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# TOWN & COUNTRY PLANING ACT 1990 (AS AMENDED)

## APPEAL AGAINST THE REFUSAL OF OUTLINE PLANNING PERMISSION BY NORTH LINCOLNSHIRE COUNCIL

### STATEMENT OF CASE

**APPELLANT:**

The Strategic Land Group Limited

**APPEAL SITE:**

Land North of Ings Road, Kirton in Lindsey

**DATE:**

19 October 2020

Report Drafted By	Report Checked By	Report Approved By
NM/MH	MH	MH
04.10.20	19.10.20	19.10.20

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## **1. EXECUTIVE SUMMARY**

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- 1.1 This case concerns an appeal against North Lincolnshire Council's (NLC) refusal of outline planning permission for residential development, open space and associated infrastructure (appearance, landscaping, layout and scale reserved for subsequent consideration) on land north of Ings Road, Kirton in Lindsey. The application was refused by Members of the Planning Committee contrary to the advice of Officers of NLC.
- 1.2 The appeal site is an unremarkable piece of grazing land that immediately adjoins the Development Limits of Kirton in Lindsey. Kirton in Lindsey is a Market Town which NLC identify as a very sustainable settlement (ranking 5<sup>th</sup> in NLC's Sustainability Survey of 2019), and which NLC acknowledge is a suitable location for new development. It provides a wide range of services and facilities including schools, shops, employment and leisure opportunities, which are readily accessible from the site using non-car modes of transport.
- 1.3 Although presented in outline, the appeal proposals include illustrative material demonstrating how a high-quality residential development of an appropriate density could be delivered on the site. A detailed design for the access from Ings Road to the south of the site is also included with the proposals.
- 1.4 NLC do not allege any environmental, landscape, or visual harm would result from the appeal proposals. Nor do they allege any conflict with any statutory or other designations. Instead, the two reasons for refusal deal with matters relating to highways and the site's location outside the Development Limits of Kirton in Lindsey.
- 1.5 The first reason for refusal states that NLC "is not convinced that Ings Road is of a suitable width" to serve the development, citing policies T2 and H5 of the North Lincolnshire Local Plan (NLLP) and Paragraphs 108 and 109 of the Framework in support of its position.
- 1.6 This reason for refusal did not form part of the motion on which Members of the Planning Committee refused the application and appears to have been added later. Notwithstanding that, this Statement of Case (along with a Highways Appeal Statement found at **Appendix 1**) demonstrates that the appeal proposals are fully compliant with those policies and the provisions of the Framework.
- 1.7 Ings Road is currently lightly trafficked and will remain so - the development proposals would add in the order of one new vehicle movement every two minutes in the peak hours. There are no existing safety issues which would be made worse by the development. Taking into account the improvements to Ings Road proposed as part of the appeal proposals, the impacts of the development will not be severe and will not be detrimental to highways safety.
- 1.8 It is also noted that no objections were raised to the appeal proposals by NLC's highways officers.
- 1.9 The application should not, therefore, have been refused on those grounds.

- 1.10 The second reason for refusal refers to the appeal site being “located outside the defined development boundary for Kirton in Lindsey in an unsustainable location” and cites Policy RD2 of the NLLP and Policies CS2, CS3, CS7 and CS8 of the Core Strategy in support.
- 1.11 The reason for refusal does not refer to any landscape, visual or environmental harm resulting from the appeal proposals and it can therefore be reasonably assumed that NLC’s concern relates solely to the location of the site in the open countryside.
- 1.12 It is material in this regard that NLC cannot demonstrate a 5-year supply of deliverable housing land as is required by the Framework. NLC’s own assessment of the supply position is around 4 years (which was confirmed in the Officer’s report to Planning Committee), while two recent appeal decisions have also found the supply to be below 5-years. In fact, one of those appeals concludes that the deliverable housing land supply is “towards 3.39 years” – representing a significant shortfall.
- 1.13 The actual position is likely to be far worse as NLC do not have any evidence of delivery for many of the sites as is required by the Framework and PPG. As the tilted balance at paragraph 11 (d) of the Framework is clearly engaged, the Appellant has not carried out a detailed assessment of the housing land supply position but reserves the right to do so should NLC’s position change.
- 1.14 When considering the housing supply position, the Statement also notes that the most recent Housing Delivery Test results show that NLC delivered only 75% of the required housing supply over the last three years. In the Action Plan produced as a consequence of that result, NLC acknowledge that annual housing delivery has fallen short of its target in every one of the last ten years.
- 1.15 The supply of affordable homes is no better. The Affordable Housing Statement at **Appendix 9** shows that, compared to a need for affordable homes of 180 – 200 dwellings per annum, delivery has been averaging just 74 homes a year. As a result, the backlog of affordable homes is actually growing.
- 1.16 Addressing that chronic and persistent shortfall in housing land supply means that planning permission needs to be granted for more residential development sites.
- 1.17 It is clear that NLC do not identify any adverse impacts from the development that would significantly and demonstrably outweigh the benefits. The Officer’s report to Planning Committee recognises that the appeal proposes comprise sustainable development. This Statement of Case includes a planning balance exercise showing that to be the case.
- 1.18 Further, and in addition to the housing supply position, this Statement of Case sets out that all of the NLLP and Core Strategy policies relied upon by NLC in their Decision Notice pre-date the Framework and are inconsistent with it. Those policies deal with various aspects of the location and distribution of new housing development but all seek to protect the countryside for its own sake and impose a brownfield-first sequential approach to the release of development sites. As

a consequence of that inconsistency with the Framework, they should be afforded limited weight in the decision making process.

- 1.19 Even if the position in respect of housing land supply were to change and a 5 year supply could be demonstrated, the appeal proposals should still be allowed. Under these circumstances and having regard to Section 38(6) of the Planning & Compulsory Purchase Act, the Inspector could still approve the proposals even if they were contrary to an adopted Local Plan if other material considerations indicate otherwise. Other material considerations are identified in this Statement of Case they are significant and would be sufficient to outweigh any future Development Plan conflict that may arise.
- 1.20 Accordingly, the Appellant respectfully requests that the appeal is allowed, and conditional outline planning permission is granted.

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## **2. INTRODUCTION**

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### **BRIEF**

- 2.1 This Statement of Case accompanies an appeal made by The Strategic Land Group Limited (hereafter referred to as the Appellant) against the refusal of outline planning permission by North Lincolnshire Council (NLC) (the Local Planning Authority (LPA)) for residential development, open space and associated infrastructure (appearance, landscaping, layout and scale reserved for subsequent consideration) on land north of Ings Road, Kirton in Lindsey (hereafter referred to as the appeal site).

### **BACKGROUND**

- 2.2 The application was submitted to NLC on 3 March 2020 and allocated reference number: PA/2020/588. The application was then considered by NLC's Planning Committee on 26 August 2020 where it was recommended for approval by Officers. Members subsequently resolved to refuse planning permission contrary to the advice of Officers.
- 2.3 NLC's Decision Notice (DN) is dated 28 August 2020 and contains two reasons for refusal of outline planning permission which are reproduced below:
1. *The local planning authority is not convinced that Ings Road is of a suitable width to provide a satisfactory access to serve the proposed development and that Ings Road can cater for the significant increase in vehicle movements that the development would generate. As a result it is considered that the proposal would result in increased hazards to vehicular and pedestrian users to the detriment of highway safety. Accordingly the proposal is contrary to policies T2 and H5 of the North Lincolnshire Local Plan and paragraphs 108 and 109 of the National Planning Policy Framework.*
  2. *The proposed residential development is located outside the defined development boundary for Kirton in Lindsey in an unsustainable location and as such is contrary to policies RD2 of the North Lincolnshire Local Plan and CS2, CS3, CS7 and CS8 of the North Lincolnshire Core Strategy.*
- 2.4 Save for the formally resolved position of NLC in the reasons for refusal it is reasonably assumed that NLC considers that the scheme is acceptable in all other respects.

## **PURPOSE**

- 2.5 This document comprises the Appellant's full Statement of Case and has been prepared in accordance with the Planning Inspectorate's Procedural Guide for Planning Appeals (June 2020) and relevant sections of the Planning Practice Guidance concerning procedures for planning appeals.

## **FORMAT**

- 2.6 The appeal is accompanied by the documents which formed the outline planning application as well as all of the documents necessary to validate the appeal. The documents have been presented in a simple indexed format for ease of reference and will be referred to having regard to their index number throughout this Statement of Case.
- 2.7 This Statement of Case sets out the Appellant's response to the Reasons for Refusal. Other contextual information that may assist the Inspector is provided in the various Appendices that form part of this Statement. References to those Appendices are provided at the relevant points in the text.
- 2.8 The Statement of Case begins by describing the site and surrounding area (Chapter 3).
- 2.9 Statutory and other designations of relevance to the site are then discussed in (Chapter 4).
- 2.10 In Chapter 5 the planning history of the site and immediate surroundings is considered. Additionally, a summary of the pre-application discussions with NLC and how the Appellant consulted with the local community is provided. A summary of how the outline planning application was dealt with by NLC is also provided in Chapter 5.
- 2.11 A summary of the appeal scheme is provided in Chapter 6.
- 2.12 The Appellant recognises that the Inspector will consider the proposals against the provisions of the Development Plan, accordingly, the Appellant sets out a Development Plan assessment in Chapter 7.
- 2.13 In accordance with the statutory tests, material considerations also need to be examined. In this case there are a plethora of other material considerations which lend support to the appeal proposals and which indicate that a decision other than one in accordance with the Development Plan should be made; these are assessed in Chapter 8.
- 2.14 A response to NLC's reasons for refusal of planning permission is provided in Chapter 9.
- 2.15 Having regard to the provisions of the Development Plan and other material considerations a planning balance exercise is carried out in Chapter 10 and this demonstrates that the balance lies in favour of granting outline planning permission for this much needed housing development.

- 2.16 Should the Appellant's planning balance position be accepted by the Inspector and the appeal is to be allowed the Appellant acknowledges that planning conditions will need to be imposed. In that respect, suggested conditions are outlined in Chapter 11.
- 2.17 Additionally, the Appellant accepts that if the appeal is to be allowed a planning obligation under Section 106 of the Town and Country Planning Act 1990 (As amended) will be necessary. This matter is considered further in Chapter 12.
- 2.18 Finally, the Appellant's concluding points to its Statement of Case are set out in Chapter 13.

### 3. THE APPEAL SITE & SURROUNDING AREA

#### SITE LOCATION

- 3.1 The appeal site lies on the western edge of Kirton in Lindsey, North Lincolnshire. In the context of the wider area, Scunthorpe town centre lies approximately 11 km to the north via the B1398 and Doncaster Town centre is approximately 33 km to the west via the M180. The A15 is 3 km to the east of the site connecting to the wider motorway network and providing access to the cities of Lincoln, Hull, Sheffield, and Leeds.

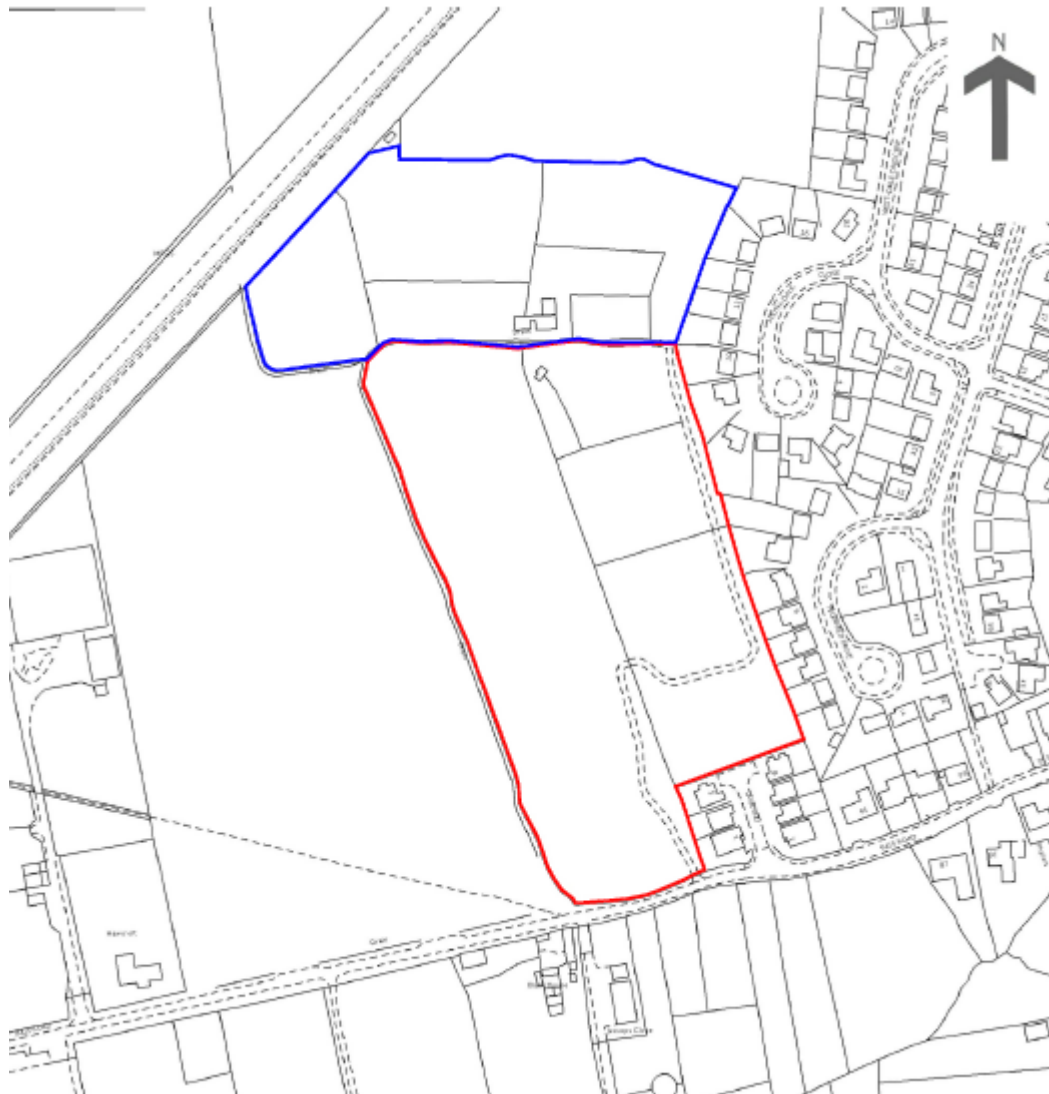


Figure. 2.1– Extract from the Location Plan showing the location of site shown in red and other land controlled by the Appellant shown in blue.

## **SITE DESCRIPTION**

- 3.2 The application site extends to 2.81 hectares of unremarkable undeveloped land that is currently used for the grazing of horses. An existing farm gate provides access to the site from Ings Road.
- 3.3 The boundaries of the site are mainly made up of hedgerows. A further hedgerow runs through the middle of the site in a south east / north west direction.
- 3.4 The sites levels fall from Ings Road towards the north of the site.
- 3.5 To the north of the site is a field which is also controlled by the Appellant (outlined in blue in the location plan submitted in support of the application). Beyond this, is land allocated for housing in the Local Plan (land west of Station Road) which also benefits from an extant planning permission for 91 dwellings which has commenced development (this is discussed further in **Appendix 3**).
- 3.6 To the east the site is bounded by the rear gardens of the existing two storey residential dwellings on Highfield Drive and South Dale Close.
- 3.7 To the south the site is bounded by Ings Road and a small residential development of two storey dwellings at Lane End.
- 3.8 To the west of the site is open countryside and a railway line.

## **ACCESSIBILITY TO SHOPS, SERVICES & PUBLIC TRANSPORT**

- 3.9 Kirton in Lindsey is identified as a Market Town in the adopted Core Strategy (1 tier below Scunthorpe) which recognises that it is “*well provided in terms of local services such as shops and schools*”<sup>1</sup>. Moreover, Kirton in Lindsey is ranked 5<sup>th</sup> out of 76 settlements in NLC’s Sustainability Survey 2019 due to the high level of services and amenities that the settlement provides.<sup>2</sup>
- 3.10 Accessibility to shops, services and public transport is addressed in the Appeal Statement by i-transport contained within **Appendix 1**.

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<sup>1</sup> See Paragraph 5.39 of the Core Strategy.

<sup>2</sup> See Table 6.1 of the North Lincolnshire Settlement Survey 2019 Revision where Kirton in Lindsey scores the maximum score (7) for key facilities and services.

## **SUMMARY**

3.11 This unremarkable site comprises undeveloped land currently used for the grazing of horses; it is therefore not in beneficial agricultural production. The land has a close physical relationship with existing built development within Kirton in Lindsey being located on the edge of the settlement. The appeal site, given its location close to shops, services and public transport to meet day-to-day needs is a sustainable location for new housing. Indeed, it is worth noting the position of Officers of NLC in their report to Planning Committee (see Pages 23 and 24 of Document 83):

*“Kirton Lindsey is identified as a market town in the Core Strategy. It contains a wide range of facilities and services, including public houses, shops, doctor’s surgery, community halls, sports facilities, some employment opportunities, a primary and secondary school, a railway station which provides freight services and a service to Cleethorpes/Sheffield on a Saturday, and regular bus services to Scunthorpe, Brigg and Lincoln. **Kirton Lindsey is a very sustainable settlement and is ranked 5th in the council’s Sustainability Survey 2019**” [our emphasis added].*

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## **4. STATUTORY AND OTHER DESIGNATIONS**

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- 4.1 The appeal site is not affected by any statutory and other designations which would preclude residential development, while NLC's DN does not allege any conflict with any statutory or other designations. Those designations are identified and discussed in **Appendix 2**.

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## **5. PLANNING HISTORY AND PRE-APPLICATION DISCUSSIONS AND CONSULTATION**

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- 5.1 Two previous planning permissions for residential development of the appeal site were granted in the 1990s and whilst they have lapsed, they still demonstrate that NLC has hitherto considered the site suitable for residential development. In 2018, planning permission was granted for the residential development of a site to the north of the appeal site, which points to the suitability of Kirton in Lindsey as a location for development. This planning history is examined in more detail at **Appendix 3**.
- 5.2 Prior to the submission of the application, the Appellant engaged with the local community, with the final application being informed by those responses. **Appendix 3** also outlines those efforts in more detail.
- 5.3 At both pre- and post-application stages, the Appellant engaged pro-actively with NLC to address their concerns and provide additional information where required. Those discussions with Officers, which are set out in **Appendix 3**, resulted in the application being recommended for approval. Notwithstanding that the Appellant has significant concerns in respect of the way the decision to refuse the application was reached. It is also the Appellant's view that the DN includes reasons for refusal which go beyond those included in the motion upon which Members resolved to refuse planning permission, contrary to the advice of Officers. Further details in that regard can also be found in **Appendix 3**. Notwithstanding those concerns, this Statement fully addresses the reasons for refusal as they appear on the DN.

## 6. THE APPEAL SCHEME

### DESCRIPTION OF DEVELOPMENT

- 6.1 Outline planning permission is sought for the following scheme, as described in the planning application forms:

*“Outline planning application for residential development, open space and associated infrastructure (all matters reserved except for means of access)”.*

- 6.2 The application is accompanied by a Design & Access Statement (DAS) (Document 7) which explains in full the development concept adopted.

### ACCESS

- 6.3 Access is the only matter that is being applied for in the appeal scheme. The proposed access is via a single T-junction on to Ings Road. This will be provided at a width of 5.5m, with 2.0m footways on either side of the new road within the development (Document 28).
- 6.4 As part of the site access proposals, a new 2m footway will be provided along the site frontage, connecting the internal pedestrian network to the existing footway on the northern side of Ings Road. At the western end of the site frontage, the footway will connect into Ings Road itself, providing onward connection to the public right of way located to the west of the site.

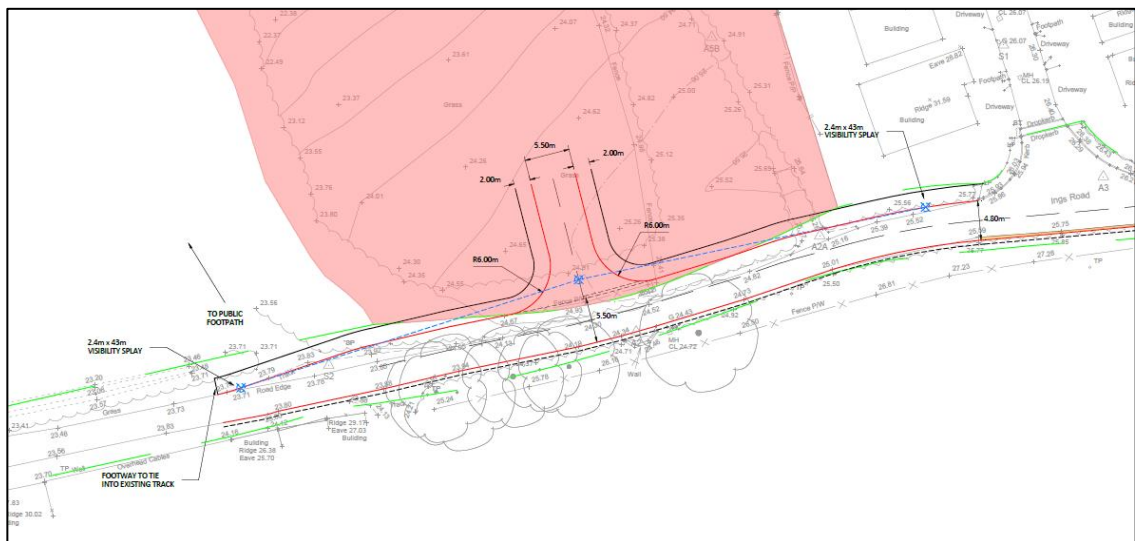


Figure 6.1 – Extract from Appendix B of Transport Statement (Site Access Proposals – Not To Scale)

- 6.5 There are also some highways improvement works (Document 29) proposed for Ings Road to assist traffic flows. These are discussed further in the Transport Statement (Document 27) which includes details of the proposed widening of Ings Road along the site frontage and along the

section up to Lane End, to enable the creation of the proposed access to the site. Additional mitigation measures were proposed as part of the development in the form of:

- Sections of minor carriageway widening on the southern side of Ings Road opposite the junction with Lane End, to enable two vehicles to pass each other, delivering a minimum carriageway width of 4.8m.
- The implementation of a chicane on Ings Road to the west of its junction with Grove Street, to formally control traffic at a point where the existing carriageway width would not accommodate two vehicles passing.

6.6 The Transport Statement concludes that the proposed access arrangements, subject to the proposed mitigation measures, would provide a safe and suitable access to the site for all users. Details of the proposed access arrangements and mitigation works could be secured by way of conditions.

6.7 Highways matters are discussed further in Chapter 7, 8 and 9 and in the response by the Appellant's highways consultant to NLC's reasons for refusal of planning permission in **Appendix 1**.

## **ILLUSTRATIVE & INDICATIVE MATERIAL**

6.8 Whilst all other matters have been reserved for approval at the detailed stage (the reserved matters) the Design & Access Statement (DAS) (Document 7) includes illustrative material which shows how a high-quality development could be delivered on the appeal site.

6.9 As mentioned previously, a revised indicative layout (Document 38) was submitted to the LPA to show that dwellings could be accessed from the development's internal road network thereby limiting the impact on the hedgerow at the appeal site's frontage (the original indicative layout (Document 26) showed 3 plots would be accessed directly off Ings Road).

6.10 A reduced size version of the revised indicative layout is shown below (not to scale):



**Figure 6.2 –Revised Indicative Layout (Not To Scale).**

6.11 The revised indicative layout was prepared following a careful analysis of the site's opportunities and constraints, as well as the characteristics of the surrounding area. It shows the following:

- A single point of access off Ings Road that is positioned just past the existing houses, which provides adequate visibility and limits hedgerow loss along the appeal site's frontage.
- A large area of open space positioned close to the existing homes on Ings Road. This will serve both existing and proposed homes.
- A mix of types and sizes of new homes could be delivered, including a proportion which would be affordable housing.
- A street hierarchy and sequence of spaces that help create a legible and permeable development.
- Retention of the majority of the existing hedgerows and trees supplemented with new planting all of which will be actively managed.
- An attenuation pond in the north west corner of the site adjacent to the existing watercourse and taking advantage of the change in levels on the site from Ings Road down to the north west boundary.

- 6.12 This indicative layout therefore shows one way in which the site could be satisfactorily developed. However, as outline planning permission is sought, the precise form of layout would not be determined until reserved matters stage.

## **SUMMARY**

- 6.13 In summary a development of the nature proposed can be suitably accommodated on the site.

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## 7. THE DEVELOPMENT PLAN

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### INTRODUCTION

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

*“where in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise”.*

7.2 The adopted Development Plan for NLC comprises the following documents<sup>3</sup>:

- North Lincolnshire Local Plan (NLLP) (adopted in May 2003) (saved policies only).
- Core Strategy (CS) (adopted in June 2011)<sup>4</sup>.
- Housing and Employment Land Allocations (HELA) DPD (adopted in March 2016).

### DECISION TAKING PRINCIPLES

7.3 In considering Development Plan policies it is necessary to apply the provisions of Paragraph 212 and 213 of the National Planning Policy Framework (the Framework) to determine their consistency with the Framework and therefore the weight to be afforded to them:

*“212. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.*

*213. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.*

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<sup>3</sup> The emerging Local Plan is not part of the Development Plan until it is adopted. It is therefore treated as an other material consideration which is dealt with in Chapter 8.

<sup>4</sup> Adopted prior to the publication of the first version of the National Planning Policy Framework in March 2012.

- 7.4 Accordingly, in considering Development Plan policies below we note any inconsistency with the Framework before determining the amount of weight the policy should be afforded in decision taking as well as looking at the provisions of the policy itself. Naturally where there is no inconsistency with the Framework a policy should be afforded full weight.
- 7.5 For the reasons set out below, it is accepted that the appeal proposals are not compliant with some policies of the NLLP and the CS. However, there are compelling reasons as to why the conflict between the proposals and the relevant policies are outweighed by other material considerations which are discussed below and further in the next chapter.
- 7.6 It is also material to note that in dealing with Development Plan policies Paragraph 11 of the Framework requires that decisions should apply a presumption in favour of sustainable development (also known as the tilted balance test in respect of decision taking). Criterion 11 c) and d) deal with the relevant tests for decision taking and they are reproduced at this point for ease of reference:

*“For **decision taking** this means*

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

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

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

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

- 7.7 Footnote 7 of the Framework supplements Paragraph 11 reproduced above and states that:

*“This includes for applications involving the provision of housing, where the LPA cannot demonstrate a 5-year supply of deliverable housing sites. (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1”.*

7.8 NLC accepts that it is not able to demonstrate a 5-year supply of deliverable housing land<sup>5</sup> as required by Paragraph 73 of the Framework<sup>6</sup>. This has also been confirmed in recent appeal decisions which consider the supply of deliverable housing land to be “towards 3.39 years (see Chapter 8).” Therefore, in accordance with the provisions of the Framework, policies which are the most important for determining the appeal) are considered out-of-date and the tilted balance applies<sup>7</sup>.

7.9 It is also material to reproduce Footnote 6 of the Framework which supplements criterion d i)

*“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change”.*

7.10 None of the matters listed in Footnote 6 of the Framework apply to the appeal site.

## **FORMAT**

7.11 To assist the Inspector, only those policies which are the most important for determining the appeal are dealt with below. These are the policies listed in NLC’s DN and any policies providing context for the policies NLC alleges conflict with. Other Development Plan policies are dealt with in **Appendix 4**, although NLC alleges no conflict with these policies in its DN.

## **SITE-SPECIFIC POLICY DESIGNATIONS**

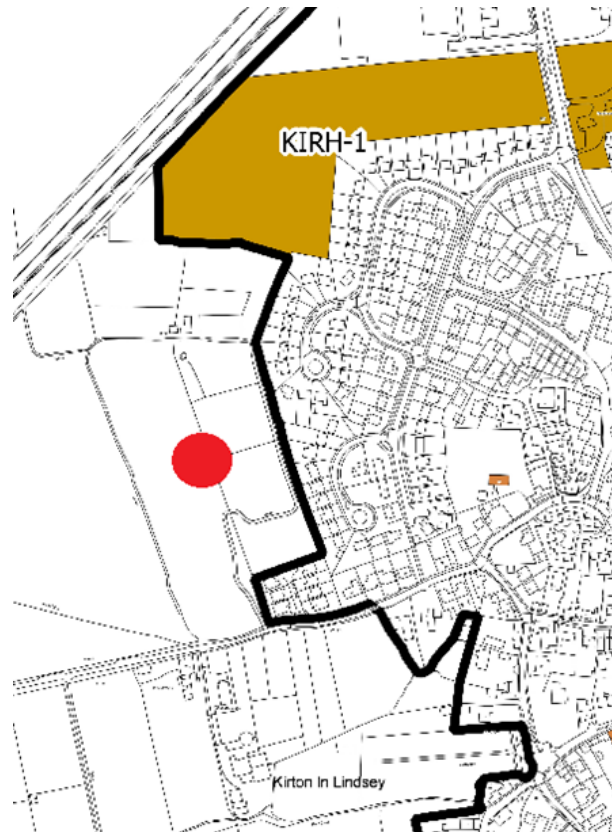
7.12 The appeal site is located on the edge of Kirton in Lindsey just outside the defined settlement limit as shown on the Proposals Map for the HELA DPD.

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<sup>5</sup> Chapter 8 contains detailed points in relation to housing land supply.

<sup>6</sup> See Page 25 of the Officer’s report to Planning Committee (Document 83) and NLC’s latest housing land supply statement (enclosed at **Appendix 10**).

<sup>7</sup> This was accepted by Officers in their report to Planning Committee - see Page 25 of the Officer’s report to Planning Committee (Document 83).



**Figure 7.1 – Extract from Proposals Map for the HELA DPD (Site Location shown as Red Circle)**

7.13 The appeal site is not allocated for any purpose in planning terms and should be considered countryside. A strategic housing allocation (KIRH-1) is located to the immediate north of the appeal site where Larkfleet Homes have recently commenced development. Further details on that site are provided in **Appendix 3**.

## **THE NORTH LINCOLNSHIRE LOCAL PLAN (NLLP)**

7.14 The NLLP was adopted in May 2003.. Some policies were saved following a Direction issued by the Secretary of State in September 2007. This predates the introduction of the Framework by a considerable period and therefore the provisions of Paragraph 213 of the Framework apply.

7.15 At the time of its adoption there was both a regional and county tier of planning in operation in the area (now long since abolished<sup>8</sup>).

7.16 Regional Planning Guidance for Yorkshire and the Humber (RPG12) was approved in October 2001 and provided guidance for the region for a 20 year period.

7.17 At the county level Paragraph 1.15 of the NLLP helpfully sets out the background following the establishment of NLC as a unitary authority on 1 April 1996:

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<sup>8</sup> See Section 79(6) of the Local Democracy Economic Development and Construction Act 2009, enacted on 6 July 2010 and The Regional Strategy for Yorkshire & Humber (Partial Revocation) Order 2013.

*“Strategic guidance for the North Lincolnshire Local Plan is presently set by the Humberside Structure Plan Replacement (1987) as amended by Alteration No. 1 (1993). After local government reorganisation, North Lincolnshire and North East Lincolnshire Council assumed joint responsibility for preparing the South Humber Structure Plan and preliminary discussions on this work have been held. In the meantime, the proposals in this Local Plan conform generally with the principles set out in the approved Humberside Structure Plan. However, some significant policy areas in the Structure Plan have now been superseded by more recent government policy advice. The most important of these are the guidance on sustainability, transport, shopping and town centres, affordable housing and encouraging more development on brownfield, rather than greenfield sites. As far as possible, the Local Plan reflects this new advice. This has meant that the new strategy for North Lincolnshire has been prepared in advance of the work on the new South Humber Structure Plan, but this is justified in view of the very high priority being given by the government to achieving local plan coverage as soon as possible”.*

- 7.18 According to Paragraph 1.17 of the NLLP it was intended to provide guidance for the area for 10 years from 2003. Evidently then the NLLP is now time expired and does not reflect or plan for the current needs of the area. It was also adopted at a time when national planning policy for housing (as set out in PPG3 in operation from 1992 and 2006) and regional policy advocated a previously developed land first approach. Such an approach is no longer to be found in national planning policy. This is significant when considering the weight to be afforded to policies in the NLLP.
- 7.19 The saved policies which are relevant to the appeal site are listed below. In accordance with established practice policies are generally not reproduced in full unless it is considered helpful to the Inspector to do so.

### ***POLICY RD2: DEVELOPMENT IN THE OPEN COUNTRYSIDE***

- 7.20 Policy RD2 states that *inter alia*:

*“Development in the open countryside will be strictly controlled”.*

- 7.21 Policy RD2 also states that planning permission will only be granted for those types of development listed in criteria i) to viii) and subject to criteria a) to f) of Policy RD2.
- 7.22 The appeal proposals do not comply with any of the types of development found in criteria i) to viii) of Policy RD2 and hence there is no need to consider the qualifying criteria a) to f).

- 7.23 It is acknowledged that the appeal site is in the open countryside having regard to the definition of open countryside in the policy. However, it adjoins the Development Limit for the settlement as shown in the HELA.
- 7.24 Notwithstanding the above this policy is out-of-date by virtue of both the absence of a five-year supply of deliverable housing land and its lack of consistency with the Framework.
- 7.25 As explained at Paragraph 7.18, Policy RD2 forms part of a Development Plan that restricts development in the countryside. The approach adopted in Policy RD2 does not reflect the provisions of the Framework at Paragraph 59:

*“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.*

- 7.26 Moreover, use of the words “strictly controlled” in relation to development in the countryside is not reflective of the provisions of Paragraph 170 b) of the Framework:

*“170. Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*..b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”;*...

- 7.27 This matter has been the subject of a High Court Judgement concerning development in the countryside and whether the relevant policies were consistent with the Framework<sup>9</sup>. In that case Mrs Justice Lang DBE held at Paragraph 47 of her Judgement that:

*47. In my judgment, the Inspector did not err in law in concluding that Policy CS7 was not in conformity with the NPPF and so was out-of-date. It is a core planning principle, set out in NPPF 17, that decision-taking should recognise “the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”. This principle is reflected throughout the NPPF e.g. policy on the location of rural housing (NPPF 55); designation of Local Green Space (NPPF 76); protection of the Green Belt (NPPF 79 – 92) and Section 11, headed “Conserving and enhancing the natural environment” (NPPF 109- 125). However, NPPF does not include a blanket protection of*

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<sup>9</sup> High Court Judgement – Mrs Justice Lang DBE - Borough of Telford & Wrekin & Secretary of State For Communities & Local Government & Gladman Developments Limited – 1 December 2016 (Neutral Citation Number [2016] EQHC 3073 (Admin) – Case No: CO/2639/2016) – see **Appendix 5**.

*the countryside for its own sake, such as existed in earlier national guidance (e.g. Planning Policy Guidance 7), and regard must also be had to the other core planning principles favouring sustainable development, as set out in NPPF 17. The Inspector had to exercise his planning judgment to determine whether or not this particular policy was in conformity with the NPPF, and the Council has failed to establish that there was any public law error in his approach, or that his conclusion was irrational.*

7.28 Whilst Mrs Justice Lang DBE was referring to the 2012 version of the Framework later versions have not altered the approach to the countryside and hence the relevance of the Judgement still stands.

7.29 Furthermore, the designation of some areas as countryside where development is to be restricted is the inverse of those policies which are aimed at ensuring development is delivered. That restriction is possible because other policies in the Development Plan set out to ensure housing need is met (but not exceeded as will be explained later). It stands to reason, therefore, that as the period which the NLLP was intended to cover has now ended and that the focus is now on delivering new homes over a different period, the restrictions imposed by Policy RD2 must also be out-of-date.

7.30 For the above reasons it is considered that Policy RD2 should be afforded limited weight as it is time expired, does not reflect the current housing needs of the area and it is inconsistent with the provisions of the Framework relating to the countryside and boosting the supply of new homes.

7.31 In addition, regardless of the degree of consistency with the Framework, as one of the policies most important for determining the appeal Policy RD2 is out-of-date due to the absence of a 5 year supply of deliverable housing sites.

## ***POLICY T2: ACCESS TO DEVELOPMENT***

7.32 Policy T2 states that:

*“All development must be provided with a satisfactory access. In larger developments it should be served adequately by:*

- i. being readily accessible by a choice of transport modes;  
and*
- ii. existing public transport services and infrastructure; or*
- iii. additions or extensions to such services linked directly to  
the development; and*
- iv. the existing highway network”.*

- 7.33 The specific wording of the first reason for refusal set out in the DN (Document 84) makes clear that NLC is not alleging that the development is contrary to criteria i to iii as only the width of Ings Road is mentioned in the reason for refusal. The Appellant is therefore proceeding on the basis that NLC alleges a breach of Policy T2 Criterion iv only.
- 7.34 A separate Appeal Statement dealing with transport matters can be found at **Appendix 1** which sets out the Appellant's response to this reason for refusal in full and concludes that the appeal proposals are, in fact, compliant with Policy T2.
- 7.35 The Highways Appeal Statement explains that a Transport Statement (Document 27) submitted with the application demonstrates that access can be taken from Ings Road via a single T-junction access. This will be provided at a width of 5.5m, with 2.0m footways on either side of the new road. This will provide a safe access for vehicles, cyclists and pedestrians and can comfortably accommodate the level of traffic forecast to be generated by the development. As part of the access proposals, a new footway will be provided along the site frontage to the east, to connecting into the existing footway on the northern side of Ings Road. All land necessary to form the new junction is either within the control of the Appellant or forms part of the adopted highway.
- 7.36 The planning application was also supported by a Travel Plan (Document Reference 30) which set out a series of measures designed to encourage sustainable travel patterns associated with future residents of the site. The Section 106 Agreement also provides for discounted public transport travel for new residents thereby promoting its use (further details can be found in Chapter 12).
- 7.37 The Highways Appeal Statement sets out that the appeal proposals will generate in the region of 35 two-way vehicle trips during the traditional peak hours, with lower levels at other times. These vehicles can approach the site via a number of routes up until the final western section of Ings Road and will not result in a material detrimental impact upon the adjacent road network or upon existing road users.
- 7.38 The Highways Appeal Statement also explains that there are no existing road safety concerns on the surrounding highways network that would be exacerbated by the development traffic.
- 7.39 There would be no severe impacts on the highways network resulting from the appeal proposals. The Appellant is firmly of the view that the appeal proposals comply with Policy TR2.
- 7.40 Importantly, NLC's Highways Officers raised no objections to the application, subject to conditions. Notwithstanding this, the DN refuses the application *inter alia* on highways grounds. The Appellant's response to the highways reasons for refusal are discussed in full detail in Chapter 9 and **Appendix 1**.

## ***POLICY H5 – NEW HOUSING DEVELOPMENT***

7.41 Policy H5 comprises a wide range of distinct criteria. However, as reference to Policy H5 only appears in NLC's first reason for refusing planning permission, which deals with highways matters, it is reasonably assumed that it considers the proposals contrary to criterion f of the policy, which is dealt with below

*CRITERION F) ANY DEVELOPMENT HAS AN ADEQUATE AND APPROPRIATELY DESIGNED ACCESS WHICH WILL NOT CREATE ANY TRAFFIC OR ROAD SAFETY HAZARD; AND*

7.42 As is summarised in our response to Policy T2 and explained in detail in the Highways Appeal Statement (**Appendix 1**), the proposed access is appropriate and will not create any traffic or road safety hazard.

7.43 There is no conflict with criterion f of the policy.

7.44 Although NLC does not allege any breach with the remainder of Policy H5 (as it is not referred to in the second reason for refusal), the first part of the policy deals with the location of new housing development and is therefore relevant to the decision making process. It explains as follows:

*“Proposals for new housing development and renewals of planning permission will be permitted provided that:*

*i) the development site is located within Scunthorpe and Bottesford Urban Area, the principal growth settlements of Barton upon Humber and Brigg or the medium growth settlements. All such development will be reasonably expected to commence within the lifetime of the Local Plan;*

*ii) it comprises infill development, of up to three dwellings and is located within the medium and minimum growth settlements”.*

7.45 Policy ST2 of the NLLP established a settlement hierarchy and designated Kirton-in-Lindsey as a medium growth settlement. It is acknowledged that the appeal site is not located within the settlement boundary but as noted in respect of Policy RD2 it adjoins the Development Limit established in the HELA.

7.46 Criteria i) and ii) of Policy H5 are out-of-date and should be afforded limited weight in the decision making process for the following reasons.

7.47 Firstly, for the same reasons put forward in respect of Policy RD2 criteria i) and ii) are time expired (because the Plan period which they relate to has long since expired) and the policy does not reflect the current housing needs of the area.

- 7.48 Secondly, and also as explained in respect of policy RD2, by restricting development to only those sites which are “within” the settlements listed in criterion i) the policy is inconsistent with the provisions of the Framework relating to the countryside and boosting the supply of new homes.
- 7.49 Thirdly, regardless of the degree of consistency with the Framework, as one of the policies most important for determining the appeal Policy H5 it is out of date due to the absence of a 5 year supply of deliverable housing sites.
- 7.50 It is presumably for one, or all, of these reasons that NLC have not claimed that the appeal proposals are contrary to this element of the policy.
- 7.51 The remaining parts of the policy, under criterion a) to m), are traditional development management style criteria and are addressed in **Appendix 4**.

## **THE CORE STRATEGY**

- 7.52 As with the NLLP the Core Strategy was adopted in June 2011 prior to publication of the original version of the Framework in 2012. Again, it is necessary to consider the consistency of relevant policies to the provisions of the Framework before determining the weight they should be afforded in accordance with Paragraph 213 of the Framework.
- 7.53 The Core Strategy sets out the long term vision for North Lincolnshire and provides a blueprint for managing growth and development in the area up to 2026.

## **HOUSING REQUIREMENT**

- 7.54 Relevant Core Strategy policies are dealt with below but at this point it is helpful to note how the Core Strategy was devised having regard to the regional housing requirement at the time as this affects the weight to be attributed to related planning policies. Clearly regional planning has long since been abolished.
- 7.55 Paragraph 3.4 of the Core Strategy states that:

*“The Yorkshire and Humber Plan – Regional Spatial Strategy to 2026 issued in May 2008 guides development in the Yorkshire and Humber region over the next 15 to 20 years and forms part of the development plan for North Lincolnshire. This means that the Regional Spatial Strategy (RSS) is used alongside the North Lincolnshire Local Plan and in the future the Local Development Framework to make planning decisions in the area. Local Development Documents must be in general conformity with the Regional Spatial Strategy to 2026”.*

- 7.56 Paragraph 5.15 of the Core Strategy states that:

*“As stated earlier the RSS outlines an overall housing requirement for North Lincolnshire between 2004 and 2026 of 15,700 new dwellings, which is phased into two periods with an additional 40 hectares of employment. In first*

*period (2004 to 2008) North Lincolnshire was expected to provide 2,200 new dwellings at a rate of 550 per year. Then in the second period (2008 - 2026), the area is expected to provide 13,500 new dwellings at a rate of 750 dwellings per year. The Core Strategy has been drafted two years into the RSS second period for housing delivery. Between 2004 and 2010, a total of 3,506 dwellings have been completed. This leaves a requirement of 12,063 dwellings (at a rate of 754 dwellings per year) to be delivered during the remainder of the period between 2010 and 2026. It is this up to date requirement which will be delivered through this Core Strategy”.*

- 7.57 The Core Strategy is more than 5 years old. Accordingly, NLC is now using the standard method to determine its housing land supply position having regard to the requirements of Paragraph 73 of the Framework (see **Appendix 10**). Notwithstanding that as noted in Chapter 8 (Figure 8.1) NLC has not met the Core Strategy housing requirement once in the past 10 years and has not met the standard method housing requirement in any year it has been operational.

### ***POLICY CS7: OVERALL HOUSING PROVISION***

- 7.58 Policy CS7 covers a range of issues. Although it is referred to in the second reason for refusal, it is unclear precisely which part or parts of the Policy NLC believe the appeal scheme is contrary to. The Policy is therefore reproduced in full below:

## CS7: OVERALL HOUSING PROVISION

Between 2010 and 2026, North Lincolnshire's housing requirement is for 12,063 new dwellings to be provided (754 new dwellings per year):

Of these new dwellings around 3,482 will be provided from sites that already have planning permission or are under construction.

All proposals for housing should include a variety of housing types, sizes and tenures to meet the local housing needs. All new dwellings should be well designed and meet the Codes for Sustainable Homes. The exact housing mix on each site will be determined based on the Strategic Housing Market Assessment - Market Review (November 2008) and any updates to this document.

Housing land will be allocated, released and phased to ensure the delivery of additional dwellings remains close to the target identified above. Previously developed land will take priority over greenfield land where it is in a sustainable location. Based on the Annual Monitoring Report findings, allocated sites will be brought forward as required to maintain the five year supply and distribution of land for housing in the most sustainable locations in accordance with the spatial development strategy.

To provide flexibility in the delivery of housing the council will allocate contingency sites through the Housing and Employment Land Allocations Development Plan Document to deliver 1,300 additional dwellings within the Scunthorpe Urban Area. If over any continuous three year period the net additional housing requirement varies by more than 20% the allocated contingency sites will be brought forward.

Housing development will be required to make efficient use of land but the density of new development should be in keeping with the character of the area and should support the development of sustainable, balanced communities.

Dependent upon the location of a development site at least the following net density ranges should be achieved within a residential development site, or the residential element of a mixed use site:

- Scunthorpe town centre: 45-70 dwellings per hectare
- Within Scunthorpe and Market Towns development limits: 40-45 dwellings per hectare
- Within rural settlements and the countryside: 30-35 dwellings per hectare

Figure 7.2 – Policy CS7 Extract.

- 7.59 The first two paragraphs of the policy set the housing requirement for the administrative area. This contains an exact number of homes expected to be delivered (described as a “target” later in the policy). It does not express the housing requirement as a minimum that should be achieved and could be exceeded. In fact, the policy appears to place a cap on the number of homes to be delivered by seeking to manage the release of land to ensure that the delivery of dwellings “remains close to the target”. This approach is inconsistent with Paragraph 59 of the Framework that requires LPAs to significantly boost housing land supply and should therefore be afforded limited weight.
- 7.60 The third paragraph of the policy requires developments to provide a variety of housing types, sizes and tenures. Whilst details of the layout and housing mix are reserved for future approval, (and the upper number of dwellings is not specified in the description of development) the indicative layout shows that a total of 79 dwellings comprising a mix of dwellings can be delivered. The appeal proposals are therefore consistent with this element of the policy.

- 7.61 The fourth and fifth paragraphs of the policy explain how sites will be brought forward in order to maintain a 5-year housing land supply. This section of the policy seeks to prioritise previously developed land, which is not consistent with the Framework – it should therefore be afforded limited weight. It requires development proposals to be consistent with the spatial distribution set out in the Core Strategy, which is set out Policy CS1. As we set out later in this chapter, the appeal proposals are in accordance with the spatial strategy and NLC do not allege they are not (as Policy CS1 is not referred to in the reasons for refusal). In any event, the absence of a 5-year supply of deliverable housing sites renders this part of the policy out-of-date.
- 7.62 The sixth and seventh paragraphs of the policy deal with density of development. NLC takes no issue with the likely density of development in its DN and the Officer’s report took no issue with the potential density of development that could be delivered. Accordingly, no reason for refusal has been put forward on density grounds.
- 7.63 With a net site area of circa 2.2ha, the site density is approximately 36 dwellings per hectare. As the site falls outside of the Development Limits of a Market Town, applying a strict interpretation of the Policy would indicate that a density of “at least” 30-35 dwellings per hectare should be achieved. The proposal satisfies the requirements of the policy on that basis. Notwithstanding that, the wording of the policy – entirely sensibly - allows locational characteristics to be considered and for development to be in keeping with the surrounding area. A site (such as the appeal site) on the edge of a Market Town would generally be of a lower density to that at the centre of the settlement in recognition of the transition between town and country. In that regard, 36 dwellings per hectare – only marginally below the 40 dwellings per hectare indicative minimum for Market Towns - represents an appropriate density for a site in this location having regard to the character of the surrounding area.
- 7.64 In any event the policy is out-of-date due to the absence of a 5-year supply of deliverable housing land.

### ***SETTLEMENT HIERARCHY***

- 7.65 A settlement hierarchy is set out in Chapter 5 of the Core Strategy, reproduced below:

**Major Sub-Regional Town** – Scunthorpe

**Market Towns** – Barton upon Humber, Brigg, Crowle, Epworth, Kirton in Lindsey and Winterton

**Rural Settlements** – Alkborough, Althorpe, Amcotts, Appleby, Barnetby-le-Wold, Barrow upon Humber, Beltoft, Belton, Bonby, Broughton, Burton upon Stather, Burringham, Cadney, Coleby, Derrythorpe, Dragonby, Ealand, East Butterwick, East Halton, East Lound, Eastoft, Elsham, Flixborough, Garthorpe & Fockerby, Goxhill, Graizelound, Greetwell, Gunness, Gunthorpe, Haxey, Hibaldstow, Horkstow, Howsham, Keadby, Kirmington, Low Burnham, Luddington, Melton Ross, Messingham, New Barnetby, New Holland, Normanby, North Killingholme, Owston Ferry, Redbourne, Roxby, Sandtoft (village), Santon, Saxby-all-Saints, Scawby, South Ferriby, South Killingholme, Thealby, Thornton Curtis, Ulceby, West Butterwick, West Halton, Westwoodside, Whitton, Winteringham, Wootton, Worlaby, Wrawby, Wressle and Wroot.

**Rural Settlements in the Countryside** – Barrow Haven, Carrhouse, Castlethorpe, Cleatham, Croxton, Eastoft Carr, Goxhill South End, Haxey Carrs, Holme, Kelfield, Messingham Ings, Manton, Ulceby Skitter, Walcot, Westgate and Woodhouse

**Figure 7.3 – Extract From Page 36 of the Core Strategy.**

## **POLICY CS1: SPATIAL STRATEGY FOR NORTH LINCOLNSHIRE**

7.66 Policy CS1 sets out the spatial strategy for North Lincolnshire and states that:

*“The spatial vision and the future development requirements will be delivered through the spatial strategy for North Lincolnshire as outlined below and on the key diagram”.*

7.67 Part a of the policy is concerned with Scunthorpe only and is not relevant to the appeal proposals. Part (b) of the policy focuses on supporting the Market Towns and states that the spatial strategy will focus on:

*“b) Supporting the Market Towns of Barton upon Humber, Brigg, Crowle, Epworth, Kirton in Lindsey and Winterton as thriving places to live, work and visit, and as important service centres serving the needs of local communities across North Lincolnshire.*

- North Lincolnshire’s Market Towns will continue to provide important services for the area’s rural communities and support the higher level services provided by Scunthorpe. Levels of growth and development will be more limited reflecting their position in the settlement hierarchy. All growth will take account of existing infrastructure, environmental constraints and ensure that the distinctive character of the town is protected.*

- An appropriate level and range of new housing development will be provided to support the market towns as sustainable communities. During the plan period, the market towns will provide over 2,171 new dwellings.*

- Small and medium scale employment opportunities will be encouraged to meet the need to provide local jobs. The retention of existing local employment sites will be supported and where appropriate additional land will be allocated. Around 10 hectares of employment land will be provided*

*in the market towns, with the majority being focussed in Barton upon Humber and Brigg.*

- The existing market town will be supported as key locations for shopping and services. Over the plan period limited levels of new retail development will be permitted and should be located within the town centres. The level of development will be dependent on local need and should be in keeping with the historic nature of these centres.*
- Transport links between the market towns and their surrounding settlements will be improved by working with public transport providers to ensure that services are convenient and accessible. N*
- The Rural Renaissance programme will be supported in Crowle to improve the fabric of the town centre, market place and to develop the range of services and employment opportunities available”.*

7.68 Clearly Policy CS1 recognises that Kirton in Lindsey is a sustainable location for new growth. This was confirmed by Officers of NLC in their report to Planning Committee (see Pages 23 and 24 of Document 83):

*“Kirton Lindsey is identified as a market town in the Core Strategy. It contains a wide range of facilities and services, including public houses, shops, doctor’s surgery, community halls, sports facilities, some employment opportunities, a primary and secondary school, a railway station which provides freight services and a service to Cleethorpes/Sheffield on a Saturday, and regular bus services to Scunthorpe, Brigg and Lincoln. **Kirton Lindsey is a very sustainable settlement and is ranked 5th in the council’s Sustainability Survey 2019”** [our emphasis added].*

7.69 The proposals comply with the spatial strategy set out in Policy CS1 as they would locate development adjoining the fifth most sustainable settlement in the area, a market town which is in the second tier of sustainable settlements with just Scunthorpe above it.

7.70 The addition of new homes to Kirton in Lindsey would also help maintain the settlement as a thriving place to live and work.

7.71 Finally, it is noted that NLC does not allege any breach of this policy.

## ***POLICY CS2: DELIVERING MORE SUSTAINABLE DEVELOPMENT***

7.72 Having regard to the wording of NLC’s second reason for refusal the Appellant is proceeding on the basis that NLC is alleging a breach of this policy because the appeal site lies outside of the Development Limit although the Appellant reserves its right to respond once NLC’s comments on the appeal are provided. Policy CS2 is a multi-faceted policy and begins by setting out locational criteria for new development. This part of the policy is reproduced below:

*“In supporting the delivery of the spatial strategy set out in policy CS1, as well as determining how future development needs will be met in North*

*Lincolnshire, a sequential approach will be adopted. Development should be focused on:*

*1. Previously developed land and buildings within the Scunthorpe urban area, followed by other suitable infill opportunities within the town, then by appropriate greenfield urban extensions*

*2. Previously developed land and buildings within the defined Development Limits of North Lincolnshire's Market Towns, followed by other suitable infill opportunities then appropriate small scale greenfield extensions to meet identified local needs*

*3. Small scale developments within the defined Development Limits of rural settlements to meet identified local needs.*

*Any development that takes place outside the defined Development Limits of settlements or in rural settlements in the countryside will be restricted. Only development which is essential to the functioning of the countryside will be allowed to take place. This might include uses such as that related to agriculture, forestry or other uses which require a countryside location or which will contribute to the sustainable development of the tourist industry".....*

7.73 Whist the conflict between the appeal proposals and the above extracts of the policy are acknowledged this needs to be tempered against the following points.

7.74 Policy CS2 advocates a previously developed land first approach. Such an approach is not consistent with the Framework generally and it is not consistent with Paragraph 84 of the Framework when looking at rural areas:

*"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). **The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist** [our emphasis added]".*

7.75 Policy CS2 also seeks to restrict development outside defined Development Limits but as that approach is contrary to the Framework, for the reasons already explained at Paragraphs 7.26 – 7.28, the policy must be afforded limited weight.

- 7.76 Additionally, by seeking to restrict development using a sequential approach (both locationally and in terms of seeking to develop previously developed land first) as set out in Policy CS2 the policy is also inconsistent with Paragraph 59 of the Framework which seeks to boost housing land supply. Accordingly, it must be afforded limited weight for that reason also.
- 7.77 In addition, regardless of the degree of consistency with the Framework Policy CS2 is out of date because it is one of the policies most important for determining the appeal and it is out of date due to the absence of a 5 year supply of housing sites. Addressing that shortfall means more planning permissions need to be granted to enable more homes to be built.
- 7.78 Furthermore, the conflict with the policy needs to be balanced against the need for more housing in North Lincolnshire at a time of a significant deficit and that the appeal site is a suitable location for housing in all other regards. As a Market Town, Kirton in Lindsey is recognised to be a suitable location for development by both Policies CS1 and CS2.
- 7.79 The second part of Policy CS2 deals with development management issues. Having regard to the wording of NLC's DN no issue is taken with any of the criteria although the Appellant reserves its right to respond once NLC's comments on the appeal are received. To assist the Inspector the development management aspects of Policy CS2 are dealt with in **Appendix 4**.

### ***POLICY CS3: DEVELOPMENT LIMITS***

- 7.80 Policy CS3 provides that Development Limits will be defined in future Development Plan documents and of course these were subsequently defined in the HELA as noted in Figure 7.1. Outside these boundaries Policy CS3 restricts development to that which is essential to the functioning of the countryside.
- 7.81 It is acknowledged that the appeal site is located outside the designated Development Limit for Kirton in Lindsey and it is recognised that there is a conflict with this policy.
- 7.82 The policy also seeks to protect the countryside from development for its own sake. The second reason for refusal is framed on that basis – there is no weighing of benefits and harms as the Framework requires. It does not deal with landscape or visual issues, for example, so can only be seeking to protect the countryside because it is countryside. As we set out at Paragraphs 7.26 – 7.28 in respect of NLLP Policy RD2, that approach is inconsistent with the Framework. Policy CS3 should therefore be afforded limited weight.
- 7.83 This policy is also out-of-date in accordance with the provisions of the Framework due to the absence of a 5 year supply of deliverable housing land.
- 7.84 Accordingly, the policy should be afforded limited weight. Any conflict with the policy is considered to be outweighed by the other material considerations in this case.

7.85 Clearly were NLC to continue to apply the restrictions of Policy CS3 it would have no way of remedying the deficient housing land supply situation (discussed in more detail in the following Chapter).

7.86 Furthermore, as there is clearly a need to release more land for housing, it is material to look at the location of the land and its site specific characteristics. In that respect it has already been demonstrated that Kirton in Lindsey is a demonstrably sustainable location for housing. Additionally, this unremarkable looking site is suitable for housing for the reasons given in this Statement of Case. In that respect it is material to note that NLC alleges no landscape or visual impact harm in its DN and no breach of any policies on that basis. It must therefore follow that the in principle objection provided by Policy CS3 can be given limited weight because of the need to release more land for housing. Indeed, the Officers report to Planning Committee notes the following on Page 29:

*“The proposed development could effectively integrate into the landscape and create a new edge of settlement consistent with the surrounding landscape setting. Following completion of the scheme, and with appropriate landscape mitigation, it is considered that the development could be assimilated into the landscape, and once mitigation has matured, the site would be established as an extension of the urban fringe. The LVIA confirms that this would be the case as there would be a ‘change to the immediate site from farmland to residential settlement, which forms part of Local Character Area 1 (Edge of Settlement Farmland) and is assessed as having a Low-Medium Sensitivity. The change to this local character is assessed as Medium in Year 1 reducing to Low-Medium by year 15 as the proposed development establishes as part of the urban fringe. The landscape effects to this local character are assessed as Slight-Moderate at year 1 and 15. The effects will be adverse during construction and for the first few years until landscaping within the site matures and the development becomes an integrated part of the local landscape.”*

### **POLICY CS8: SPATIAL DISTRIBUTION OF HOUSING SITES**

7.87 Policy CS8 is produced in full below:

## CS8: SPATIAL DISTRIBUTION OF HOUSING SITES

The allocation of sites for 12,063 new dwellings will be delivered in accordance with sustainable development principles and the following sequential approach:

- The principal focus for housing is previously developed land and buildings within the development limits of Scunthorpe followed by a greenfield urban extension to the west of the town. 82% of all new dwellings will be located in and adjacent to the urban area, equating 9,892 new dwellings. A total of 6,000 new dwellings will be provided within the Lincolnshire Lakes area during the plan period, with 1,250 being provided elsewhere within the urban area. Of these new dwellings 2,642 will be provided from sites that already have planning permission or are under construction.
- The Market Towns of Barton upon Humber, Brigg, Crowle, Kirton in Lindsey and Winterton will have approximately 18% houses built overall equating to 2,171 new dwellings of which 840 will be provided from sites that already have planning permission or are under construction. The overall provision will be divided as follows to enhance the level of services provided or meet the needs of the settlements and its immediate area:

• Barton upon Humber	6% (724 dwellings)
• Brigg	7% (844 dwellings)
• Crowle	1.2% (145 dwellings)
• Kirton in Lindsey	1.5% (181 dwellings)
• Winterton	2.3% (277 dwellings)
- New housing within the rural settlements will create opportunities for small scale infill development that maintains the viability of the settlement and meets identified local needs without increasing the need to travel.

In rural settlements in the countryside and in the open countryside outside development limits, housing development will be strictly limited. Consideration will be given to development, which relates to agriculture, forestry or to meet a special need associated with the countryside. All development should not have an adverse impact on the environment or landscape.

Urban extensions to support the Scunthorpe Urban Renaissance Programme will be promoted particularly alongside proposals for Lincolnshire Lakes project. To ensure that the scale of the house building is in line with the housing allocation the western urban extension will be phased to release land in such a way as to allow for the control of the pattern and speed of urban growth, co-ordination of infrastructure, and delivery of the previously developed land target and other sustainability objectives. The Lincolnshire Lakes project will be subject to the development and approval of an Area Action Plan.

The first priority is to re-use previously developed land and buildings within North Lincolnshire's built up areas which will be promoted by setting a target of 30% of the housing provision on such land. Second priority will be given to other suitable infill opportunities in North Lincolnshire's built up areas.

Development on greenfield sites will only be allowed where it can be demonstrated that this will bring additional community benefits, contributing to building sustainable communities and is acceptable in terms of its impact on the high quality environment of the urban space and adjoining countryside.

Flood risk will be taken into account, as this will be a determining factor in the distribution and location of housing.

Figure 7.4 – Policy CS8 Extract.

7.88 It is recognised that there is a degree of conflict with this policy as the site is located outside the Development Limits and does not comply with the exceptions where development would be considered acceptable. However, the documents submitted in support of the proposals note that they would have no adverse impacts on the environment or landscape and they are appropriately located in respect of flood risk. The policy also recognises that Kirton in Lindsey is a suitable location for new development.

- 7.89 However, this policy is inconsistent with the Framework in a number of key areas:
- Firstly, the policy contains an exact number of homes expected to be delivered. This approach is inconsistent with Paragraph 59 of the Framework that requires LPAs to significantly boost housing land supply.
  - Secondly, the policy contains a previously developed land first approach which is inconsistent with the Framework.
  - Thirdly, there is no requirement in national planning policy for development on greenfield sites to only be allowed where it will deliver additional community benefit.

7.90 On the basis of the foregoing Policy CS8 should be afforded limited weight.

7.91 In addition, regardless of the degree of consistency with the Framework Policy CS8 is out of date because it is one of the policies most important for determining the appeal and it is out of date due to the absence of a 5 year supply of housing sites.

7.92 Notwithstanding the above, this policy is inconsistent with the Framework and out-of-date for the reasons given above and therefore it should be afforded limited weight.

## **HOUSING AND EMPLOYMENT LAND ALLOCATIONS (HELA) DPD**

7.93 Paragraph 1.3 of the HELA states that:

*“The Housing and Employment Land Allocations DPD has been prepared in line with the Adopted Core Strategy (June 2011) and complements its approach to housing and employment growth in North Lincolnshire. This DPD illustrates the location and size of allocated sites on a Proposals Map and provide guidelines on how, when and for what purpose the site should be developed”.*

7.94 The HELA Proposals Map (see extract at Figure 7.1) shows that the site is outside of the Development Limit in the countryside. The effect of that is to require the appeal proposals to be determined in accordance with Policy CS3 – which has been shown to be inconsistent with the Framework and which should therefore be of limited weight. The Development Limit should therefore also be afforded limited weight.

7.95 In addition, the Development Limit is also out-of-date due to the absence of a 5-year supply of deliverable housing land. As a consequence, more land needs to be released for development.

7.96 There are 3 housing allocations in the HELA for Kirton in Lindsey which were expected to deliver a total of 460 new homes between them, as detailed below.

- KIRH-1 Land west of Station Road (100 dwellings). This site is located to the north of the application site and benefits from detailed planning permission as discussed in **Appendix 3**. It should be noted that whilst allocated for 100 dwellings the scheme being brought forward comprises 91 dwellings (-9). Development has commenced as noted in the photographs contained within Appendix AYA06 of the Education Statement contained at **Appendix 6** to this Statement of Case.
- KIRH-2 Land at and adjoining Beechcroft, Station Road (60 dwellings). Full planning permission was granted by Notice dated 4 April 2016 for 41 dwellings (-19) (LPA Reference: PA/2016/1704). The scheme is being delivered by Cyden Homes with 30 dwellings complete and 11 under construction (see Appendix AYA06 of the Education Statement contained at **Appendix 6** to this Statement of Case for further details).
- KIRH-3 Land at former RAF Kirton in Lindsey (300 dwellings). Outline planning permission for up to 302 dwellings (+2) with public open space, including demolition of existing buildings, with all matters reserved except for access was granted by Notice dated 15 August 2018 (LPA Reference: PA/2017/1199). There have been no reserved matters applications submitted following the grant of outline planning permission. Moreover, it has yet to be established whether this site will in fact deliver 302 dwellings and this will only become clearer once a reserved matters application is lodged. Furthermore, the agents marketing the site confirmed on 23 March 2020 a bid deadline of November 2019 had previously been set but the land is now available following a deal falling through. Clearly this site is many years away from delivering any dwellings and the outline planning permission lapses on 15 August 2021. It is notable also that the site is still available having been marketed and a deal falling through. In most circumstances there would be a second placed bidder who would take on the proposal following the preferred bid falling away. That does not appear to be the case here with the site still being available.

7.97 It is evident that the housing allocations in Kirton in Lindsey will not deliver the number of dwellings envisaged in the HELA by the end of the Plan period on 31 March 2026. At best the allocations are 28 dwellings short of what was expected although this will be much more if the former RAF base does not deliver 302 dwellings. That is likely to be the case - NLC's latest housing land supply statement (**Appendix 10**) suggests that 60 dwellings would be delivered here between 1 April 2019 and 31 March 2024. On NLC's position 242 dwellings fewer dwellings than the HELA relies upon would be delivered. The former RAF base will not deliver anywhere near 302 dwellings by 2026 given the absence of a developer or any reserved matters applications and it

is noted that in respect of the recent appeal decisions referred to in Chapter 8 NLC has produced no evidence to demonstrate when dwellings will materialise here.

7.98 The definition of a deliverable major site benefiting from outline planning permission is set out in the Glossary to the Framework:

*“Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

*b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years”.*

7.99 It is also necessary to consider the provisions of the Planning Practice Guidance:

*“In order to demonstrate 5 years’ worth of deliverable housing sites, robust, up to date evidence needs to be available to support the preparation of strategic policies and planning decisions. Annex 2 of the National Planning Policy Framework defines a deliverable site. As well as sites which are considered to be deliverable in principle, this definition also sets out the sites which would require further evidence to be considered deliverable, namely those which:*

- have outline planning permission for major development;*
- are allocated in a development plan;*
- have a grant of permission in principle; or*
- are identified on a brownfield register.*

*Such evidence, to demonstrate deliverability, may include:*

- current planning status – for example, on larger scale sites with outline or hybrid permission how much progress has been made towards approving reserved matters, or whether these link to a planning performance agreement that sets out the timescale for approval of reserved matters applications and discharge of conditions;*
- firm progress being made towards the submission of an application – for example, a written agreement between the local planning authority and the site developer(s) which confirms the developers’ delivery intentions and anticipated start and build-out rates;*

- *firm progress with site assessment work; or*
- *clear relevant information about site viability, ownership constraints or infrastructure provision, such as successful participation in bids for large-scale infrastructure funding or other similar projects.*

*Plan-makers can use the Housing and Economic Land Availability Assessment in demonstrating the deliverability of sites.*

*Paragraph: 007 Reference ID: 68-007-20190722”*

7.100 The absence of any evidence to support the contention by NLC that RAF Kirton (and other sites) is a deliverable site is dealt with in the following chapter. In the absence of clear and credible evidence the only safe conclusion is that the former RAF base is not a deliverable site having regard to the definition of a deliverable site contained within the Glossary to the Framework.

7.101 In contrast to RAF Kirton in Lindsey, were the appeal to be allowed the appeal site could expect to deliver circa 79 dwellings well before 31 March 2026 (the end date of the Core Strategy/HELA) thereby helping to make up the deficit created by RAF Kirton in Lindsey and the failure of other allocations in the settlement to deliver the number of homes previously anticipated. Further information about the expected delivery of the site is set out in Document 44. Even with the delay of an appeal were the appeal to be allowed the scheme is likely to be complete by the end of 2024. The Appellant respectfully asks the Inspector to afford the delivery of the appeal site substantial weight in the determination of the appeal given the deficient housing land supply position.

## **SUMMARY**

7.102 The application is consistent with many of the policies in the Development Plan, and the overall objective of the Development Plan to direct development to the most sustainable locations. Where there is conflict with Development Plan policies those policies are out-of-date and must be afforded limited weight in the decision making process. In all cases, the policies which the DN relies upon pre-date - and are inconsistent with - the Framework and must be afforded limited weight.

7.103 In addition, the accepted absence of a 5 year supply of deliverable housing land also renders those policies out-of-date. More sites need to be released for development to remedy that shortfall. Officers of NLC accept that the provisions of Paragraph 11 of the Framework (the tilted balance) are engaged here (see Page 25 of the report to Planning Committee (Document 83)).

- 7.104 Local Plan Policy RD2 identified above is one of the policies most important for determining the appeal. It is a policy that is inconsistent with the Framework and should be afforded limited weight. It is also out of date because it relates to a Plan period long since expired (being based on a different housing needs and policy context) and it is also out of date due to the absence of a 5-year supply of deliverable housing land. Any conflict is considered to be outweighed by the other material considerations identified in this Statement of Case.
- 7.105 NLC's DN does not identify which part of Policy H5 the development is considered contrary to. Given the wording of the DN it is reasonably assumed to be criterion f). The locational aspects of Policy H5 is also inconsistent with the Framework and should be afforded limited weight. Policy H5 is in part out-of-date for the same reasons as Policy RD2.
- 7.106 However, criterion a) – m) of Policy H5 comprise development management criteria which the development has been shown to comply with. In particular there is no conflict with criterion f).
- 7.107 The Appellant considers, for the reasons given above and in the Highways Appeal Statement (**Appendix 1**), that the proposals are wholly compliant with Policy T2.
- 7.108 NLC does not allege any other breach of Local Plan policies.
- 7.109 Core Strategy policies CS2, CS3, CS7 (in part) and CS8 comprise some of the policies which are most important for determining the appeal, but they are inconsistent with the provisions of the Framework for the reasons stated and should be afforded limited weight. They are also out of date due to the absence of a 5 year supply of deliverable housing land. Any conflict is considered to be outweighed by the other material considerations identified in this Statement of Case.
- 7.110 Whilst NLC does not allege any conflict with other Core Strategy policies they have been considered and the proposals have been found to be compliant with them.
- 7.111 The HELA DPD is relevant because it sets the Development Limit for the town and the Development Limit implements Policy CS3 of the Core Strategy. By restricting development in order to implement Policy CS3 the Development Limit must also be afforded limited weight. The policy is also out-of-date because of the absence of a deliverable 5 year housing land supply
- 7.112 Finally, as there is clearly a need to release more land for housing, it is material to look at the location of the land and its site specific characteristics. In that respect Kirton in Lindsey is a demonstrably sustainable location for housing. Additionally, this unremarkable site is suitable for housing for the reasons given in this Statement of Case. In that respect it is material to note that NLC alleges no landscape or visual impact harm in its DN and no breach of any policies on that basis. It must therefore follow that the in principle objections to the release of the appeal site should be given limited weight because of the need to release more land for housing.

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## 8. OTHER MATERIAL CONSIDERATIONS

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### INTRODUCTION

8.1 In this case the following material considerations are relevant.

### RELEVANT APPEAL DECISIONS – APPLICATION OF THE TILTED BALANCE

8.2 Two appeal Decision Letters were issued during March 2020 which are highly relevant in considering the matter of housing land supply and the application of the tilted balance test.

#### ***WESTGATE APPEAL DECISION (PINS REF: APP/Y2003/W/19/3230500)***

8.3 This appeal DL was issued by Inspector Hendley on 11 March 2020 and allowed an appeal for outline planning permission for 23 dwellings on land at Westgate Road, Westgate, Belton. The DL can be found at **Appendix 7** however for ease the following paragraphs are relevant to the appeal.

*“41. I find that the HLS is likely to be towards the appellant’s 3.39 year position. This represents a marked shortfall against the 5 year requirement under the Framework.*

*45. Due to a lack of a 5 year supply of deliverable housing sites, paragraph 11 d) of the Framework is engaged. Accordingly, the development plan policies which are most important for determining the planning application, namely Policies CS2, CS6, Saved Policy LC14 and Saved Policy DS1, are out of date. This does not mean they do not apply and, overall, the proposal conflicts with the development plan as a whole. Nevertheless, the conflict with these policies attracts limited weight.*

*46. In coming to this view, it is the lack of a 5 year supply of deliverable housing sites and the extent of the shortfall which are determinative, in particular as regards Policy CS2 as it sets the approach concerning where development should be located and what is permitted outside of limits.*

*47...This means 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.*

*48. In relation to the adverse impacts, these concern the accessibility to services, and the effect on the character and appearance of the area, in particular the Belton Open Field and the Isle. The proposal would not comply with Policies CS2 and CS6, and with Saved Policies LC14 and DS1. Whilst I have found harm in these respects, it is on a moderate scale. Set against this would be the addition of up to 23 dwellings to the supply of housing, including its contribution to the shortfall against the 5 year supply of deliverable housing sites and the provision of affordable housing. These*

*benefits attract significant weight in my decision. The economic and other benefits carry moderate weight.*

*49. Taking these matters together, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 11 indicates that permission should be granted, when assessed against the policies in this Framework taken as a whole”.*

### **ULCEBY APPEAL DECISION (PINS REF: APP/Y2003/W/19/3233292)**

8.4 This appeal DL which was issued by Inspector Fort on 18 March 2020 and allowed an appeal for outline planning permission for 90 dwellings on land at Station Road, Ulceby. The DL can be found at **Appendix 8** however for ease the following paragraphs are relevant to the appeal:

*“41. Whilst I acknowledge that the housing supply position in the District is dynamic, with another update due shortly, it is common ground that the Council cannot demonstrate a 5 year supply of deliverable housing sites. The latest Council assessment finds that there is currently only a 4 year supply of deliverable housing sites - a shortfall of some 450 dwellings.*

*42. Although I am mindful of the outline nature of the scheme, the proposed development could nevertheless make a considerable contribution toward the District’s housing supply. Moreover, as set out above, it would deliver economic, social and environmental benefits that carry considerable weight in the proposed development’s favour.*

*43. On the other hand, the proposed development would conflict with [Policies CS2, CS3 and CS8 of the Core Strategy and Policy RD2 of the Local Plan] of the development plan, insofar as they seek to restrict residential development outside of settlement boundaries; however, I have found no conflict with those policies insofar as they seek to protect the character and appearance of the countryside. These policies, taken together with Policy T2 of the Local Plan insofar as it is relevant to highway safety, and with which I have found no conflict, are the most important for determining the application. I note the Council’s view that Policies CS2, CS3, CS8 and RD2 are restrictive of all forms of development, not just residential proposals. Nevertheless, as the restriction set out in those policies acts as a constraint on housing supply and there is a confirmed housing undersupply position in this case, they are clearly out of date for the purposes of the Framework. The ‘tilted balance’ is therefore engaged; and the weight I attach to the policy conflicts in this case does not significantly and demonstrably outweigh the proposed development’s considerable benefits. In such circumstances, the Framework indicates that development should be permitted.”*

## **KEY FINDINGS FROM MARCH 2020 APPEAL DECISION LETTERS**

8.5 Both appeal DLs are very recent and are highly relevant to the current appeal. The following key findings are worthy of note in consideration of our client's scheme:

- Both appeal sites were located outside the defined Development Limits and within the open countryside.
- Both decisions recognise that the proposals were contrary to the relevant policies in the Development Plan which restrict development outside Development Limits.
- Both decisions state that NLC does not have a 5-year supply of deliverable housing sites and that the policies most important for determining the appeals are out of date in accordance with the provisions of the Framework. The tilted balance was therefore engaged due to the absence of a five year supply of deliverable housing land but also because Development Plan policies were restrictive when there was a need for a significant boost to housing land supply.
- The benefits which include the contribution towards NLC's housing shortfall and the provision of affordable housing were afforded significant weight.
- Two different Inspectors came to the same conclusions with regard to the weight to be attributed to Development Plan policies and that the most important policies for determining the appeal were out of date thereby triggering the tilted balance as the case being advanced here by the Appellant.

## **HOUSING LAND SUPPLY & HOUSING DELIVERY**

8.6 Whilst NLC acknowledges that it is unable to demonstrate a 5 year supply of deliverable housing land the Appellant is acutely aware that the position can change. In that respect NLC's Planning Policy Manager, Mr David Warren, informed the Appellant's Planning Consultant on 23 September 2020 that a review of the position was underway but that it was unlikely to materialise during the life of this appeal as it was only 35-40% complete. Accordingly, the Appellant in this case is prepared to proceed on the basis that NLC cannot demonstrate a 5 year supply of deliverable housing land. Were that position to change at all during the appeal the Appellant would require an opportunity to have any revised position rigorously examined under the PINS hybrid procedures.

### ***THE ULCEBY CASE***

- 8.7 In the Ulceby case NLC conceded before the Hearing started that the housing land supply was circa 4 years equating to a shortfall of 450 dwellings (see Paragraph 41 and Footnote 14 with reference to the Assessment of Five Year Housing Land Supply – 1 April 2019 to 31 March 2024 updated January 2020<sup>10</sup>). That concession was sufficient to trigger the tilted balance test (which is a binary test in any event) without the need for the Inspector to go through the Appellant's case on supply on a site-by-site basis.

### ***THE WESTGATE CASE***

- 8.8 In the Westgate case the Inspector found that the supply was closer to the Appellant's assessment of 3.39 years supply rather than the 4 year position advanced by NLC. He therefore concluded that this represented a marked shortfall against the 5 year requirement (Paragraph 42 of the DL refers). Clearly the scale of the shortfall is also a material consideration and given the scale of the shortfall here it is submitted that this is a significant material consideration.
- 8.9 Given the absence of any evidence to the contrary the starting point for this appeal must be that the supply of deliverable housing sites is "towards 3.39 years."<sup>11</sup>

### ***HOUSING LAND SUPPLY DOCUMENTS***

- 8.10 On 19 August 2019 the LPA provided to the Appellant's Planning Consultant its Housing Land Supply Statement relating to the 5 year period 1 April 2019 – 31 March 2024. At that point, NLC claimed to have a demonstratable 5 year supply of dwellings by a margin of just 6 dwellings (see **Appendix 11**).
- 8.11 Having reviewed the document at **Appendix 11** it was evident to the Appellant's Planning Consultant that it did not contain the requisite clear evidence as set out in the Framework and PPG to justify elements of the supply as deliverable<sup>12</sup>. The Appellant's Planning Consultant sought to persuade the LPA to provide this information (as all other LPAs do and as the PPG requires). However, NLC only provided a part (and in any event wholly unacceptable) response which then necessitated a formal Freedom of Information (FOI) request which was submitted to NLC on 30 August 2019. Again, NLC resisted providing the information requested. A complaint was subsequently lodged with NLC's Information Officer and an internal review followed in which NLC determined that the information was commercially sensitive which is frankly an unreasonable position to take when the Framework and PPG require such information to be available for scrutiny (see the definition of "deliverable" in the Glossary of the Framework and in that respect to be able to determine whether sites meet the definition of deliverable, plainly information needs

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<sup>10</sup> See **Appendix 10**.

<sup>11</sup> It is noted that in the Westgate case that the Inspector did not deal with individual sites in the DL.

<sup>12</sup> Having regard to the definition of "deliverable" as set out in the Glossary to the Framework.

to be made available for scrutiny. See also Paragraph: 007 Reference ID: 68-007-20190722 of the PPG which requires that robust and up to date evidence needs to be available to support decision taking). That forced the Appellant to lodge an appeal to the Information Commissioners Office on 9 January 2020 and a response was eventually received from NLC on 25 September 2020. Again, the response was wholly inadequate as noted in the Appellant's Planning Consultant's email to NLC of 5 October 2020. All of the correspondence relating to this matter can be found in **Appendix 12**. Given that NLC has repeatedly failed to respond to reasonable requests for the evidence to justify the inclusion of individual sites in the housing supply documents the only safe conclusion is that the information does not exist. The failure to provide the information more than a year after it was requested undermines NLC's position on individual sites. Moreover, the responses NLC has provided on generalised lead-in times and delivery rates also undermines its position.

- 8.12 NLC's failure to provide evidence to support the inclusion of sites in the 5 year supply also runs counter to a number of appeal decisions as noted below.

***LAND EAST OF LES ARDENNES, MUGGINTON LANE END, HULLAND WARD,  
DE6 3EE - PINS REFERENCE: APP/P1045/W/17/3188285 – 11 APRIL  
2019***

- 8.13 Inspector Housden noted at Paragraphs 34-35 of her DL<sup>13</sup> that:

*"34. The Planning Practice Guidance (PPG) provides further details of what may constitute 'clear evidence' having regard to the definition of 'deliverable' set out in Annex 2 of the Framework, including progress towards the submission of an application, site assessment work and information about viability, ownership or infrastructure. The APS does not include pro formas for sites with planning permission as at 31.3.18. Accordingly, there is no up to date information about developer intentions for start dates, rates of delivery or expected completion dates.*

*35. Whilst reserved matters applications have been submitted for the sites at Wheeldon Way, Hulland Ward (SHLAA site 208) and Main Road, Brailsford (SHLAA site 501) these applications are at an early stage and undetermined. There is no clear evidence of start dates, rates of delivery or expected completion dates and overall no clear evidence that housing would be delivered on both sites within five years. Consequently these sites should not count towards the supply".*

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<sup>13</sup> See **Appendix 14**.

**LAND ON EAST SIDE OF GREEN ROAD, WOOLPIT, SUFFOLK, IP30 9RF –  
PINS REFERENCE: APP/W3520/W/18/3194926 - 28 SEPTEMBER 2018**

8.14 Inspector Stephens noted at Paragraphs 68-69 of his appeal DL<sup>14</sup> that:

*“68. Sites with outline planning permission make up a very large proportion of the Council’s claimed supply. The onus is on the Council to provide the clear evidence that each of these sites would start to provide housing completions within 5 years. I accept that there was clear evidence of what was necessary on one site provided in Mr Robert’s evidence and so the 200 dwellings in respect of that site should be added to the Appellant’s supply calculations. As for the other 1,244 dwellings with outline permission, the Council has not even come close to discharging the burden to provide the clear evidence that is needed for it to be able to rely upon those sites.*

*69. The up-dated PPG on Housing and economic land availability assessment sets out guidance on what constitutes ‘deliverable sites’ and covers the evidence that a site with outline planning permission is expected to have in support of its inclusion in the supply. The PPG places great weight on the adequacy and sufficiency of consultation with those responsible for delivering dwellings. It is noteworthy that in this case, the Council has failed to adequately demonstrate it has done so. An assessment of the Council’s AMR against the updated PPG reveals that the AMR falls substantially short of producing the evidence that a LPA is expected to produce”.*

**LAND OFF STONE PATH DRIVE, HATFIELD PEVEREL, ESSEX, CM3 2LG -  
PINS REFERENCE: APP/Z1510/W/16/3162004 - 8 JULY 2019**

8.15 The Secretary of State has also commented on the matter at Paragraph 47 of the DL<sup>15</sup> in relation to the above-mentioned appeal:

*“47. Having reviewed the housing trajectory published on 11 April 2019, the Secretary of State considers that the evidence provided to support some of the claimed supply in respect of sites with outline planning permission of 10 dwellings or more and sites without planning permission, does not meet the requirement in the Framework Glossary definition of “deliverable” that there be clear evidence that housing completions will begin on site within five years. He has therefore removed 10 sites from the housing trajectory, these are listed at Annex D to this letter”.*

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<sup>14</sup> See **Appendix 15**.

<sup>15</sup> See **Appendix 16**.

LAND OFF CASTLETHORPE ROAD, HANSLOPE MK19 7HQ - APPEAL A:  
PINS REFERENCE APP/Y0435/W/18/3214365

MALT MILL FARM, CASTLETHORPE ROAD, HANSLOPE, MK19 7HQ –  
APPEAL B: PINS REFERENCE: APP/Y0435/W/18/3214564

26 SEPTEMBER 2019

8.16 In considering the above co-joined appeals Inspector Sargent noted the following at Paragraphs 58 – 60 of his DL<sup>16</sup>:

*“58. With regard to the specific contested houses, Category 3 of the table comprised allocated sites with no extant permissions and no applications pending. Of these, no proforma has been submitted for 4 sites and while there has been discussion and consultation on proposals that does not amount to clear evidence. Site 13 was initially granted permission 15 years ago, while the planning permission on site 19 has also lapsed, and so, in the absence of any strong evidence to the contrary, the intent to develop those sites over the next 5 years is, to my mind, called into question. With site 48 the pro forma gives a start date as being unknown, and the pro forma for site 31 has been completed by a developer with no control of the site and so its reliance must be limited. Although pre-application discussions are underway on many of these sites, and some are Council-owned these in themselves do not show the clear evidence necessary to overcome the various concerns highlighted above. These sites amount to a total of 926 houses.*

*59. In Category 5 of the table (sites with outline permission granted before July 2018 but no extant applications), sites 1, 2, 3 and 4 have had outline planning permission for over 10 years, and while developers are showing an interest, in the absence of any strong evidence to the contrary, this is not sufficient to constitute the clear evidence necessary to show they will be coming forward in the next 5 years. No evidence has been submitted for site 8 while the evidence from the Council highlights difficulties in bringing forward site 7. The development proposals for site 11 are based on a ‘best estimate’, which again falls short of the standard necessary to satisfy the definition of deliverable. These sites would provide a total of 757 houses.*

*60. Finally, Category 6 in the table identifies sites with outline permissions and reserved matters applications pending. In this category on sites 5 and 6 the reserved matters applications only account for a proportion of the overall*

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<sup>16</sup> See Appendix 17.

*identified housing figures. This leaves roughly 1,034 houses outstanding for which there is little evidence to show they will be coming forward within the required period”.*

- 8.17 Of course, NLC’s latest housing land supply position is currently that set out in **Appendix 10**, this being an update (produced in January 2020) to the document forwarded to the Appellant’s Planning Consultant on 19 August 2019 (**Appendix 11**). Indeed, the Officer’s report to Planning Committee (Page 25) notes that the supply position is 4 years. However, the stated 4 year position fails to acknowledge the findings of the Westgate case where following consideration of individual sites<sup>17</sup> in the supply the Inspector favoured that Appellant’s position that the deliverable housing land supply was towards 3.39 years. Without any evidence to the contrary the established position is towards 3.39 years as per the Westgate DL. In passing it is also noted that NLC’s latest housing land supply document at **Appendix 10** does not contain any deliverability evidence as it is required to do by the Framework and PPG and as noted in the numerous DLs quoted above. Either way the resolved position of NLC is that it does not have a 5 year supply of housing land and it is the Appellant’s case that the shortfall is significant (being towards 3.39 years) and of course the tilted balance is engaged.
- 8.18 At this stage it is not the Appellant’s intention to provide a detailed commentary on individual sites in the housing land supply as NLC acknowledges that the tilted balance is engaged and the Westgate case establishes the position as towards 3.39 years which the Appellant relies upon at this stage. However, the Appellant reserves its right to respond to any further information disclosed by NLC in relation to the outstanding FOI appeal or to respond to any change in NLC’s position on housing land supply.
- 8.19 Notwithstanding the above in the Kirton in Lindsey context specifically, it is clear that no evidence has been provided by NLC to justify the inclusion of RAF Kirton (60 dwellings out of 302 dwellings with outline planning permission (LPA Reference: PA/2017/1199) not subject to any reserved matters application and hence not yet started) or Gleadells Mill, Station Road (27 dwellings with outline planning permission (LPA Reference PA/2016/337) which incidentally would have expired on 5 October 2020 if the Business and Planning Act 2020 hadn’t granted an automatic extension of time for implementing the scheme until 1 May 2021) in the 5 year supply. These sites are not considered deliverable resulting in 87 dwellings needing to be deducted from the 5 year supply for Kirton in Lindsey alone. That shortfall could of course largely be made up by the appeal site (circa 79 dwellings).
- 8.20 As an aside an added issue is that NLC’s January 2020 updated housing land supply document relates to the 5 year period 1 April 2019 to 31 March 2024 and so it is now out of date as a further monitoring year passed on 31 March 2020.

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<sup>17</sup> As noted above in the Ulaby case no detailed assessment of individual sites was undertaken as the Inspector relied on the housing land supply position (4 years) as per the January 2020 up-date.

## ***HOUSING DELIVERY TEST***

8.21 In February 2020, the Government published the second round of Housing Delivery Test results for England. For the period 1 April 2016 – 31 March 2019 NLC was required to deliver 1,316 dwellings but had only delivered 983 dwellings (75%) as a consequence NLC is required to apply a 20% buffer to its housing land supply calculations. In accordance with Paragraph 73c) of the Framework this means that there has been significant under delivery of housing over the previous three years. Paragraph 75 of the Framework is also relevant:

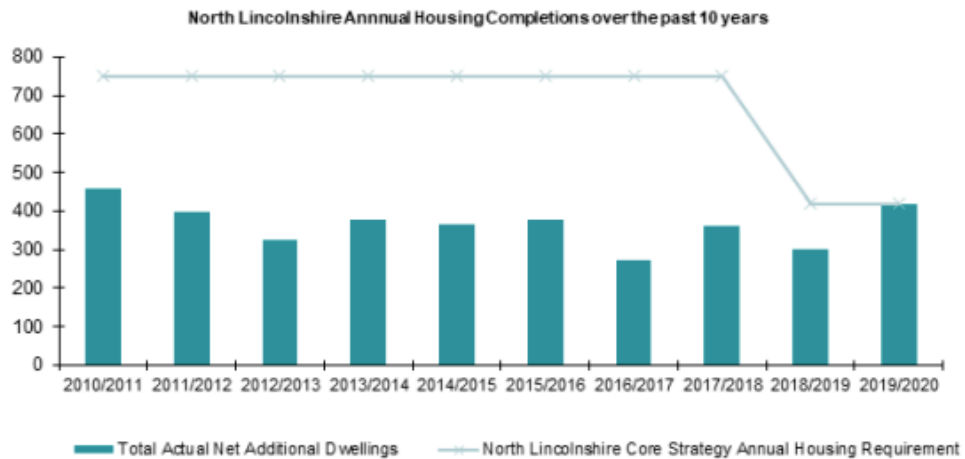
*“To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below 95% of the local planning authority’s housing requirement over the previous three years, the authority should prepare an action plan in line with national planning guidance, to assess the causes of under-delivery and identify actions to increase delivery in future years”.*

8.22 Notwithstanding the above under current national planning policy, the threshold by which the tilted balance test will apply when the 2020 results are published in a few months’ time is 75% (see Paragraph 215 of the Framework). In other words, if NLC does not deliver 75% of the requirement over the period 1 April 2017 – 31 March 2020 the tilted balance test will apply even if NLC is able at some point in the future to demonstrate a 5 year supply of deliverable housing land which on the basis of the foregoing we consider highly unlikely for the foreseeable future. The Appellant reserves its right to make further submissions on this point once the latest HDT is published.

8.23 In response to the latest HDT results NLC published an Action Plan in August 2020, Paragraph 2.3 and Graph 1 from that document are reproduced below:

2.3 Whilst the Council has identified sites and planned for growth, actual delivery rates over the past 10 years have not matched those set out in planning policy. The introduction of the standard method has significantly reduced the local housing needs target that is set out in current policy from 754 dwellings per annum to 419 dwellings per annum on 1 April 2019. Graph 1 below shows that North Lincolnshire has not delivered its annual housing target in any one year since 2007/08. This has been due to several factors including the national economic downturn in 2008 and site abnormal and upfront infrastructure costs. The graph below shows that 418 dwellings were delivered in 2019/2020 which is 1 dwelling short of the local housing need's target for that period.

**Graph 1: North Lincolnshire Annual Housing Completions over the past 10 years.**



**Figure 8.1 – Extract from North Lincolnshire HDT Action Plan.**

8.24 Whilst the Appellant will await formal publication of the 2019/2020 HDT results the above extract adequately demonstrate the chronic and persistent failure to deliver housing in this area over the past 10 years. Moreover the 2020/2021 monitoring period will almost certainly be impacted by the Covid-19 pandemic. These matters are highly relevant because the appeal site can help to redress the significant issues with housing delivery in this area.

**THE NATIONAL PLANNING POLICY FRAMEWORK (THE FRAMEWORK)**

8.25 National planning policy is to be found in the National Planning Policy Framework and should be afforded significant weight. A revised Framework was published on 19 February 2019.

**ACHIEVING SUSTAINABLE DEVELOPMENT**

8.26 Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development, delivered through three interdependent objectives (economic, social and environmental).

## *ECONOMIC*

- 8.27 The construction of the proposed scheme would contribute to generating full-time equivalent (FTE) jobs within the construction industry over the build period, which would be a benefit to the economy of the local area.
- 8.28 Moreover, the proposals would also generate additional expenditure within the local economy, supporting local shops, services and businesses. This level of expenditure would in turn support jobs in the District as well as additional public sector jobs (e.g. teachers, doctors etc.) that would be generated as a direct consequence of the proposals.
- 8.29 New residents occupying the development would also generate demand for health, education and other services off the site (e.g. schools, hospitals, public administration), thus supporting further public-sector employment.
- 8.30 Overall, it is submitted that the application proposals are fully commensurate with the economic dimension of sustainable development and would represent a significant economic boost for the area.
- 8.31 These views are shared by the Case Officer who notes the following in the Committee Report (Page 25 of Document 83 refers):

*“Investment in construction and related employment would represent a benefit whilst the dwellings and associated infrastructure were being constructed. The additional population would provide support to the local economy in terms of residents using the facilities, businesses and services located in Kirton Lindsey. The proposed dwellings would also generate council tax revenue for the council”.*

## *SOCIAL – OPEN MARKET & AFFORDABLE HOMES*

- 8.32 The proposals would make a meaningful contribution to meeting open market and affordable housing need within the local community. This is particularly important given the absence of a five-year housing land supply and the chronic shortage of affordable homes as evidenced in the Affordable Housing Statement enclosed at **Appendix 9**. Indeed, increasing the overall supply of housing improves affordability by redressing supply/demand issues and reduces prices overall thereby allowing more people access to the housing market and enhanced social mobility, which is a positive social benefit. Further points on affordable need and supply are made at Paragraph 8.74 onwards.
- 8.33 In the Appellant’s view given all of the above factors the need for open market and affordable homes is acute and the Inspector is respectfully requested to afford these matters substantial weight in determining the appeal.

## *SOCIAL - OTHER*

- 8.34 The proposals would also facilitate the creation of jobs within the local labour pool, both during construction and the operational phase which is a social benefit.
- 8.35 The financial contribution towards the existing leisure facility in Kirton in Lindsey and the provision of and LEAP and open space would also bring social benefits.
- 8.36 The site is well located in relation to local services and has the potential to reduce reliance on the private motor vehicle. For these reasons, it is considered that the proposals would also be socially sustainable.
- 8.37 The social benefits of the scheme are also acknowledged by the Case Officer in her report to Planning Committee (Page 26 of Document 83 refers):

*“In terms of the social benefits, the proposal would contribute to the council’s housing land supply, and affordable housing would be provided on the site. A contribution towards leisure facilities in Kirton Lindsey which would be required which would be either towards the existing leisure facility KLASSIC or another leisure facility in Kirton Lindsey which would also be a benefit, and LEAP and open space would be provided on the site”.*

## *ENVIRONMENTAL*

- 8.38 As discussed earlier, biodiversity net gains can be secured for the future on the adjoining land to the north controlled by the Appellant. Further biodiversity gain can be provided on the appeal site through measures such as new landscaping, bat and bird boxes and gaps/holes in fences for small mammals all of which can be secured by condition. SuDs is also incorporated into the development which Page 26 of the Officer’s report to Planning Committee (Document 83) identifies as a benefit.
- 8.39 The Appellant accepts that the development of an unremarkable yet undeveloped site on the edge of Kirton in Lindsey would result in the loss of land classed as countryside, however this limited harm does not significantly and demonstrably outweigh the benefits of the scheme which are discussed below. The Planning Balance exercise is discussed further in Chapter 10.

## ***THE PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT***

8.40 Paragraph 11 of the Framework states that decisions should apply a presumption in favour of sustainable development (the tilted balance test) subject to Footnotes 6 and 7 of the Framework. The tilted balance is dealt with in detail in Chapter 7.

8.41 All Council's in England are required to significantly boost the supply of housing under Paragraph 59 of the National Planning Policy Framework. As a minimum, Council's must maintain a 5-year supply of deliverable housing land plus buffer (see Paragraph 73 of the Framework).

8.42 NLC's position on its housing land supply is discussed in the Committee Report (see Page 26 of Document 83):

*"A recent review of the of the Five Year Housing Land Position Statement has identified that the council's housing land supply has reduced from five years and six dwellings, to four years. The council has prepared a Housing Delivery Action Plan in accordance with the National Planning Policy Framework and Planning Policy Guidance. The Action Plan will assist in securing a five-year land supply; some of the actions include reviewing the windfall allowance calculation, and working with developers to bring forward outline planning applications."*

8.43 Notwithstanding that the above extract fails to acknowledge the findings of the Westgate case NLC has acknowledged that it does not have a 5-year supply of deliverable housing land. In short, the absence of a deliverable supply of housing land in North Lincolnshire triggers the tilted balance test and is a significant material consideration in this appeal.

8.44 Accordingly, NLC accepts that Paragraph 11 of the Framework is engaged because a 5-year supply of deliverable housing land cannot be evidenced at this time. In this regard, planning policies contained in the statutory Development Plan that relate to the supply of housing are considered by us and acknowledged by NLC and Inspectors to be out-of-date and consequently the tilted balance test set out in Paragraph 11 of the Framework is engaged.

8.45 Moreover, the Appellant in this case considers that the tilted balance is engaged irrespective of the 5 year housing land supply position. The relevant policies are identified in Chapter 7.

8.46 In this case it is acknowledged that the proposals do not comply with some of the provisions of the Development Plan because the site comprises an area of countryside adjoining the built-up area of Kirton in Lindsey but outside of the Development Limit established in the HELA DPD. Therefore Paragraph 11 c) of the Framework does not apply here.

8.47 Accordingly, it is necessary to apply the tilted balance test contained within Paragraph 11 d) of the Framework which requires that planning permission should be granted subject to two further tests.

- 8.48 In this case and applying the Paragraph 11 d) i test it is notable that the site is not in an area and does not contain assets which the Framework seeks to protect.<sup>18</sup>
- 8.49 The Paragraph 11 d) ii test requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. At this point it is worth restating that NLC's DN does not deal with the tilted balance and it was not discussed at Planning Committee. In this case the Appellant is firmly of the view that the scheme comprises sustainable development and the significant benefits of the proposals (as discussed further below) substantially outweigh the limited dis-benefits of developing the site (as summarised in Chapter 10).
- 8.50 Even if NLC is able to demonstrate a 5-year supply of deliverable housing land at some point in the near future that would not be the end of the matter even if the tilted balance test of Paragraph 11 of the Framework did not apply. Under these circumstances and having regard to Section 38(6) of the Planning & Compulsory Purchase Act the Inspector could still approve the proposals even if they were contrary to an adopted Local Plan if other material considerations indicated otherwise. Other material considerations are identified in this chapter; they are significant and would be sufficient to outweigh any future Development Plan conflict that may arise.

### ***DELIVERING A SUFFICIENT SUPPLY OF HOMES***

- 8.51 Paragraphs 73 to 76 of the Framework are concerned with maintaining the supply and delivery of new homes. The revised Framework maintains the requirement found in the 2012 Framework for Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies or against their local housing need where the strategic policies are more than five years old (Paragraph 73). In that respect once approved these proposals would count in full towards the five-year supply as the scheme would be built in full within 5 years.

### ***ACHIEVING WELL DESIGNED PLACES***

- 8.52 The creation of high-quality buildings and places is outlined by the Government to be fundamental to what the planning and development process should achieve. A key element of sustainable development is good design, which should contribute positively to making places better for people. Paragraph 127 of the Framework sets out that planning policies and decisions should ensure that developments achieve well designed places.
- 8.53 Whilst outline planning permission with all matters reserved (except access) is sought the illustrative material submitted in support of the appeal demonstrates that good quality and

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<sup>18</sup> Areas and assets which the Framework seeks to protect are listed in the Framework at Footnote 6.

inclusive design could be delivered here. The scheme responds to the landscape within which it sits and to the surrounding residential area.

### ***CONSIDERING DEVELOPMENT PROPOSALS***

8.54 NLC contends that the proposals are contrary to Paragraphs 108 and 109 of the Framework and these sections are dealt with below.

8.55 Paragraph 108 requires that in assessing applications for development it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.
- b) safe and suitable access to the site can be achieved for all users; and
- c) significant impacts from the development on the transport networks (in terms of capacity and congestion), or highway safety, can be cost effectively mitigated to an acceptable degree.

8.56 Given the wording of NLC's DN the Appellant is proceeding on the basis that NLC alleges conflict with Paragraph 108 b).

8.57 Paragraph 109 goes on to confirm that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.

8.58 As noted previously NLC's Highways Officer was consulted on the application and raised no objections to the application, subject to conditions.

8.59 The matter of highways is also discussed in detail in the Appellant's highways statement at **Appendix 1** where it is clearly demonstrated that the proposals are not contrary to Paragraphs 108 and 109 of the Framework.

### ***ENVIRONMENT***

8.60 Paragraph 170 of the Framework requires the planning system to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising the impact on biodiversity, and minimising the impact on ground conditions.

8.61 Development proposals should also prevent new and existing development from contributing to or being put at an unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. Remediation and mitigation of degraded, derelict or contaminated land is also encouraged where appropriate.

8.62 As demonstrated in the suite of technical reports which accompanied the application i.e. Ground Conditions Desk Study Report (Documents 8, 9, 10), Air Quality Assessment (Document 12), Flood Risk Assessment & Surface Water Drainage Strategy (Document 13), Tree Survey Report and Arboricultural Impact Assessment (Documents 14, 15, 16, 17 and 18), Extended Phase 1 Habitat Survey (Documents 19 and 37), Landscape and Visual Impact Assessment (Documents 46 and 47) Noise Impact Assessment (Document 42), there will be no unacceptable impacts or risks to these various environmental matters.

## **PLANNING PRACTICE GUIDANCE**

8.63 Planning Practice Guidance (PPG) was launched on 6 March 2014 and has subsequently been updated on numerous occasions. The PPG replaces some 230 planning guidance documents but results in no amendments to the Framework.

8.64 This appeal submission has demonstrated how the proposals have addressed the key matters mentioned in the PPG, and that the proposed development comprises high quality sustainable development. In the interests of brevity there is no need for the Appellant to reproduce parts of the PPG, although the Inspector will note that NLC does not allege that the proposals are contrary to any part of the document.

## **SUPPLEMENTARY PLANNING GUIDANCE AND SUPPLEMENTARY PLANNING DOCUMENTS (SPG AND SPD)**

8.65 The application submission adequately considered the following SPG documents and the Inspector will note that NLC has not alleged any conflict with any of the documents.

### ***SPG: TREES AND DEVELOPMENT (MAY 2003)***

8.66 This SPG seeks to ensure that trees and other landscape features are integral to the development process. The Arboricultural Impact Assessment (Documents 17 and 18) demonstrates that the majority of trees and hedgerows within the site can be retained. New planting can be secured by condition as can the management of trees etc. on the appeal site.

### ***SPG8: DEVELOPER CONTRIBUTIONS TO SCHOOLS (APRIL 2006)***

8.67 This SPG expands on the educational facilities Policy C1 in the NLLP. It is used when deciding planning applications for major housing sites. It sets a formula for calculating education contributions towards primary and secondary schools.

8.68 This Appellant's assessment on education contributions can be found at **Appendix 6** and is discussed further in Chapter 12.

### ***SPG10: THE PROVISION OF OPEN SPACE IN NEW HOUSING DEVELOPMENTS (FEBRUARY 2006).***

- 8.69 The SPG supports and expands on the open space policies of the NLLP which promote the provision of recreational open space and children's outdoor play space in new housing development. Amongst other things, the SPG sets a requirement of 20m<sup>2</sup> of formal play space and 10m<sup>2</sup> of informal play space per household.
- 8.70 The indicative layout shows an area of open space totalling 2,650m<sup>2</sup> which is more than would be required by the SPG for a development of 79 homes i.e. 2,370m<sup>2</sup>. The Appellant has agreed to provide on-site public open space as well as providing a local equipped area for play (LEAP) on site. These will be either cared for by a management company or an amount paid to NLC for the on-site maintenance of the LEAP and on-site informal open space. Further details are given in Chapter 12.

### ***AFFORDABLE HOUSING POLICY INTERIM POSITION STATEMENT (AUGUST 2015).***

- 8.71 This position statement sets out NLC's approach to affordable housing requirements and provides a practical guide to the implementation of NLC's planning policies on affordable housing. It identifies the relevant national planning policy set out in the Framework, as well as the local planning policies derived from the Core Strategy.
- 8.72 The appeal proposals will provide 20% affordable housing on site and will therefore comply with the interim statement. This significant benefit is discussed further below. Affordable housing provision is also to form an obligation in the Section 106 Agreement.

### **AFFORDABLE HOUSING NEED & SUPPLY**

- 8.73 **Appendix 9** contains a detailed assessment of the affordable housing need position in North Lincolnshire commissioned by the Appellant. It sets out that the SHMA identifies a need for around 180-200 additional affordable homes for each of the next 19 years.
- 8.74 By contrast, the actual output of affordable housing has been far lower – just 74 homes per annum. Not only is this insufficient to meet identified needs over the life of the plan (as the Framework requires) it is also insufficient to keep pace with the rate at which new needs arise. The consequence is that, instead of shrinking over time, the “backlog” of people living with housing needs that they cannot afford to resolve is growing by around 30 households per annum. The affordable housing situation in North Lincolnshire is getting worse
- 8.75 The appeal proposals will help to meet some of the acute affordable housing need. This provision would be commensurate with Paragraph 59 of the Framework:

*“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay”.*

8.76 Clearly there is a pressing need for affordable housing in North Lincolnshire and this is a matter which we would respectfully ask the Inspector to afford significant weight to.

## **EMERGING LOCAL PLAN – REGULATION 18 – PREFERRED OPTIONS**

8.77 NLC is preparing a new single Local Plan for North Lincolnshire. Once agreed (formally adopted), it will replace the current North Lincolnshire Local Plan, the Core Strategy and the HELA Development Plan Documents (DPDs).

8.78 NLC published its Preferred Options in February 2020 which, amongst other things, sets a housing requirement of at least 7,961 new homes (419 per year) over the period 2017 – 2036 to meet the needs of the existing and future population in sustainable and balanced communities. The housing requirement is based upon the Government’s standard method for calculating housing need with no uplift for any other factors.

8.79 Kirton in Lindsey is identified as a Large Service Centre (Level 3 out of 6 in the settlement hierarchy) and it scores highly in terms of key facilities. These settlements are to be the focus of appropriate levels of growth in the new Plan period.

8.80 At this stage given outstanding objections to the emerging Local Plan and its early stage it can only be afforded very limited weight.

## **NEIGHBOURHOOD PLAN**

8.81 A Neighbourhood Area was designated in February 2019 for the purposes of preparing a Neighbourhood Plan. The Neighbourhood Area includes the application site. There is currently no draft Neighbourhood Plan and hence the matter can be given no weight at this time in the decision-making process.

## **CONCLUSIONS**

8.82 Taking into account relevant national and local other material policy considerations it is submitted that those identified clearly support the proposed scheme and indicate that the planning application ought to be approved.

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## 9. THE COUNCIL'S REASONS FOR REFUSAL OF PLANNING PERMISSION - RESPONSE

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### REASONS FOR REFUSAL

9.1 For ease of reference NLC's reasons for refusing planning permission are reproduced below:

- 1. The local planning authority is not convinced that Ings Road is of a suitable width to provide a satisfactory access to serve the proposed development and that Ings Road can cater for the significant increase in vehicle movements that the development would generate. As a result it is considered that the proposal would result in increased hazards to vehicular and pedestrian users to the detriment of highway safety. Accordingly the proposal is contrary to policies T2 and H5 of the North Lincolnshire Local Plan and paragraphs 108 and 109 of the National Planning Policy Framework.*
- 2. The proposed residential development is located outside the defined development boundary for Kirton in Lindsey in an unsustainable location and as such is contrary to policies RD2 of the North Lincolnshire Local Plan and CS2, CS3, CS7 and CS8 of the North Lincolnshire Core Strategy.*

9.2 Save for the formally resolved position of NLC in the reasons for refusal it is reasonably assumed that NLC considers that the scheme is acceptable in all other respects.

### HIGHWAYS (REASON FOR REFUSAL 1)

9.3 The Inspector is respectfully reminded that there were no objections raised by any highways related consultees including NLC's Highways Officers, Public Transport, Transport Planning officers or Humberside Fire and Rescue. It is therefore clear that when recommending the application for approval NLC's professional Officers agreed with the conclusions of the Appellant's Transport Statement, that the proposed development could be accessed safely and satisfactorily from Ings Road, that the site was located with good access to key facilities by sustainable modes and that the impacts of the development proposals upon the surrounding network would not be severe..

9.4 The decision of NLC's Planning Committee Members to refuse planning permission for the proposals was therefore in clear contradiction of the advice of the highways related professional officers on transport and highways matters. Indeed, it is worthy of note that in debating the application at Planning Committee highways officers were not asked for advice on the highways

reason for refusal which then materialised in the DN. Moreover, only policies CS2, CS3, CS7, CS8 and RD2 (none of which relate to highways) were cited by Councillor Evison (who is the Vice Chair of the Planning Committee) when he moved that the application be refused, which appear in the second reason for refusal.

9.5 **Appendix 1** contains the Appellant's response to the highways and accessibility elements of the first and second reasons for refusal of planning permission. The response by i-transport at **Appendix 1** confirms the following points (amongst others) in relation to the first reason for refusal:

- The first reason for refusal is unclear in respect of which section of Ings Road it refers to.
- Much of the length of Ings Road has a carriageway width of 4.8m or greater. With reference to guidance in the Manual for Streets, this width is suitable to allow two vehicles (including a car and HGV) to pass each other.
- Two short sections of Ings Road fall below this width. The first is a section to the west of Grove Street, where a formal chicane arrangement is proposed as part of the development mitigation, requiring westbound traffic to give way to oncoming vehicles. The second length forms part of the central section and currently operates as an informal shuttle working arrangement. Development traffic has the ability to choose an alternative route to avoid this central section of Ings Road, if preferred.
- The appeal proposals will generate in the region of 35 two-way vehicle trips during peak hours (around one vehicle every two minutes), with lower levels at other times. This traffic can approach the appeal site via a number of routes up until the final western section of Ings Road and will not result in a material detrimental impact upon the adjacent road network or upon existing road users.
- Even with the proposed development, Ings Road would be lightly trafficked. The combined level of existing (background) traffic and traffic associated with the appeal proposals along the western section of Ings Road – where development flows are at their highest, and where development traffic does not have a choice of routes available – equates to fewer than one vehicle per minute in either direction. This level of traffic can be comfortably accommodated within the existing and proposed increased width of Ings Road.
- There are no existing road safety concerns on the surrounding highway network that would be exacerbated by the development traffic.

- The impacts of the appeal proposals across the network would not be significant, and certainly could not be deemed severe. They would not result in a detrimental or unacceptable impact on highway safety.

9.6 Taking the above matters into account, the appeal proposal clearly complies with Policies T2 and H5 of the North Lincolnshire Local Plan and Paragraphs 108 and 109 of the Framework and the application should not have been refused on highways grounds. The Appellant considers that there is no evidence to the contrary but reserves its right to respond once NLC's comments on the appeal area available.

## **LOCATION OF DEVELOPMENT (REASON FOR REFUSAL 2)**

9.7 The second reason for refusal of planning permission states that the appeal site is located outside the defined development boundary for Kirton in Lindsey and in an unsustainable location and as such is contrary to Policies RD2 and H5 of the Local Plan and Policies CS2, CS3, CS7 and CS8 of the Core Strategy.

9.8 The Transport Statement (Document 27) submitted with the application set out a detailed accessibility appraisal of the appeal site and considered how residents could access a range of services and facilities by sustainable travel modes. The Committee Report (Document 83) also states that Kirton in Lindsey is a "*very sustainable settlement*" (Page 24) and "*contains all seven (the maximum) key facilities which include a primary and secondary school, doctor's surgery, convenience shops, public houses, and a community hall. It has good public transport links including a railway station and a number of bus services*" (Page 26).

9.9 i-transport's statement at **Appendix 1** reaffirms the conclusions made in the Transport Statement (Document 27) and leaves no doubt at all that the appeal site is sustainably accessible.

9.10 In Chapter 7 the policies relevant to the appeal have been examined and these include the policies referred to in the second reason for refusal. In the interests of brevity there is no need to repeat all of the points again, but the following summary is provided.

9.11 Local Plan Policy RD2 identified above is one of the policies most important for determining the appeal. It is a policy that pre-dates, and is inconsistent with, the Framework and should be afforded limited weight. It is also out of date because it relates to a Plan period long since expired and it is also out of date due to the absence of a 5-year supply of deliverable housing land. Any conflict is considered to be outweighed by the other material considerations identified in this Statement of Case.

9.12 NLC does not allege any other breach of Local Plan policies.

9.13 Core Strategy policies CS2, CS3, CS7 (in part) and CS8 are also policies most important for determining the appeal. They all pre-date, and are inconsistent with, the provisions of the Framework for the reasons stated and should be afforded limited weight. They are also out of

date due to the absence of a 5 year supply of deliverable housing land. Any conflict is considered to be outweighed by the other material considerations identified in this Statement of Case.

9.14 Whilst NLC does not allege any conflict with other Core Strategy policies they have been considered and the proposals have been found to be compliant with them (see **Appendix 4**).

9.15 The HELA DPD is relevant because it sets the Development Limit for the town which identifies those areas where Policy CS3 of the Core Strategy applies. We have already noted that Policy CS3 is inconsistent with the Framework and should be afforded limited weight. The Development Limit itself is also out-of-date because of the absence of a 5 year supply of deliverable housing land which requires more sites to be delivered now.

9.16 Some of the views expressed above are shared by Inspector Hendley in approving the appeal at Westgate (**Appendix 7**):

*“45. Due to a lack of a 5 year supply of deliverable housing sites, paragraph 11 d) of the Framework is engaged. Accordingly, the development plan policies which are most important for determining the planning application, namely Policies CS2, CS6, Saved Policy LC14 and Saved Policy DS1, are out of date. This does not mean they do not apply and, overall, the proposal conflicts with the development plan as a whole. Nevertheless, the conflict with these policies attracts limited weight.”*

9.17 Inspector Fort also confirmed that the policies were out of date when approving the appeal at Ulceby (**Appendix 8**):

*“43.....Nevertheless as the restriction set out in those policies [Policies CS2, CS3, CS8 and RD2] acts as a constraint on housing supply and there is a confirmed housing undersupply position in this case, they are clearly out of date for the purposes of the Framework. The ‘tilted balance’ is therefore engaged; and the weight I attach to the policy conflicts in this case does not significantly and demonstrably outweigh the proposed development’s considerable benefits. In such circumstances, the Framework indicates that development should be permitted.”*

9.18 The limited weight that should be attached to these policies was also stressed in the Committee Report (Document 83) at Page 26:

*“Whilst the restrictive policies of the development plan (CS2, CS3 and CS8) do still apply, the lack of a five-year supply of housing land and the scale of the shortfall limit the weight which can be attributed to these policies. Restricting development to land within Development Limits, if strictly applied, would severely affect the ability of the authority to address the need for housing...”*

9.19 Therefore, it is without doubt that the tilted balance applies in this case and it is the Appellant's view that there are no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This is a view shared by the Case Officer in the Committee Report at Page 35 (Document 83) when recommending the application for approval:

*"It is considered, given the assessment above, that no adverse impacts related to the development exist that would significantly and demonstrably outweigh the benefits that would follow from a well-executed residential scheme in this location. Overall, it is considered that the proposal does represent sustainable development in the context of the NPPF and Housing and Employment Land Allocations DPD policy PS1, which sets a presumption in favour of sustainable development."*

9.20 The benefits of this scheme are significant and are discussed further in the Planning Balance exercise in the following chapter.

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## **10. PLANNING BALANCE**

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10.1 For ease of reference this section set out a planning balance which looks at the benefits and disadvantages of the proposals.

### **BENEFITS**

10.2 The scheme has the following benefits:

- The proposals would make a very significant and immediate contribution to the housing land supply position supply in North Lincolnshire.
- The proposals would also make a significant contribution to affordable housing need (20%) where there is a substantial need for affordable housing – far beyond what NLC is likely to be able to deliver from current allocations. There is an acute need which the appeal proposals will contribute to addressing.
- The proposals also contain a mix of dwellings to meet a broad cross section of housing needs.
- The proposals are located adjoining a Market Town settlement which is ranked very highly in the settlement hierarchy by NLC's own evidence due to the high level of services and amenities that the settlement provides with capacity for growth.
- The proposals are located on an unremarkable undeveloped site with a close physical relationship to Kirton in Lindsey. The site is surrounded by development on two sides and new residential development is due to be delivered to the north of the land outlined in blue in the location plan. Therefore, the development has the potential to be accommodated by the settlement without having any adverse impact on the wider countryside.
- The Appellant has an established track record of converting planning permissions into developments and there has been developer interest in the appeal site already. Were the appeal to be allowed the development is likely to be complete within circa 4 years.
- Provision of local open space, including a children's play area to benefit new and existing residents.

- Financial contribution of £67,930 towards a leisure facility in Kirton in Lindsey.
- Financial contribution of £3,086 per dwelling towards primary education provision, should the Inspector consider it necessary and lawful.
- Improvements to existing habitat on the site to the north and the creation of new areas of habitat for wildlife.
- Provision for significant deciduous tree planting and the protection of important trees and hedgerows.
- Sustainable Urban Drainage Scheme to deal with surface water whilst having dual ecological benefits.
- An opportunity to reduce reliance on the private motor vehicle given the proximity of shops and services and public transport facilities and the commitment to a Travel Plan. Furthermore, there will be a financial contribution of £3,000 towards public transport to allow residents the opportunity to experience the public transport from their new home
- The development will have positive economic benefits (investment in jobs, services and supplies).
- The proposals will result in increased household spending in the area and would help to support the local economy and jobs.
- The proposals would support and sustain local services and facilities.
- The proposals would have a labour supply impact (i.e. those economically active residents of the new development (those in work or seeking work).

## **DIS-BENEFITS**

10.3 The proposals have very few dis-benefits:

- Development of an unremarkable yet undeveloped site on the edge of the settlement of Kirton in Lindsey but which is classed as countryside. However, release of greenfield land is an inevitable consequence where there is not a 5 year supply of deliverable housing land and the impacts of the development in this case do not go beyond those of delivering a greenfield site. To that

extent and given the Officers found (which was not disputed by Members) that the development can be successfully integrated then it is an appropriate site to release for development in the context of an authority that urgently needs to find additional land to meet its housing land supply, delivery and affordable housing shortfalls.

## **LOCAL FINANCE CONSIDERATIONS**

10.4 The following are local finance considerations<sup>19</sup>:

- New Homes Bonus payments to NLC.
- Increase in Council Tax payments.

## **CUMULATIVE EFFECTS**

10.5 This modest scheme (whilst delivering significant benefits and having no determinative dis benefits) is capable of coming forward without causing any material harm when considered in the context of existing committed development in the locality. At no point has NLC alleged any harm from the cumulative effects of the development.

## **SUMMARY**

10.6 In this case it is acknowledged that the proposals do not comply with some of the provisions of the Development Plan because the site comprises an area of countryside adjoining the built-up area of Kirton in Lindsey but outside of the Development Limit established in the HELA DPD. Therefore Paragraph 11 c) of the Framework does not apply here.

10.7 Accordingly, it is necessary to apply the tilted balance test contained within Paragraph 11 d) of the Framework which requires that planning permission should be granted subject to two further tests.

10.8 In this case and applying the Paragraph 11 d) i test it is notable that the site is not in an area and does not contain assets which the Framework seeks to protect.<sup>20</sup>

10.9 The Paragraph 11 d) ii test requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. At this point it is worth restating NLC's DN does not deal with the tilted balance and it was not discussed at Planning Committee. In this case the Appellant is firmly of the view that the scheme comprises sustainable development and

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<sup>19</sup> See the PPG for full implications of Local Finance Considerations In Planning Decisions: Paragraph: 011 Reference ID: 21b-011-20140612.

<sup>20</sup> Areas and assets which the Framework seeks to protect are listed in the Framework at Footnote 6.

the significant benefits of the proposals substantially outweigh the limited dis-benefits of developing the site.

- 10.10 Even if NLC is able to demonstrate a 5-year supply of deliverable housing land at some point in the near future that would not be the end of the matter even if the tilted balance test of Paragraph 11 of the Framework did not apply. Under these circumstances and having regard to Section 38(6) of the Planning & Compulsory Purchase Act the Inspector could still approve the proposals even if they were contrary to an adopted Local Plan if other material considerations indicated otherwise. Although the Appellant recognises that the appeal proposals are contrary to some policies in the Development Plan, all of those policies pre-date the introduction of the Framework and are inconsistent with it. They should therefore be afforded limited weight. There are no adverse impacts of the appeal proposals which would significantly and demonstrably outweigh the benefits.
- 10.11 Other material considerations are identified in this Statement of Case; they are significant and would be sufficient to outweigh any future Development Plan conflict that may arise.
- 10.12 Accordingly, the Appellant respectfully requests that the appeal is allowed, and conditional outline planning permission is granted.

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## **11. SUGGESTED CONDITIONS**

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- 11.1 Conditions were agreed with LPA during the application and the agreed list can be found at the end of the Committee Report (Document 83). If the Inspector was to allow the appeal and find that the suggested conditions meet the relevant tests,<sup>21</sup> then the Appellant is agreeable to these conditions being imposed.

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<sup>21</sup> See Paragraph 55 of The Framework.

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## **12. PLANNING OBLIGATION**

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12.1 The Community Infrastructure Levy (CIL) Regulations came into force in April 2010. The levy is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site-specific impact mitigation requirements without which a development should not be granted planning permission.

12.2 Since the publication of CIL it has been unlawful for a planning obligation to be required as a material consideration in order for a planning authority to lawfully grant permission when determining a planning application for a development, or any part of a development, that is capable of being charged the levy, whether there is a local levy in operation or not, if the obligation does not meet all of the following tests. The obligation must be:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

12.3 The Appellant intends to lodge a planning obligation produced pursuant to Section 106 of the Town & Country Planning Act 1990 (As amended) having regard to the CIL Regulations.

### **DRAFT SECTION 106 AGREEMENT PROVISIONS/INITIAL CIL REGULATIONS ASSESSMENT**

12.4 The Appellant has been advised by the LPA of the full suite of obligations that are to be sought. These are set out in the Committee Report (Document 83) and summarised below:

- **Affordable Housing:** 20% of the development.
- **On-site open space:** The provision of a LEAP on site with a maintenance fee of £54,106. On-site informal open space of 10 square metres per dwelling with a maintenance fee of £43,911 or an estate management company set up (no contribution required).
- **Leisure:** £67,930.00 towards KLASSIC or another leisure facility in Kirton in Lindsey at the time of the development.
- **Public transport:** £3,000 towards bus tickets for new residents.
- **Education:** £3,086 per dwelling (excluding affordable, one bed and over 55 dwellings).

12.5 The Appellant's solicitor is in discussions with NLC's legal department and a Section 106 agreement is currently being drafted. It is hoped that NLC will work constructively with the Appellant so that a mutually agreed document can be completed and executed with a Certified

copy being provided to the Inspector by Week 7 from the start date of the appeal. A copy of the working draft Section 106 Agreement is enclosed with the appeal. In any event the Section 106 Agreement will contain a blue pencil clause which will allow an obligation to be struck out of the agreement if the Inspector finds that it is not CIL Regulations compliant.

## **EDUCATION**

12.6 During consideration of the planning application NLC indicated that it would be seeking an education contribution of £3,086 per dwelling. The Appellant raised concerns with NLC about this requirement as set out in **Appendix 3**. The Inspector will note that since the application was refused, the Appellant has commissioned its own Education Impact Assessment which was carried out by Alfredson York Associates Ltd. This concludes that the education contribution would not in fact be CIL compliant. This confirms the concerns raised by the Appellant during the application in relation to the education contribution and there being sufficient capacity at Kirton Primary (Document 61).

12.7 The Appellant's own education impact assessment can be found at **Appendix 6** and confirms the following:

- The nearest primary school to the site is Kirton Primary. It currently has 40 surplus places and wasn't oversubscribed in any of the last five years. The trend in the local birth rate suggests this situation is likely to continue.
- NLC has identified eight committed development sites which they consider will impact the provision of school places. In total, there are 495 homes to be delivered on those sites.
- Two of those permissions – comprising 393 of the unbuilt homes – are covered by planning obligations which include provision to provide additional primary school places sufficient to off-set the need they generate. As they will meet their own need, they will therefore have no impact on the existing surplus of primary places.
- The remaining schemes comprise a total of 102 units, equating to 20 primary school places based on NLC's formula. Using the same formula, the appeal scheme would generate a need for 16 new primary school places on the basis of 79 dwellings. In total, therefore, 36 new primary school places would be required, which is less than the current surplus capacity of 40 places.
- Planning permission for one of the committed developments identified by NLC – Gleadells Mill was due to lapse on 5 October 2020. However, under the provisions of the Business & Planning Act 2020 this will automatically extend until 1 May 2021. Those 27 units (equating to 5 primary school places) would need to be removed from the assessment if the appeal hasn't been determined by 1 May 2021 and the government has not used its powers to allow for a further extension. In those circumstances,

committed developments would generate a need for 15 new primary school places which, when added to the need for 16 places generated by the development would result in a total need of 31 new primary places. This would also be below the existing surplus capacity of 40 spaces, leaving 9 residual spare places.

- Therefore, it is the Appellant's view that the education contribution is not CIL Compliant as it is not "necessary to make the development acceptable in planning terms."

12.8 Taking the Appellant's evidence into account at **Appendix 6**, the Inspector is respectfully asked to consider whether the education contribution meets the tests in the CIL Regulations. If the contribution is found not to be CIL compliant the Inspector is respectfully requested to state this in the DL and this will then strike out the obligation in the Section 106 Agreement (in line with the blue pencil clause) to pay the education contribution. Conversely if the Inspector finds that the education contribution is CIL compliant then it is respectfully requested that this is set out in the DL following which the obligation to pay the education contribution will become enforceable.

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## **13. CONCLUSION**

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- 13.1 This is a scheme that aims to deliver a high quality housing development in an area with a poor record of delivering new housing (both open market and affordable).
- 13.2 The limited conflict with existing Development Plan policies has been acknowledged in this Statement of Case but the plethora of other material considerations identified by the Appellant are considered to outweigh the conflicts with the Development Plan.
- 13.3 Having regard to the foregoing the Inspector is respectfully requested to allow the appeal and to grant conditional outline planning permission for the proposed development.