

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 04 September 2019

(Author: Polly Harris-Gorf - Principal Planning Officer)

Purpose: To consider Planning Application H16-1267-18

Application Number: H16-1267-18

Date Received: 24 December 2018

Application Type: FULL

Description: Commercial development comprising a B1 office building of 1,026 sq m, 8 small business units of 240 sq m in B1 and / or B8 use, and enabling residential development of 43 houses comprising 12 x 2-bed, 29 x 3-bed and 2 x 4-bed, landscaping, access routes, car parking and associated infrastructure

Location: Land within/adjacent:Lincs Gateway Business Park, and south: Fen End Lane Spalding

Applicant: Ashley King Developments Ltd **Agent:** Waller 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=H16-1267-18>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The application raises matters of principle, planning policy, viability and developer contributions that merit Member consideration.

2.0 PROPOSAL

2.1 This is a full application for a commercial development comprising a B1 office building of 1,026 sq m, 8 small business units of 240 sq m in B1 and / or B8 use, and "enabling" residential development of 43 houses comprising 12 x 2-bed, 29 x 3-bed and 2 x 4-bed dwellings, landscaping, access routes, car parking and associated infrastructure.

2.2 Access is proposed from Fen End Lane, with the access road then leading to separate areas of development of an office building, a series of industrial units and 43 dwellings; a mix of detached, semi detached and short terraces.

2.3 The commercial, business elements of the proposal would provide three buildings (Buildings 1-3) to house eight light industrial units to the west of the access road, each with parking spaces - 50 spaced being proposed overall. The buildings proposed would be constructed of facing brickwork to the 2.4 metres from ground level, with a Kingspan cladding system to the upper level, under Kingspan composite panel roofing including roof lights. Each building is proposed to include a mezzanine level and would have commercial height roller shutter doors.

2.4 A two storey office building (Building 4) with parking is proposed to the south-east of the

access road from Fen End Lane, faced in a Kingspan cladding system under a grey profile aluminium clad shallow pitched roof. Parking is shown for 32 cars, two of which would be to disabled access standards.

- 2.5 The residential element of the proposal is shown to the west of the access road, partially bounding on to the dwellings in Fen End Lane, and would comprise a development of two storey dwellings - 12 x 2-bed, 29 x 3-bed and 2 x 4-bed houses, in small terraces, semi detached pairs or on detached plots. The house types proposed are typical in style and materials to this developer, being a mix of brick dwellings, some with and weatherboarding under pitched roofs.
- 2.6 The plans show an existing right of way being maintained running north-south across the site.
- 2.7 A swale is proposed adjacent to the road to be formed.
- 2.8 The application is supported by a Design & Access statement, Flood Risk Assessment, Noise Impact Assessment, Viability Appraisal and Ecology Survey.
- 2.9 A Landscape Strategy Drawing is mentioned in the Design & access statement but has not been submitted.
- 2.10 Since submission the applicant has submitted unsolicited revisions to resolve matters regarding the siting of a bridleway.
- 2.11 The applicant is offering no affordable housing provision, education contribution or contribution to NHS services. A financial viability appraisal was submitted, and this has been independently reviewed. The findings are set out below.
- 2.12 The applicant sets out a case that the residential development proposed would enable, or cross subsidise, the commercial elements of the application scheme, stating that *This application proposes the first few commercial buildings within the northern part of the site, which would be in B1 and B8 uses. They would provide high quality office accommodation, as well as the potential for research and development, light industrial or storage facilities. In addition, the application proposes 45 (sic) houses, which would provide the funding required to enable the construction of these commercial buildings.*

3.0 SITE DESCRIPTION

- 3.1 The application site consists of approximately 22 hectares (54 acres), is largely flat and is open land, sitting to the north of the A1175/A16 roundabout and to the East of the B1173. The site is approximately 2.5 miles to the south of Spalding town centre.
- 3.2 The northern area has historically been largely in agricultural use, although part of it was previously occupied by a building in B8 use. This building was destroyed by a fire in 2006, and has since been demolished. The site retains some elements of hard standing, and is in part previously developed land. Earth bunds within the site were constructed for the purpose of attenuating noise from the B8 use, and protecting the amenity of housing on Fen End Lane.
- 3.3 The Definitive Rights of Way Map shows Spalding Public Bridleway 894 affecting the development site.
- 3.4 Lincs Gateway benefits from outline planning permission. It is also identified as an allocation within the SouthEast Lincolnshire Local Plan, as a prestige employment site SP002. This is set out in more detail below.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

Policies

- 01 Spatial Strategy
- 02 Development Management
- 03 Design of New Development
- 04 Approach to Flood Risk
- 05 Meeting Physical Infrastructure and Service Needs
- 06 Developer Contributions
- 08 Prestige Employment Sites
- 10 Meeting Assessed Housing Requirements
- 11 Distribution of New Housing
- 17 Providing a Mix of Housing
- 18 Affordable Housing
- 19 Rural Exception Sites
- 28 The Natural Environment
- 29 The Historic Environment
- 30 Pollution
- 31 Climate Change and Renewable and Low Carbon Energy
- 32 Community, Health and Well-being
- 33 Delivering a More Sustainable Transport Network
- 36 Vehicle and Cycle Parking
- APPENDIX 6 Parking Standards
- APPENDIX 8 Developer Contributions for Education Facilities
- APPENDIX 9 Developer Contributions for Health Care Facilities

- 4.2 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.

4.3 National Guidance

4.4 National Planning Policy Framework (NPPF), 2019

4.5 Sections

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

4.6 Planning Practice Guidance (PPG)

- 4.7 Ministry of Housing, Communities & Local Government PPG updated 9 May 2019, This guidance sets out the principles to be used in viability appraisal., and discusses viability amongst other matters, in particular stating:

Any viability assessment should reflect the government's recommended approach to defining key inputs as set out in National Planning Guidance.

5.0 RELEVANT PLANNING HISTORY

- 5.1 Lincs Gateway benefits from outline planning permission. It is also identified as a proposed allocation within the South East Lincolnshire Local Plan, as a prestige employment site.

- 5.2 H16-0009-14. Land north and south of Barrier Bank Road (B1173), and north-west of the A1175 and A16 on the southern edge of Spalding. Proposed business park, hotel, public house/restaurant, conference and function centre, petrol filling station, restaurant/cafe with ancillary retail together with associated landscaping, access, highways, parking, drainage, utilities and services and infrastructure works. Approved 10-10-14.
- 5.3 H16-0025-15. Barrier Bank Cowbit. Proposed business park, hotel, public house/restaurant, conference and function centre, petrol filling station, restaurant/cafe with ancillary retail together with associated landscaping, access, highways, parking, drainage, utilities and services and infrastructure works - approved under H16-0009-14. Modification of condition 8 to amend requirement to set finished floor levels of the buildings within parcels B3a and B3b from 1 metre above existing ground level to not less than 600mm above ground level. Approved. 23-06-15.
- 5.4 H16-0874-15. Barrier Bank Business Park Land north & south of Barrier Bank Road (B1173) & north west of A1175 & A16 on southern edge of Spalding. Proposed service station (Amended layout). Approved. 16-12-15.
- 5.5 H16-1293-16. Land Between Barrier Bank & B1179 Spalding Lincs . Change of use class from D1 to B1. Approved. 02-03-17.
- 5.6 H16-1217-17. Land at Goodison Road A16 and B1173. Business park, hotel, public house/restaurant, conference and function centre, petrol filling station, restaurant/cafe with ancillary retail together with associated landscaping, access, highways, parking, drainage, utilities and services and infrastructure works - approved under H16-0025-15. Modification of Condition 2 to allow amendments to previously approved plans. Approved. 30-07-18.

6.0 REPRESENTATIONS

6.1 Spalding & District Civic Society

Comment as follows:

The housing development was not actually part of the Gateway Business Park, but on a site next to it - doesn't it contravene the approval of Gateway
 The house designs are uninspired and will not create much sense of space.
 Incorporation of bridleway within the development: question whether it is any longer a meaningful bridleway, running alongside and across access roads.
 Does the use of this adjacent land (or its proposed housing layout) contravene the requirement that Gateway Business Park development should 'mitigate the impact of the prestige sitewith the open countryside'.
 Business Park: Buildings 1, 2 and 3 are little more than sheds.

6.2 SHDC Environmental Protection Officer

Requests the full land contamination condition at this location.

6.3 LCC Historic Environment Officer

Comment that an archaeological condition should be imposed if permission is granted.

6.4 LCC Flood Risk & Development Manager

Requests that the Local Planning Authority request the applicants to provide additional information -

Whilst the submitted details show a pedestrian link to the existing Fen End Lane residential area, there is currently no continuous footway link between the site and the established built-up area of Spalding because the footway along Barrier Bank north of Fen End Lane has collapsed due to subsidence of part of the bank.
 Without that link, residents of the proposed dwellings would be reliant upon the use of a motor vehicle to safely access the facilities within the town.
 The proposed development may not therefore meet the NPPF requirement of providing safe

and suitable access for all users.

There are two junctions within the submitted site layout drawing where the side road joins the main road at an oblique angle. The layout will need to be amended to show those side roads joining the main road perpendicularly.

6.5 LCC Rights of Way & Countryside Access Officer

Raised objection to the originally submitted scheme due to the alignment of the new estate road on the same route as the Public Bridleway, that the current route is an 'off highway' route that keeps walkers and cyclists away from vehicular traffic, the bridleway's wider use needed to be considered; the bridleway is a recreational resource that would be used for dog walking (a development of this size could easily expect a dog per household requiring a walk twice per day) by people from this proposed development and the adjacent housing estate or as a part of a longer walk.

Comment that during any works allowed by this proposal, users of the Public Right of Way should not be inconvenienced or exposed to hazards by any such works.

As a result of the issues set out above, revised drawings were submitted relocating the bridleway, and the LCC Rights of Way & Countryside Access Officer has clarified that he no longer raises objection.

6.6 LCC Education Service

Requests a contribution of £67,658 for Primary education.

6.7 NHS

Request a financial contribution of £28,380 for local services.

6.8 Environment Agency

Raised objection to the original submission and withdrew this following the submission of an updated flood risk assessment (FRA). No objection subject to conditions regarding the works set out in the FRA.

6.9 Anglian Water

No objection subject to conditions regarding on-site foul water drainage works and surface water drainage.

6.10 PEDALS

Planning permission should not be granted without a safe cycling access which avoids cyclists having to use the fast stretch of the B1173 which leads to and from the A16. Planning permission should not be granted without satisfactory details of the arrangements for cycle storage and cycle parking.

6.11 Lincolnshire Wildlife Trust

Would like to see the recommendations within the survey report controlled by conditions. Would also like to see the landscaping proposals so that native species can be encouraged to be planted. Lighting and landscaping design, public open spaces to have satisfactory future management.

6.12 Police Crime Prevention Officer

No objections to the housing development subject to Building Regulation measures, consideration of boundaries, shed/cycles storage and parking provision which should ideally be within the boundary line. Preferable not to have footpaths to the rear of properties unless securely gated.

With regard to the commercial units, the detail and form of the perimeter and security fencing is

to be considered. Also consideration of signage and CCTV, landscaping, lighting and building regulation matters.

6.13 Public

Objections received from 13 households to the original submission, raising the following issues:

Site is not identified as a housing site in the 2006 or the 2019 plan.

The land is on open countryside.

The land is described in the (emerging) plan as greenfield, with a broadleaved plantation that should be retained as part of the Lincs Gateway Development. This copse is an amazingly diverse area for different wildlife.

Losing the copse and the surrounding area would be catastrophic for so much flora and fauna that

have established themselves and such a retrograde step when our agenda nationally and globally is to conserve the nature we have, as it is such an important part of our ecological future.

This is the only greenfield area in 2-3 miles where dogs and horses can be walked safely and local residents of Fen End Lane can walk.

Would take further agricultural land out of production.

The increased traffic that will be accessing the B1173. This is a road that has a speed limit of 60 MPH and increased traffic would make the proposed traffic junction hazardous.

Cyclist fatalities on the B1173.

Irrespective of whether the application is passed or not due to the increased volume of traffic on the B1173, a speed limit between Little London Bridge and the A16 roundabout should be considered. It is the only access road into Spalding centre that does not have one.

No safe footpath or cycleway from the site or the Lincs Gateway site to Spalding centre. The footpath on the B1173 is closed due to subsidence. No sign that this will be remedied in the foreseeable future.

There is no bus route into town - anticipate increased use of the footpath by children from the new homes or that free transport to school is needed with no safe footpath or cycleway.

No pavements along the A1073.

Edge of Plan is an existing Public Bridleway where proposed road to the housing site is planned.

A Public Bridleway cannot just be removed according to the countryside Act.

A bridleway is planned to change to part road which will not be a suitable replacement
Issues of flood risk

The dyke along the boundary with Fen End Lane must be retained.

Sewerage Facilities would not be able to cope with this extra housing of this type and amount.

The sewerage pipe running down Fen End Lane would need to be seriously upgraded.

The sewerage system is already over-utilised by the flushing of the sewerage treatment plant for the Applegreen Petrol Filling Station, and a foul smell comes up each time in properties in Fen End Lane. This has been reported to Anglian Water.

Surface water drainage is piped along Fen End Lane under the bridleway and into a dyke at the north edge of the proposed site. Any restriction to this water drainage route will be detrimental to much of the land around the existing properties in Fen End Lane.

The 43 residential buildings are not in keeping with those in Fen End Lane which are mostly bungalows. There are no new bungalows in the plan.

The proposed houses are close to the already busy B1173 meaning they will suffer from traffic noise & pollution some of it caused by the residents themselves

Spalding's infrastructure is already under stress with increased traffic, oversubscribed doctor's surgeries, dentists, little public transport and full schools.

Overlooking and loss of privacy to residents in Fen End Lane.

The industrial development will bring noise, light and industrial pollution to homes in Fen End Lane.

Would expect the hours of use of the industrial units to be controlled.

Landscaping bunds have been removed that were put in to negate noise from the industrial site to existing dwellings.

The layout of the housing development does not provide any children's play space or green areas for play.

None of the Lincs Gateway sites are served by public transport.

Utilities would not cope with the development - telephone lines, broadband, surface water, water pressure and electrical supplies.

The seed funding from the proposed housing development for the business park is not a good enough excuse/reason to take away a greenfield site. Investment for the business park should be sought elsewhere - from the 900 house development at Holbeach or the developments in Crowland and Cowbit.

The lighting to the bridleway promised before development never materialised.
The bridleway has not been cut back or maintained.
The conference centre is now the developers own offices along with several other small businesses.

6.14 Following the submission of a revised layout dealing with the bridleway and other minor changes, objections were received from 4 households (all previous objectors) objecting to the following -

Still object to the principle of the development.
Object to any re routing or development of said Bridleway as there is no actual requirement to do so as it is not in an area of the Spalding local plan for development until 2035.
Removal of trees would reduce protection from pollution.
The site is not within the Spalding settlement boundary and considered as open countryside & all previous comments to this site made previously still stand.
The idea of the housing development to seed funding is total nonsense.

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 Principle of Development

7.3 Considerations of the principle of the development can be set out as two uses and policy issues - the commercial, employment generating proposals within the application and the residential element.

7.4 Commercial Development

7.5 Part of the application site is identified as part of one of the five high profile 'prestige' sites (Lincs Gateway, Spalding) that will act as drivers for different parts of the economy, helping to diversify the economic base and attract high-skilled and high-value employment to South East Lincolnshire.

7.6 Policy 8: Prestige Employment Sites, of the SELLP set out a series of general principles for the delivery of a mix of employment opportunities, design, access to the strategic highway network, good connections into the local public transport, pedestrian and cycle network, mitigation of the impacts of the Prestige Site with neighbouring developments and the open countryside, and gives specific guidance that the Lincs Gateway site as a whole shall meet the following expectations:

7.7 - Development will comprise B1, B2 and B8 uses with some ancillary A3 and A4 uses permitted.
- Access to be provided at two points off the B1173 and Barrier Bank from the A16/ A1175.
- Additional internal road infrastructure is required to service new development off the two access points to the site.
- Provide a scheme that delivers utilities, water & foul water, surface water drainage & flood mitigation upgrades.
- Deliver a landscaping scheme that ensures the site respects the character of the open countryside that is adjacent to the site.

7.8 It is considered that the layout and form of the proposed commercial B1 and B2 units would accord with the broad terms of Policy 8 of the SELLP and the expectations of the outline and detailed consents that have been granted on the wider Lincs Gateway land.

7.9 Residential Development including Sustainability

7.10 Paragraph 8 of the National Planning Policy Framework 2019 (NPPF) sets out that

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so

that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective - 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; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

7.11 Paragraph 9 of the NPPF goes on to set out that:

These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

7.12 Coming to the District wide policies, Policy 1: Spatial Strategy of the SELLP sets the overarching development strategy for the District, and sets out areas where development is to be directed. With regard to land defined as countryside, the policy sets out that:

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.

7.13 The SELLP is clear that Housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing needs of a settlement (see Policy 19: Rural Exceptions Sites). This application is not being justified as providing either of these forms of development, and so for the purposes of this report, can be set aside.

7.14 Policy 10 of the SELLP sets out the expectation for housing delivery over the plan period.

7.15 Policy 11 of the SELLP sets out a hierarchy of settlements for housing development and the SELLP acknowledges that incremental growth in housing supply will come about through infill and 'speculative' applications both within the settlements identified in Policy 11 and also within the Other Service Centres and Settlements.

7.16 Policy 17: Providing a Mix of Housing sets out that the provision of new houses will seek to meet the long term needs of the Plan area in order to maintain and provide mixed, inclusive and sustainable communities.

7.17 The application site is not an allocated housing site, and is within open countryside, as defined in the SELLP.

7.18 Open market housing is not a development type that requires a countryside location. This is particularly the case in this instance where the Council has a recently adopted development plan 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.

7.19 As this is the case, the applicant's justification that this housing development would enable bringing the commercial element of the application forward quicker is to be considered, and

balanced against the broader policy concerns regarding the site being located in open countryside, developer contributions and other matters. This is discussed in further detail below.

- 7.20 As well as being located outside the settlement boundary of Spalding, the site is not considered to be in a sustainable location with regard to a housing proposal. The site is remote from Spalding, and is not easily accessible by foot or bicycle. The footpath network in the area is poor, and the part of the footpath towards Spalding on Fen End Lane has collapsed and has been closed for use. The applicant is in discussion with LCC Highways with an offer to replace and shore up this footpath, but at the time of writing this has not been resolved.
- 7.21 Even if this footpath were to be reinstated the distances involved for a round trip to the nearest services and facilities, particularly by foot, are not insignificant and are unlikely to be convenient for all users. This would particularly be the case during inclement weather and during shorter days in the winter months.
- 7.22 The Applegreen petrol filling station to the south has a handful of sandwich and food concessions associated with petrol filling stations Costa Coffee, Greggs, Subway, but sells very little fresh food and could not be compared to a local shop; it is unlikely to be used as such by the potential residents of this development, who would need to cross a road with no linking footpath and an unrestricted road speed, in order to reach the petrol filling station.
- 7.23 Furthermore, public transport does not operate along Fen End Lane and there is no bus stop or stopping place. Consequently, access to services and facilities is unlikely to be convenient on a day to day basis and there is likely to be high reliance on the private motor vehicle to access services and facilities. The location of the site does not therefore have attributes that make it sustainable for development for new market housing.
- 7.24 To conclude, the site is not in an appropriate location for the provision of new dwellings and would be in conflict with the spatial strategy in Policy 1 of the SELLP as well as policies 10, 11 and 17 of the SELLP which underpin the delivery of housing within defined settlements. Furthermore, the proposal does not comply with any of the exceptions for new dwellings in the countryside defined under policies 19, 22 or 23 of the SELLP. The proposal would be in conflict with the key principles relating to sustainability and Paragraph 12 of the Framework which states that the development plan is the starting point for decision making and where a proposal conflicts with an up-to-date development plan it should not usually be granted.
- 7.25 The site is located in open countryside, however the use of the land as agricultural land can be set aside as an objection that would warrant a reason for refusal, as the land is not considered on balance to contribute significantly to the level of agricultural land in the area.
- 7.26 Viability and Enabling Development
- 7.27 The concept of "enabling development" is not a new idea, and has been used routinely to enable the preservation and improvement of built heritage, such as listed buildings and the conservation of significant places. In this context 'Enabling development' refers to development that would usually be considered harmful but is considered acceptable because the resulting benefits outweigh the harm.
- 7.28 The applicant wishes for the residential element of this proposal to be considered as enabling development to assist in bringing forward the commercial elements of the proposal earlier than the applicant considers these units can be delivered without the enabling development.
- 7.29 Information regarding the viability of the scheme has been submitted and considered independently on behalf of the Council.
- 7.30 Ministry of Housing, Communities & Local Government Planning Practice Guidance (PPG) updated 9 May 2019 sets out the Government's recommended approach for carrying out a viability assessment. In addition the RICS sets provisions for appraisal assessments. It is under these parameters that the appraisal has been undertaken. As is usual, the analysis has taken into account the location of the site, which is disconnected from Spalding itself.

- 7.31 The independent assessment concludes that the applicant's residential and commercial values in looking at the appraisal accord with the independent reviewers opinions. The development proposal, even before affordable housing and other policy compliant contributions are factored in, is not considered to be financially viable. The viability pressure is extremely high here and as such the independent assessor concludes that this is unable to support any affordable housing. The fundamental issues with the site is that the revenue derived from the commercial elements (office & industrial) is only marginally above the basic construction costs. Once externals / infrastructure, abnormals, professional fees, marketing etc start to be factored in the commercial element becomes effectively loss making. This is driving weak viability outcome.
- 7.32 As there is agreement that the scheme is not financially viable, the next issue to consider is whether the Council, by looking at the residential element of this application as being exceptional and setting aside the planning policies relating to the development, would accept the residential development in this location in order to off set part of the financial loss on the site, to enable the commercial elements of the scheme to be brought forward earlier than could be delivered otherwise.
- 7.33 As set out above, this would mean setting aside the provisions of the NPPF and the following SELLP residential and contribution policies -
- Policy 1 Spatial Strategy
 - 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
- 7.34 It is the consideration of officers that the cross subsidy of the commercial elements of this scheme by reducing the loss to the developer by off setting it against an unviable residential development in open countryside and without affordable housing or other contributions would not be acceptable. It is the purpose of the SELLP to deliver residential development in the right locations and with appropriate contributions, and this application, although acting as enabling development and apparently bringing forward a commercial development early, would result in unacceptable residential development, which would be of greater disbenefit than the benefit to be gained by the commercial development at this time.
- 7.35 Layout and Design
- 7.36 The proposed commercial development is considered to be acceptable and typical in form and materials of this type of development.
- 7.37 The residential layout does not take in to account the requirement that all dwellings have on plot parking, however this would be a matter for negotiation if the scheme were considered acceptable in principle.
- 7.38 The form of the individual dwellings is a standard approach for development within the District.
- 7.39 Impact on neighbouring residents/character
- 7.40 The development of the application site, and in particular the residential proposals of the scheme, would have sufficient separation from existing dwellings within Fen End Lane so as to not lead to an unacceptable level of overlooking or loss of light. The Council does not currently have design standards that set minimum separation distances and the circumstances of each development is to be assessed on its merits.
- 7.41 It would undoubtedly change the character of the site from open land to a residential estate, however the use of the land for two storey dwellings rather than bungalows to complement existing neighbouring dwellings would not considered to be necessary, if the application were acceptable in principle.
- 7.42 As and when an application comes forward for the commercial elements of the development, at

that time consideration would be given to matters such as hours of use and the external lighting of the industrial units, to minimise impact on adjoining residents and the open countryside location.

7.43 The landscaping bunds that would be removed that were put in to negate noise from the former industrial buildings to existing dwellings. It is not considered that the retention of this bund within this development would be a reasonable expectation.

7.44 Highway matters

7.45 With minor changes the road layout would accord with the requirements of the LCC highways officers, and the access to the site, which exists, would not, in the opinion of the highways officers lead to an issue of highway safety.

7.46 Impact on the Bridleway

7.47 The alignment of the bridleway has been realigned in discussion with the LCC Rights of Way & Countryside Access Service, who now raise no objection to the scheme, despite the bridleway being sited to run behind the commercial units. In addition, in order to ensure the delivery of lighting to the Bridleway, this could again be required by condition if the scheme as a whole were considered to be acceptable.

Foul and Surface Water Matters

7.48 With regard to the issues of flooding and provisions for foul and surface water, both Anglian Water and the Environment Agency raise no objection subject to conditions regarding the delivery of the requirements of the Flood Risk Assessment, and on-site foul water drainage works and surface water drainage. If the application as a whole were considered to be acceptable these matters could be controlled by conditions.

7.49 The discharge in to any dykes, watercourses or public drains in the area would be controlled by the relevant bodies.

7.50 Wildlife and Landscaping

7.51 Losing the copse and the surrounding area and the consequent impact on flora and fauna has been raised as an objection however Lincolnshire Wildlife Trust has confirmed that they would like to see the recommendations within the survey report controlled by conditions. They would also like to see the landscaping proposals so that native species can be encouraged to be planted. Lighting and landscaping design, public open spaces to have satisfactory future management. If the application as a whole were considered to be acceptable these matters could be controlled by conditions.

7.52 The removal of existing trees would reduce protection from pollution and it would be hoped that once a proposal comes forward for the commercial development that discussion would be had to seek to retain as many existing trees as possible.

7.53 Other Matters

7.54 The use of the land as a dog walking area is not considered to override the consideration of the wider impacts of this development.

The capacity of utilities such as telephone lines, broadband, surface water, water pressure and electrical supplies would be matters for the developer to resolve with the relevant providers and bodies.

7.55 Conclusions

It is considered that the site is not in an appropriate location for the provision of new dwellings,

being located in open countryside and not easily accessible from Spalding, and would therefore be in conflict with the spatial strategy in Policy 1 of the South East Lincs Local Plan (SELLP, March 2019) as well as policies 10, 11 and 17 of the SELLP which underpin the delivery of housing within defined settlements.

- 7.56 The proposal would also not comply with any of the exceptions for new dwellings in the countryside defined under policies 19, 22 or 23 of the SELLP and would be in conflict with the key principles relating to sustainability and Paragraph 12 of the Framework which states that the development plan is the starting point for decision making and where a proposal conflicts with an up-to-date development plan it should not usually be granted.
- 7.57 Furthermore, it is considered that this application, although acting as enabling development and apparently bringing forward a commercial development early, would result in unacceptable residential development, which would be of greater disbenefit than the benefit to be gained by the commercial development at this time. The application therefore conflicts with policies 1, 6, 10, 11, 17 and 18 of the SELLP.
- 7.58 For these reasons it is recommended that planning permission be refused, for the reasons set out below.
- 7.59 **Additional Considerations**
- 7.60 Public Sector Equality Duty
- 7.61 In making your decision you 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.
- 7.62 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.63 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 is only one factor that needs to be considered, and may be balance against other relevant factors.
- 7.64 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.65 Human Rights
- 7.66 In making your decision, you 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.
- 7.67 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others

(in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general 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 That planning permission be refused as per the reasons for refusal set out at 9.0, below.

9.0 REASONS FOR REFUSAL

1. The site is not in an appropriate location for the provision of new dwellings and would be in conflict with the spatial strategy in Policy 1 of the South East Lincs Local Plan (SELLP, March 2019) as well as policies 10, 11 and 17 of the SELLP which underpin the delivery of housing within defined settlements. Furthermore, the proposal would not comply with any of the exceptions for new dwellings in the countryside defined under policies 19, 22 or 23 of the SELLP. The proposal would be in conflict with the key principles relating to sustainability and Paragraph 12 of the Framework which states that the development plan is the starting point for decision making and where a proposal conflicts with an up-to-date development plan it should not usually be granted.
2. Furthermore, it is the purpose of the South East Lincs Local Plan (SELLP, March 2019) to deliver residential development in the right locations and with appropriate contributions, and this application, although acting as enabling development and apparently bringing forward a commercial development early, would result in unacceptable residential development, which would be of greater disbenefit than the benefit to be gained by the commercial development at this time. The application therefore conflicts with policies 1, 6, 10, 11, 17 and 18 of the SELLP.
3. The determined plans and documents are:
 - Application form
 - Block Location Plan 96-BLP-01
 - Site Layout 96-SL-01 G
 - Site Layout Colour 96-SL-02 F
 - Building 1 96-B1-100
 - Building 2&3 96-B2/3-100
 - Building 4 96-B4-100
 - Avon 96-AV-001
 - Clyde 96-CLY-001
 - Holland 96-HOL-001
 - Lock 96-LCK-002
 - Mere 96-MER-002
 - Nene 96-NENE-002
 - Ribble 96-RIBB-001
 - Welland 96-WELL-001
 - Planning, Design and Access Statement. December 2018
 - Flood Risk Assessment Report 800/235r4
 - Noise Impact Assessment Ref. DP386/18472/Rev.0
 - Confidential Viability Information
4. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

