



Land off Willingham Road Lea Gainsborough - Site Location Plan

Officers Report

Planning Application No: 135491

PROPOSAL: Outline planning application for residential development of up to 68no. dwellings with access to be considered and not reserved for subsequent applications

LOCATION: Land at Willingham Road Lea Gainsborough

WARD: Lea

WARD MEMBER: Cllr Mrs J B Milne

APPLICANT NAME: Lea Lincs Properties Ltd

TARGET DECISION DATE: 20/02/2017 (Extension of time agreed until 10th March 2017)

DEVELOPMENT TYPE: Major – Dwellings

CASE OFFICER: Russell Clarkson

RECOMMENDED DECISION: Refuse Permission

Description:

Planning permission is sought, in outline, for residential development of up to 68 dwellings. Access is to be considered as part of the application – matters of scale, layout, appearance and landscaping are all reserved for subsequent approval ('reserved matters').

The application as originally submitted had sought permission for up to 135 no. dwellings. The development description has been amended and the number of proposed dwellings reduced, during consideration of the application at the applicant's request.

The application site measures 8.93 hectares in area. It comprises agricultural land, in active use, to the south of the village of Lea.

Natural England's 1:250 000 scale Agricultural Land Classification Map (ALC005 – East Midlands region)¹ would indicate that the site and immediate surroundings fall within agricultural land classification 3 (Good to Moderate).

The site is on the southern side of Willingham Road. Adjoining the north-eastern corner of the site are eleven residential properties – 16 to 26 (Meadow View) Willingham Road. 14 Willingham Road adjoins the site at the point of entry from the Public Right of Way (Definitive Footpath (Lea) no.1053/1) off Willingham Road, which runs across the site in a broadly north to south direction.

¹ See <http://publications.naturalengland.org.uk/publication/143027?category=5954148537204736>

The site is within an area identified as an Area of Great Landscape Value (AGLV) in the extant Development Plan.

The western part of the site (all land to the west of the public right of way) is designated as Historic Park and Gardens in the Development Plan. It is part of the wider parkland associated with Lea Hall a substantial county house dating from the 17th Century. Lea Hall was demolished in the 1970's.

An Indicative Masterplan (drawing 15-186-201B) has been submitted with the application. This shows vehicular access would be taken directly from Willingham Road, along the site's eastern boundary. This indicates that all of the proposed housing would be located in the eastern half of the site (to the east of the Public Right of Way (PRoW)), with open space on the western side of the PRoW.

The application site forms the eastern part of a larger 19.84ha site, for which an earlier outline application (reference 133236) for 450 no. dwellings (and including up to 300sqm of A1 (shops) and/or A2 (financial and professional services) use) was refused permission in March 2016. This decision is now the subject of an appeal to the Secretary of State, due to be heard at a Public Inquiry.

The site lies within a Mineral Safeguarding Area (MSA) for Sand and Gravel as identified within The Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies (adopted in June 2016).

Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended):

The application proposes 68 dwellings on a site of 8.93ha.

Applying the thresholds at Schedule 2, paragraph 10(b) (as amended), the development falls well below the 150 dwelling threshold but exceeds the 5ha site area threshold. Development is therefore "Schedule 2 development" within the regulations. The site is not within a 'sensitive area' (as defined within Regulation 2(1)).

In his screening direction dated 17 April 2015 (reference NPCU/EIASC/N2535/7531) the Secretary of State directed that a development of approximately 400 dwellings on the site is not 'EIA Development' within the regulations.

The indicative plan would suggest that the area required for urbanising development would be less than 5ha, and after taking account of the criteria in Schedule 3 it has been concluded that the development is not likely to have significant effects on the environment by virtue of its nature, size or location. Therefore the development is not 'EIA development'.

Relevant history:

133236 - *Outline planning application for residential development of up to 450no. dwellings, including up to 300sqm of A1 and A2 use-access to be considered and not reserved for subsequent applications. Planning permission refused 10th March 2016 for the following reason:*

The development is proposed within an Area of Great Landscape Value (AGLV) and Historic Parkland, alongside a subsidiary rural settlement. Development at the scale proposed would result in the growth of this subsidiary rural settlement at unsustainable levels in view of its limited facilities, being heavily dependent on private vehicles to access employment, retail and other basic facilities. It would adversely harm the sensitive landscape setting and character of this rural village. Development would conflict with and potentially undermine the growth strategy being advocated by the emerging Central Lincolnshire Local Plan. The adverse impacts of development would significantly and demonstrably outweigh the benefits of development and the development does not meet the NPPF presumption in favour of sustainable development. Development does not comply with the policies of the West Lindsey Local Plan First Review (2006), most particularly policies STRAT9, STRAT12, NBE8, NBE10 and NBE20.

This decision is now the subject of a current appeal (APP/N2535/W/16/3147441) to the Secretary of State, and is due to be heard at a Public Inquiry scheduled to open on 16th May 2017.

99/P/1016 - *Application under the provisions of Section 73 of the Town and Country Planning Act 1990 to extend the period for the submission of the reserved matters, re. Outline Planning Permission Ref. W57/753/91 to construct Golf Course, erect Hotel, elderly care unit, 43 dwellings and form new vehicular access points. Granted 7th April 2000.*

W57/753/91 - *Outline planning application to construct golf course, erect hotel, clubhouse, elderly care unit, 43 dwellings and form new vehicular access points. Granted 3rd April 1996.*

W57/658/90 - *Outline application to erect 64 dwellings, hotel, indoor bowls centre, elderly car unit, pavilion, golf clubhouse and formation of new vehicular access points. Refused 16th November 1990.*

W57/795/88 - *Change the use of agricultural land to golf course in accordance with amended details contained in a letter dated 5 October 1988. Granted 17th October 1988.*

The Council has also been in recent receipt of an application for major residential development on land off Gainsborough Road, Lea. **Planning application 133815** sought planning permission for “*Outline planning application for the erection of 135no. dwellings, a community hub comprising*

of up to 200sqm shop use-Class A1, 300sqm restaurant-cafe-Class A3 and 300sqm community hall-[Class] D1, ancillary public open space, landscaping, drainage and access-all matters reserved”.

This application was the subject of an appeal to the Secretary of State (**Appeal APP/N2535/W/16/3149916**) against the Council's failure to determine the application within the prescribed period. However, in January 2017, notice was received that the appellant had withdrawn the appeal. It is therefore no longer under consideration.

Representations, in summary:

Lea Parish Council:

68 Dwellings:

Objection to the 135 home development to be applied to the amended application for 68 dwellings.

135 Dwellings:

The Parish previously objected to application number 133236 - 01/09/2015 and feel the same objection stands regarding this new application on the same site.

Objections, (in summary):

- (1) NPPF seeks to achieve sustainable development - The substantial housing development proposed is within an area of open countryside remote from employment opportunities and other necessary social facilities, of a scale unrelated to the achievement of a more natural and acceptable form of organic growth and in a location not well served by public transport infrastructure. Furthermore it is considered that if approved the development would prejudice the achievement of more appropriate, properly planned and sustainable development within the nearby urban area of Gainsborough.
- (2) The development proposed is clearly completely contrary to the spirit, terms and objectives of adopted West Lindsey Local Plan First Review policy STRAT7, wherein new housing development is limited to infill housing provided it meets a local need.
- (3) The proposed development can only prejudice and frustrate these objectives, for focussing growth on Gainsborough;
- (4) Lea is defined as a 'medium size village'. Any development needs to be sustainable, appropriate and realistic. Any regeneration of the village should not make Lea worse for future generations but be sympathetic and suitable. An application of 135 dwellings would not achieve these important issues and would impact significantly on the green sites and countryside which are valued in the community.
- (5) Traffic. The area as a whole could not cope with the increased volume of vehicles coming and going along Willingham Road and the impact that this will inevitably have on the junction between Gainsborough Road and Willingham Road.
- (6) Drainage. The village is currently served by two main sewage lines both of which are only 150mm (6 inch) in diameter. These lines are currently inadequate for the existing housing, with regular 'outflows' occurring causing damage to property and possessions. We fail to see how the sewage lines will cope with 135 extra homes discharging into

- them when they cannot currently cope with the waste from the existing ones.
- (7) **Schooling.** The current schools are at capacity and could not cope with a significant number of extra children moving to the area. The proposals do not allow for an extra school or expansion of the existing one.
 - (8) **Surface water clearance.** The village suffers flooding on a regular basis at all times of the year. The building of a development on this particular piece of land will only serve to send rainwater down hill to add to the existing problem at the bottom of Willingham Road.
 - (9) **Need.** The developers would have us believe that there is a need for this quantity of new homes in the area. The homes that are currently for sale in Lea are not selling quickly, in fact are remaining on the market for some considerable time.
 - (10) **Medical facilities.** Willingham Medical Practice is currently at capacity. If there were to be a further influx of people requiring registration at a medical practice then Willingham Medical Practice would not cope and would therefore be seen as a failing practice and be subject to closure.
 - (11) **Woodland and Wildlife.** There is a considerable amount of wildlife that inhabits the proposed site, ranging from snakes (including at least one Grass Snake) through several protected/threatened species of birds, badgers, bats, owls and deer. We feel it would not be desirable to 'evict' the wildlife that inhabits this area. The proposed site is also classified as Historic Parkland - an important feature in Lea and the surrounding area which should be preserved for future generations.
 - (12) **Access.** The proposed access to the site is on Willingham Road near a bend. We feel that this is inviting an increase in accidents due to vehicles pulling out onto an unsighted area and queues of traffic trying to get onto the site.

LCC Highways & Lead Flood Authority:

Recommend planning conditions to: improve the public highway by means of a ghost island right hand turn junction; that roads and footways leading to a house are installed prior to its occupation; to require a surface water drainage scheme based on sustainable urban drainage principles.

Public Rights of Way (LCC):

The Definitive Map and Statement shows Definitive Footpath (Lea) No. 1053 bisecting the site although this would appear amply catered for within the proposed development layout.

i/ It is expected that there will be no encroachment, either permanent or temporary, onto the right of way as a result of the proposal.

ii/ The construction should not pose any dangers or inconvenience to the public using the right of way.

iii/ If any existing gate or stile is to be modified or if a new gate or stile is proposed on the line of the public right of way, prior permission to modify or erect such a feature must be sought from this Division.

iv/ The provision of up to 135 new homes will place considerable demand on Footpath 1053 across the site. Planners are urged to secure the metalling of this from the southernmost turning-head to the Willingham Road.

v/ There is no call from this office to introduce lighting to the footpath although landscaping should ensure there is good natural surveillance of this.

Ramblers Association:

Re: Public Footpath FP1053 which runs across the site. It is quite likely that lots of people from the new dwellings (and others) would want to use the site. For this reason it would be good if the path width could be wider than the statutory minimum. This would allow for the invalid buggies and similar to pass pedestrians safely. A suitable path surface would also help. Also, the possibility of overhanging vegetation from future trees should also be considered.

LCC Minerals and Waste:

68 dwellings:

Has no further comments to make in respect to its location within a Mineral Safeguarding Area.

135 dwellings:

(13th January 2017): Have reviewed revised Mineral Resource Assessment (MRA). Whilst no new evidence is provided that development will not sterilise a mineral deposit, more explanation is given over deposits limitations. Now satisfied that prior extraction would be impracticable at this time.

First exemption in policy M11 should apply provided the development could not be reasonably sited elsewhere. The County Council will therefore only maintain its safeguarding objection if the District Council determine that the development could reasonably be sited elsewhere either within an area allocated for residential development and/or outside the mineral safeguarding area. If this is not the case, the objection should be considered withdrawn.

(9th January): Having reviewed Mineral Resource Assessment (MRA), maintain **objection**. MRA conclusion that sand and gravel on site cannot be considered to be a mineral resource, is at odds with LCC's own commissioned assessments. Don't agree site and setting would preclude mineral working. As the applicant has failed to demonstrate that the proposal would not sterilize a mineral resource – Policy M11 will only be met if one of its bullet points are met, the most relevant as follows: *“the applicant can demonstrate to the Mineral Planning Authority that prior extraction of the mineral would be impracticable, and that the development could not reasonably be sited elsewhere.”*

The MRA says very little on potential use within the site – significant quantities of sand could be released.

The MRA is silent on the issue of being reasonably sited elsewhere.

(2nd December): The proposed development has been identified as being located within a Minerals Safeguarding Area (MSA) and is subject to Policy M11 (Safeguarding of Mineral Resources) of the Lincolnshire Minerals and Waste Local Plan (Core Strategy and Development Management Policies) adopted June 2016. Applications for non-minerals development should be accompanied by a Minerals Assessment. At this stage the County Council **objects** to the application, pending evidence that the proposal would accord with Policy M11.

WLDC Housing Zone Manager:

I note the proposal seeks to provide policy compliant quantum of affordable housing. At the time of writing the policy position would be for 25% of the total number of dwellings to be delivered as affordable housing. This would equate to 17 units which the preference would be for them to be delivered on site and secured by means of an s106 agreement. The type and tenure of the housing to be agreed with the Council at reserved matters.

LCC Education:

135 Dwellings - This development would result in a direct impact on local Schools. In this case both the Primary and Secondary Schools that serve Lea are projected, notwithstanding the proposed development, to be full in the future. Seek a capital contribution, to be secured through a S106 obligation, to secure capacity for an additional 27 primary places and 5 school-based sixth form places. The funding could be held by the LPA or County Council and only spent by The County Council on:

- Primary - New classroom block at Benjamin Adlard Primary - sufficient children attend Lea Primary from Gainsborough, creating additional capacity in Gainsborough would thereby release these places for children from this development (£304,463)
- Secondary- N/A
- Sixth Form - One additional general teaching classroom at Queen Elizabeth Grammar School, Gainsborough (£92,138).

Environment Agency:

68 Dwellings:

Has no further comments.

135 dwellings:

Public water supply - Water is not freely available in the Anglian Water Resource Planning Zone. Your Authority will need to be sure that there are resources available to supply the extra demand incurred through the proposed development.

Water efficiency - Any new homes must continue to meet the mandatory national standard set out in the Building Regulations of 125 litres/person/day (l/p/d).

Potential abstraction licence - Activities such as dust suppression during construction, filling of any ponds/lakes and maintaining pond/lake levels may require an abstraction license.

Water quality issues - The increased amount of waste water and sewage effluent produced by the new development will need to be dealt with to ensure that there is no detriment to the quality of the watercourses receiving this extra volume of treated effluent.

Natural England:

68 dwellings – Has no comments.

135 dwellings – Has no comments.

Lincolnshire Wildlife Trust:

Ecological report makes recommendations for a number of further surveys. It is not clear whether these surveys have been completed - the application

should not be determined except for refusal until the results are available and a fully informed decision can be reached.

Support the indicative levels of open space and habitat enhancement.

Detailed landscaping plans should be guided by the results of the further ecological work.

Recommend consideration is given to the incorporation of features within the built environment to encourage biodiversity such as the provision of built in roosting units for bats or nest boxes for declining urban birds within appropriate buildings. Fences should also be raised or gaps provided at regular intervals to allow hedgehogs and other small mammals access to a range of gardens.

LCC Archaeology:

68 dwellings scheme: No further objections / comments.

135 dwellings scheme: These revised development proposals (previous application 133236) no longer include development of an area which had been identified as requiring archaeological mitigation. Given this, no further archaeological input is required into this scheme.

Lincolnshire Police:

68 dwellings: Whilst do not object, it is disappointing that the advice in respect of the use of 'parking courtyards' has not been considered.

135 dwellings: Notes outline only, but offers advice on parking provision plan does contain courtyard type parking areas that I would recommended are avoided), boundary treatments, access, landscaping, communal areas (public open space).

Lincolnshire Fire & Rescue:

68 dwellings – do not wish to make further comments.

135 Dwellings – Make no objection provided: Access to buildings for fire appliances and fire fighters must meet with the requirements specified in Building Regulations; Lincolnshire Fire and Rescue also requires a minimum carrying capacity for hard standing for pumping appliances of 18 tonnes, not 12.5 tonnes as detailed in the Building Regulations; Lincolnshire Fire and Rescue recommends that 2 fire hydrants be installed within this development at the developer's expense. One at the entrance to the site and another centrally within it.

Local Residents:

Amended 68 dwellings scheme

Objections from:

Green Lane, Lea – 16, 17;

Growgarth Lane, Lea – Potters Cottage

Kexby Lane, Kexby – 2 Klondyke Cottages

Lea Park, Lea – The Old Schoolhouse;

Station Road, Knaith – “The Byre”, Stephenson's Hill House;

Tom Barton Farms Ltd

The Grove, Lea – 12, 29;

Trehampton Drive, Lea – 4;

Willingham Road, Lea - 14, 16, 16A, 20, 22A (Chestnut House), Eagles Nest, Lea Grange Farm, The Lodge at Moorhouse Farm, Meadow View, The Old Office House.

Saundby Park, Retford – Bumblebee Hall

Comments, in summary:

- Previous objections still stand;
- Development does not accord with the prevailing development plan policies nor those emerging Local Plan policies and national policy (NPPF) that should be afforded weight as material considerations;
- Proposal is unsustainable and does not accord with the underpinning objectives of policies STRAT3 and STRAT12;
- Will conflict with WLLP policies STRAT1, STRAT12, RES1, RES2, NBE8 and NBE10;
- Application provides no details of housing types or mix, contrary to RES2;
- Will conflict with and undermine the Central Lincolnshire Local Plan, which already has a proposed allocation (CL3044) for 68 dwellings meeting Lea's growth requirements;
- Site CL3044 is more within village envelope, this site is on periphery;
- Lea has limited facilities and no shop;
- Lea has inadequate infrastructure (including sewerage and healthcare facilities);
- Development does not propose any infrastructure improvements;
- Development will be harmful to Area of Great Landscape Value (AGLV);
- Will harm historic parkland associated with former Lea Hall;
- Will enclose gap between Lea and Knaith Park;
- Landscape Visual Impact Assessment does not consider residential receptors, or users of public footpath;
- Gainsborough population declined in 2000s – without sufficient economic stimulus town demographics do not drive growth;
- Is this amendment a foothold to build further in the future? The applicant had proposed over 1000 houses > then 450 houses > then 135 houses > now 68 houses. They will try to build as many houses as possible in time;
- Application is only to get a foothold on development, so that they can pursue a larger scheme;
- Any historic permissions are no longer relevant;
- Should consider agricultural value of field for food production;
- Entrance to the plot remains on a blind bend, onto a busy road;
- Will require removal of hedgerow to achieve visibility splays;
- B1241 Willingham Road / A631 Gainsborough Road junction is already dangerous and this will exacerbate it;
- The land to be built on will still have potential for flooding issues;
- Repeat applications are to wear down Council and local community opposition;
- Developer is not local and does not have local interests or ties.

Original 135 dwellings scheme

Support from:

Causeway Lane, Lea – Woodlands.

In summary:

- This particular area is good for development as it has the lowest visual impact of the existing applications currently submitted;
- feel there is a need to encourage younger families into this village;
- Access onto the minor road would be preferable to connecting straight onto the main Lincoln road;
- there is no known flooding issues associated with this area;
- Government expects land to be made available, therefore we should embrace it and encourage the type of housing we would want to see developed, rather than fighting it all of the way.

Objections from.

Anderson Way, Lea – 10, 15, 32;

Churchill Way – 6;

Cromwell Avenue, Lea – 8, 24;

Gainsborough Road, Lea – 9, 19, 28, 37, 57, 77A, 107;

Green Lane, Lea – 16, 17;

Kexby Lane, Kexby – 2 Klondyke Cottages

Lea Park, Lea – The Old Schoolhouse;

Meadow Rise, Lea – 2, 5, 22;

Park Close – 3;

Priory Way, Lea – 10, 17, 19, 21;

Station Road, Knaith – 25, “The Byre” at Stephenson’s Hill House;

Tom Barton Farms Ltd;

The Crescent, Lea – 1, 6, 18, 26, 30;

The Grove, Lea – 29;

Trehampton Drive, Lea – 13, 21;

Willingham Road, Lea – 2A, 3B, 5, 10 (Church Croft), 13, 14, 16, 16A, 17, 20, 22, 22A (Chestnut House), 31B, Keepers Cottage, Lea Grange Farm,

Meadow View, Moorhouse Farm.

In summary:

- Previous reasons for refusal still stand;
- Decision should be refused or deferred to await outcome of outstanding appeal against refusal of 450 dwellings;
- Far exceeds growth for Lea in current West Lindsey Local Plan and proposed Central Lincolnshire Local Plan;
- Contrary to the application information, the village of Lea would increase in size by 29%, just in phase one of the project with the previously submitted planning application indicating the intention to increase 50% as soon as possible;
- The development does not accord with the prevailing development plan policies (STRAT1, STRAT12, RES1, RES2, NBE8, NBE10) nor those emerging Central Lincolnshire Local Plan policies and national policy contained within the NPPF that should be afforded weight as material considerations;

- Opposed to the use of green land when there are numerous brown land sites and derelict buildings which could be demolished in and around Gainsborough which could be used to build extra houses if they are needed;
- Preferable to meet Lea's need across smaller sites rather than one large site;
- The location is also very peripheral and not well related functionally or visually to the village centre;
- Lea does not have facilities such as a shop or medical centre. The primary school is at capacity;
- This latest application no longer makes provision for a small shop;
- It is purely an unsustainable parasitic residential development beyond the edge of the existing residential development with consequent demand on the existing community facilities and with the need to travel further afield to, for example, access convenience goods outlets;
- Conflicts with the underpinning objectives of policies STRAT3 and STRAT12, policy LP2 of the emerging Central Lincolnshire Local Plan 2016 and the NPPF;
- Application provides no details of housing types or mix, contrary to RES2;
- Over 97% of properties in Lea are detached homes with large front and rear gardens. The application indicates that the development will comprise semi-detached houses and flats with small gardens and little parking space. This is not in line with the area and so would have a negative impact on the look and feel of the village;
- The larger houses proposed are likely to be attractive to mainly professional people working in Lincoln and other cities and towns in an extensive catchment area – will not benefit Gainsborough;
- There is a lack of embedded sustainability given the absence of non-residential uses proposed. This is not a balanced mixed use proposal;
- Sewage system does not have capacity;
- The proposed access off Willingham Road will be unsafe for the users of the main road and will further exacerbate the present major problems at peak times for people bringing and collecting children using the junior school;
- Loss of privacy and existing view for properties on Willingham Road;
- Lea woods and Lea park is complimented by this agricultural land in question and is an integral part of what makes Lea the village special;
- Will develop the gap between Lea and Knaith Park;
- Development is in an Area of Great Landscape Value (AGLV) and Historic Parkland;
- Lea Park and the area around it is a much loved and widely used facility by the residents of Lea and Gainsborough. It is also an area of natural beauty and rich fauna and flora which need to be protected for current and future generations;
- Regularly walk footpaths - this is a tremendous facility to get into and enjoy the countryside and it would be a very sad day to see it taken up by this development;
- Landscape Visual Impact Assessment does not consider residential receptors, or users of public footpath;

- Will be a precursor to a larger development (submitted reports refer to 1450 dwellings).

Relevant Planning Policies:

Development Plan

West Lindsey Local Plan First Review 2006 (WLLP)

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The West Lindsey Local Plan (First Review), adopted 2006, forms part of the Development Plan in order to determine the planning application. The following policies, saved by Government Direction, are considered most relevant to the application:

STRAT1: Development requiring planning permission;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm#strat1>

STRAT3: Settlement Hierarchy;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm#strat3>

STRAT7: Windfall and Infill Housing Development in Subsidiary Rural Settlements

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat7>

STRAT9: Phasing of housing development and release of land;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat9>

STRAT12: Development in the open countryside;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat12>

STRAT19: Infrastructure Requirements;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat19>

SUS1: Development proposals and transport choice;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt4.htm#sus1>

SUS4: Cycle and pedestrian routes in development proposals;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt4.htm#sus4>

RES1: Housing layout and design;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res1>

RES2: Range of housing provision in all schemes;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res2>

RES5: Provision of play space / recreational facilities in new residential developments;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res5>

RES6: Affordable Housing;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res6>

CORE10: Open space and landscaping within developments;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt8.htm#core10>

CRT9: Public Rights of Way

<http://www2.west-lindsey.gov.uk/localplan/written/cpt9.htm#crt9>

NBE8: Historic Parks and Gardens

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm#nbe8>

NBE10: Protection of Landscape Character in development proposals;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm#nbe10>

NBE14: Waste water disposal;

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm#nbe14>

NBE20: Development on the edge of settlements.

<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm#nbe20>

The Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies

The Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies was adopted in June 2016. (see <https://www.lincolnshire.gov.uk/residents/environment-and-planning/planning-and-development/minerals-and-waste/>).

In accordance with the NPPF it identifies Minerals Safeguarding Areas “*in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development, whilst not creating a presumption that resources defined will be worked*” (NPPF paragraph 143)

The site is located in a Mineral Safeguarding Area (MSA) for Sand and Gravel – Policy M11: Safeguarding of Mineral Resources applies.

National guidance

National Planning Policy Framework (NPPF)

<https://www.gov.uk/guidance/national-planning-policy-framework>

Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Emerging Policy

Paragraph 216 of the NPPF states that, from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Central Lincolnshire Local Plan

The WLLP is set to be replaced by the Central Lincolnshire Local Plan (CLLP – see <https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>).

Following three rounds of public consultation, the CLLP was formally submitted to the Secretary of State for its examination on 29th June 2016. Public Hearings were held 1st November to 14th December 2016.

Following the Hearings, the Proposed Main Modifications² to the Plan arising from the Hearing sessions have been published and are currently subject to a six week period of consultation (running until the 6th March 2017).

At the time of writing, The Inspector has yet to release his Report, with this anticipated in March.

The following policies are considered to be of particular relevance to the application:

- **Policy LP1:** A presumption in favour of sustainable development
- **Policy LP2:** The Spatial Strategy and Settlement Hierarchy
- **Policy LP3:** Level and Distribution of Growth
- **Policy LP4:** Growth in villages
- **Policy LP11:** Affordable Housing
- **Policy LP12:** Infrastructure to Support Growth
- **Policy LP17:** Landscape, Townscape and Views
- **Policy LP26:** Design and amenity
- **Policy LP38:** Protecting Gainsborough's setting and character
- **Policy LP39:** Gainsborough Sustainable Urban Extensions
- **Policy LP41:** Regeneration of Gainsborough
- **Policy LP48:** Sustainable Urban Extensions - Allocations
- **Policy LP50:** Residential Allocations – Main Towns
- **Policy LP54:** Remaining Capacity on SUEs and Broad Locations for Future Growth

Lea Neighbourhood Plan

Lea Parish was designated as a Neighbourhood Area, for the purposes of producing a Neighbourhood Plan on 22nd November 2016, following an application by Lea Parish Council. However, at the time of writing, there is no published Plan in which to yet take into consideration. See <https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/all-neighbourhood-plans-in-west-lindsey/lea-neighbourhood-plan/>

Main issues

Assessment:

(i) West Lindsey Local Plan – Principle of Development

Planning law³ requires that applications for planning permission must be determined in accordance with the development plan unless there are material considerations which would indicate otherwise.

² See <https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan-examination/>

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Lea is categorised as a subsidiary rural settlement (policy **STRAT3**) – the third of five categories.

Policy **STRAT7** considers windfall and infill housing development in subsidiary rural settlements. It provides that “within the existing built up area” infill housing development will be permitted provided that it meets certain criteria. It defines infill development being a “single dwelling in a small gap...” and windfall development, being up to a maximum of 2 or 3 dwellings.

In justification, the WLLP explains (paragraph A74) that:

“A74 Residential development in subsidiary rural settlements will only be permitted where the local facilities and services can support new residents. The existing services and facilities are highly unlikely to be able to support large-scale developments; in subsidiary rural settlements residents would need to travel to access them. This would not meet with sustainability goals, which aim to reduce the need to travel by the private car. Larger scale proposals could also cause a significant detrimental impact on the character of the settlement.”

The application proposes a development of up to 68 dwellings (originally 135 dwellings) on a site of 8.93ha, far in excess of the limited growth for the village otherwise permissible under STRAT7.

The site comprises undeveloped, or greenfield, land, currently used for agricultural purposes. It falls on the bottom rung of **policy STRAT9's** sequential approach which prioritises previously developed land.

The WLLP explains (paragraph A99 onwards) that:

“For the sake of clarity open countryside is defined as being the land that is not within the built footprint of the settlements listed in Policy STRAT 3... For the Subsidiary and Small Rural Settlements no settlement boundary is shown. The assessment of what is either within the settlement or within the open countryside is a subjective matter which needs to be considered on an individual case by case basis.”

The application site comprises just under 9ha of undeveloped agricultural land, with its boundary only adjoining no.14, and the collection of eleven dwellings (no16 to Meadow View) on the south side of Willingham Road. It is considered to be open countryside for the purposes of the Plan.

Accordingly **STRAT12** applies, which states that planning permission will not be granted “*unless the development is essential to the needs of agriculture, horticulture, forestry, mineral extraction or other land use which necessarily requires a countryside location, or otherwise meets an objective supported by other Plan policies.*”

The development of 68 dwellings does not meet the criteria of policy STRAT12.

It is considered that the principle of a development of up to 68 dwellings within this location, would directly conflict with the provisions of the West Lindsey Local Plan First Review, particularly policies STRAT7 and STRAT12 when taken together.

Development therefore falls to be refused unless there are material considerations which would indicate otherwise.

(ii) Principle of development – Central Lincolnshire Local Plan

The emerging Central Lincolnshire Local Plan, is a material consideration in the determination of this application.

The Submission Plan is at examination, having completed its Hearings at the end of 2016. Consultation is taking place on modifications to the Plan arising from the Hearing sessions. At the time of writing, the Inspector's Report has yet to be published. The application can therefore only be considered against the Submission CLLP and proposed modifications.

Paragraph 216 of the NPPF sets out the criteria for applying weight to policies of an emerging planning document. However, first it is to establish as to whether or not the development would comply with its provisions.

Lea is categorised as a “medium village” under **policy LP2**.

Policy LP2, as proposed for modification, states that:

*Unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support****, the following applies in these settlements:*

- *they will accommodate a limited amount of development in order to support their function and/or sustainability.*
- *no sites are allocated in this plan for development, except for Hemswell Cliff and Lea.*
- *typically, and only in appropriate locations**, development proposals will be on sites of up to 9 dwellings or 0.25 hectares for employment uses. However, in exceptional circumstances***** proposals may come forward at a larger scale on sites of up to 25 dwellings or 0.5 hectares per site for employment uses where proposals can be justified by local circumstances.*

*** throughout this policy, the term ‘appropriate locations’ means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan (such as, but not exclusively, Policy LP26). In addition, to qualify as an ‘appropriate location’, the site, if developed, would:*

- *retain the core shape and form of the settlement;*
 - *not significantly harm the settlement’s character and appearance;*
- and*

- *not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.*

With up to 68 dwellings proposed, the application proposes more than two and a half times more development than that typically considered exceptionally acceptable (25 dwellings) under policy LP2 for any individual site.

As LP2 acknowledges, Lea does include an “allocated site” (policy LP50). Site CL3044 proposes an indicative number of 68 dwellings on a site of 3.04ha, to the north-west of the application site.

Policy LP4 sets a 10% growth policy for small and medium villages, unless stated otherwise. Lea is afforded an increased, alternative growth level of 15%, due to its proximity to Gainsborough.

The CLLP identifies that Lea has a base number of 473 dwellings. Taking into account other committed developments – 15% growth would account for an additional 67 dwellings for the village.

Paragraph 3.4.7, as modified, will read:

“...an allocation has been included in this Local Plan for Lea. The reason for this is that whilst Lea is a settlement in its own right, it is physically connected to the urban area of Gainsborough, and the same is the case for Morton. As such, Lea and Morton were considered for allocations to help meet Gainsborough’s growth needs. No sites have been allocated in Morton, but one site has been allocated in Lea (see policy LP50, site CL3044). This site in Lea counts towards the 15% level of growth for Lea set out in LP4.”

Site CL3044 is given a capacity for an indicative 68 dwellings (policy LP50). In other words, the CLLP envisages that the 15% growth for Lea can, and should, be met on the one allocated site.

This approach seeks to strike a balance between allowing a higher level of growth within Lea in order to benefit Gainsborough’s growth aspirations, whilst seeking to protect village character.

Site CL3044 was debated at the Examination Hearings. Whilst there were objections to the site, the Local Plan Inspectors have not given any indication that the site will be removed. The Post-Hearing proposed modifications to the CLLP, retain the allocation along with the express reference to the allocation within the wording of LP2 itself. Notably, the modifications do not replace site CL3044 with the application site.

Accordingly, as the emerging planning policy stands, any development of the application site would need to be considered as additional to the proposed allocation site, not as an alternative. This would equate to a total of 136 new dwellings with Lea – a cumulative village growth of 30% above the baseline of

473 dwellings. This amounts to double the level of growth which the CLLP is promoting across the Plan's lifetime.

Both policies LP2 and LP4 enable exceptions where clear community support is demonstrated. However, no statement of community involvement has been provided with this latest application. Representations made on this application would indicate that the development does not benefit from clear community support.

Policy LP2 would allow development of sites up to 25 dwellings in exceptional circumstances, where proposals can be justified by local circumstances. Not only is the development more than 2.5 times greater than LP2's "exceptional" allowance – but no exceptional local circumstances are demonstrated in any event.

In conclusion the principle of development is far in excess of the level of growth envisaged for Lea, and the proposed development is therefore contrary to the provisions of the emerging CLLP, primarily as set out within policies LP2 and LP4.

(iii) Minerals Safeguarding

The NPPF (paragraph 143) requires, when preparing Local Plans, local planning authorities should:

define Minerals Safeguarding Areas and adopt appropriate policies in order that known locations of specific minerals resources of local and national importance are not needlessly sterilised by non-mineral development, whilst not creating a presumption that resources defined will be worked; and define Minerals Consultation Areas based on these Minerals Safeguarding Areas

The Mineral Planning Authority is Lincolnshire County Council (LCC). The Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Plan Policies (LMWLPCS), was adopted in June 2016, and forms part of the statutory development plan.

The site is within a Sand and Gravel Minerals Safeguarding Area (MSA). Policy M11: Safeguarding of Mineral Resources, is applicable. Policy M11 requires that applications for non-minerals development be accompanied by a Minerals Assessment. It states that "*Planning permission will be granted for development within a Minerals Safeguarding Area provided that it would not sterilise mineral resources within the Mineral Safeguarding Areas or prevent future minerals extraction on neighbouring land*". Where this is not the case, M11 sets out a number of exceptions where planning permission will be granted, which includes:

the applicant can demonstrate to the Mineral Planning Authority that prior extraction of the mineral would be impracticable, and that the development could not reasonably be sited elsewhere;

M11 therefore has two limbs which must be satisfied in order for a development to be considered as an exception (1) extraction would be impractical *and* (2) that the development could not reasonably be sited elsewhere.

During the course of the application, the applicant has submitted a Minerals Resource Assessment (MRA) as is required by policy M11, and to address the objections raised by LCC.

The MRA states *“that the superficial deposit on the site is actually sand, not sand and gravel. Sand on its own (with no gravel) is not usually considered to be a mineral resource of economic importance unless it has particular characteristics that make it useful for specific markets.”*

In relation to strand (1) of policy M11, LCC advise that, whilst no new evidence has been provided that the development would not sterilize a mineral deposit, it gives more explanation over the limitations of the mineral deposit. They are therefore now satisfied that prior extraction would be impracticable at this time.

However, they consider that the District Council is best placed to judge whether “the development could not reasonably be sited elsewhere”. LCC state that they will maintain their safeguarding objection if the District Council considers this is not the case.

As considered above, the application proposes a “windfall” residential development far greater than that envisaged for Lea in both the extant and proposed Local Plans.

The CLLP advocates that housing need can be met elsewhere without requiring this site to come forward.

The MRA puts forward that *“the development could not reasonably be sited elsewhere (in Lea) without being located on the sand deposit because the entire village of Lea and its environs is in the middle of the fluvioglacial deposit.”*

No explanation is given as to why this development should only be located within Lea. The CLLP proposes 15% growth within Lea that can be met on one site elsewhere (CL3044), without requiring the application site to come forward.

Site CL3044 (3.04ha area) may also fall within the MSA – but this proposal should be considered in addition to site CL3044 - a further site of 8.93ha being developed out within the MSA for residential purposes.

The CLLP allocates 15% growth in Lea due to its proximity to Gainsborough. It may be noted that the majority of Gainsborough and its environs including land to the east, are not within a MSA.

It is concluded that development of this scale and nature can reasonably be sited elsewhere, outside of the MSA. Accordingly, development would conflict with policy M11 of the LMWLPCS.

(iv) National Policy

The National Planning Policy Framework (NPPF) sets out the Government's planning policies, and is a material consideration, which can typically be attached a significant amount of weight.

It states that (paragraph 12) *"This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making"* and that (paragraph 13) *"The National Planning Policy Framework constitutes guidance for local planning authorities and decision-takers... as a material consideration in determining applications"*.

At paragraph's 7 and 8, it sets out the three dimensions to sustainable development: economic, social and environmental, and that *"these roles should not be undertaken in isolation, because they are mutually dependent"*.

Paragraph 14 sets out what is meant by "the presumption in favour of sustainable development", as set out below:

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*

The NPPF states (paragraph 49) that "Housing applications should be considered in the context of the presumption in favour of sustainable development."

As already addressed, the proposed development does not accord with the development plan – it does not therefore meet with the first point. The second bullet should only be engaged where the development plan is absent, silent or relevant policies are out-of-date.

As set out above, the Development Plan is neither absent nor silent. It therefore falls as to whether the relevant policies should be deemed to be "out-of-date".

The NPPF generally does not qualify when a policy should be considered as out of date.

Under paragraph 49, it does state that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites. However, as detailed below, the Council considers it is able to demonstrate a five year supply of deliverable housing land – paragraph 49 should not therefore be engaged.

It does make clear that *“the policies in the Local Plan... should not be considered out-of-date simply because they were adopted prior to the [NPPF’s] publication”* (paragraph 211)

At paragraph 215 it states that *“due weight should be given to relevant policies in existing plans according to their degree of consistency with [the NPPF] (the closer the policies in the plan to the policies in the [NPPF], the greater the weight that may be given).”*

It is not a binary test of ‘in’ or ‘out’ of date – it requires weight be applied according to the degree of consistency.

WLLP Policy ‘STRAT7: Windfall and Infill Housing Development in Subsidiary Rural Settlements’, in summary limits village growth to infill development within the built up area, which meets certain set out criteria. In justification, the Local Plan explains:

A74 Residential development in subsidiary rural settlements will only be permitted where the local facilities and services can support new residents. The existing services and facilities are highly unlikely to be able to support large-scale developments; in subsidiary rural settlements residents would need to travel to access them. This would not meet with sustainability goals, which aim to reduce the need to travel by the private car. Larger scale proposals could also cause a significant detrimental impact on the character of the settlement.

This is consistent with paragraph 55 of the NPPF which states that *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.”*

In its justification of policy ‘STRAT12: Development in the Open Countryside’, the Local Plan explains:

A96 – The Council believes that the open countryside should be conserved for the sake of its beauty, its diversity of landscape, its wealth of natural and agricultural resources, its biodiversity value and maintaining its [sic.] enjoyment its character gives.

This appears to be somewhat consistent with one of the core principles of the NPPF (paragraph 17) to:

take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it [emphasis added]

In implementing this, National Planning Practice Guidance⁴ advises:

*“One of the core principles in the National Planning Policy Framework is that planning should recognise the intrinsic character and beauty of the countryside. **Local plans should include strategic policies for the conservation and enhancement of the natural environment, including landscape. This includes designated landscapes but also the wider countryside.**”* [emphasis added]

The Planning Practice Guidance is clear. In implementing the NPPF’s core principle, Local Plans should include strategic policies to conserve/enhance the wider countryside. Policy STRAT12 achieves this aim.

It could be put forward that the spatial application of the WLLP and STRAT12 are based on an out of date assessment of housing need, derived from the now defunct Regional Plan. However, the spatial strategy of the emerging CLLP is based on an up to date assessment of Objectively Assessed Need (OAN) for housing. The up to date CLLP considers Lea should only “accommodate a limited amount of development in order to support function / sustainability” (policy LP2), with a growth level of 15% (policy LP4). Importantly, the application site is still allocated as open countryside (in an Area of Great Landscape Value) – indicating therefore that the WLLP’s spatial application should not be rendered as ‘out-of-date’ in this regard.

Recent Case Law⁵ considers open countryside policies in the context of a withdrawn policy document:

“It is a regular feature of development plans to seek to encourage residential development in appropriate centres and to preserve the openness of the countryside, and policies HS22 and HS24 were adopted to promote those objectives. Those objectives remained relevant and appropriate when the policies were saved in 2007 and in general terms one would expect that they remain relevant and appropriate today. At any rate, that is something which needs to be considered by the planning inspector when the case is remitted, along with the question of the consistency of those policies with the range of policies in the NPPF under the exercise required by para. 215 of the NPPF. The fact that the explanatory text for policy HS24 refers to the Structure Plan does not detract from this. It is likely that the Structure Plan

⁴ Natural Environment - [Paragraph: 001 Reference ID: 8-001-20140306](#)

⁵ *Gladman Developments Ltd v. Daventry District Council* [2016] EWCA Civ 1146

itself was formulated to promote those underlying general objectives and the fact that it has now been superseded does not mean that those underlying objectives have suddenly ceased to exist. As the judge observed at [49], “some planning policies by their very nature continue and are not ‘time-limited’, as they are re-stated in each iteration of planning policy, at both national and local levels.” [emphasis added]

The underlying purpose of policies STRAT7 and STRAT12 remain consistent with the provisions of the NPPF, and future iterations of local policy (in the CLLP, as it stands).

Policies NBE10 and NBE20 consider landscape character, and development on the settlement edge. Both can be considered consistent with one of the core principles in the National Planning Policy Framework being that planning should “take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Paragraph 216 of the NPPF sets out that weight may be given to emerging policies, in summary, according to the stage of preparation of the plan, the extent to which there are unresolved objections; and the degree of consistency with the NPPF.

The emerging CLLP is at a very advanced stage. It was submitted to the Secretary of State for examination in June 2016, and Public Hearings were held November-December 2016. Proposed post-modifications, arising from the Hearing sessions are presently at consultation. The Inspector’s Report will then follow.

Policy LP2 - The Proposed Submission Consultation Report on Key Issues Raised⁶ indicates that policy **LP2: The Spatial Strategy and Settlement Hierarchy** did receive comments in objection – one being that *“Lea village has own identity and should not be associated with the built up area of Gainsborough”* and it was proposed that Lea be re-categorised as a small village. It confirms that comments were received both supporting and objecting to the position and / or amount of growth in Lea.

The LP2 Evidence Report⁷ summarises comments on Lea as follows:

Lea is classed as a small village yet it is stated that it is linked to Gainsborough.
Lea has no facilities and the only way to deliver meaningful amenities is through the development process.
Development in Lea will not result in its loss of separate identity.
Suggestion that the reason for classifying Lea in this way is to protect

⁶ Document LP03A - <https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library/>

⁷ Document PS.EVR2 - <https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library/>

preferred SUEs.

Following the Hearing sessions, the post-modifications propose LP2 is revised to clarify that there is an allocated site within Lea.

It is however considered that there are not significant unresolved objections in relation to Lea's allocation under LP2. LP2 can be considered to be consistent with NPPF paragraph 55, to *"promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."*

Policy LP4 - The Key Issues Report summarises the comments for Lea as follows:

the status of Lea needs to be clarified as it has a site allocated in LP50 and a growth level in LP4; growth level should take account of the high levels of sewage and surface water flooding; and should allow for a large scale development to boost the village;

The 15% growth target was not challenged at the Hearing Sessions. The applicant did not table an alternative level of growth for Lea. The post-modifications revise the CLLP to be clear that site CL3044 counts towards the level of growth.

It is considered that there are not significant unresolved objections in relation to LP4, regarding Lea. LP4 can be considered to be consistent with NPPF paragraph 55.

The Key Issues Report advises that nine representations were received for policy LP17: Landscape, Townscape & Views. Whilst they summarise that greater clarity was sought on the AGLVs (i.e. names of AGLVs) – it does not indicate there was any objection to its allocation around Gainsborough and at Lea. LP17 is consistent with paragraph 109 of the NPPF.

The Key Issues Report advises that seven representations were received in relation to LP26: Design and Amenity. This included the opinion that *"some of the measures, for example 'd' and 'e' in relation to physical coalescence and ribbon development respectively, are not design principles: suggestion that these criteria should be applied flexibly to ensure that sustainable development is not restricted, particularly in villages."*

Following the Hearing sessions, it is not considered that there are any significant unresolved objections in regard to the policy. A core NPPF principle is to *"always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"*.

Given the stage of preparation, the lack of any significant unresolved objections to the policies as they apply to Lea and to the Site, and the consistency between the CLLP policies and the NPPF, a considerable amount of weight can now be applied to its policies.

(v) Five year housing land supply

The NPPF (paragraph 49) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.

The applicant contends that a five year supply cannot be demonstrated on the following grounds – the housing need assessment has not been scrutinised through examination; they have questions over the methodology applied (although not detailed); supply – they consider that delivery of many of the CLLP draft allocation sites are “widely optimistic”.

The latest five year assessment⁸ was published in September 2016 by the Central Lincolnshire Local Plan Team. The Assessment uses an annual requirement of 1,540 dwellings per annum – the figure proposed within the CLLP, and derived from the objectively assessed need (OAN) range identified within the Strategic Housing Market Assessment⁹ (SHMA, July 2015). The figure of 1,540 dwellings per annum (dpa) is above the demographic derived need of 1,432dpa, in order to support the baseline level of job growth identified in the Economic Needs Assessment.

Taking into account a backlog of previous under delivery (2012-16 = 2,425 dwellings; 2016/17 = 427 dwellings), and a 20% buffer, it determines an annual requirement for 2,418 dwellings.

The Assessment identifies a deliverable land supply of 12,712 dwellings. This includes sites already with permission (6,763), emerging allocations in the CLLP (5,201), and a windfall allowance in Lincoln city (300) and rural areas (448). This equates to a supply equivalent to 5.26 years.

Whilst the applicant considers the CLLP allocated sites have yet to be tested, the Examination Hearings into the CLLP have now concluded. Whilst the Inspector’s report is imminently awaited, no sites were clearly concluded to not be deliverable at the Hearing Sessions. The proposed modifications to the CLLP do not propose to remove any sites through a lack of evidence as to deliverability.

The Inspector did request at the examination, that the Committee demonstrates the five year housing land supply using different trajectories (flat or stepped) and methodologies (using the CLLP housing target of 39,960 dwellings). All of the scenarios applied within the Five Year Land Supply Examination Note still demonstrate a five year housing land supply¹⁰, with the majority indicating around a six year supply.

⁸ Document E007 available at <https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library/>

⁹ Document E003 available at <https://www.n-kesteven.gov.uk/central-lincolnshire/planning-policy-library/>

¹⁰ See document ED022 <https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan-examination/#ExaminationDocuments>

It is considered that a five year housing land supply can be demonstrated. Paragraph 49 is not therefore engaged – relevant policies for the supply of housing should not be considered as not being “up to date” in this regard.

(vi) Character, Landscape and Heritage

The application proposes the development of an 8.93ha area of agricultural land in the open countryside for up to 68 dwellings.

Natural England’s 1:250 000 scale Agricultural Land Classification Map (ALC005 – East Midlands region)¹¹ would indicate that the site and immediate surroundings fall within agricultural land classification grade 3 (Good to Moderate). It does not subdivide between grade 3A (good) and grade 3B (moderate), noting this is normally mapped by more detailed survey work.

The NPPF (Paragraph 112) advises that local planning authorities should *“take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”*

Grade 3A is included within the NPPF’s definition of best and most versatile agricultural land (bmv land). Whilst the applicant advises the tenant farmer describes the soil as “low quality” – they have not provided any site specific survey work to clarify as to which grade on the Agricultural Land Classification that it falls. The development may therefore result in the potential loss of 8.93ha of bmv agricultural land.

Development would equate to a gross density of 7.6 dwellings per hectare – a considerably low density, which would suggest an inefficient use of land. Nevertheless, whilst layout is a reserved matter, the Indicative masterplan (drawing 15-186-201B) submitted with the application suggests that the residential development would be wholly placed in the field between Willingham Road and the Public Right of Way, in the eastern half of the site. The western half is indicated as public open space, with a surface water basin, and areas for “sown wild birdfeed mix” and “rough grassland”. In order to comply with WLLP policy RES5, there is a minimum requirement for 10% of the total site to be used for recreational land.

Saved policy NBE20 states that development will not be permitted which detracts from the rural character of the settlement edge and the countryside beyond. Where edge of settlement development is permitted it will require *“i. Design proposals which respect and maintain the existing character and appearance of the boundary of the settlement footprint, or result in the improvement of an unattractive approach.”*

¹¹ See <http://publications.naturalengland.org.uk/publication/143027?category=5954148537204736>

CLLP Policy LP2, as amended, requires exceptional development to be within “appropriate locations”. To qualify as an ‘appropriate location’, the site, if developed, would:

- retain the core shape and form of the settlement;
- not significantly harm the settlement’s character and appearance; and
- not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.

Similar design requirements are set out within CLLP policy LP26, which includes amongst its criteria that development should:

c. Respect the existing topography, landscape character and identity, and relate well to the site and surroundings, particularly in relation to siting, height, scale, massing, form and plot widths;

d. Not result in the visual or physical coalescence with any neighbouring settlement;

e. Not result in ribbon development, nor extend existing linear features of the settlement, and instead retain, where appropriate, a tight village nucleus;

The proposed development would take place within a publically accessible countryside location to the south-east of the village. It would extend the village a further 200m along Willingham Road, closer to the separate settlement of Knaith Park (a small village under policy LP2). It would narrow the existing ‘gap’ between the villages from around 630m to around 430 metres.

The centre of the site would be over 800 metres from the village green within Lea, which could be defined as its ‘centre’.

The application site is at the furthest extent of the village – with very little integration or correlation with the built up area of the village. It is not considered that development of the site would “retain the core shape and form of the settlement” or retain a “tight village nucleus”.

Whilst the indicative layout suggests (layout and landscaping are reserved matters) that the residential development would take place behind a strengthened hedgerow boundary with Willingham Road, it would nonetheless be a continuation of an already outlying spur of development further along Willingham Road, along an existing linear feature towards Knaith Park.

Extending off an offshoot in a linear fashion further along Willingham Road, the development arguably does not “*respect and maintain the existing character and appearance of the boundary of the settlement footprint*” contrary to WLLP policy NBE20, and conflicts with emerging CLLP policies LP2 and LP26 in this regard also.

This area is designated as an Area of Great Landscape Value (AGLV) in the WLLP (policy NBE10) and CLLP (policy LP17).

Policy NBE10 states that “*High priority will be given to conserving the distinctive landscape features, landscape character and the landscape amenity value of the District. Development will not be permitted if it is likely to*

have an adverse impact on the features, setting or general appearance of the Landscape Character Areas as defined in the Landscape Character Assessment and amplified in the Countryside Design Summary... Areas of particularly high local landscape value because of their distinctive characteristics have been identified on the Proposals Maps as Areas of Great Landscape Value.”

In addition, the AGLV designation is carried over into the CLLP – policy LP17 states that *“The considerations set out in this policy are particularly important when determining proposals which have the potential to impact upon the... Areas of Great Landscape Value...”*

An updated (November 2016) Landscape and Visual Impact Assessment (LVIA) has been submitted with the application.

The LVIA considers:

Little value can be attributed to the site itself as agricultural land, as it is considered of moderate to low quality, with impeded drainage and holds no other qualities of value, such as being a rare landscape character type.

The footpath across the site is a valuable public amenity, particularly as it links to other important footpaths in the area, such as the historic Sheriff’s Walk.

The landscape value is fair, although the beneficial characteristics are the mature trees on site, and the boundary planting that forms parts of the larger landscape pattern described by the LCA. Therefore it is these elements that should be protected, managed, and enhanced.

It concludes the significance of effect on landscape receptors as follows:

Landscape receptor	Sensitivity of receptor	Magnitude of effects	Significance of effects	Positive/neutral /negative
Historic parkland	Medium-Low	Medium	Moderate	Neutral
Woodland groups	Medium	Negligible	Not significant	Positive
Individual trees	Medium	Negligible	Not significant	Neutral
Public amenity of footpaths	Medium	Medium	Moderate	Neutral
Arable farmland	Low	High	Moderate	Negative

Table 1 – Significance of effects on landscape receptors

The LVIA considers that *“All of the footpaths as public amenities will benefit from the improved management of the area, mitigating the negative effects of changing the scenic and perceptual qualities that contribute to their value.”*

In terms of visual impact, the LVIA considers the effect from six viewpoints, as summarised below:

Viewpoint	Potential visual receptors	Description of views	Sensitivity of visual receptors	Magnitude of effects	Significance of visual effects
1	People in vehicles on Willingham Road (B1241)	Short range, limited by hedgerow, transient	Medium-low	Low	Slight
1	Pedestrians on Willingham Road (B1241)	Short range, limited by hedgerow	Medium	Medium	Moderate
2	People in vehicles on Willingham Road (B1241)	Short range, transient, limited by avenue trees	Low	Low	Slight
2	Pedestrians on Willingham Road (B1241)	Short range, limited by avenue trees	Medium	Low	Slight
3	Users of Moorhouse Farm public footpath, Lea/1054/1	Short range, eye level, filtered by proposed trees	High-medium	Medium	Moderate
4	Users of footpaths in Sheriff's Walk and New Plantation	Medium range, eye level, filtered by woodland trees	High-medium	Medium	Moderate
5	Users of the playing field	Medium range, limited by planting, likely limited by activity	Low	Medium	Slight
6	People in vehicles on Willingham Road to the north	Short range, limited by hedgerow, transient	Medium-low	Low	Slight

Table 2: Significance of effects on visual receptors

Curiously absent is an assessment of the effect upon users of public footpath Lea/1053/1 which runs through the site itself. One would expect the sensitivity of the visual receptor to be high, the magnitude of effect to be high, and therefore the significance of visual effects to be substantial or even very substantial.

Residents have noted this omission and do advise that footpath Lea/1053/1 is well-used and valued as a ready gateway for villagers to access the open countryside. It is certainly the experience of the case officer, who has encountered residents on the footpath on every occasion, even in adverse weather.

Indeed, the Survey Results¹² for the forthcoming Lea Neighbourhood Plan, place “*easy access to the countryside*”, “*rural atmosphere*” and “*woodland walks*” highly as what residents enjoy about living in Lea Parish.

Land to the west of the public right of way, is designated as “Historic Park & Gardens” in the WLLP. It is a local designation (defined as a non-designated heritage asset in the NPPF). Policy NBE8 states that “*Development will not be permitted which would harm the character, appearance, setting or features of*” such.

It is part of the former grounds of Lea Hall (now demolished). Whilst the site is now used for agricultural purposes, vestigial elements of the former parkland, such as the woodland belts and parkland trees are still clearly discernible, particularly when making use of the footpath.

The Indicative Masterplan (drawing 15-186-201B) does however suggest that the development can be achieved without new buildings encroaching into the historic park designation. It indicates the land west of the footpath as public open space, likely to contain water features associated with the surface water drainage, wild planting, and a “native woodland mix” to the south is indicated. At present this area is in active agricultural use – it therefore offers the potential for a neutral, if not betterment in regard to the character, appearance, setting or features of the historic parkland. Landscaping is a reserved matter – it would be appropriate for any landscaping scheme to be informed by its historic context.

(vii) *Highways, Road Safety and Access*

WLLP policy STRAT1 requires development to be satisfactory with regard to:

- ii. The provision of adequate and safe access to the road network to prevent the creation or aggravation of highway problems;*

The NPPF (paragraph 32) states that “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*”

The application seeks permission for site access now (it is not a reserved matter). A singular point for vehicular access is proposed – directly off Willingham Road (B1241) on the eastern boundary of the site. Pedestrian only access would be gained to the site along the existing Public Right of Way.

Residents have raised concerns with the proposed location of the site access close to a bend within the road, and the capacity of the Willingham Road/Gainsborough Road junction to safely accommodate further traffic.

¹² See <https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/all-neighbourhood-plans-in-west-lindsey/lea-neighbourhood-plan/>

It should be recognised that highway safety did not form a reason for refusal of previous planning application 133236 (450 dwellings).

A revised Transport Assessment (TA) has been submitted with the application – albeit considering 135 dwellings, and not the (up to) 68 dwellings now proposed.

Appendix E (drawing 14553/001) details the proposed access onto Willingham Road. It shows the access will be a priority junction with 6.75m carriage width and junction radii of 10.5m. A visibility splay of 2.4m x 122.6m would be provided. It proposes road widening within Willingham Road in order to provide a “ghost island right turn lane”. This would prevent traffic turning right into the site from blocking the carriageway.

Whilst the concerns of residents are recognised, the access is essentially the same as was proposed for the 450 dwelling scheme. It did not previously form a reason for refusal and the Local Highways Authority has raised no objections, subject to planning conditions.

The TA anticipates the following vehicle trips will be generated for a 135 dwelling scheme:

Peak Hr	Trip Rates (per dwelling)		Trip Generation (135 dwellings)	
	In	In	In	In
AM (0800-0900)	0.151	0.420	20	57
PM (1700-1800)	0.384	0.240	52	32
Daily (0700-1900)	2.600	2.691	351	363

The TA concludes that the proposed access onto Willingham Road, and Gainsborough Road (A157) / Willingham Road (B1241) junction, will operate comfortably within capacity following development.

Some residents have cited safety concerns with the existing Willingham Road/Gainsborough Road junction. However, the TA details all reported Personal Injury Accidents (PIA) and no particular safety concern appears to emerge.

It is considered that development would accord with policy STRAT1(ii) and would not result in a severe residual cumulative effect on transport grounds.

(viii) Accessibility and Public Transport

WLLP policy STRAT1 requires development to be satisfactory in terms of:

- iii. The scope for providing access to public transport;*
- iv. The scope for reducing the length and number of car journeys;*

The NPPF (paragraph 29) states that:

The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

Lea has very limited facilities of its own. It contains a Primary School and Parish Church. There is a small Village Hall. Lea Park contains some recreational facilities – tennis courts and cricket pitch.

The village does not contain any convenience store or other shop or A1/A2 use. It does not contain any A4 Public House or A3 restaurant/café. It does not contain any health clinic, dentist practice, pharmacy or other health facilities.

This application does not propose any on-site facilities, such as an A1 (shop). Walking distances to key facilities can be summarised here:

Nearest Facility	Walking Distance	Approximate walking time¹³
Health Facilities		
General Practitioners (GP) (Caskgate St Surgery, Gainsborough)	4,300 metres	51 mins
Pharmacy (Boots, Gainsborough Centre)	4,400 metres	53 mins
Dental Surgery (Gainsborough Dental Care, Spital Street, Gainsborough)	3,800 metres	45 mins
Educational Facilities		
Primary School (The Grove, Lea)	400 metres	5 mins
Secondary School (Queen Elizabeth High School, Gainsborough)	5,700 metres	1hr 8 mins
Retail Facilities		
Convenience Store (Bankside News, Lea Road, Gainsborough)	2,100 metres	25 mins
Supermarket (Aldi, Lea Road, Gainsborough)	2,800 metres	34 mins
Gainsborough Town Centre	4,400 metres	53 mins
Transport Facilities		
Bus Stop (Lea Green)	850 metres	10 mins
Railway Station (Lea Road Station, Gainsborough)	2,700 metres	32 mins

¹³ Based on average walking speed of 5km/h (3.1mph)

With the exception of the Primary School, most facilities are beyond reasonable walking distances.

Accordingly, Lea is very much subsidiary to Gainsborough and reliant upon access to Gainsborough for basic key facilities, hence its “subsidiary rural settlement” status under WLLP policy STRAT3. As paragraph A74 notes:

A74 Residential development in subsidiary rural settlements will only be permitted where the local facilities and services can support new residents. The existing services and facilities are highly unlikely to be able to support large-scale developments; in subsidiary rural settlements residents would need to travel to access them. This would not meet with sustainability goals, which aim to reduce the need to travel by the private car. Larger scale proposals could also cause a significant detrimental impact on the character of the settlement.

The nearest bus stop, at Lea Green on Gainsborough Road, is approximately 850m away (10min walk). An hourly service (Bus Service 100) commences at 0808hrs. To access facilities within Gainsborough will typically require a minimum two hour return journey, when making use of the bus.

The TA makes reference to the provision of two new bus stops “within the vicinity of Willingham Road / The Grove junction”, although full details are not provided, and are to be “agreed with LCC”. The Highways Authority advise this can be secured with a “Grampian” condition.

It is because of the limited facilities within Lea that only limited growth is promoted, through the existing local plan (STRAT7) and emerging plan (LP2, LP4).

The TA submitted with the application acknowledges this, with a modal split (arising from census data) being stacked heavily with reliance upon the use of the private vehicle.

Mode	Split (%)	AM Peak		PM Peak	
		In	Out	In	Out
Car Driver	85.5%	20	57	52	32
Car Passenger	6.0%	1	4	4	2
Pedestrians	3.6%	1	2	2	1
Public Transport	1.9%	1	1	1	1
Bicycle	1.6%	1	1	1	1
Other	1.4%	0	1	1	1
Total	100.0%	24	66	61	38

It is considered that Lea, a subsidiary rural settlement in the WLLP (policy STRAT3) and medium village in the emerging CLLP (policy LP2) is not a sustainable location for major growth, as is now being proposed.

(ix) Flood Risk / Drainage / Water Supply

A number of residents have cited concerns in this regard, stating that the site is prone to becoming saturated with water (to the west of the public footpath) and that existing drainage and sewerage capacity and facilities are inadequate.

The site is within flood zone 1 (low probability). It therefore accords with the WLLP (policy STRAT1 states to “avoid utilizing land subject to flood risk”) and the NPPF’s sequential approach (paragraph 100 onwards) to steer new development to areas with the lowest probability of flooding.

National Planning Practice Guidance¹⁴ requires that *“when considering major development... sustainable drainage systems should be provided unless demonstrated to be inappropriate.”*

A Flood Risk Assessment (FRA, November 2016) has been submitted with the application.

It acknowledges that there are marshy areas within the wider site and that the site does not appear to benefit from positive land drainage – one 100mm diameter land drain was found which appeared to be draining one area of particularly marshy ground to a ditch within the applicant’s landownership.

Soakaway testing revealed comparatively high ground water levels (further testing is recommended prior to a detailed drainage scheme to ascertain whether there are any localised areas where infiltration may be possible). It acknowledges there is a risk of ground water flooding, to be factored into a drainage scheme.

Whilst the application is in outline only – a schematic surface water drainage scheme is indicated (for the 135 dwelling scheme). It is proposed that the site is drained through a combination of permeable surfacing, adopted surface water sewers and underdrained swales. Surface water drains with swales will direct surface water to balancing pond(s) to the west of the public right of way. Here, surface water will be discharged at a controlled rate to the existing ditch to the south, via a new ditch/swale.

The Lead Local Flood Authority (LCC) have raised no objections in this regard, but do recommend a planning condition to secure final drainage details.

The Environment Agency has advised that, regarding public water supply, water is not freely available in the Anglian Water Resource Planning Zone, and that WLDC will need to be sure that there are resources available to supply the extra demand incurred through the proposed development.

¹⁴ Flood Risk and Coastal Change [Paragraph: 079 Reference ID: 7-079-20150415](#)

Anglian Water have been consulted (twice) as part of the application. At the time of writing they have raised no comments on the application. However, in responding to the previous application 133236 they did not raise any issues in regard to public water supply. Furthermore, the water company will have a general duty to allow the connection.

Many residents have cited concerns with the capability of existing sewerage infrastructure to accommodate the proposed development. As stated, at the time of writing, Anglian Water have not commented on the application.

However, in commenting on the application for 450 dwellings (133236) they did advise that the Upton Water Recycling Centre does not have capacity to treat flows from the site. They did however acknowledge that they are obliged to accept flows from development and would therefore take the necessary steps to ensure there is sufficient treatment capacity should permission be granted.

The developer has indicated that foul water could be routed to the 150mm diameter sewer to the north of the site within Willingham Road. If a connection to Willingham Road is feasible there will be a requirement to include an adopted foul pumping station, and associated rising main, within the development owing to the fall of the site to the south.

A planning condition, to secure a foul water drainage strategy, is considered to be both relevant and necessary.

(x) Local Infrastructure

WLLP saved policy STRAT1 requires development to be satisfactory in regard to:

ix. The availability and capacity of infrastructure and social/community facilities to adequately serve the development;

WLLP saved policy STRAT19 states:

“Proposals for the development and other use of land must take account of the need to provide on- and off-site service and social/community infrastructure and other services in accordance with the requirements of statutory undertakers and other providers of essential services. Development that increases demand on infrastructure that cannot be satisfactorily provided for within the existing capacity of on- and off-site service and social/community infrastructure or other services will not be permitted unless extra capacity will be provided to serve the development.”

The NPPF advises (paragraph 72 that *“The government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.”*

The Local Education Authority (LCC) advises that *“This development would result in a direct impact on local Schools. In this case both the Primary and Secondary Schools that serve that serve Lea are projected, notwithstanding*

the proposed development, to be full in the future to the permanent capacity of the school. A contribution is therefore requested to mitigate against the impact of the development at local level.”

LCC advise that present projections show that, excluding the effect of the development in question, Lea Primary School will have no permanent surplus places and Gainsborough Sixth Form will have no surplus permanent places by 2019. They seek a capital contribution to enable an additional 27 primary school places and 5 school-based sixth form places (equating to £396,601.00). They advise the money will be spent on:

- Primary - New classroom block at Benjamin Adlard Primary - sufficient children attend Lea Primary from Gainsborough, creating additional capacity in Gainsborough would thereby release these places for children from this development (£304,463)
- Secondary- N/A
- Sixth Form - One additional general teaching classroom at Queen Elizabeth Grammar School, Gainsborough (£92,138).

The applicant has advised that they will make contributions in regard to education.

Whilst NHS England have been consulted on the application, they have not, at the time of writing, made any comments. At the time of the previous 450 dwelling application – they did cite concerns with the capacity at surgeries within Gainsborough, and sought a capital contribution to address this.

The applicant has displayed a willingness to make a capital contribution towards health infrastructure if one is required.

Any capital contributions will need to be secured through a S106 planning obligation.

(xi) Affordable Housing

WLLP policy RES6 states that *“Where there is a demonstrated need the provision of affordable housing will be sought, the Council will seek to negotiate in the region of a 25% contribution towards affordable housing...”*

The Strategic Housing Market Assessment (SHMA, 2015) demonstrates a need for 17,400 affordable homes in the period 2012-2036.

The accompanying planning statement advises that a “policy compliant” contribution of 25% affordable homes (up to 17 units) will be provided, and that LACE Housing Association “has indicated a strong commitment to deliver these properties within the next 12 months”).

The affordable housing contribution will need to be secured through a S106 planning obligation.

(xii) Ecology

'The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'(NPPF paragraph 109).

Natural England make no comments on the application. They had previously advised (application 133236) that the larger development of 450 dwellings would not be likely to have an adverse effect on the Lea Marsh Site of Special Scientific Interest (SSSI).

A Phase 1 Habitat and Protected Species Assessment has been submitted with the application. The Phase 1 study dates from June 2015 - the authors consider the survey results contained to be accurate for two years. The report appears to have been partially updated (Rev2 – 18/11/2016).

It also covers a considerably much larger 65.12ha site, encompassing the application site, application 133236 (450 dwelling) site, and a significant area to the south.

The Phase 1 study concludes that the site supports a number of habitat types included on both National and Local Biodiversity Action Plans as being of broad habitat type or priority habitat type.

It advises that the habitats have the potential to support a number of protected and/or notable species and further species surveys are required for breeding and wintering birds; bats; badgers; great crested newts; reptiles and botanical interest.

Breeding and wintering birds – The Phase 1 Habitat Study concludes that the site contains suitable nesting bird habitat in the form of woodland, mature trees, hedgerows and bordering areas of scrub. In addition, arable fields provide suitable breeding habitat for some ground-nesting farmland birds, for example lapwing and skylark. Depending on the farming regime, it is possible that the large arable fields could support potentially significant numbers of overwintering species.

A Wintering Birds Survey (March 2015) has been submitted – it is the same report submitted with application 133236. The report considers that the survey results contained to be accurate for 2 years. The survey comprised 4 visits on the 25th February, 3rd March, 12th March and 19th March 2015. Thus, the report is at the end of its lifespan, for being relied upon as accurate.

The survey concludes that *"A total of 34 species were recorded during the surveys of which 17 are listed as Birds of Conservation Concern (BoCC) (8 Red and 9 Amber species). With the exception of Linnet, all notable species were recorded at relatively low levels and / or sporadically across the surveys; subsequently the site is considered to be of only local relevance to those*

species recorded. The site contains several public footpaths that has encouraged high level of disturbance on site from dog walkers which is not conducive to attracting large numbers of wintering birds; specifically waders and wildfowl. Further to this, the arable land and associated habitats (stubble / standing water) on site are not considered to be of a quality that would attract or support significant numbers of wintering birds. That said these habitats are not currently managed to encourage wintering birds. Overall, the most notable records are that of the consistent numbers of feeding Linnets, winter thrushes, Meadow Pipits and Skylarks.”

The report concludes that wintering birds will benefit from the area set aside on the western section of the application site for ecological enhancements. It recommends that an Ecological Management Plan will be necessary – this can be secured by a planning condition.

The Breeding Birds Survey (June 2015) similarly is approaching the end of its two year lifespan – its surveys were carried out in April and mid-June 2015. It notes that *“Activity was heavily concentrated to boundary features and woodland habitats with no evidence of breeding ground-nesting species within the application site.*

Several public footpaths located on site encourage high levels of disturbance from dog walkers which is not conducive to attracting ground nesting birds. Hedge and tree-dwelling bird species were dominant.”

In evaluation it states that *“From the 34 species recorded it is expected that 15 of these are probable breeders on site. Many of these species are common, widespread breeders and were expected to be present in the identified habitats. The most significant records from the surveys are that of song thrush, willow warbler, whitethroat, dunnock, starling, linnet and yellowhammer. No ground nesting birds were recognised as confirmed or probable breeders within the application site or study area. House sparrow were possible breeders within the application site. The proposals offer excellent scope to improve nesting opportunities for these species within the application site.*

The report makes a series of recommendations in terms of vegetation clearance and a 3m exclusion zone during construction (March to August), artificial nest provision and native planting. These should be secured by planning condition.

Bats – The Phase 1 Habitat Survey recognises that the site possess a range of features, notably woodland and hedgerow, that have the potential to act as important flight paths and foraging resources for local bat populations. It also identifies several mature trees have high potential to support roosting bats and recommends further survey work.

Further bat surveys (September 2015) confirm that trees T2 (Mature Oak – brown long-eared bats) and T3 (Mature Oak – Common Pipistrelle, Soprano Pipistrelle) were used by bats for roosting. Both trees are covered by the Tree Preservation Order (TPO trees T3 and T4 respectively).

The report recommends four trees to remain in situ (T1, T2, T3 and T4), and trees T2 and T3 cannot be cut back or pruned without ecologist supervision.

T2 and T3 should be permanently fenced off. During construction, a 3m buffer should be established. There should be no direct light or light spillage onto trees T2 and T3. Substantial bat boxes should be erected on mature trees in vicinity. Native hedgerows to encourage foraging bats should be considered. Measures to protect the existing trees containing bat roosts, and to ensure biodiversity enhancement should be secured through planning conditions. Whilst the Lincolnshire Wildlife Trust (LWT) previously supported the report recommendations, they point out the need to have foraging/commuting corridors from the roosts.

As the layout is indicative only, it is expected that this could be accommodated within the final layout.

Badgers - The Badgers Survey (April 2015) also has a two year lifespan – its surveys were carried out on 31st March and 8th April 2015.

It finds no evidence of badger activity. It recommends that “An ecological ‘toolbox talk’ should be provided to all site personnel by a suitably qualified ecologist prior to development works commencing.”

Great Crested Newts (GCN) – The Great Crested Newt Survey (June 2015) has a two year ‘lifespan’ – surveys were undertaken April-June 2015. It advises that a small population of GCNs were recorded in one pond within 100m of the proposed site boundary to the south east. It concludes the potential impacts upon individual GCN are considered to be negligible (no impact) given the small population and the distance GCNs would have to commute along suboptimal habitat to reach the area proposed for clearance. 0.032 ha (320m²) of suboptimal GCN habitat, in the form of a species poor defunct hedgerow along the eastern boundary is to be temporarily lost. Within this same eastern boundary an estimated 0.01 ha (100m²) of sub-optimal GCN habitat will be permanently lost to provide an access (road) to the application site from the eastern boundary. New beneficial habitats in the areas designated as SUDS/Swale, Water balancing areas, and soft landscaping, will provide long term beneficial impacts and enhanced habitat (in terms of quality and area) as compensation. Recommendations are made for site clearance for the access point and eastern boundary hedgerow; creation of swales and balancing ponds; soft landscaping along southern and eastern boundaries and protection during construction.

Reptiles – The Reptiles Survey (June 2015) encountered a single grass snake on the southern boundary but no other reptiles, and concludes reptiles are scarce. It states that the area considered for development consists principally of arable land where reptiles will not be impacted upon, although there are patches of suitable habitat on the site - if the proposed development impinges into woodland fringes and field margins on the site then a ‘destructive search’ by a suitably qualified ecologist is required before any engineering work can proceed.

It recommends measures which “could simply involve retention of unmanaged grassland and the creation of hibernacula’s at the borders around the site boundary and also establishing other green corridors consisting of rank grassland to the islands retained within the sites development.”

Botanical interest – The Phase 1 Habitat Survey acknowledges that “Owing to the range of features on site (notably the wet woodland, southern wet ditch and some field margins) there is potential for the site to possess botanical species of interest and / or substantial diversity”.

A subsequent Botanical Survey (July 2015) has been submitted. It records Nine Distinct Habitat types across the study site (application site and land to the west and south), all of which are considered widespread across the British Isles. No species / assemblages were found onsite which are listed within the Lincolnshire Biodiversity Action Plan (LBAP) or Local Wildlife Site selection criteria. The application site itself “has been classified as being of low importance for the local population.” The land to the south is identified as having a higher value.

It recommends “Where amenity grassland has been proposed within the plans, the integration of a range of other grassland would be encouraged to enhance diversity e.g. wildflower grassland or tall grassland. Connectivity with a mixture of sward height will greatly enhance the local diversity on site.”

It should be noted that the Ecology evidence submitted is that submitted with earlier application 133236. As all of the Biodiversity and Ecology Reports will have surpassed their two year lifespan prior to any development taking place, it would be necessary and relevant to require new surveys to be undertaken via a planning condition.

(xiii) *Archaeology*

Paragraph 128 of the NPPF states that “*Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.*”

A desk based assessment, dated April 2015, was submitted with the application. It is the report submitted with application 133236. It concludes that the archaeological potential for the site is considered to be moderate, with the greatest potential being for prehistoric and Roman activity.

On site investigations previously took place, as recorded in the submitted Archaeological Investigation Report (January 2016). The investigation found a ‘small assemblage of locally produced roman pottery’ in trenches towards the western part of the site (trenches 3 & 4). It concludes “The generally low density of finds recovered from the features suggests they are more likely to be boundary features for fields or stock enclosures, rather than a focus of settlement or industrial activity.” Small quantities of medieval material (tile fragments) was also recorded (trenches 5 & 8 towards the centre of the site).

As the areas of interest are outside of the current application site, the County Archaeology Team advises that no further archaeological input will be necessary.

Other matters

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material.

The provision of additional homes will attract increased Council tax precepts and the New Homes Bonus.

Planning Practice Guidance¹⁵ advises that

“Whether or not a ‘local finance consideration’ is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.”

It is considered that, as the local finance considerations are not necessary to, or shown to help, make the development acceptable in planning terms, they are not material to this decision and should be afforded little, if any weight.

Overall Planning Balance and Conclusions

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposed development would run contrary to the provisions of the West Lindsey Local Plan (First Review). Development is far in excess of the level of growth permitted under policy STRAT7, for subsidiary rural settlements such as Lea. It would take place on undeveloped land in the open countryside. It would fall on the bottom rung of STRAT9’s sequential prioritizing of previously developed land. It does not meet with any of the countryside compatible uses supported by policy STRAT12.

Development would take place in a Sand and Gravel Mineral Safeguarding Area (MSA). It is considered that the development could be reasonably sited elsewhere – it therefore runs contrary to policy M11 of the Lincolnshire Minerals and Waste Local Plan (Core Strategy and development Management Policies).

The West Lindsey Local Plan is set to be replaced by the Central Lincolnshire Local Plan (CLLP). The emerging CLLP is a material consideration, and is at a very advanced stage, with Hearing sessions having completed in December 2016.

The CLLP proposes only limited growth for medium villages such as Lea (policy LP2). It allows, within appropriate locations, for sites up to 9 dwellings,

¹⁵ Determining a Planning Application - [Paragraph: 011 Reference ID: 21b-011-20140612](#)

or in exceptional circumstances, up to 25 dwellings. The site, at 68 dwellings, is far in excess of that envisaged by policy LP2. The application site is not considered to meet the definition of an 'appropriate location' or qualify under any exceptional circumstances.

Policy LP4 of the CLLP promotes a 15% growth target for Lea, above the standard 10% due to its proximity to Gainsborough. The CLLP advocates this growth can be met at site CL3044. Unless site CL3044 was removed, and no compelling reasons have been given for such at the Examination in Public or by the applicant, then the development subject of this application should be considered in addition to CL3044 – cumulatively a 30% growth to the village of Lea, twice that being promoted for this medium village.

Lea is not a sustainable location for significant growth – it has very little facilities of its own, and most basic features (convenience shopping, employment centres, health & dental facilities) are far beyond reasonable walking distances.

The application site is at the furthest extent of the village – with very little integration or correlation with the built up area of the village. It is not considered that development of the site would “retain the core shape and form of the settlement” or retain a “tight village nucleus”. It would be a continuation of an already outlying spur of development further along Willingham Road, along an existing linear feature towards Knaith Park.

In this regard, development will conflict with saved WLLP policy NBE20, and emerging CLLP policies LP2 and LP26.

The NPPF requires that applications for residential development be considered against the presumption in favour of sustainable development.

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*

The proposed development does not accord with the first bulletpoint. It is contrary to the provisions of the development plan.

The development plan is neither silent or absent. The second bulletpoint should only be engaged if the development plan policies are deemed to be out of date.

For the reasons set out above, it is considered that the relevant policies in the development plan are largely consistent with the NPPF, and the Council can demonstrate a deliverable five year supply of housing land. The relevant policies are therefore not 'out of date' and a standard balancing exercise therefore applies. Applying NPPF paragraph 216, a significant amount of weight can be applied to conflict with the WLLP policies.

The key, if not only, benefits of the development would be the delivery of up to 68 houses, of which 25% (up to 17) would be affordable houses. There is a demonstrated need for housing, and affordable housing within the district.

The CLLP is at an advanced stage of preparation, there are not significant unresolved objections to its policies in relation to Lea, and the policies are deemed consistent with the NPPF. Applying the NPPF paragraph 216 test, a considerable amount of weight can be attributed to these policies. The CLLP advocates a spatial approach towards meeting housing need, without requiring the need for significant growth within Lea, an otherwise unsustainable location.

Development would result in a significant major development taking place on the very edge of a subsidiary rural settlement with very limited facilities. Key facilities are beyond reasonable walking distances resulting in a heavy reliance upon private motor vehicles.

It is considered that there are significant and demonstrable adverse impacts that would outweigh any benefits of development.

Recommendation

That planning permission is refused on the following grounds:

1. The development is proposed within an Area of Great Landscape Value (AGLV), alongside a subsidiary rural settlement. Development at the scale proposed would result in the growth of this subsidiary rural settlement at unsustainable levels in view of its limited facilities, being heavily dependent on private vehicles to access employment, retail and other basic facilities. The application site is at the furthest extent of the village - It would not retain a tight village nucleus, and would instead extend existing linear features away from the village, with adverse harm to the setting and character of this rural village. Development would conflict with and undermine the growth strategy being advocated by the emerging Central Lincolnshire Local Plan. The adverse impacts of development would significantly and demonstrably outweigh the benefits of development and the development does not meet the NPPF presumption in favour of sustainable development. Development does not comply with the policies of the West Lindsey Local Plan First

Review (2006), most particularly policies STRAT9, STRAT12, NBE8, NBE10 and NBE20. Development would also be contrary to the provisions of the draft Central Lincolnshire Local Plan, particularly policies LP2, LP4, LP17 and LP26.

2. The application proposes a non-mineral development within a Mineral Safeguarding Area for Sand and Gravel. The development would sterilise mineral resources within the Mineral Safeguarding Area, and it has not been demonstrated that the development could not be reasonably sited elsewhere. Development does not therefore comply with policy M11 of the Lincolnshire Minerals and Waste Plan: Core Strategy and Development Management Policies.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not engage the applicant's and will not adversely affect any objector's right to respect for his private and family life, and his home. Neither is there any disproportionate interference with the Applicant's rights under Article 1 Protocol 1 which is expressly subject to the right of the state to control the use of property in line with the general public interest.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report