporting infrastructure (outline -access and layout included) on land off Hepworth Road, Woodville as Appeal A and the Section 106B appeal against the refusal of the Section 106A application to discharge the application site from the obligations in Part Three of the Schedule to the 2004 Section 106 Agreement as Appeal B.
4. A Planning Obligation in the form of a S.106 Agreement dated 24 April 2019 was submitted in support of the appeal proposals. A Deed of Variation dated 7 June 2019 was also submitted in response to Leicestershire County Council's (LCC) revised request for education contributions, in accordance with its Statement of Case dated 23 April 2019 and its subsequent e-mail dated 13 May 2019 to the Planning Inspectorate. These documents address all of the matters sought by the North West Leicestershire District Council (NWLDC) and LCC in connection with the provision of community and other services arising from the development. The Planning Obligation, including the Deed of Variation, is a material consideration in these cases. I return to the Planning Obligation later in these decisions.
5. The appeal site measures about 1.9 hectares in extent, is broadly triangular in shape and is situated to the south east of Woodville. It is bounded to the north and west by the recently constructed Taylor Wimpey residential development. The eastern boundary comprises a mature hedgerow and public footpath. Beyond this to the east of the site lies open grassland. The site is bounded to the south by Hepworth Road. The appeal site is currently undeveloped and is predominantly occupied with areas of scrubland and grassland along with several patches of marsh and some small ephemeral ponds. The appeal site is located outside the Limits to Development as defined in the adopted Local Plan.
6. Although there is no relevant planning history on the appeal site it is noteworthy that the appeal site forms part of the 48.77 hectares Woodville Woodlands development which encompasses land within the administrative areas of both South Derbyshire District Council (SDDC) and NWLDC. Following the grant of outline planning permission for the various aspects of the Woodville Woodlands development on 3 June 2004¹ and 11 June 2004², the residential development of the scheme has come forward in several distinct phases.
7. The appeal site was not included in any phase of the residential development because the plan annexed at Appendix 1 of the 2004 S.106 Agreement for the Woodville Woodlands scheme identifies several areas of the site for 'Forest Planting'. As a result, some of the appeal site is included within the 9.85

¹ SDDC planning application 9/2001/0050

² NWLDC planning application 02/01416/OUT

hectares of 'Dedicated Forestry Land' associated with the Woodville Woodlands development.

8. Clauses 2-7 of Part Three of the Schedule to the 2004 S.106 Agreement provide further details about the covenants the owner of the land entered into with NWLDC in respect of the 'Dedicated Forestry Land'. Clause 5 requires that upon the completion of the Approved Forestry Scheme, the 'Dedicated Forestry Land' *must be maintained in perpetuity as a forestry area for use by the general public* to the reasonable satisfaction of NWLDC. Clause 7 goes on to establish that the 'Dedicated Forestry Land' must not be used *for any purpose other than woodland/shrubland*.
9. The Woodville Woodlands Phase 4 Strategic Composite Planting Plan,³ which formed part of the reserved matters application for the outline planning consent 02/01416/OUT is understood to be the Approved Forestry Scheme referred to in the 2004 S.106 Agreement. This plan indicates that 4,275 sq. m of mixed woodland planting was originally planned for the appeal site. From the evidence that is before me the appeal site is believed to incorporate 4,275 sq. m of the 9.85 hectares of 'Dedicated Forestry Land' that is identified in the 2004 S.106 Agreement.
10. With this background information in mind I now turn to deal with Appeal A.

Appeal A

Appeal proposal

11. The appeal proposal seeks outline planning permission for a self and custom-build residential development consisting of 30 plots with a new access and supporting infrastructure. All matters except access and layout were reserved for subsequent approval. It is proposed that the serviced plots would range in size from 290 sq. m to 597sq. m. The position and size of each plot would be fixed. However, the siting of the dwellings on each plot would be subject to separate reserved matters applications.
12. A new vehicular and pedestrian access would be provided to the site from Hepworth Road. In addition, several new pedestrian and cycle links would be created between the appeal site and the adjoining housing developments. One of these would connect the site to South Street to the north and the other would link to Dovedale Park residential development to the north west. There would be sufficient space on every plot to provide a minimum of two off-street parking spaces per dwelling. The Design Code, submitted with the application, also sets out that every dwelling must provide at least two secure and covered cycle parking spaces. Informal open space, a landscape buffer, boulevard planting strips together with hedge and tree planting would also be provided.
13. The subsequent reserved matters applications would be required to adhere to the Design Code for the scheme. The Design Code sets out the broad parameters and design principles that would guide the development in relation to layout; scale; design and appearance; landscaping; sustainability and drainage; parking; external storage; amenity space and ecology. A number of plans, drawings and documents were submitted in support of the proposal. These are listed at paragraph 4.11 of the Appellant's proof and

³ Drawing No: Plan/624/Strat/Ph4/PP(C)1c

where these were revised and superseded during the planning process they have been clearly marked as superseded.

Planning Policy

14. The statutory development plan for the area includes the North West Leicestershire Local Plan (LP) (2017). Both parties refer to a number of policies in the LP as being relevant to the determination of the appeal. These include: S1 - Future Housing and Economic Development Needs; S2 - Settlement Hierarchy; S3 - Countryside; D1 - Design of New Development; D2 - Amenity; H4 - Affordable Housing; If1- Development and Infrastructure; IF4 - Transport Infrastructure and New Development; IF7 - Parking Provision and New Development; En1 - Nature Conservation; En3 - The National Forest; Cc2 - Water - Flood Risk; Cc3 - Water - Sustainable Drainage Systems.
15. Other relevant policies and guidance which are material in this case include: the National Planning Policy Framework (NPPF); the National Planning Practice Guidance (NPPG); the Written Ministerial Statement (WMS), 28 November 2014; the Housing White Paper, February 2017; the North West Leicestershire District Council - Good Design Guide SPD; and the Leicestershire Highway Design Guidance.
16. I am also aware of the Self-build and Custom Housebuilding Act 2015 (as amended) and the associated Self-build and Custom Housebuilding Regulations 2016. Amongst other matters the purpose of the Act is to allow individuals wishing to build their own home to register their interest in acquiring a suitable plot of land with the relevant authority. Specifically, the Act makes provision for Local Authorities to maintain a register of people who are seeking to acquire a serviced plot in their area in order that they may build houses for them to occupy as homes; and for Local Authorities to have regard to the demand for custom build housing as evidenced by the registers when exercising certain functions including those relating to planning and housing.

Main Issue

17. The main issue in this case is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

18. There is no dispute that the appeal site is located outside the defined Limits to Development as outlined on the Policies Map in the adopted LP. Land outside the Limits to Development is identified as countryside where development will be considered in the context of Policy S3. Only certain specified uses, listed (a) to (s) in the policy, will be supported. New residential development is not identified as a form of development permitted in the countryside under Policy S3 of the LP and therefore the appeal proposal is plainly in conflict with the development plan.
19. For the Council it is argued that the appeal proposal would introduce residential development and extend the existing edge of the settlement of Woodville. It is stated that the proposal would result in unnecessary development of greenfield land and encroach into an area of countryside which would be in conflict with Policy S3 in the LP. It is further contended that such proposed development would be harmful in terms of protection of the

countryside and would result in the development of open undeveloped land that forms an important separation between Woodville and Blackfordby. It is claimed that the proposal would be contrary to paragraph 170 of the NPPF 2019 as well as Policy S3 of the LP.

20. At my visit I saw that the proposed development would involve development of greenfield land on the fringe of the settlement of Woodville. However, the appeal site lies adjacent to the existing built form of Woodville and is bounded by Hepworth Road to the south and east and is well contained within its setting. In my view, it does not form an important area of separation between Woodville and Blackfordby. Development of the appeal site would not extend beyond the southern confines of the existing built form of Woodville and would be considerably set in from the eastern boundary of Woodville's developed footprint along Hepworth Road.
21. I also saw several existing clusters of development situated in the area of countryside between the south east boundary of Woodville and the north western boundary of Blackfordby. I note that these clusters are situated in a considerably more isolated location in relation to these settlements compared to the appeal site. Consequently, they have a greater impact on the perceived and physical separation between Woodville and Blackfordby than the appeal site. These clusters include development at Thorn Street, Butt Lane and the well-established manufacturing facility, Wavin UK (Forest Works), at Butt Lane. The siting of these clusters of development highlights that the countryside in between Woodville and Blackfordby is not undeveloped. In my view, development of the appeal site would not undermine the physical and perceived separation between Woodville and Blackfordby.
22. The Council confirms that as at April 2019, there are 54 individuals on the Council's Self-Build and Custom Housebuilding Register and that as of April 2019, it has permitted 4 plots in the period since 31 October 2016. Since 31 October 2016 the Council has permitted an additional 133 single plot dwellings which have been distributed across the District.⁴ However, the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended).
23. To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S.106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council's Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District.

⁴ See details in Appendix 3 to the Council's Statement

24. Moreover, the Council refers to the Buildstore.co.uk website which was, at March 2019, advertising 9 self-build plots sites as being available within the District and that all of these have been granted planning permission since 31 October 2016.⁵ However, one of these (17/01860/FUL) is also listed in Figure 4 of the Council's Statement of Case as an approved self-build site. From the evidence that is before me none of the 8 remaining sites is subject to a planning condition or a planning obligation requiring a self-build or custom-build house to be built on the site that accords with the statutory definition.
25. In summary, it is only the 4 plots listed in Figure 4 of the Council's Statement of Case that appear to comply with the definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended). It follows that the Council has not yet granted planning permission for enough serviced plots to meet the demand arising for base period 1 let alone any of the subsequent base periods (2, 3 and 4).⁶ Although the Council maintains it is already making progress towards granting planning permission for enough serviced plots to meet the demand arising in base period 1, the Council has provided no information to suggest that there are any applications pending determination for serviced plots in the District at present.
26. The deadline for granting planning permission for enough serviced plots to meet the demand arising for base period 1 is 30 October 2019. As such there remains a residual requirement to grant consent for at least 5 serviced plots by 30 October 2019. Consequently, the ability of the appeal proposal to address the unmet demand for serviced plots that arose in base period 1, base period 2 and part of base period 3⁷, in a comprehensively planned manner, is a material consideration that weighs strongly in favour of the appeal proposal. The appeal proposal would meet the majority of the current demand by delivering 30 serviced self-build or custom-build plots and this would accord with advice in paragraphs 59 and 61 of the NPPF and other Government guidance.
27. I accept that the NPPG on Self-Build and Custom Housebuilding states that relevant authorities *could* include policies in their local plans for self and custom housebuilding, but this is not a requirement.⁸ It also states that relevant authorities could seek to meet demand by engaging with landowners who own sites that are suitable for housing. The only requirement is that the Council has a duty to grant planning permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.⁹ The Council is considering how best to address the issue of self-build and custom housebuilding in the Local Plan Review.
28. Nevertheless, the Council is required by the provisions in Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended) to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the District which arises in each base period. I consider the appeal proposal is necessary to enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), given that there

⁵ See details in Appendix 4 to the Council's Statement

⁶ Base Period 4 runs from 31/10/2018-30/10/2019 and is therefore ongoing.

⁷ Based on the information provided by NWLDP in paragraph 6.5 of its Statement of Case

⁸ NPPG Paragraph: 025 Reference ID: 57-025-201760728

⁹ NPPG Paragraph: 023 Reference ID: 57-023-201760728

appears to be an inadequate supply of serviced plots coming forward for development in the District.

29. The Council refers to the need for the planning system to protect and enhance valued landscapes. However, the Council has provided no evidence to demonstrate there are physical attributes associated with the appeal site and its immediate setting that elevate it above ordinary countryside. From the evidence that is before me and from my site visit, the appeal site and its immediate setting do not represent a valued landscape in the context of paragraph 170 of the NPPF.
30. The Council and others have raised concerns that the appeal site forms part of National Forest planting and landscaping which was secured by the adjacent Woodville Woodlands development. From the evidence before me it appears that the appeal site is identified on the approved plans as a combination of forest planting and grassland. Aerial photography suggests that the appeal site was a greenfield element of the Woodville Woodlands scheme and consists of grassland and scrub. It appears as though these habitats have been left to develop and for woodland planting to naturally regenerate rather than being re-planted as plantation woodland which was the approach adopted on brownfield areas of the wider site. Overgrown brambles and hawthorns were cleared from the appeal site in 2015 but no protected trees have been removed.
31. The National Forest Company (NFC) has raised no objection to the proposal provided that an equal amount of landscaping is provided elsewhere. The NFC has requested a contribution of £38,000 which would be secured by the S.106 Agreement. The Council has agreed to and signed the S.106 Agreement which sets out details relating to the NFC contribution and has confirmed that it considers the £38,000 NFC contribution to adequately mitigate the impacts of the appeal proposal in respect of tree planting. I agree that the £38,000 NFC contribution would provide adequate mitigation for the proposed scheme.
32. On the main issue I conclude that the proposal would not adversely impact upon the character and appearance of the surrounding area.

Planning Obligation

33. The S.106 Agreement and Deed of Variation provide a legal mechanism to secure developer contributions towards local schools. LCC originally requested an education contribution of £195, 806.86 and this figure was referred to in the signed S.106 Agreement. However, in an email dated 13 May 2019, the LCC sought a revised education contribution which amounts to £184,956.51. The revised contribution is made up of a primary school contribution of £131,328.00 and a high school contribution of £53, 628.51. The primary school contribution is for the provision of pupil places at St Margaret's C of E Primary School or such other primary school as will provide additional facilities to accommodate pupil growth from the development. The high school contribution is for the provision of pupil places at Ivanhoe High School or such other high school as will provide additional facilities to accommodate pupil growth from the development.
34. Given that the S.106 Agreement had already been agreed and signed, the Appellant had to arrange for a Deed of Variation to be prepared and signed to ensure that the S.106 Agreement correlates with the amounts requested by

LCC in respect of the primary sector and high school sector contributions. The Deed of Variation has the effect of varying the submitted S.106 Agreement so the total value of the education contribution and its apportionment between primary and high school sectors accords with the LCC's revised request. Additionally, given that the education contribution would be paid in instalments, as per Schedule 3 of the S.106 Agreement, the Deed of Variation amends the value of each instalment to correctly reflect the revised value of the education contribution. I consider there are adequate provisions in place to mitigate the impact of the development on local schools.

35. The NFC has requested that a £38,000 contribution towards off-site National Forest tree planting and the S.106 Agreement sets out where the compensatory tree planting would take place. It is the current intention that such funds would be used for tree planting at Ashby Woulds which the NFC has recently acquired and which is around 1.39kms to the south of the appeal site. The S.106 Agreement includes some flexibility for the provision of tree planting and development works at an alternative site in the vicinity of the development to be agreed between the NWLDC and the owner. I consider that the proposal would comply with Policy En3 of the LP and the impact on trees and the National Forest would be acceptable.
36. The appeal proposal does not include provision for affordable housing. A viability report was submitted with the proposal and this indicates that the scheme would not be viable with the inclusion of affordable housing (either on-site or off-site). The District Valuer is satisfied that the scheme is not viable with the inclusion of affordable housing. There is no reason for me to disagree with that analysis.
37. From the evidence that is before me all of the obligations in the S106 Agreement, as varied by the Deed of Variation, 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. They all meet the tests in CIL Regulations 122 and 123 and the guidance in paragraph 54 and 56 of the NPPF 2019. I have taken them into account in these decisions.

Other Matters

38. I have taken into account all other matters raised including the representations from interested persons and parties. Local residents have expressed concerns about the design of the new houses. The appeal proposal seeks approval of the layout of plots, the internal access roads and the point of access from Hepworth Road. The precise location of the dwelling within each plot, its appearance, scale and landscaping would be subject to separate reserved matters applications. A Design Code has been submitted as part of the proposal to guide future reserved matters applications and covers landscaping, sustainable technologies, drainage, scale, design and layout.
39. I note that the layout shows that a main route would run through the site that would be planted, that there would be significant planting to the boundaries of the site, public open space and spacious plots at a density of 15.7 dwellings per hectare. I consider that it has been demonstrated, in principle, that an appropriate scheme for 30 dwellings could be satisfactorily developed on the site and would comply with Policy D1 of the LP, the NWLDC Good Design Guide SPD and the advice in the NPPF.

40. With regard to traffic and highway safety the proposed development would provide a new vehicular access point from Hepworth Road. The access would be located about 170 m to the west of Hepworth Road/Forest Road roundabout and would take the form of a priority junction with a right turn ghost lane and appropriate visibility splays in each direction. The proposal is accompanied by a Transport Statement which concludes that the development would not materially increase traffic flows on the surrounding highway network. The County Highway Authority raises no highway safety objections to the proposed scheme. I consider the proposal would comply with Policy IF4 of the LP, the advice in the NPPF and the Leicestershire Highway Design Guidance.
41. With regard to ecological impacts I note that the proposal was supported by an initial ecological assessment. Following comments by the County Ecologist a Greater Crested Newt Mitigation Strategy and a further Botanical Survey were submitted to the Council. The County Ecologist has reviewed the updated information and was satisfied with the mitigation strategy put forward in respect of Greater Crested Newts and recommends that a planning condition be attached to any planning permission. The County ecologist considers that the loss of species rich grassland can be offset by the creation of a new wet grassland of around 0.25 ha. There is sufficient space along the site frontage and within the south eastern corner of the site for this to be created but it is recommended that the precise species and management be subject to planning conditions. There is no reason for me to disagree with that analysis.
42. A Flood Risk Assessment and Surface Water Drainage Strategy has been submitted in support of the proposal. This confirms that the site is located within Flood Zone 1 and thus has a low probability of fluvial or tidal flooding. However, it is noted that there is a small area located centrally within the site which has resulted in a high level of risk of surface water flooding. It is proposed to manage surface water run-off from the development through the implementation of a sustainable drainage system, limiting the proposed maximum discharge rate to the site specific greenfield rate, providing on-site attenuation in the form of ponds or open water features with controlled discharge rates. The precise location and design of the open water features would be subject to a planning condition. Foul drainage would be connected to the existing mains sewer.
43. Some local residents are concerned about the impact of the proposal on the living conditions of existing residential occupiers. I consider that the impacts on neighbouring occupiers arising from the proposed development would need to be assessed in more detail at the reserved matters stage(s) when more precise details as to the layout, scale and appearance of the dwellings are submitted for consideration. Notwithstanding the details shown on the submitted layout there would appear to be no reason in principle why 30 units could not be provided on the site in a manner which would not significantly adversely impact upon neighbours' amenities.
44. I have considered and taken into account the planning appeal decisions referred to by the Council. I consider that the circumstances of those appeals are materially different to the appeal proposal. The appeal proposal should be considered on its own merits in the context of the development plan and other material considerations.

Planning Balance

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material planning considerations indicate otherwise. The Reason for Refusal cites only Policy S3 which is said to be breached but it also indicates that the proposal would not constitute sustainable development. The site is outside the defined limits to development and is not a form of development permitted by Policy S3. I find that being outside the settlement boundary and within the countryside, the appeal proposal is not in accordance with the development plan taken as a whole.
46. However, balanced against the identified conflict with the development plan, I consider there are a number of factors that need to be considered. Paragraph 8 of the NPPF 2019 states "*Achieving sustainable development means that the planning system has three overarching objectives*", which are identified as economic, social and environmental. In my view the appeal proposal would make a positive contribution towards achieving all three of these.
47. I attach substantial weight in terms of the economic benefits that would arise from the provision of 30 dwellings in Woodville. The new residents that would live in these homes are likely to use and support local services, local facilities and local businesses. Therefore, the proposal is likely to make a positive contribution to the local economy. The development of each property should create opportunities for local builders, tradesmen and builder's merchants. This has the potential to create local employment and training opportunities.
48. In terms of the social benefits, the proposal would be able to meet most of the current demand for self and custom-build plots in the District. The appeal proposal does not represent unnecessary development because it would greatly assist NWLDC to meet its statutory obligations with respect to providing serviced plots for self-build and custom-build housing. This would ensure that the proposed development plays a major role in meeting an evidenced housing need in North West Leicestershire. Moreover, the mix of housing types that come forward on the site would respond to the needs of local residents in accordance with Policy H6 of the LP and paragraph 59 of the NPPF. The overall layout of the site has been designed to ensure that a high standard of amenity can be provided for existing and future residents in line with Policy D2 and paragraph 127f of the NPPF. This comprises a substantial social benefit.
49. The proposal would not impact upon any physical separation between Woodville and Blackfordby or the character and appearance of the surrounding area. The site is well located in relation to the local transport infrastructure and would have good pedestrian and cycle links to local services, facilities and open space. The Design Code establishes that each dwelling must incorporate ecological enhancements, which include a minimum of one bat or one bird box. Furthermore, landscaping on each plot would help to promote biodiversity enhancements across the site. With regard to the performance and energy efficiency of the homes, the Design Code establishes that each dwelling must exceed the energy and carbon requirements in Part L of the Building Regulations. All of these factors would provide environmental benefits. I apportion moderate weight in terms of the environment. Taking all of these matters into account, I consider that the proposal would represent sustainable development as defined by the NPPF 2019.

50. In summary, the appeal proposal provides an opportunity to comprehensively meet the majority of the current demand for self and custom-build plots in the District on a sustainably located site. On balance I consider that the economic, social and environmental benefits of the proposal significantly and demonstrably outweigh the conflict with the development plan. It is therefore concluded that there are material considerations in this case to justify a departure from the development plan in accordance with the statutory provisions outlined under Section 38(6) of the Planning and Compulsory Purchase Act 2004.
51. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. Appeal A is allowed subject to the conditions set out in the attached Schedule.

Appeal B

Background

52. I have already set out the background and planning history of the site at paragraphs 3-9 above and there is no need for me to repeat that here. The Section 106B Appeal seeks to discharge the appeal site from the obligations in Part Three of the Schedule to the 2004 S.106 Agreement. The proposed discharge would result in the 1.9 hectares appeal site being excluded from the definition of 'Dedicated Forestry Land' in the 2004 S.106 Agreement. As a result, it would allow the self or custom-build scheme (Appeal A) to come forward on the site. The S.106 Agreement and Deed of Variation submitted with the appeal proposals provide the legal mechanism to achieve this. Amongst other matters this S.106 Agreement includes a clause to secure the £38,000 financial contribution towards off-site National Forest planting in accordance with the request from the NFC.

Main Issue

53. The main issue in this appeal is whether the planning obligation continues to serve a useful planning purpose.

Reasons

54. Section 106A (6) of the Town and Country Planning Act 1990 (as amended) provides that on an application for modification, the determination may be that the obligation shall continue to have effect without modification; if the obligation no longer serves a useful purpose, that it should be discharged; or if the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect subject to the modifications requested.
55. The judgment in *Batchelor Enterprises Limited v North Dorset District Council* [2003] EWHC 3006 (Admin)¹⁰ provides clarity on how to assess whether a planning obligation still serves a useful purpose, in paragraph 26 of the judgment, Mr Justice Sullivan established that

"paragraph (b) in sub-section 106A (6) should be read as providing that a local planning authority may determine "if the obligation no longer serves a useful (planning) purpose that it shall be discharged.""

¹⁰ Appendix 12 of the Appellant's Statement of Case

56. The Council's reason for refusal is premised on the fact that the application 16/01191/OUTM was refused partly due to its perceived impact upon the separation and undeveloped character between Woodville and Blackfordby. I have already comprehensively addressed this matter under Appeal A and concluded that the appeal site is well contained within its setting and does not form part of an important area of separation between Woodville and Blackfordby. It follows therefore that the 4,275 sq. m of Dedicated Forestry Land on the site does not serve a useful planning purpose by protecting an important separation between the two settlements.
57. Furthermore, as noted in paragraph 31 above, the NFC has confirmed that it does not object to the proposal, subject to the self or custom-build scheme (Appeal A) making a £38,000 contribution towards compensatory off-site tree planting. This financial contribution would be secured by the S.106 Agreement submitted alongside both appeals.
58. I note that the primary reason for designating 4,275 sq. m of the appeal site as Dedicated Forestry Land in 2004 was to enable a National Forest tree planting scheme to take place on the site. However, the NFC has confirmed that the appeal site was not re-planted as plantation woodland as part of the National Forest Planting that took place for the Woodville Woodlands development.¹¹
59. In addition, clause 5 of Part Three of the Schedule to the 2004 S.106 Agreement stipulated that upon completion of the Approved Forestry Scheme the Dedicated Forestry Land should be maintained ... *"in perpetuity as a forestry area for use by the general public."* In 2010 the NWLDC stated that the Approved Forestry Scheme was complete.¹² Therefore, had the appeal site formed part of the Approved Forestry Scheme, the appeal site should now be accessible to the public. However, the appeal site has not been made publicly accessible. This provides further evidence to suggest that no forestry planting took place on the site and therefore designating part of it as Dedicated Forestry Land does not serve a useful planning purpose.
60. Moreover, from the evidence that is before me, it appears that neither NWLDC nor SDDC has adopted the appeal site as a forestry area. Had the appeal site formed part of the Approved Forestry Scheme, one of these Councils would have been obliged to adopt it under clause 3.2 of Part Two of the Schedule to the 2004 S.106 Agreement. Therefore, the fact that the appeal site has not been adopted by one of the District Councils provides further confirmation that the National Forest tree planting scheme did not take place on the site and was not implemented in the manner originally intended. This signals that there has been a material change in circumstances for the obligations in Part Three of the Schedule to the 2004 S.106 Agreement since it was originally signed. Ultimately, this means that designating part of the appeal site for Dedicated Forestry Land no longer serves a useful planning purpose because it protects the site for a tree planting scheme that did not materialise.
61. I consider that designating part of the site as Dedicated Forestry Land does not make a positive contribution towards the three overarching objectives of the planning system set out in paragraph 8 of the NPPF 2019. If the appeal site was not discharged from the obligations in Part Three of the Schedule to the 2004

¹¹ Appendix 7 of the Appellant's Statement of Case

¹² Appendices 13 and 14 of the Appellant's Statement of Case

S.106 Agreement this would prevent it from being used for any purpose other than as woodland/scrubland and the proposed self or custom-build plots would not come forward. There is clear evidence from the Council's self-build and custom housebuilding register which confirms that there is a need for the type of residential development that is being proposed for the appeal site. The Dedicated Forestry Land on the appeal site would be contrary to the economic, social and environmental objectives of the planning system. Accordingly, it does not fulfil a useful planning purpose.

62. On the other hand, discharging the appeal site from the planning obligations in Part Three of the Schedule to the 2004 S.106 Agreement would enable the proposed self or custom-build development, subject to Appeal A, to come forward. This scheme would deliver a number of social, economic and environmental objectives and thus would make a positive contribution towards achieving all three of the planning system's overarching objectives. As a result, the proposed discharge would represent a significant improvement on the current circumstances.
63. In conclusion, for all of the above reasons, I consider that the 4,275 sq.m of Dedicated Forestry Land on the appeal site no longer serves a useful planning purpose. None of the other matters raised alter the balance of my conclusions. Therefore, the proposed discharge conforms with the test in Section 106A (6) of the Town and Country Planning Act 1990 (as amended). As such Appeal B is allowed and the appeal site is discharged from the obligations in Part Three of the Schedule to the 2004 S.106 Agreement.

Harold Stephens

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS (1-16) (APPEAL A)

- 1) Application for approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 3) The development shall be carried out in accordance with the following approved plans:
 - Drg No. P0877.20160420.SK001 Rev B - Site access arrangement;
 - Drg No 10 3008-10-Rev E - Site Block Plan; and
 - Drg No 11 Rev A - Site location plan.
- 4) No more than 30 dwellings shall be constructed on the site.
- 5) No development or submission of any reserved matters shall be undertaken until a Risk Based Land Contamination Assessment for the entire site has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
 - BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs); and
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and a Verification Plan is prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
- BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by The Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity.

6) Prior to occupation of any part of the completed development, either

(i) If no remediation was required by Condition 5 a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development is received and approved in writing by the Local Planning Authority, or

(ii) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

7) No development shall take place, including any works of demolition, until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;

h) delivery, demolition and construction working hours.

The approved construction method statement shall be adhered to throughout the construction period for the development.

- 8) No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 x 65 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 9) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Drg No. P0877.20160420.SK001 Rev B have been implemented in full.
- 10) Notwithstanding the submitted plans, no development shall commence until details of parking and turning have been submitted to and approved in writing by the Local Planning Authority. Thereafter the onsite parking provision shall be so maintained in perpetuity.
- 11) No development shall take place until a scheme for foul drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- 12) No development approved by this planning permission shall take place until such time as infiltration testing has been carried out to confirm or discount the suitability of the site for the use of infiltration as a drainage element, and the Flood Risk Assessment (FRA) has been updated accordingly to reflect this in the drainage strategy.

The results should conform to BRE Digest 365, details should also be submitted demonstrating that sufficient surface water storage can be provided on-site. Alternatively, the Lead Local Flood Authority would accept the proposal of an alternative drainage strategy that could be used should infiltration prove not to be feasible during the detailed design stage.

- 13) No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall include the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections and full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year + climate change. Where discharging to a sewer, this should be modelled as surcharged for all events above the 1 in 30 year, to account for the design standards of the public sewers.

- 14) No reserved matters applications shall be submitted until such time as a Design Code for the entirety of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement (including addendum) and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council or any successor organisation). The development shall thereafter be carried out in accordance with the agreed details.
- 15) No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
 - The programme for post-investigation assessment
 - Provision to be made for analysis of the site investigation and recording
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - Provision to be made for archive deposition of the analysis and records of the site investigation
 - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 16) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (15) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Appendix 6



Appeal Decision

Site visit made on 13 August 2019

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2019

Appeal Ref: APP/W0530/W/19/3230103

Green End / Heath Road, Gamlingay SG19 3JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Barford, Wyboston Lakes Limited against the decision of South Cambridgeshire District Council.
 - The application Ref S/3170/17/OL, dated 4 September 2017, was refused by notice dated 7 February 2019.
 - The development proposed is self-build/custom build development for up to 9 dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for self-build/custom build development for up to 9 dwellings at Green End/Heath Road, Gamlingay SG19 3JZ in accordance with the terms of the application, Ref S/3170/17/OL, dated 4 September 2017, subject to the conditions listed in the attached schedule.

Application for Costs

2. An application for costs has been made by Mr David Barford, Wyboston Lakes Limited against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application is made in outline form with all matters reserved. I have had regard to the submitted illustrative drawings submitted with the application as these are a useful guide as to how the site might be developed.
4. Gamlingay Parish Council (the Parish Council) has notified the appeal that there is a Regulation 14 Pre-Submission Draft Neighbourhood Plan in consultation. It has been confirmed by the LPA that there is no Neighbourhood Plan at present. Since it is unknown whether it will be made (adopted) in its current form and it could be subject to change, I give very limited weight to its content.
5. The Parish Council also draws attention to a Village Design Guide that was submitted for consultation with the LPA in May 2019. The LPA have not yet adopted this as a Supplementary Planning Document, informing this appeal that it is in draft only.
6. The appellant submitted a signed unilateral undertaking with the appeal. The Council raised concern about the wording within the agreement with regard to

disposal of dwellings within the development. The appellant disputed the need for changing the wording but nonetheless provide an alternative signed unilateral undertaking with some amendment. Due to the sequencing of submissions, I consider the revised unilateral undertaking supersedes the earlier version and I shall base my decision accordingly.

Main Issues

7. The main issues are:

- whether there are material considerations to warrant a departure from the Development Plan
- the effect of the development upon landscape character.

Reasons

Whether there are material considerations to warrant a departure from the Development Plan

8. It is common ground between the parties that the Council can demonstrate a deliverable five-year housing land supply and thus it is recognised that the proposals are a departure from the Development Plan (DP). The appeal scheme conflicts with the Council's adopted strategy for the location of new housing in conflict with DP Policies S/7 and S/9. I find no reason to disagree.
9. The LPA is a Right to Build Vanguard Authority with a statutory duty under Section 2A of The Self Build and Custom Housebuilding Act 2015 (as amended), (the Act), to "give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area."
10. The appellant has put forward evidence relating to a shortfall in the delivery of self-build housing, which is uncontested by the LPA. This shortfall is significant. The Parish Council confirm there is demand within the village for this type of development. I therefore give significant weight to this factor.
11. The DP policies, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Despite the LPA ability to demonstrate a five-year housing land supply, this must be recognised as a minimum figure in light of the National Planning Policy Framework (the Framework), which encourages significantly boosting the supply of new homes.
12. The proposal would make a modest contribution of up to 9 self-build dwellings towards the shortfall. Whilst the appeal site would be on the edge of the village, it is within walking distance to the village centre and public transportation operates nearby. Shops, services and employment are therefore accessible. Therefore, there are economic, social and environmental sustainability benefits attributable to the development.
13. The appellant has submitted a unilateral undertaking, which would limit the appeal development to self-build housing. On this basis and for the reasons outline above, in this instance there are considerations that weigh heavily in favour of the development, that would justify departing from the development plan in this regard.

Landscape Character

14. There is a tall, dense line of vegetation running the length of the appeal site's western boundary. This presents a green corridor fronting onto Heath Road on the approach into Gamlingay. Whilst the proposals would introduce a vehicular access into this hedge line, the development itself would sit behind this established landscaped corridor.
15. I observed from the site visit that some dwellings in Dennis Green on Heath Road are highly visible from the edge of Gamlingay by reason of their elevated position in the landscape. However, other parts of the hamlet are not visible due to the hedges and trees that line the highways. The appeal development would not feature in views up to Dennis Green, sitting close to the bottom of an undulation. The ability to enhance landscaping through planning conditions would further absorb the proposed development into the site.
16. The development of the site for up to 9 dwellings would represent a relatively low density. This is in contrast to the fairly dense and well-built up character of the immediate neighbouring area, that presents a reasonably abrupt urban edge facing onto the countryside. The lower density proposed development would act as a more sympathetic the transition between urban and rural areas. Therefore, the proposal would not have a significant visual effect on the open countryside.
17. In the wider context, the appeal site sits in between the edge of Gamlingay and the hamlet of Dennis Green. The separation between them is recognised by the Parish Council in its Village Design Guide as serving an important spatial function, keeping the settlements from merging. It is desirable to maintain this separation to preserve the historic character of the hamlets and to respect their identity.
18. The development of the appeal site would maintain a reasonably substantial area of open land in between the two settlements. There is reference in the evidence to that land potentially becoming an area of formal open space, although this is not part of the formal proposals and nor does the unilateral undertaking submitted seek to secure its use as such. This is a sizeable area of land that would continue to serve the purpose of keeping Gamlingay and the nearby hamlets physically separate. Whilst the proposals would bring the built form of the hamlets closer, for the reasons outline above, the development would not encroach upon the character or landscaped setting of the hamlets to a significant degree.
19. Therefore, whilst the development would inevitably change the local landscape, with careful consideration of the matters reserved for future consideration, this would not be visually or spatially harmful to the appearance of the area nor harmful to the wider landscape character. Consequently, in that regard, the proposal would not conflict with Policies S/7, HQ/1(a) or NH/2 of the DP. Amongst other things, these Policies require proposals to respect and respond to local landscape context.

Other Matters

20. The Parish Council point to a number of plots that have been developed in the village, with residents citing a residential scheme on the Green End Industrial Estate. I do not have full details of the circumstances or planning merits in any

of these cases. In any event, this appeal has been determined on its own merits and with regard to the Act.

21. The appeal site's history shows that it was a landfill site. The appellant's submitted report indicates that this need not block the proposed development subject to appropriate control.
22. Residents have raised concerns over flood risk and ecology. I acknowledge that any development has potential for impacting on drainage and habitat. However, I am satisfied that conditional approval of an appropriate drainage system as well as the statutory obligations regarding protected species would be sufficient to mitigate any potential conflicts arising from the proposal. Any impact arising would not have a significant effect.
23. The point of access into the appeal site is a matter reserved for future consideration. Concerns of residents relate to the speed of traffic entering the village and the nature of a proposed access, potentially causing a hazard to highway users. However, the Highway Authority has confirmed no objection to the proposal on highway safety grounds and, it would be reasonable to assume, would exercise judgement on the reserved matters to ensure no hazard is caused to highway users.
24. The nature of self-build housing is set out within the Act. Whilst this gives design freedoms for each self-build plot, any designs would need to be submitted to the LPA through a reserved matters application. The quality of the design, its character and appearance, and its relationship to neighbouring occupiers would be assessed at that stage.
25. I have considered the arguments that the grant of planning permission would set a precedent for other similar developments. However, each application and appeal must be determined on its own individual merits, and a generalised concern of this nature does not justify the withholding of permission.
26. I note that No 1 is a Grade II listed building and that the Council has not found harm to this heritage asset in its assessment. This heritage asset is a sufficient distance away from the appeal site so as to be unaffected by the development.

Conditions

27. The standard conditions for the grant of outline planning permission are to be applied and amended to reflect that self-build dwellings would likely progress at different rates. Therefore a long timescale for submission of the reserved matters is necessary.
28. In order to meet national space standards a condition to control the proposed dwellings', gross floor space would be necessary.
29. A condition securing tree protection measures to preserve important biodiversity around the development site is necessary. Conditions regarding surface and foul water drainage are necessary to ensure the proposal does not increase the risk of flooding on-site or elsewhere.
30. Control of vehicle movements and construction hours is appropriate to ensure minimal disturbance to the living conditions of nearby occupiers. Given the history of the site for quarry and landfill purposes it would be necessary to

impose conditions relating to contamination investigation and remediation rather than a condition on archaeology.

31. The Highway Authority has requested a number of conditions. Full details of the access arrangements are to be submitted within the reserved matters secured under condition 1. The reserved matters will cover landscaping details so a separate condition on boundary treatments need not be applied.
32. The LPA has recommended conditions regarding energy efficiency and broadband connectivity. However, neither of these conditions are necessary to make the development acceptable in planning terms.

Conclusions

33. The appeal is allowed, subject to conditions and the unilateral undertaking.

David Wallis

INSPECTOR

Schedule of Conditions

- 1) Approval of the details of the layout of the development, the scale and appearance of buildings, the means of access and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the construction of the dwelling on that particular plot is commenced. The development of each plot shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 5 years from the date of this permission.
- 3) The development of each individual plot hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved for that plot.
- 4) The reserved matters shall set out schedules of gross internal floor space for each particular plot. The gross internal floor space across the whole of the development hereby permitted shall not exceed 999 square metres.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means a tree or hedgerow to be identified within any approved reserved matters plans and particulars.

- 6) No development shall take place until a surface water drainage scheme for the site based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall demonstrate that infiltration drainage is used where site specific BRE365/CIRIA 156 infiltration tests show it be appropriate and if infiltration is not appropriate the scheme should demonstrate that surface water run off up to and including the 1% Annual exceedance probability (AEP) rainfall event (including an appropriate allowance for climate change and urban creep) will not exceed the run off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before any dwelling hereby approved is occupied.
- 7) Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and completed in accordance with the approved scheme prior to the occupation of the development.
- 8) No construction works shall commence on site until a traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The principal areas of concern that should be addressed are:

- (i) Movements and control of construction vehicles (all loading and unloading shall be undertaken off the adopted highway)
- (ii) Contractor parking
- (iii) Control of mud and debris, in relationship to the functioning of the adopted public highway

Development shall commence in accordance with the approved details.

- 9) During the period of construction, no power operated machinery shall be operated on the site and there shall be no construction related deliveries taken at or dispatched from the site, before 0800 hours and after 1800 hours on weekdays and before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously in writing with the Local Planning Authority.
- 10) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - ground waters and surface waters
 - ecological systems.
- 11) No development shall take place where (following the risk assessment undertaken in condition 10) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before any part of the development is occupied.
- 12) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning

authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before any part of the development is resumed or continued.

