SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 02 September 2020**

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

Purpose: **To consider Planning Application H16-0082-20**

Application Number:	H16-0082-20	**Date Received:**	31 January 2020
Application Type:	FULL		
Description:	Development of 42 Affordable Dwellings		
Location:	Locksmill Farm Cowbit Road Spalding		
Applicant:	Minster Property Group	**Agent:**	Surface Planning
Ward:	Spalding St Marys	**Ward Councillors:**	Lord Porter Cllr H T Drury

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0082-20

1.0 REASON FOR COMMITTEE CONSIDERATION

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

2.0 PROPOSAL

2.1 Planning permission is sought for the erection of 42 affordable dwellings served by a new adoptable road off Cowbit Road. The proposal includes an area of open space within the eastern part of the site. Plots 9-12 and 38-42 would be located off private roadways. The density would be approximately 34 dwellings per hectare.

2.2 The proposed housing mix would be as follows:
- 17 no. 3-bed (5 person) houses;
- 16 no. 2-bed (4 person) houses;
- 2 no. 2-bed (3 person) bungalows;
- 6 no. 1 bed, (2 person) houses;
- 1 no. 4 bed (6 person) house.

2.3 The proposed tenure mix is a total of 29 units as affordable rent and 13 units shared ownership.

2.4 The site is part of an area of land that presently has outline planning permission for 26 no. dwellings (ref: H16-1038-17) granted on 5th March 2019. The latter is for a development of market housing with a legal agreement to secure 25% of the units as affordable dwellings. The site included the Travel Stop Motel, which has been excluded from the current application.

3.0 SITE DESCRIPTION

3.1 The application site (some 1.24ha) relates to the property known as Locksmill Farm, located to the east of Cowbit Road and immediately adjoining the eastern edge of the settlement boundary of Spalding. The site is bounded to the north, south and west by existing residential development and to the east by buildings forming part of a commercial nursery.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

Policy 1 - Spatial Strategy;
Policy 2 - Development Management;
Policy 3 - Design of New Development;
Policy 4 - Approach to Flood Risk;
Policy 6 - Developer Contributions;
Policy 10 - Meeting Assessed Housing Requirements;
Policy 11 - Distribution of New Housing;
Policy 17 - Providing a Mix of Housing;
Policy 18 - Affordable Housing;
Policy 19 - Rural Exception Sites;
Policy 28 - The Natural Environment;
Policy 30 - Pollution;
Policy 32 - Community, Health and Well-being;
Policy 36 - Vehicle and Cycle Parking.

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

National Guidance

National Planning Policy Framework (NPPF), 2019

Section 2 - Achieving Sustainable development;
Section 3 - Plan Making;
Section 4 - Decision Making;
Section 5 - Delivering a Sufficient Supply of Homes;
Section 11 - Making Effective Use of Land;
Section 12 - Achieving Well-Designed Places;
Section 14 - Meeting the Challenge of Climate Change, Flooding and Coastal Change;
Section 15 - Conserving and Enhancing the Natural Environment.

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H16-1038-17 - O/A - Residential development (26 dwellings) - Locksmill Farm including Travel Stop Motel, Cowbit Road, Spalding - Granted 5 March 2019.

6.0 REPRESENTATIONS

6.1 Highways/SUDS

No objections subject to conditions.

6.2 Housing Strategy

This development will assist in meeting the affordable housing needs of the district. Minster Property Group, work in partnership with a number of Registered Providers that already own stock in the area and would likely have access to Homes England grant funding for new affordable homes. As a result of this, should the application be approved, the Council should be

reasonably confident that it is a deliverable development assisting with the housing growth figures required in the district.

6.3 Environment Agency

No objection subject to a condition relating to finished floor levels and flood resilient construction.

6.4 SHDC Environmental Protection

Contamination - Request the full contaminated land condition at this location.

Noise - No objections

6.5 Anglian Water

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

6.6 LCC Archaeology

Request a scheme of archaeological works secured by conditions.

6.7 LCC Education

Request a contribution of £159,766.

6.8 NHS England

Request a contribution of £660 per dwelling (£27,720).

6.9 Pedals

Recommend that the location and design of the cycle stores be made an integral part of the development. Alternatively, a suitably worded condition should be imposed.

6.10 Lincolnshire Police

No objections to the principle of this development. Refer to guidance on crime prevention.

6.11 Public

Objections received from local residents (summarised):
Located outside a defined settlement limit in countryside; Not in accordance with Policies 18 and 19 of the South East Lincolnshire Local Plan, 2019; Need for affordable housing can be met within Spalding settlement boundary; Pre-application engagement not carried out with either South Holland district Council or the public; Development is for fully rented - not a mix of rented and owned as required in Local Plan; Should not be considered as an amendment of an extant permission - Increased number with a new point of access and omission of The Travel Stop: Overdevelopment; Not in keeping with surrounding properties; Inappropriate location for high density development - should be an extension to an existing housing estate; Layout, design and density unsympathetic to existing properties or residents; Overlooking/lack of privacy which will be accentuated due to finished floor levels being raised to address flood risk; Removal of existing boundary walls and replacement with fencing will remove privacy and security; Noise and disturbance from high density affordable housing estate that will harm amenity of nearby residents who are mainly older, retired or night shift workers; Increased traffic on a road with known speeding problems; Access on a bend - poor visibility; lead to cars parking on Cowbit Road; Close top junction with queuing traffic; Detrimental to highway safety; Overshadowing; Pollution from vehicles and lighting, etc; Anti-social behaviour; Flood risk; Drainage issues; Insufficient infrastructure such as doctors and dentists; Loss of mature trees that help provide screening; Loss of flora and fauna such as rabbits, Muntjac deer, nesting birds, common lizards, owls, bats and newts; Proposed piled foundations system could damage

neighbouring property by virtue of vibration - developer should take steps to prevent this; Effect party walls; Contrary to Article 8 of the Human Rights Act; Asbestos concerns; Devaluation of property.

If a "fallback" is deemed to exist there are many additional aspects which create material harm such as design, layout, extra number of properties, people, vehicles, increased overlooking, new access between objector's properties, etc; Should the "fallback" be deemed to be invalid this application should be considered from scratch and against the 2019 Local Plan. If it is a deciding influence by the Travel Stop Motel's exclusion its legality must be determined by an independent legal expert. SHDC must ensure that it makes the correct legal determination.

6.12 Information from Applicant

The current scheme has been developed in consultation with housing officers in order to tailor the proposed mix, type and tenure of the affordable homes as closely as possible to local requirements.

It has been identified that there is an urgent need for affordable housing in the area, which the scheme seeks to address. In order to secure the proposed delivery of affordable housing, an increase in housing density is proposed compared to the extant consent, to 42 no. units.

The proposed density is considered to be entirely appropriate given the existing residential character of the site context, the highly sustainable location within Spalding and the opportunity to secure affordable housing.

Legal advice provided on the "fallback" position.

7.0 CONSIDERATIONS

7.1 The main issues in this case are:
- Principle;
- Character/appearance;
- The likely impact upon the amenity of nearby residents;
- Highway issues;
- Other material considerations such as S106 planning obligations, flooding, drainage, contamination, archaeology, ecology, refuse collection and public open space.

7.2 Housing Policy/Sustainability

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

7.4 The site is outside Spalding Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore considered to be within the countryside. Policy 1 (Spatial Strategy) of the Local Plan indicates that in the countryside development will only be permitted that is necessary to such a location and/or it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

7.5 This application is specifically for affordable housing on a site outside but adjoining a defined settlement boundary. The application therefore falls to be determined against Policy 19 (Rural Exception Sites) of the SELLP. It provides a framework of criteria for the consideration of such proposals, rather than identifying specific sites for them. It should be noted that Policy 19 refers to sites outside but adjoining settlement boundaries. This therefore includes Spalding.

7.6 Policy 19 states that proposals for housing "on sites situated outside, but adjoining the defined settlement boundaries identified by Policy 1 will be permitted where the following criteria are met".
1. The scheme would meet an identified local need for affordable housing, Starter Homes or specialist housing that cannot be met within the settlement boundaries;
2. The scale of the development would be in-keeping with the role and function of the settlement; and

3. Pre-application engagement with the local community has been undertaken to the satisfaction of the Local Planning Authority

7.7 In terms of criterion 1, the policy on affordable housing states that the need across the District equates to around 60% of the annual housing requirement, and that for reasons of viability, no more than 25% can be requested from any one site of 10 units or more. Therefore it is recognised that, in general, the affordable housing needs of the district cannot be met by S106 contributions alone. All affordable housing needs cannot be met on sites within the settlement boundary, hence the need for an enabling policy.

7.8 Housing Strategy have been consulted concerning whether the proposal would meet, "an identified local need for affordable housing, Starter Homes or specialist housing that cannot be met within the settlement boundaries". They have indicated that in the absence of a Housing needs Survey (NHS) for Spalding, the available evidence is the Strategic Housing Market Assessment (SHMA). This was used to determine the amount of new market and affordable homes required in the district to inform the South East Lincolnshire Local Plan. For the affordable homes there is a requirement for 282 affordable homes each year, of which 70% should be available for affordable for rent and 30% intermediate for sale. There are a number of affordable homes forecast in the pipeline, but it is unlikely these will meet the 282 requirement for each year. In terms of recent supply there is an under delivery of affordable homes compared to this requirement in recent years.

7.9 In addition to the SHMA the Housing Register provides a 'snap shot' of those currently in need of affordable rented housing in the district. The Housing Register is only available to those in acute housing need and currently has a waiting list for general needs housing in Spalding and for the district as a whole.

7.10 Housing Strategy go on to stress that "this development will assist in meeting the affordable housing needs of the district. Minster have a Registered Provider to partner for the scheme that have access to Homes England grant funding so it's definitely a deliverable scheme should it be permitted. The council will also receive 100% nomination rights to the rented housing and 75% of any relets". The proposal therefore satisfies criterion 1.

7.11 In terms of the second criteria, whilst this is a significant affordable housing only scheme, it is considered that the scale of the development would be in-keeping with the role and function of Spalding as a Sub-Regional Centre. The proposal is therefore satisfactory in this respect.

7.12 Criterion 3 of Policy 19 requires that pre-application engagement with the surrounding Community be undertaken to the satisfaction of the Local Planning Authority. Exception sites will not have been allocated through the Local Plan approach, with all of the consultation requirements. Therefore this is considered to be important to gain local understanding of the need and general support within the community for the proposal.

7.13 The applicant's agent has indicated that the current scheme has been developed in consultation with housing and planning officers in order to tailor the proposed mix, type and tenure of the affordable homes as closely as possible to local requirements. It has been identified that there is an urgent need for affordable housing in the area, which the scheme seeks to address. No reference has been made to pre-application consultation with the local community, although consultations have been carried out as part of the previous application on this site and also as part of the current submission. Nevertheless, the proposal is not wholly in accordance with criterion 3.

7.14 Policy 18 of the South East Lincolnshire Local Plan, 2019 requires within the South Holland District a mix of about 70% affordable for rent and 30% intermediate housing for sale. The proposed tenure mix is a total of 29 units as affordable rent and 13 units shared ownership. Housing Strategy consider this mix to be acceptable.

7.15 In this case, an important material consideration is the site history, or "fallback" position. The site is part of an area of land that currently has an extant outline planning permission for 26 dwellings, with the requirement that 25% should be affordable housing (ref. H16-1038-17). Therefore, unlike other examples of this policy being applied, there is already a commitment to the residential development of this land, with less affordable housing. If permission was refused

for the current scheme a reserved matters application could still be submitted on the site the subject of H16-1038-17, excluding the Travel Stop Motel. Consequently, the site could still be developed, including a revised access position.

7.16 Concluding, therefore, the application is generally in accordance with Policy 19 of the SELLP, which is consistent with advice within the National Planning Policy Framework. Whilst there is no evidence that community consultation has been carried out, it is noted that the application does relate to a site where there has already been permission for residential development and consultation will have been done on the basis of that submission. Therefore, whilst it is unfortunate that the required community engagement has not taken place, the nature of Spalding as a much larger town rather than a small village community, together with the planning history, suggests that non-compliance with this part of the policy would not be sufficient in itself to justify refusal taking into consideration the social benefits of the scheme and also the "fallback" position.

7.17 Policy 17 of the South East Lincolnshire Local Plan stresses that providing a mix of property types is important in meeting housing needs, as well as delivering sustainable development for the community. The proposal is considered to be satisfactory in this respect. No objections are therefore raised in principle to the scheme.

7.18 Character/Appearance

7.19 The proposed development comprises 42 no. affordable dwellings situated along a new adoptable road and footway leading from Cowbit Road. One private road is proposed to provide access to Plots 9 to 12. A mix of house types is proposed.

7.20 The Planning Statement accompanying the application indicates that the layout and urban grain of the scheme has been devised with the aim of maximising the provision of affordable housing on the site whilst ensuring that the development will adhere to the local context and result in an attractive street scene and neighbourhood character. It goes on to stress that the proposed density is appropriate to the existing residential context of the site and that the urban grain, density and plot sizes proposed are similar to those of nearby residential areas north of Hawthorn Bank and in the vicinity of Balmoral Avenue. Larger plot sizes are not typical in the locality.

7.21 The application also states that a mix of house types is proposed with variations in scale, orientation and architectural detailing to provide visual interest throughout the site and create a positive neighbourhood character. A variety of forms and materials are also proposed for means of enclosure throughout the site in order to add further interest to the street scene and avoid visual monotony.

7.22 The site itself extends out beyond existing frontage residential development. However, it is sandwiched between existing agricultural buildings to the rear (east) and also dwellings set further back to the south. Depth development is also situated further to the north. The site adjoins an area that is essentially urban in character. Taking these factors into account it is considered that the proposed development would not materially harm the existing character/appearance of the locality, or affect the setting of Spalding Conservation Area. The aforementioned also takes into consideration that the site is likely to be developed in any case by virtue of the "fallback" position.

7.23 Additional tree planting is shown along the western and southern boundaries adjoining residential properties and also within the proposed Public Open Space. Officers have suggested to the applicant that the area of open space be moved to enable some of the trees within the central area to be retained. The agent has indicated that the architect has looked extensively at options to retain more trees within this area. However, "all possible options would require the public open space to be divided. This would result in a less efficient layout, impacting negatively on the street scene and the overall character of the development. Splitting the POS will also reduce its functionality for residents and would harm residential amenity on the site. All alternative options would impact negatively on the proposed drainage infrastructure, as the current large POS area provides a suitable location for the required storage tank".

7.24 The agent goes on to stress that "removing units would reduce the benefits of the scheme by

virtue of providing affordable housing, would render the scheme unviable, and would fail to meet the policy aims of maximising the delivery of affordable housing and ensuring the efficient use of land".

7.25 It should also be noted that the trees proposed for removal are largely Category B or lower, and none are particularly high quality or worthy of retention. New tree planting is proposed across the site which would provide mitigation for their loss.

7.26 Concern has previously been raised over the loss of 19th century barns. However, they are not listed or within Spalding Conservation Area. Consequently, their demolition cannot be resisted.

7.27 It is appreciated that the proposal would result in the loss of high-quality agricultural land to housing. Records show that the vast majority of land within South Holland is either Grade 1 or Grade 2. In order to deliver the Council's required 'objectively assessed housing need,' as per the provisions of the Framework, it is inevitable that some high-grade agricultural land will be lost. Given this context, it is not considered that the loss of this amount of agricultural land in this location is an issue that would significantly and demonstrably outweigh the benefits of housing development, and thus represent a valid reason for refusal in this instance.

7.28 It is considered that the proposal satisfactorily complies with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 in terms of character and appearance.

7.29 Residential Amenity

7.30 The site is bounded to the north, south and west by existing residential development and to the east by buildings forming part of a commercial nursery. Existing frontage dwellings to the west sit on plots that slope upwards from the site towards Cowbit Road. The Travel Stop Motel and associated car park are situated to the north beyond a range of barns within the site, which are proposed to be removed.

7.31 The proposed dwellings on plots 13 to 32 have rear elevations facing existing residential properties to the west and south-west. Plots 13-24 are generally 10 metres plus from the boundary. Plots 25-29 are closer. However, the separation distances between the existing and proposed dwellings are considered sufficient to prevent material overlooking at first floor level. The rear of the houses on plots 1-4 predominantly overlook the motel car parking area at a distance of some 8.5 metres. Plots 5, 6 and also 9 would overlook a neighbouring garden/tennis court either at a distance of approximately 10 metres or at an oblique angle.

7.32 Finished floor levels (FFLs) of the properties will need to be raised to address flood risk, with the properties along the western and south-western boundaries (plots 13-32) having FFLs between 3.4m aOD and 3.7m aOD. Plots 1-9 would have FFLs varying between 4.4m aOD (plots 1-2) and 3.5m aOD (plot 9) because the site slopes down away from Cowbit Road. The submitted drawings indicate that the FFLs of the dwellings on the residential boundary with properties on Cowbit Road are between 0.27m and 0.34m (the worst case, at Plot 17) higher than the site levels at the boundary. To alleviate issues of overlooking of neighbouring property at ground floor level 2.0 metre fencing with a 0.5 metre trellis above is proposed along the western boundary, with the trellis providing some additional privacy given that site levels of the existing frontage properties rise towards Cowbit Road. It is considered that similar fencing should also be erected along the south western boundary and the north-eastern boundary at the rear/side of plots 1-9.

7.33 Concerns have been raised about the possible removal of Leylandii trees close to the common boundary with no. 71 Cowbit Road and the affect upon the privacy of occupiers of this property. This matter has been taken up with the agent who has confirmed that the trees indicated as G27 are outside the land ownership boundary and cannot be removed.

7.34 Objections have been raised over possible noise and disturbance. It is accepted that the scheme would result in additional vehicle activity, both within the site and vehicles entering/leaving Cowbit Road. The new access roadway would run alongside "Sandiacre" to serve the development. However, ambient noise levels here are relatively high due to traffic noise from vehicles presently using Cowbit Road. A 1.8m closeboarded fence is proposed along the boundary with "Sandiacre". It is considered that the amenity of nearby residents would

not be materially harmed in terms of noise/disturbance.

7.35 Issues have been raised over possible noise and disturbance during the construction stage. This matter can be addressed by means of a construction management plan. It falls to the developer to carry out the development in a responsible manner. If structural damage were to occur, for instance, it would be a separate civil matter.

7.36 There is no substantive evidence that the development would result in anti-social behaviour, which is a separate police matter.

7.37 Issues such as blockage of view and property devaluation are not material planning considerations and therefore carry no weight. Party walls and possible damage to neighbouring property are a civil matter.

7.38 Issues have been raised concerning the disposal of asbestos. This matter falls within the remit of the Health and Safety Executive.

7.39 Concerning the proposed piled foundations system, it is the responsibility of the developer to ensure that work is carried out without damaging neighbouring property. It is the liability of the developer should this occur.

7.40 Throughout the scheme opportunities have been identified to design out crime by providing natural surveillance to car parking areas and providing secure, private outdoor amenity space to each plot. The public open space has been oriented in relation to surrounding plots so as to provide natural surveillance, in a part of the site which is conveniently accessible to all residents in order to maximise the chances of the space being well used.

7.41 Concluding, therefore, it is considered that the proposal would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc. The proposal therefore satisfactorily complies with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

7.42 Highway Issues

7.43 The site would be served by a 5 metre wide road and 2 metre footway, which would be to adoptable standards. Plots 9-12 and 38-42 would be served by non-adopted roadways. Refuse collection points would be provided. Each plot has been designed with sufficient parking facilities, plus space for cycle storage.

7.44 Concerns have been raised by local residents on grounds of poor visibility, increased traffic, highway safety, etc. LCC Highways has been consulted in this respect and raises no objections on highway safety grounds.

7.45 The proposal satisfactorily accords with the objectives of Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 in this respect.

7.46 Other Matters

7.47 Flood Risk - The site is within Flood Zone 3 on the Environment Agency Maps. The Environment Agency's Flood Maps have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test

7.48 The SFRA indicates that the site varies form "no hazard" close to Cowbit Road to "Danger to Most" within the central area of the site. However, most of the eastern part of Spalding falls within a similar category and the site has an extant permission for residential development. It is

not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding. The exceptions test should therefore be applied. It is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The NPPF and the PPG set out two elements to the Exceptions Test.

7.49 First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This is aimed at allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available whilst helping ensure that flood risk to people and property will be managed satisfactorily.

7.50 In terms of the first element, the proposal scores positively against the aims and objectives of the Local Planning Authority's sustainability appraisal and would provide wider sustainability benefits to the community that outweigh flood risk. This includes the provision of additional affordable housing within the district to meet the needs of the population, as required by the National Planning Policy Framework.

7.51 Concerning the second element, the Environment Agency has recommended that the finished floor level for each plot is set no lower than those shown on the submitted drawing. Flood resilient construction should also be incorporated to a minimum height of 300mm above the finished floor level. Future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

7.52 The proposal accords with Policy 4 of the South East Lincolnshire Local Plan, 2019 in terms of flood risk

7.53 Drainage - Foul water would be disposed of to the mains sewer. Anglian Water has indicated that the foul drainage from this development is in the catchment of Spalding Water Recycling Centre that will have available capacity for these flows.

7.54 Surface water would be disposed of via infiltration crates within the area of open space, with an outfall into the South Holland Internal Drainage Board system via a riparian drain. The issue of maintenance of the riparian drain would be dealt with by the Internal Drainage Board under the Land Drainage Act 1991.

7.55 Archaeology - This development lies within a few metres of an area of cropmarks which have been interpreted as possible prehistoric / Roman settlement. There is a potential that this settlement could extend into the development site and could be an important archaeological site. LCC Archaeology has therefore recommended a scheme of Archaeological Works that can be secured by means of conditions. The proposal accords with Policy 29 of the South East Lincolnshire Local Plan, 2019 in this respect.

7.56 Ecology - An Extended Phase 1 Habitat Survey was carried out in October 2019 and the report accompanies this application. No evidence of protected species was identified except for owl pellets in one building indicating that it is used as an occasional feeding perch. The survey indicates that provided the majority of the mature and semi-mature trees within the area surveyed are retained and provided a reasonable stand-off zone which could be sympathetically landscaped, it is considered likely that development of the site area surveyed could be carried out in a manner that does not have any significant impact on local biodiversity and losses could be offset by compensation and enhancement.

7.57 The application is accompanied by a tree survey which indicates that existing trees have been retained and incorporated into the landscaping as far as possible. Additional tree planting is proposed. Where it has been necessary for trees to be removed, this is considered to be justified in order to secure the benefits of the scheme.

7.58 Contamination - The application is accompanied by a Phase I and II Geo-Environmental Investigation. Environmental Protection has requested a full contaminated land condition in this case. The proposal accords with Policy 30 of the South East Lincolnshire Local Plan, 2019 in

this respect.

7.59 Public Open Space - An area of public open space has been provided within the central area of the site. The proposal accords with Policy 32 of the South East Lincolnshire Local Plan, 2019 in this respect.

7.60 S106 Planning Obligations - The applicant would be required to enter into a S106 planning obligation to ensure the provision of affordable housing. LCC Education has requested a contribution of £159,766 and NHS England a contribution of £660 per dwelling (£27,720).

7.61 **Conclusion**

7.62 The application is generally in accordance with Policy 19 of the SELLP, which is consistent with advice with the National Planning Policy Framework. Whilst there is no evidence that community consultation has been carried out, it is noted that the application does relate to a site where there has already been permission for residential development and consultation will have been done on the basis of that submission. Therefore, whilst it is unfortunate that the required community engagement has not taken place, the nature of Spalding as a much larger town rather than a small village community, together with the planning history, suggests that non-compliance with this part of the policy, would not be sufficient in itself to justify refusal taking into consideration the social benefits of the scheme and also the "fallback" position.

7.63 In terms of character/appearance, the site itself extends out beyond existing frontage residential development. However, it is sandwiched between existing agricultural buildings to the rear (east) and also dwellings set further back to the south. Depth development is also situated further to the north. The site adjoins an area that is essentially urban in character. Taking these factors into account it is considered that the proposed development would not materially harm the existing character/appearance of the locality, or affect the setting of Spalding Conservation Area. The aforementioned also takes into consideration that the site is likely to be developed in any case by virtue of the "fallback" position.

7.64 It is considered that the proposal would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc. This is subject to appropriate boundary treatment given that finished floor levels would be raised to address flood risk. The proposal therefore satisfactorily complies with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

7.65 LCC Highways has raised no objections on highway safety grounds. Issues such as flood risk, drainage, archaeology, contamination, ecology, etc can be addressed by means of conditions.

7.66 The applicant will be required to enter into a S106 planning obligation concerning the provision of affordable housing and also LCC Education and NHS England contributions.

7.67 **Additional Considerations**

7.68 Public Sector Equality Duty

7.69 In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

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

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

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

7.73 Human Rights

7.74 In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

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

8.0 RECOMMENDATIONS

8.1 **Authorised to grant permission subject to the applicant entering into a Section 106 agreement to secure the development as affordable housing, plus LCC Education and NHS England contributions and those conditions listed in Section 9.0 of this report.**

9.0 CONDITIONS

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

   Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
PD01 (P1)
PD02-(P5)
PD03-(P5)
PD04 (P1)
PD05-(P5)
PD06 (P3)
PD07 (P2)
36019/10E
36019/20
36019/21
36019/22
36019/23
Surface Water Drainage Strategy (Ref. 36019) prepared by SRC Ltd dated January 2020
Phase I and II Geo-Environmental Investigation (Project No. GML19195/2/0) dated September 2019
Extended Phase 1 Habitat Survey (Report ref. P1967/1219-01- V1) prepared by CBE Consulting dated 17 December 2019
BS5837 Tree Survey (Report ref. P1967/1219/02- V1) prepared by CBE Consulting dated 18 December 2019
Flood Risk Assessment by Geoff Beel Consultancy(Ref: GCB/Wright) dated February 2020

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

3. The approved scheme of landscaping and tree planting shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4. Where trees are shown to be retained on site they shall be protected during construction work as follows, unless agreed otherwise in writing by the Local Planning Authority:

i) chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made,
ii) no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;
iii) no services shall be routed under the spread of the crowns of the trees to be retained;
iv) no tree to be retained on the approved plans shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority;
v) if any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of trees on the site.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2019.

5. The approved scheme of boundary treatment/screening shall be implemented in full before any dwelling is occupied and shall thereafter be retained in its entirety.

Reason: In the interest of the amenity of nearby residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

6. Notwithstanding the submitted details the north-eastern boundary of the site between plots 1-9 (inclusive) and the south-western boundary of the site between plots 24 and 31 (inclusive) shall be de-lineated by 2 metre high closeboarded fencing with 0.5 metre high trellis above. The fencing and trellis shall be erected before any dwelling is occupied and shall thereafter be retained in its entirety.

Reason: In the interest of the the amenity of nearby residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

7. The areas of public open space so approved shall be laid out and be made available for public use prior to occupation of any dwelling and shall thereafter be retained.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

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

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

9. An equipped children's play areas shall be provided within the site. The location, detailed design, layout, specification of the equipment, and the management and maintenance regime of the play area shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development beyond oversite. The play area shall thereafter be provided in accordance with the details so approved prior to occupation of any dwelling, and shall thereafter be so maintained.

Reason: To ensure that adequate play provision is made for the occupiers of the development hereby permitted and that the facility is adequately managed and maintained.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

10. The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment forming part of this planning application, including/plus the following:
- Finished floor levels shall be set in accordance with details shown on dwg. no. 36019/10E accompanying the application;
- Flood resilient construction shall be incorporated within the development up to a minimum height of 300mm above finished floor level.
The measures shall be fully implemented before the property to which they relate is first occupied.

Notes:
1. The applicant is advised to refer to the following document for information on flood resilience and resistance techniques that could be incorporated into the development: "Improving Flood Performance of New Buildings - Flood Resilient Construction" (Department for Communities and Local Government, 2007);
2. Future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2019.

11. Plots 9, 10, 11, 12, 38, 39, 40, 41 and 42 shall not be occupied until the refuse collection point to which they relate has been constructed in accordance with the approved details. The refuse collection points shall thereafter be retained.

Reason: To ensure that adequate facilities are made available for refuse storage and disposal to avoid pollution, to protect residential amenity, and in the interests of the appearance of the site and the area within which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

12. The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures:

i) a desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk- top study and a non-technical summary shall be submitted to the LPA without delay upon completion.
ii) if identified as being required following the completion of the desk-top study, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
iii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing by the LPA.
iv) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Note
The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.
The applicant's attention is also drawn to the document entitled "Developing Land Within Lincolnshire - A guide to submitting planning applications to develop land that may be contaminated", which can be obtained through the Local Environmental Health Department.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

13. No development shall take place until a Construction Management Plan to minimise disturbance during the construction process through noise, dust, vibration and smoke has been submitted to and approved in writing by the Local Planning Authority. It shall also include a Method Statement detailing:
- phasing of the development to include access construction;
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- wheel washing facilities;
- the routes of construction traffic to and from the site including any off site routes for the disposal of excavated material and;
- strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction.
The Construction Management Plan and Method Statement shall be strictly adhered to throughout the construction period.

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

14. No dwelling shall be commenced before the first 50 metres of estate road from its junction with the public highway, including visibility splays, have been completed to binder course level.

Reason: To ensure construction and delivery vehicles, and the vehicles of site personnel may be parked and/or unloaded off the existing highway, in the interests of highway safety and the amenity of neighbouring residents.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

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

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

16. Foul water shall be disposed of to the mains sewer.

Reason: To ensure that the site is adequately drained and to avoid pollution.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

17. The approved scheme of surface water disposal shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2019.

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

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

19. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the following and should be in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor on behalf of the Local Planning Authority:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording
3. Provision for site analysis
4. Provision for publication and dissemination of analysis and records
5. Provision for archive deposition
6. Nomination of a competent person/organisation to undertake the work
7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.

The archaeological site work shall only be undertaken in accordance with the approved written scheme.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2019. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

20. The applicant shall notify the Lincolnshire County Council Historic Environment Department in writing of the intention to commence at least fourteen days before the start of archaeological work required in connection with Condition 18 above in order to facilitate adequate monitoring arrangements.

Reason: To ensure satisfactory archaeological investigation and retrieval of archaeological finds in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2019.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

21. A copy of the final report required in connection with Condition 18 above shall be submitted within three months of the work being carried out to the Local Planning Authority and the Lincolnshire Historic Environment Record. The material and paper archive required as part of the written scheme of investigation shall be deposited with an appropriate archive in accordance with guidelines published in The Lincolnshire Archaeological Handbook.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2019.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

22. Note 1 - This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 dated and can only be implemented as a consequence of meeting the provisions of that Agreement

23. Note 2 - The applicant is reminded that it is an offence under the wildlife and Countryside Act, 1981 (as amended) to kill, injure, or take (handle) any protected species occupying a place of shelter or protection and also to take, damage or destroy the nest of any wild bird while that nest is in use or being built. If evidence of bats is found before or whilst the work is carried out you are advised to contact Natural England at their Lincoln office (telephone 03000 603900).

24. Note 3 - Your attention is drawn to advice from Lincolnshire Police dated 16 March 2020 accompanying the application.

Background papers:- Planning Application Working File

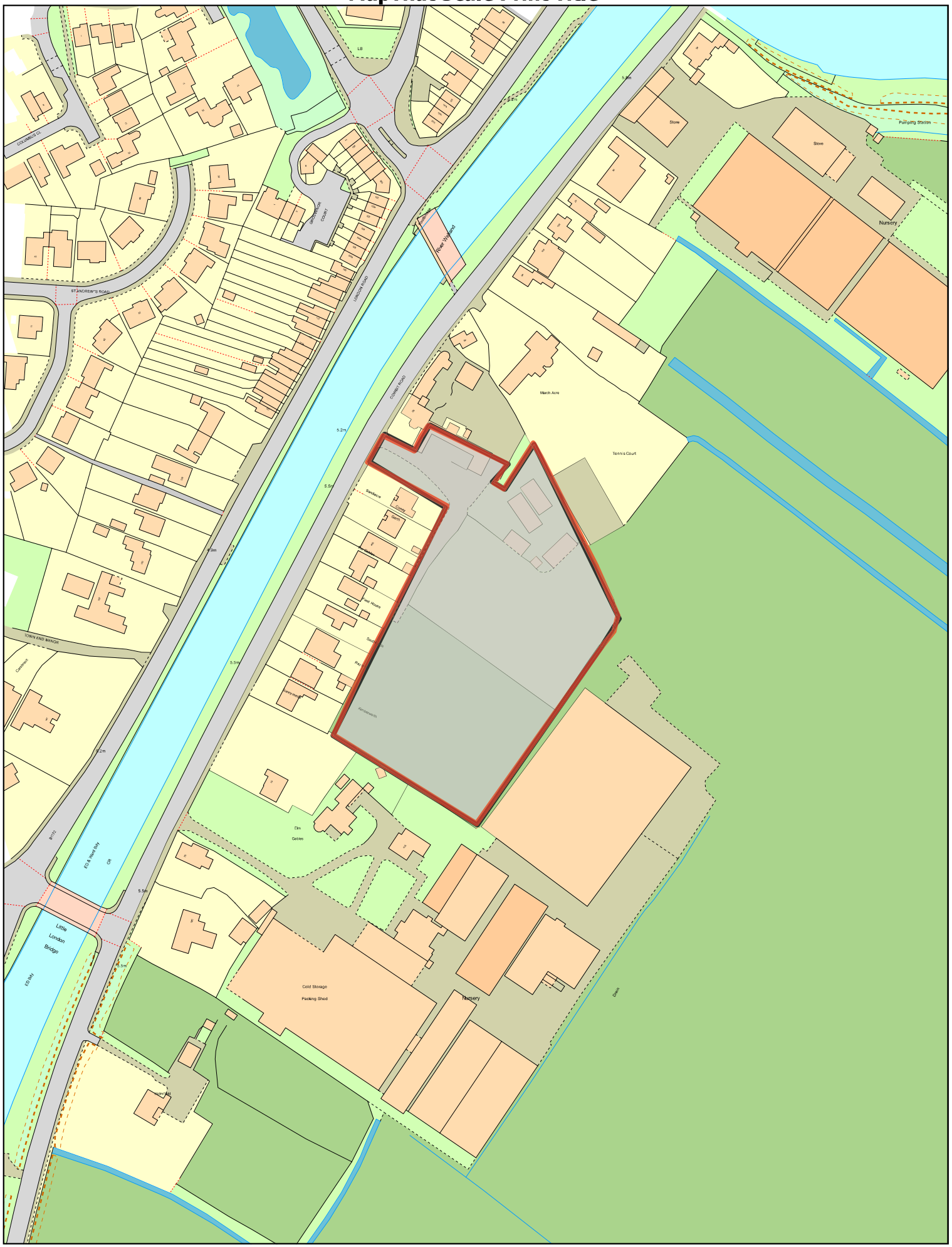
Lead Contact Officer

Name and Post: Richard Fidler , Development Manager
Telephone Number: 01775 764428
Email rfidler@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

© Crown copyright and database rights 2018 Ordnance Survey 100018351.

MAP SCALE 1:2000
CREATED DATE: 20/08/2020
PHOTOGRAPHIC COPY
LIABLE TO DISTORTION
IN SCALE