

REPORT TO:	EXECUTIVE BOARD
DATE:	20 th March 2024
SUBJECT:	Local Development Order: Skegness Gateway
PURPOSE:	To consider a report pertaining to the making of a Local Development Order (LDO) for the mixed-use development known as "Skegness Gateway"
KEY DECISION:	Yes
PORTFOLIO HOLDER:	Cllr Ashton & Cllr Kirk
REPORT OF:	Assistant Director - Planning & Strategic Infrastructure
REPORT AUTHOR:	Mike Gildersleeves
WARD(S) AFFECTED:	Skegness Scarborough & Seacroft, Skegness St Clements, Skegness Winthorpe
EXEMPT REPORT?	No

SUMMARY

This report seeks approval from the Executive for the making and adoption of the Skegness Gateway Local Development Order (LDO). These proposals seek to bring forward a mixed use development that would:

1. Contribute positively to the future of Skegness;
2. Stimulate the local economy; provide year-round permanent employment through commercial development;
3. Provide jobs and education facilities to provide learning opportunity, and;
4. New housing stock contributing to housing needs and assists in the delivery of the wider development project.
5. Provide significant biodiversity and environmental enhancements.
6. Provide opportunities for improvements to affordable housing provision, sustainable transport, health and education facilities.

The principle of this development and the bringing forward of the Local Development Order has been considered by the Planning Policy Committee and Executive previously.

In 2020, a prospectus was produced by the landowners, setting out the aspirations for the Skegness Gateway Project. The Prospectus was reported to the East Lindsey Planning Policy Committee in September 2020 in respect of the prospect of a Local Development Order (LDO), this was received favourably - [see here](#).

Subsequently, the Executive Board considered a report on the proposals on the 30th September 2020 - [see here](#). The Executive Board moved to offer support for the proposals in principle, and offer support for the scheme to come forward through an LDO.

The Order has now been brought forward, and has been consulted upon twice, and the Order and supporting information has also been revised during the process. This report now brings forward the formal Order for adoption by the Council and requires a decision of the Executive.

The full detail of the development that would be approved, and reasons for making of the Skegness Gateway LDO are set out throughout this document, and in documents forming appendices to this report.

Documents associated with the Order including the Environmental Statement, and consultation responses are available [here](#) using the following reference number - S/153/02320/22.

RECOMMENDATIONS

Having considered the Executive resolve:

1. To make, and formally adopt the Skegness Gateway LDO, subject to the satisfactory completion of all associated legal agreements which will include those entered into pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) as well as others which are not;
2. To delegate to the Assistant Director: Planning & Strategic Infrastructure (or alternative Officer as may be authorised by the Chief Executive) in consultation with the relevant Portfolio Holders, to make amendments to the Order (including its conditions) and associated documents as may be required prior to its formal adoption, subject to those amendments not significantly altering the material scope or effect of the Order.

REASONS FOR RECOMMENDATIONS

It is considered that the proposed Skegness Gateway LDO could be made and formally adopted, subject to the satisfactory conclusion of all associated legal agreements. In the event these are not completed, the Order would not be made or adopted.

Additionally, scope is also requested to make amendments as necessary to the Order and associated documents prior to adoption, as is usual as documents are refined through legal review before formal publication and adoption. This would enable efficient processing of the necessary changes without further referral back to the Executive. Such amendments are not expected to alter the scope or effect of the Order or proposed development.

The full reasons for making of the Skegness Gateway LDO are set out throughout this document, and in documents forming appendices to this report.

OTHER OPTIONS CONSIDERED

There are only two alternative options to the recommendations presented, these are:

1. To defer the decision and refer the matter back to Officers and the promoters, to seek amendments or variations to the order, or completion of the legal agreement(s) prior to the re-consideration of the proposals by the Executive; or
2. To decline to make the Order at this time, providing reasons for this decision. Noting that the LDO may not be continued with.

1. BACKGROUND

1.1 Members will recall that the potential of this scheme was brought forward by the landowners and promoters in 2019 alongside the development of the Town Deal proposals for Skegness. The Council and Croftmarsh Limited (the landowners) commenced discussions in 2019 to identify innovative development proposals that would:

1. Contribute to the future of Skegness;
2. Stimulate the local economy; provide year-round permanent employment through commercial development;
3. Provide jobs and education facilities to provide learning opportunity, and;
4. New housing stock that embraces modern methods of construction and assists in the delivery of the wider development project.

1.2 In 2020, a prospectus was produced by the landowners, setting out the aspirations for the Skegness Gateway Project. The Prospectus was reported to the East Lindsey Planning Policy Committee in September 2020 in respect of the prospect of a Local Development Order (LDO), this was received favourably - [see here](#). The Planning Policy Committee moved to offer support for the proposals in principle, and offer support for the scheme to come forward through an LDO.

1.3 Subsequently, the Executive Board considered a report on the proposals on the 30th September 2020 - [see here](#). The Executive Board moved to offer support for the proposals in principle, and offer support for the scheme to come forward through an LDO. A Memorandum of Understanding was agreed between the Council and Croftmarsh; along with a Planning Performance Agreement (PPA) to enable the project to move forward. The basis of this has been that the Croftmarsh team (including technical consultants) would lead on the development of all necessary documents and technical studies; along with engagement with consultees and the public.

1.4 Since the above, Officers have sought to work proactively and positively with the landowners' team, to see the proposals come forward as a genuine proposition for an LDO. This has taken considerable time, effort and investment (most notably by the landowners) to reach this position, including the development of an array of technical and supporting documents.

- 1.5 To date the Council has taken a collaborative and facilitative position; enabling the Council to retain its ability to impartially consider the Order when formally submitted. To this end, the Council has engaged its own consultants (as necessary) to validate the information presented; and has also retained separation of roles between the formal planning assessment and the general assessment as to the regulatory role in making this proposed Order. The resourcing of these exercises has been facilitated by the PPA at nil cost to the Council.
- 1.6 As set out, the Council would formally “own” the document when it is adopted, but as with all Planning matters, the permission would run with the land-of which the Council has no formal interest in at this time. Future decisions on the review, revision or revocation of the LDO would be retained by the Council. However, it is important to note that the Secretary of State may also direct LPAs to prepare a revision of an adopted LDO or revoke a LDO if he/she thinks it is expedient to do so, stating the reasons for doing so.

2 WHERE IS AND WHAT IS THE SKEGNESS GATEWAY LDO AND WHAT HAS BEEN HAPPENING?

The Site

- 2.1 The site is primarily farmland (206 ha in area) to the west of Skegness. The A52 Wainfleet Road runs north-east to south-west through the central section of the proposed development, off which access points into both the northern and southern portions of the site will be obtained.
- 2.2 There are no buildings within its boundaries. North Drain predominantly forms the western boundary, and Cow Bank Dain the southern extent. The east of the site is bounded by existing built form characterised by residential development, an existing holiday park and Skegness Retail Park and Industrial Estate. The Boston to Skegness railway line runs along the south-eastern extent of the proposed area of development.
- 2.3 The site is within walking and cycling distance of Skegness Town Centre and Skegness Railway Station, which provides rail services to Sleaford and Grantham; and is in close proximity to bus routes.

Description

- 2.4 This section provides a summary of the development which would be granted planning permission by the LDO - The LDO and appendices should be reviewed in full to ascertain the precise development permitted.
- 2.5 The LDO will grant planning permission, with all matters reserved, for the following uses:
- Use Class E - Commercial Uses (41,200m² of Commercial, business and service uses)
 - Use Class B2 - General Industry (3,200m²)
 - Use Class B8 - Storage and Distribution (4,000m²)
 - Use Class C3 - Dwelling houses (up to 1000 dwellings comprising a mix of market, affordable and supported living housing);
 - Local Centre comprising Use Class E(a) - Shops (1,400m² convenience store(s)), a pub

restaurant (E(b) and sui generis) and 750m² of local retail units (E(a)/F2/sui generis) including a transport mobility centre;

- Use Class F1 - Learning and Non-residential institutions comprising a 4,805m² Further Education College and a 1,600m² primary school
- Use Class Sui Generis - Tourism Accommodation; Crematorium

2.6 The LDO will also grant planning permission for associated infrastructure and site preparation works. An indicative layout is shown below on the following image, examples of some parameter plans are attached to this report at **Appendix 2**:



Timeline

- 2.7 In addition to the work set out under the history section of this report; significant pre-submission engagement and discussion took place between 2019 and 2022. The LDO was first formally submitted in November 2022 and was placed out to consultation.
- 2.8 Following consultation and subsequent responses, considerable further work and discussion was required, and a revised suite of documents was submitted in December 2023 and further consultation was undertaken. Further minor revisions to the supporting documents have also been made in a final attempt to address concerns of consultees.

Further details on the consultation are set out later in this report.

Discussions and Negotiations

- 2.9 Throughout the progression of the LDO, there has been considerable discussions and negotiations including:

- strategic challenges and opportunities linked to the development;
- discussions with potential interested parties in respect of development parcels and getting the right blend of uses;
- opportunities for support from strategic partners such as Homes England;
- discussions regarding technical matters and provision of appropriate information and evidence - including to satisfy consultee requirements;
- strategic discussions with partners such as the NHS; and LCC in respect of outcomes from the development;
- a desire to see the development be aspirational, and an exemplar form of development in design, quality and place-making that is suitable for all.

2.10 There has been a collective desire to seek to find innovative and in some cases ambitious solutions to challenges that have arisen. Collectively the parties have sought to raise the profile of the potential of the development to raise aspirations within Skegness, address long term challenges, and also provide an exemplar form of development which would compliment the ambition of the Council, the South & East Lincolnshire Councils Partnership, and raise the profile of the sub-region.

2.11 Throughout, a key aspect of the project as it has moved through its various phases has been about collaboration and partnership working, at all stages the need to do something truly transformational for Skegness and bring forward an exemplar form of development has been key for all parties.

3 WHY AN LDO?

LDOs in General

3.1 A Local Development Order (LDO) is effectively a blanket grant of planning permission by the local planning authority as a specific power given to authorities by the Planning Act. Planning permission is granted within an area identified in the Order and for development of specified types and uses. Thus an adopted Order removes the need for the submission of planning applications for those developments identified within it.

3.2 The Order can be tailored to reflect the nature of the development proposed, and include criteria and conditions which the development is required to comply with in order to benefit from the provisions of the Order.

3.3 An LDO has advantages in reducing the need for specific applications for those forms of development consented by the LDO. It is also a way of introducing flexibility so that operators/ owners have options already open to them without having to consider the planning process. It also front loads the consultation element, so no further formal statutory consultation is required, unlike with a planning application.

3.4 It does not remove the need for consents under other legislation, such as The Building Regulations or caravan site or other licences for specific operations and activities on a site.

An LDO does not preclude alternative forms of development coming forward, such as through the usual planning application process; such proposals would be determined on their own merits, separate from the LDO, in the usual way.

- 3.5 The use of Local Development Orders (LDOs) is recommended in national planning policy guidance as a means of simplifying and streamlining the planning process for certain sites and types of development which are specified by the Local Planning Authority (LPA).
- 3.6 Government recognises that LDOs can create certainty for investors, speed up the planning process and accelerate delivery of development, whilst enabling the LPA to retain control over the future use and development. The Planning Advisory Service (PAS) has provided guidance on the formation of LDOs and this guidance encourages LPAs and landowners to work together when preparing them. The approach proposed in this instance is supported in principle by Government, and is therefore a fair and rational approach for the Council to take.
- 3.7 LDOs can be time limited and LPAs may revoke or modify them at any time. The Secretary of State can also require the revision of a LDO at any point before or after its adoption.
- 3.8 To come in to effect a LDO must be adopted by resolution of the LPA. The Secretary of State must be notified of the adoption, via the Planning Casework Unit at PCU@communities.gov.uk as soon as practicable after the decision.
- 3.9 Planning permission can still be granted in the normal manner in an area that has a LDO in effect. LDOs do not supersede any planning permissions that have already been granted in the area and nor do they stop the implementation of development that is covered by other permitted development rights.
- 3.10 On the other hand, The Town and Country Planning Act 1990 contains provisions for compensation to be paid by a local authority if permitted development rights in a local development order are withdrawn or amended. Legal advice has been sought from Leading Counsel on the need to minimise risk to the Council by means of contractual provisions in the proposed section 106/section 111 agreement and other contracts entered into between the Council and the developer on a voluntary basis. This is further covered later in this report.

Why Now?

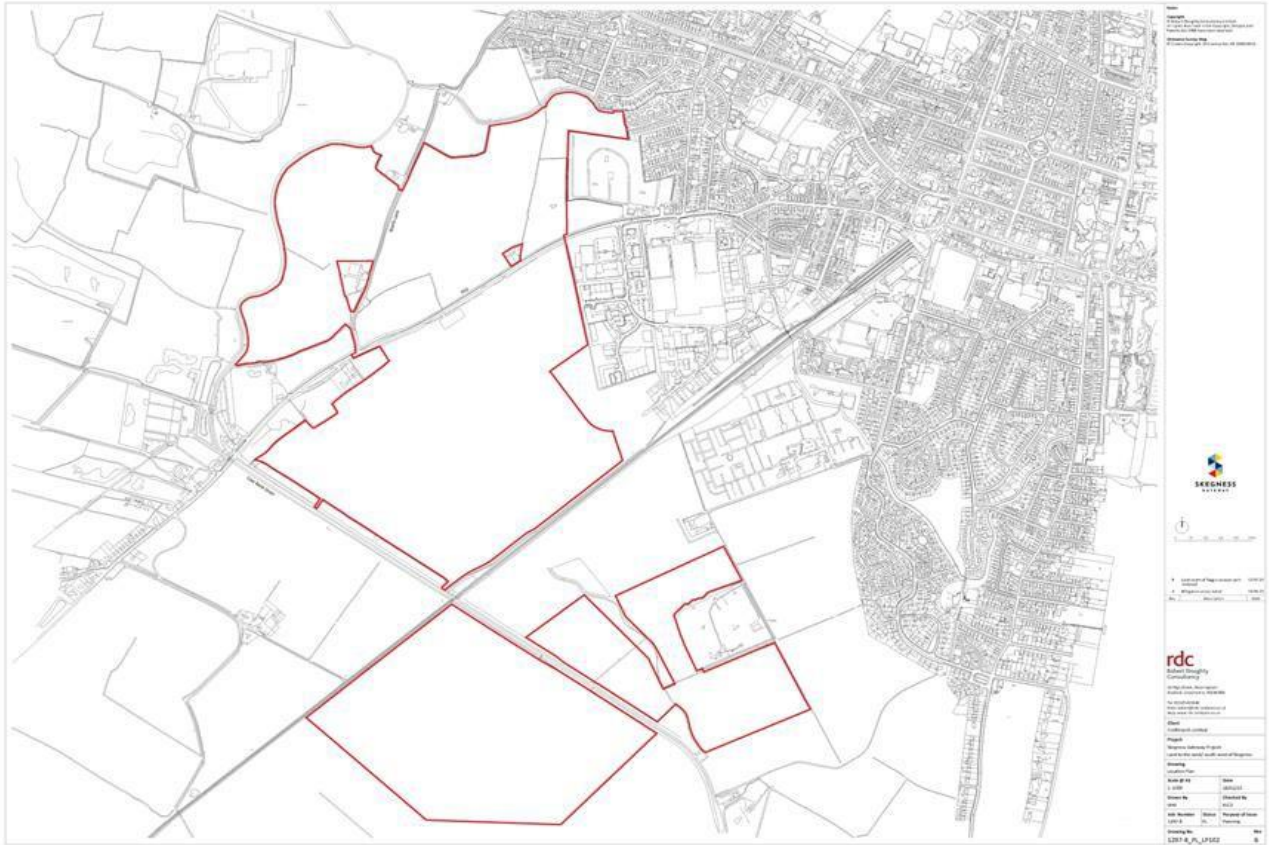
- 3.11 As set out earlier in this report, this is something that has been in development since 2019. It is a consequence of the innovative nature of the approach and the need to ensure appropriate technical responses to main issues which has resulted in the length of time to get to this point - most notably Flood Risk modelling and Ecology issues.
- 3.12 Over recent years the Council and other partners have been successful in bringing forward considerable funding opportunities for Skegness which are responsive to some of the underlying challenges which the town and surrounding area face. Issues relating to deprivation, skills, job opportunities, seasonality, prosperity and general aspiration.
- 3.13 The aspirations of the landowners, who are legacy landowners within Skegness, are aligned with seeking to provide a sustainable future for Skegness, which provides an important anchor for coastal communities within East Lindsey and the district in general. Although seasonal in nature, Skegness is an important economic driver locally and regionally.

- 3.14 Thus, the bringing forward of these proposals align with the Councils general aspiration, as supported through the Towns Fund, Cultural Development Fund and other funding opportunities. Further, the proposals align with the general principles of Levelling Up which is supported nationally by Government, and would allow opportunities for improvements to the various metrics which there is a desire to enhance.
- 3.15 Finally, the proposals would align with the newly adopted Sub-Regional Strategy for the South & East Lincolnshire Partnership. This seeks to support strategic priorities around Growth & Prosperity; Healthy Lives; Safe & Resilient communities; and the Environment. The proposals for Skegness Gateway would, in a variety of differing ways, contribute to each of these objectives. Thus it is considered that the timing of this proposal would align with the strategic priorities and general direction which the Council has agreed as part of the wider Partnership.

4 EFFECT OF THIS LDO

- 4.1 The Skegness Gateway Local Development Order (“the LDO”) grants planning permission for development on the Skegness Gateway Site (“the Site”).
- 4.2 The Council will adopt the Skegness Gateway LDO under the Town and Country Planning Act 1990 (as amended). Once adopted, the LDO will grant planning consent subject to a number of limitations and conditions including compliance with parameter plans and design principles appended to the LDO. An indicative proposal is set out on the illustrative plans appended to the LDO which shows one way in which development could be brought forward on the site.
- 4.3 The Council, in exercise of the powers conferred by sections 61A–61D and Schedule 4A of the Town and Country Planning Act 1990 (as amended), and pursuant to the Town and Country Planning (Development Management Procedure) (England) Order 2015, would adopt LDO, which shall be known as the “Skegness Gateway Local Development Order”.

The Order shall cover the following area as depicted in the image below:



5 **STRUCTURE OF THE ORDER**

5.1 A copy of the latest Draft Skegness Gateway LDO is available on the Council's website.

5.2 The Skegness Gateway LDO is separated into two Parts, for ease of use in interpreting the LDO and navigating the compliance process:

- Part 1: Permitted Development (Chapters 2 to 4) - sets out the development for which the Skegness Gateway LDO grants planning permission, the conditions associated with any permitted development and the process which must be followed to achieve a Certificate of Compliance prior to the commencement of any development on any part of the Site; and
- Chapter 2 sets out the development for which the Skegness Gateway LDO grants planning permission;

5.3 Part 1 is structured as follows:

- Chapter 3 sets out the conditions imposed on any development permitted by the LDO, to ensure that it is acceptable in planning and procedural terms; and
- Chapter 4 outlines the process which prospective occupiers wishing to undertake development permitted by the LDO will have to follow to achieve a Certificate of Compliance, prior to the commencement of development.

5.4 Part 2 is structured as follows:

- Chapter 5 sets out the LDO background, purpose and principles, explains the legislative context for the preparation and adoption of an LDO, including requirements for non-statutory and statutory consultation;
- Chapter 6 sets out the Statement of Reasons which comprises the strategic case for adoption of the LDO.

5.5 The Appendices are structured as follows:

- Appendix A provides Guidance Note for the Certificate of Compliance Application process; and
- Appendix B provides a Schedule of Mitigation Requirements and guidance for the production of the Flood Risk and Biodiversity Mitigation Strategy

5.6 In addition to the LDO document, there will also be an associated Legal Agreement, which would form part and parcel of the Order, and which is discussed later in this report in more detail.

Practical Implications

5.7 In practical terms, the LDO provides for a form of planning approval that sits comparable to an outline permission. It provides greater certainty that an allocation, which requires a planning permission to be sought subsequently. It goes beyond an outline, in so far as the consultation is completed up front - i.e. there is no need for formal statutory re-consultation - unlike with an outline and reserved matters process which requires 2 stages of consultation. But it does not go so far as a full permission, in that there are many detailed elements left for future resolution before works can commence on site.

5.8 Within the Town and Country Planning system, there are various forms of consent orders. For example the General Permitted Development Order 2015 which grants permission for various forms of development (including householder extensions for example); or the grant of a Development Consent Order (DCO) through the nationally significant infrastructure regime. These can require the submission and agreement of further details for various elements of the scheme; or it can simply allow development to proceed provided certain parameters are complied with. An LDO is no different.

5.9 In this case, the Skegness Gateway LDO is more akin to a DCO, as it includes provision in this instance for Certificates of Compliance to allow the agreement of further details before any formal development can take place. This approval process would not require any formal statutory consultation, and thus, should create a simpler and more streamlined process for a future developer.

5.10 There are various examples of LDOs already in use across the sub-region, including the Fantasy Island LDO; the Holbeach Food Enterprise Zone LDO, and others being considered to come forward in future. Additionally, there is a Planning Advisory Service (PAS) guide specifically relating to LDOs which cites various national examples. They are therefore a perfectly legitimate tool that can be used.

5.11 Members will of course recall the challenges which faced the Fantasy Island LDO which is now adopted, and the temporary Coastal LDO which has now expired. Officers have taken learning

from the processes associated with those LDOs, including the risk of intervention by the Secretary of State, when moving forward with this current proposition.

- 5.12 This approach is innovative, particularly for this scale and type of development, however, it compliments other innovative and proactive approaches that the Council has taken forward more recently, particularly on Levelling Up; Cultural Development Fund; Green Homes and Towns Fund. However, it is the combination of willingness from the parties which has brought this opportunity together.

Gateway Criteria

- 5.13 There are a series of gateway criteria that a proposed order must meet in order for it to be able to be taken forward.
- 5.14 A LDO can only relate to land within a LPA's area. It cannot straddle boundaries although neighbouring LPAs can bring forward separate LDOs that adjoin. LDOs may relate to:
- All land in the relevant area of a LPA;
 - Any part of that land; or
 - A site specified in the LDO
- 5.15 In this case, the land to which the Order relates is solely contained within East Lindsey, and is defined within the order to specific parcels of land. This criteria is met.

A LDO cannot grant planning permission for development:

- that affects a listed building;
 - that is within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations, 2017;
 - where following an appropriate assessment it is determined that it would have adverse effects on the integrity of a protected European Site or European Offshore Marine Site (as the case may be) (see the Conservation of Habitats and Species Regulations 2017, amended by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018)
- 5.16 The site or development does not affect a listed building; and does not include development which falls within Schedule 1 of the EIA regulations.

Regarding the impact on protected species under the Habitats Regulations; the submission is accompanied by a Habitats Regulations Assessment (HRA) which has concluded that the development would not be likely to have a significant adverse effect on the integrity of protected sites or species. The impact of the development in this regard is also set out in the Officer report at **Appendix 1**

- 5.17 As such, it is considered that the minimum gateway criteria have been met, and therefore, should it choose to do so, the Council could make and adopt the Order subject to being satisfied in all other respects.

6 RELATIONSHIP WITH THE LOCAL PLAN

- 6.1 Bringing development forward through a LDO does not change the statutory basis for the Development Plan (in this case, the East Lindsey Local Plan 2018). There is no reason an LDO cannot come forward outside of the Local Plan, much in the same way as a planning application can seek permission for development not considered by the plan.
- 6.2 As the proposal is to grant planning permission; in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004; the Council must give regard to the policies of the development plan to the extent that they are material; and the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.
- 6.3 This consideration; and overall planning balance (which is a matter for the decision-maker) has been undertaken within the associated officer report which can be found at **Appendix 1**. This report considers the relevant policies of the Local Plan, the requirements of the NPPF (as a material consideration) and all other material planning considerations. It subsequently presents a summary of the salient issues, and provides a recommendation to Members, which forms an important part of the decision-making regarding whether the Council should or should not make the LDO. The Officer Report is also supplemented by the contents of this report for decision-making purposes.
- 6.4 The Planning Practice Guidance (Paragraph: 062 Reference ID: 61-062-20190315) provides information on how often a plan or policies should be reviewed, of note it states:
- To be effective plans need to be kept up-to-date. The National Planning Policy Framework states policies in local plans and spatial development strategies, should be reviewed to assess whether they need updating at least once every 5 years, and should then be updated as necessary.
 - Plans may be found sound conditional upon a plan update in whole or in part within 5 years of the date of adoption.
 - There will be occasions where there are significant changes in circumstances which may mean it is necessary to review the relevant strategic policies earlier than the statutory minimum of 5 years, for example, where new cross-boundary matters arise.
 - Local housing need will be considered to have changed significantly where a plan has been adopted prior to the standard method being implemented, on the basis of a number that is significantly below the number generated using the standard method, or has been subject to a cap where the plan has been adopted using the standard method. This is to ensure that all housing need is planned for as quickly as reasonably possible.
- 6.5 In this case, the Local Plan was adopted in 2018, with a conditional policy requiring a 4 not 5 year review. It should therefore have been reviewed by the end of 2022. Whilst the Local Plan review is ongoing, it has been hampered by various factors including the pandemic. In any event, it is not likely to be submitted for Examination until later in 2024, and thus a significant period of time will have elapsed before a reviewed plan is able to be adopted.

6.6 It must also be recognised that the approach adopted by the current Local Plan represented a major change to the way development. In particular housing in the Coastal area, was to be managed - i.e. with greater consideration given to the long-term effects of flood risk and the presence of people, and a move to manage population growth to more sustainable areas in flood risk terms - namely away from the coast through the introduction of restrictions on growth in coastal areas. This is identified in particular within the supporting text of the Local Plan which states:

10.11. It is considered very important, given the major change in the way development, particularly housing, is to be considered in this policy that the Council both monitors and reviews this policy. Review of the whole Strategy is considered essential to ensure the plan is delivering its objectives. However, irrespective of whether the Council does review its full Plan within the first five years, the Council will carry out a full review of the Coastal Policy at the end of the first five years of the life of the Plan. This review will examine the demographic and economic impact of the policy and its issues on the coastal area.

6.7 As can be seen, the above expresses some hesitancy towards the approach (with the wording influenced by the Inspector), and identifies a need to ensure that this strategy, in particular the Coastal Policy, is reviewed to examine the impact of the approach. Therefore there must be a recognition of the intention for this element to be reviewed to understand whether it was an approach which is considered fit for purpose. This is particularly important given that some of the evidence used to inform the plan, is now in excess of 10 years old.

6.8 Additionally, it is considered that there have been significant changes in circumstances which Officers consider are relevant to considering an alternative approach to that adopted by the Local Plan in 2018. Most notably:

- The Plan period covered 2016-2031 following work which predated this, significantly views on the approach to matters such as employment and housing and the aspiration for the district have changed over time.
- East Lindsey, and the Coast in particular continue to experience significant issues associated with deprivation; particularly as a result of rurality and coastal seasonality. This supported the designation of Skegness, and Mablethorpe as areas subject of Town Deal funding in an attempt to address these legacy issues. These derivational issues also saw Skegness highlighted as a Priority 1 area within the national Levelling Up agenda set by Government as indicated by Levelling Up Funding rounds.
- The pandemic resulted in a significant economic shift, seeing increased activity within the tourism sector and a significant demand; but also seeing significant economic pressures particularly in rural areas.
- The Governments own review "The future of seaside towns" (2019 & 2022) recognised that seaside towns and coastal settlements are in decline and have been neglected. Issues related to economic constraint, seasonality, poor connectivity and housing. The reports set out a desire to support regeneration of these areas, support investment, and develop innovative place-based responses, with local authorities and communities working together to achieve positive change.
- Further recognition of the challenges faced by Coastal Communities were set out in the Chief Medical Officer's report of 2021, with specific reference to Skegness:

“the First Coastal PCN which includes the coastal towns and communities around Skegness and Mablethorpe, and a population of 52,671, nearly 32% of registered patients are aged 65 or over, compared to 18% in England. Whilst population growth is very low in the coastal areas, it is driven by increases in the over 65s while 16-24-year olds have reduced. It is estimated that between 2011 and 2019, the 16-24 year old population declined in Lincolnshire’s coastal areas by 16% (1,000 people), as the 65 and over population increased by 19% (3,700 people); a ratio of one young person fewer for every additional 3.7 older people.

Lincolnshire has attracted up to £100 million investment (Boston, Lincoln, Mablethorpe and Skegness) through the Towns Fund. These Town Investment Plans focus on health, enterprise and resilience, and provide an important opportunity to drive future economic growth and improve outcomes and opportunities to achieve thriving communities for all residents.”

Thus further recognises that Skegness has significant underlying challenges, exacerbated as a result of its coastal nature, and how significant investment from the public and private sectors is required in order to deliver a thriving community.

- The establishment of the Connected Coast Board, in support of the delivery of the Towns Fund agenda, which is demonstrating how Town Deal funding can drive change locally, and the partnership with the private sector is furthering our ambition for a year-round coastal economy. In particular through the Skegness Learning Campus which has an intrinsic link to the Gateway. Noting in particular that the Board supported the proposals for the Gateway through the Town Investment Plan (TIP) and recognised that it reflects the ambition and strategy required to support the local community. The Connected Coast Board sees the Gateway as playing a significant component in the future of Skegness and recognises how it aligns with national levelling up ambitions and other strategies.
- General country-wide conditions - including rising inflation, impacts such as the war in Ukraine etc., rising pressure on jobs, and a need to support the economy, as well as addressing the widely reported national housing crisis.

6.9 These are just a snapshot of changes that have occurred. All of the above would be fully, and robustly considered as part of an Examination in relation to the Local Plan Review. However, these are equally relevant in terms of why and how the Council may wish to consider this proposal for an LDO as an exceptional opportunity, outside of the existing local plan framework - a matter which is outlined later as a key area of concern by the Environment Agency (EA).

Further consideration of coastal issues, particularly in relation to open-market housing is given later in this report.

6.10 The presence of an LDO for the site could have an impact on the future local plan, particularly around factors such as housing strategy in this area. However, it is considered that this should not preclude an LDO coming forward, as there is sufficient ability for the emerging Local Plan coming forward through the formal review, to respond to the LDO if necessary.

- 6.11 The EA asserts and advances that the Council is only considering bringing this development forward through an LDO so that it can circumvent the plan-led approach. That position is not accepted or agreed with.
- 6.12 On the contrary, with the exception of the open market elements of the scheme, all of the remaining elements are considered to be broadly consistent with the aims of the local plan to support employment in jobs, increase biodiversity and improve the natural environment, and support tourism. Additionally, as the site is located adjacent to Skegness, it is located adjacent to one of the main centres for growth and an established economy and community which is vital for both East Lindsey, but also the wider region owing to its focus as a tourism centre. Accordingly, in strategic terms, much of the proposal is considered to be in conformity with the aims and objectives of the existing plan. Moreover, it is worth noting that had the proposed dwellings been provided as affordable housing, it would have been possible to conclude that the entirety of the scheme was compliant with the local plan.

7 CONSULTATION UNDERTAKEN

- 7.1 Prior to its submission, considerable engagement has been undertaken with a range of statutory and non-statutory consultees; stakeholders and the wider public within Skegness. Additionally, throughout there has been a regular online presence, as well as updates in traditional media.
- 7.2 The LDO was formally advertised in accordance with the requirements of legislation on 2 occasions, when the scheme was originally submitted, and subsequently when the scheme was revised; this consultation is summarised below:

Advertised in the press:-	Consultees and neighbours:-	Site notices:-
14/12/2022 - 20/01/2023	09/12/2022 - 06/01/2023	14/12/2022 - 20/01/2023
22/11 2023 - 10/01/2024 Re-advertised 13/12/23 to 10/01/24	15/11/2023 - 13/12/2023	22/11/2023 - 20/12/2023

- 7.3 The Council contacted a range of consultees as required by the legislation, but also other consultees and potential stakeholders that may have relevant views on the proposals. A summary of the consultation responses from all parties is set out in the Officer Report at **Appendix 1**. The various consultee responses are also available for viewing on the website.

As can be seen, whilst there is some negative comment towards the proposals, most notably from the Environment Agency, largely the scheme has been well received, with support being offered by Skegness Town Council, and the Connected Coast Board in particular.

- 7.4 As with all planning decisions, the Council does not have to be bound by the desires or wishes of consultees; provided it gives due regard to them. In the normal way, where a Council disagrees with the view of a statutory consultee such as the Environment Agency, cogent and compelling reasons must be given for doing so.

The key point to note however is that the Council has conducted the necessary consultation prior to moving forward with a decision as to whether to make the LDO or not.

8 PLANNING MATTERS AND MERITS

8.1 As set out in section 6.2, a separate planning appraisal has been undertaken at **Appendix 1**. This section of the report seeks to supplement that assessment, and focuses on some of the strategic matters and key consultee comments, to aid Members in their appraisal and decision making.

Flood Risk and Comments of the Environment Agency (EA)

8.2 The Environment Agency continues to object strongly to the proposed LDO (**See Appendix 3**), principally as a result of the inclusion of market housing as part of the proposals, which they consider runs counter to flood risk policy (locally and nationally) and which they consider is inappropriate.

8.3 Their objection is on the basis of 4 grounds:

1. The provision of open market housing being contrary to policy; and that the Sequential Test as required by the NPPF and local plan policy (SP18 and Annexe 2) have not been passed.
2. That the development cannot be safely occupied without reliance on evacuation; and they require evidence the emergency services, and Lincolnshire County Council can evacuate the site without impacting on or increasing the risk to others, as such they consider the scheme contrary to policy SP17 of the Local Plan and the NPPF.
3. That the Environmental Statement does not adequately describe or consider alternatives; and therefore consider it contrary to the EIA regulations 2017.
4. That the tourism uses with year round occupation would be contrary to SP19 of the Local Plan, and occupancy restrictions should be imposed.

8.4 The EA provide lengthy comments, but also highlight that they would be minded to notify the Secretary of State, and request revocation of the LDO, if their comments are not addressed. This is important because intervention by the Secretary of State carries with it the risk of claims for compensation brought against the Council. As above, advice has been sought from Leading Counsel on this matter.

The following sections provide further responses to the EA comments, in addition to those included in the Officer Report at **Appendix 1**. These are broken down into the 4 areas discussed above:

Sequential Test (ST)

8.5 The sequential approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding. Avoiding flood risk through the sequential test is considered to be the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features. Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Application of the sequential approach in the plan-making and decision-making process helps to ensure that development is steered to the lowest risk areas, where it is compatible with sustainable development objectives to do so.

8.6 The Planning Practice Guidance offers guidance on how the ST should be conducted including:

- How can the Sequential Test be applied to the location of development? Paragraph: 024 Reference ID: 7-024-20220825.
- What is a “reasonably available” site? Paragraph: 028 Reference ID: 7-028-20220825.
- Who is responsible for deciding whether an application passes the Sequential Test? Paragraph: 029 Reference ID: 7-029-20220825.

It is particularly relevant that the guidance makes clear that it is the responsibility of the Local Planning Authority (as the decision-maker) to determine whether the test is passed. This is not a function of the Environment Agency.

The ST requirement is embedded within the NPPF, and also within the Local Plan

8.7 Regarding the Local Plan, Annexe 2 (which links to policies SP17 to 21) advises that of the elements of the development proposed, only the Residential element fails to pass the ST as a matter of starting principle. It should be noted that “Social Housing” is considered to pass the ST; and policy SP5 supports specialist housing in the Coastal Zone. This is based upon the general approach to residential development within the Coastal Zone, which seeks to prevent new residential development beyond that proposed for existing sites (commitments) and brownfield sites.

8.8 The proposed development includes various potential forms of accommodation, and various land uses. The only uses proposed which do not pass the ST based on the use of Annexe 2 are the open market residential uses—a position which the EA have reaffirmed their view on.

8.9 **Appendix 1** provides a typical planning analysis of the application of the ST and ET, this in summary concludes that only the open-market housing element of the proposal requires an assessment as a matter of starting principle. When taken as a whole, with the housing being an intrinsic part of the development, it is considered that the ST is passed. This is based upon the lack of suitable, available alternatives for the development, which are at a lower risk of flooding. Thus it is concluded that it is appropriate to move on to the ET which it also concludes is passed.

8.10 Whilst the comments of the EA are noted, it must be made clear that whether or not a development proposal passes the ST is a matter for the decision-maker, that is, the Council as Local Planning Authority. The Council has considered the comments made by the EA and does not have to agree with them providing that it has cogent and compelling reasons for doing so. It could be said that in raising an objection to the ST, based on the commentary in the Planning Practice Guidance, the EA is stepping beyond its remit.

8.11 Officers consider that a ST has been undertaken that considers the scheme as a whole - recognising that the main issue with the development is the provision of open market residential housing (as opposed to social/affordable housing which is considered to be policy compliant).

Officers consider that:

- It is acceptable for the ST to focus on Skegness as its search area, given that this proposal is intended to respond to the challenges faced by Skegness specifically, and come forward as a significant regeneration project for Skegness that is intended and anticipated to have a transformational impact with positive outcomes for the existing settlement and community.
- It is well-established that it is for the Council to determine whether the test is met. It is for the Council as decision-maker to decide whether the proposal meets the needs of the local community as opposed to a district wide need. It is considered to be irrational and unreasonable for the search area to be district wide when this is a Skegness based scheme and solution to the aforementioned issues.
- Sites in and around Skegness, that could accommodate the scale of development proposed are at the same level of coastal flood risk. There are no allocated sites, or windfall sites. Thus there are no alternative or available sites.
- The Council is not aware of any other proposed sites which can offer a similar level of impact and potential benefit to Skegness as the proposed scheme, as a result of the scale and combination of uses proposed. Thus there are no alternative or available sites.
- Focusing solely on the open-market element of the proposal is not an acceptable approach, as this housing must be considered in the context of the proposal as a whole when applying the test. Many of the other uses proposed have already passed the ST based on the policies of the Local Plan and the use of Annexe 2.
- Based on application of the ST in accordance with the Planning Practice Guidance, there are no other, alternative, available and sequentially preferable sites within the agreed search area.

8.12 Therefore Officers consider it can be concluded that the ST is passed in this instance notwithstanding that this is contrary to the view of the Environment Agency.

8.13 Further the comments of the EA focus on the need for evidence of the need for major open-market housing in Skegness. This matter is discussed at various points throughout this report, and Officers consider that the proposal for and need for major open-market housing in

Skegness is accepted. The Council does not therefore agree with the EA's view, and is entirely able to reach a different conclusion, as could an Inspector at Appeal for example.

- 8.14 The Local Plan, NPPF and PPG approach to the ST advise that if the ST concludes that there are alternative sites (i.e. the ST is not passed); then the decision-maker should not advance to consider the ET and whether the residual risks are addressed.
- 8.15 However, when approaching planning decision-making, there is a clear and established requirement for a balancing exercise to be undertaken, and a planning judgement to be applied.
- 8.16 To that end, even if the view were taken that the scheme failed the ST, it would be possible when the planning balance as a whole is applied to all of the relevant policies, material considerations and impacts, for the Council to conclude that the failing of the ST is outweighed by other aspects and therefore could reasonably conclude to still determine in favour of the scheme. Officers consider that there would be cogent and compelling reasons for taking a different view to that expressed by the Environment Agency.
- 8.17 Therefore whilst Officers consider that an appropriate justification and approach to the ST has been applied, if the contrary view were to be taken, it is considered that this could be one negative factor which could be outweighed by other aspects of the proposal.

Can the Development be Safely Occupied and is Reliance on Evacuation Acceptable?

- 8.18 The EA advances in their objection that in order to be safe, there will be a reliance on evacuation (along with other measures) as set out in the Flood Risk Assessment (FRA). This relates to measures which seek to reduce or remove the 'residual risk'.
- 8.19 It appears from the EA comment that they require evidence that the emergency services, and LCC recognise this, and are agreeable to the approach. It also appears that the EA are seeking to ensure that the residual risk is removed in its entirety-something which in practical and common-sense terms cannot be achieved because there will always be some form of risk, particularly when there are many variables. Whilst the Council accepts that the risks need to be understood and evaluated, these also need to be looked at in a balanced context when looking at other impacts (both positive and negative) of the development.
- 8.20 It is worth noting at this stage that both the Police and Fire Services have been formally notified of the LDO, and have not raised a formal objection to the proposals.
- 8.21 Similarly, whilst LCC have recognised the need for a flood warning and evacuation plan, and that such a plan should be developed in collaboration with the Lincolnshire Resilience Forum (LRF), they have not objected to the development.
- 8.22 The LRF is not a statutory body, nor is it a statutory consultee for planning purposes, however, it is considered that as a result of their role and their make-up (which includes various response bodies including the emergency services, County Council, EA, and the Council), they may have comments to make on the LDO. To this end, throughout the life of the formal submission of the LDO, Officers have engaged with the LRF, including meeting with them, in an attempt to garner their views and seek to include any mitigation measures or suggestions that they may have. These discussions having been coordinated by the Councils Emergency Planning lead (Safer Communities Manager), recognising that the LRF maintain and update the Mass Evacuation Plan for Skegness. It is fair to say that the LRF advised that they would

not be likely to comment on the LDO formally, and would in future look to include the development in future plans should it be necessary. Some of their suggestions regarding potential training of residents/businesses on the site, and the provision of data/intelligence via the Estate Management Company for the site have been taken forward.

8.23 Further to the above, the Safer Communities Manager has reviewed the revised proposals. They have raised no objection to the scheme and have provided comments, these can be summarised as:

- *EA expect the site to facilitate its own evacuation without placing any extra burden on the Emergency Services or Highway's Authority and as such are looking to those agencies to confirm that there will be no impact on them.*
- *I am an advocate of community emergency plans, including details of how evacuations can be managed. It stands to reason that no community group can sufficiently coordinate a complete evacuation of a site / development / community independently, but the benefit of a plan is that it will identify any those within the community who cannot self-evacuate and need some assistance.*
- *Any development, be it for residential dwellings, caravan sites, commercial/industrial estates, places pressure on any potential evacuation. The developers are looking to ease the burden by way of a community plan, which goes way above and beyond the existing experience of most towns / parishes / communities along the coast of East Lindsey. The development of such a community plan could work as a blueprint for those existing communities, massively easing the existing burden on responding agencies.*
- *For example would prefer a 100 properties built together on one development that a community emergency plan could coordinate, rather than the development of 100 individual properties along the whole coast slipping under the radar, presenting the same risk but without any form of community planning.*
- *Considers that the risks can be mitigated through the proposed evacuation plan that would be overseen and implemented by managed community group.*
- *Note that there are no other objections from services who make up the LRF, such as Police, Fire & Rescue, LCC Emergency Planning, and LCC Highways. So unclear as to how the assumption that the development places an additional burden on the emergency services has been reached.*
- *Confirm that discussion have been held with colleagues who sit on the LRF in relation this matter, and satisfied that they are fully aware of the proposed development and the risks that it presents.*

8.24 Based on the above, Officers are unclear as to what further evidence can be provided to the EA which would remove their objection on this point.

8.25 Irrespective, Members should be aware of the wider issue of residual risk, and how this can and is being addressed with as part of the scheme. This is set out as follows.

The Planning Practice Guidance considers residual risk under the heading “Addressing Residual Risk” and includes consideration of Emergency Plans at the following paragraphs - Paragraph: 041 Reference ID: 7-041-20220825; Paragraph: 042 Reference ID: 7-042-20220825; Paragraph: 043 Reference ID: 7-043-20220825; Paragraph: 044 Reference ID: 7-044-20220825; Paragraph: 045 Reference ID: 7-045-20220825; Paragraph: 047 Reference ID: 7-047-20220825; Paragraph: 048 Reference ID: 7-048-20220825 - key elements are summarised as follows:

1. *Residual risk comes in two main forms:*

- *Residual risk from flood risk management infrastructure; and*
- *Residual risk to a development once any site-specific flood mitigation measures are taken into account.*

2. *When considering residual risks over the lifetime of development, local planning authorities will need to make informed decisions about the likely presence of flood risk management infrastructure in future, taking advice from relevant risk management authorities.*

3. *Residual risk should be minimised. It will not be appropriate to rely solely on emergency plans to mitigate residual risk. One of the considerations to ensure that any new development is safe, including where there is a residual risk of flooding for flood risk management infrastructure, is whether adequate flood warnings would be available to people using the development. An emergency plan will be needed wherever emergency flood response is an important component of making a development safe.*

4. *Emergency plans will need to take account of the likely impacts of climate change, e.g. increased water depths and the impact on escape routes. In consultation with emergency planners and services, the local planning authority will need to ensure that agreed emergency plans are secured and implemented through appropriate planning conditions or planning agreements.*

The emergency services are unlikely to regard developments that increase the scale of any rescue that might be required as being safe. Even with defences in place, if the probability of inundation is high, safe access and escape should be maintained for the lifetime of the development.

5. *Local planning authorities are advised to consult with their emergency planning officers as early as possible regarding any planning applications which have implications for emergency planning. Local planning authorities should work with their emergency planning officers to produce local guidelines setting out requirements for flood warning, evacuation and places of safety, against which individual planning applications can then be judged. These should avoid additional burdens on emergency services, explore opportunities for development proposals to address any shortfall in emergency service and infrastructure capacity. In some cases, it may be appropriate for the local planning authority to consult the emergency services on specific emergency planning issues related to new developments.*

6. *To demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, a site-specific flood risk assessment may need to show that appropriate evacuation procedures and flood response infrastructure are in place to manage the residual risk associated with an extreme flood event. In locations where there is a residual risk of flooding due to the presence of defences, judgements on whether a proposal can be regarded as safe will need to consider the feasibility and provision of evacuation from the area should it be flooded.*
7. *Proposals that are likely to increase the number of people living or working in areas of flood risk require particularly careful consideration, as they could increase the scale of any evacuation required. To mitigate this impact it is especially important to look at ways in which the development could help to reduce the overall consequences of flooding in the locality, either through its design (recognising that some forms of development may be more resistant or resilient to floods than others) or through off-site works that benefit the area more generally. Where the impact cannot be wholly mitigated, developers need to cover the full cost of any additional emergency services provision needed, consistent with the 'agent of change' policy contained in the National Planning Policy Framework (at paragraph 187).*

8.26 Taking the above in to consideration when reviewing the comments received, in particular the comments of the Councils Emergency Planning function, it is considered that in relation to each of the above:

1. The extent and nature of potential residual risk has been set out in detail and duly considered within the Flood Risk Assessment, including significant modelling of the likely effects.
2. This requirement is duly noted, and it is considered that the Flood Risk Assessment has considered the impact over the lifetime of the development, and the Council has had regard to the comments of Risk Management Authorities (including the EA).
3. It must be recognised that the test here is to 'minimize' not 'eliminate' residual risk. It is considered that there will always be a likelihood of some residual risk, due to various unknowns and considerations which cannot be predicted with 100% accuracy, such as human behaviour, water flows, climatic conditions etc. However it is recognised and accepted as an approach that Flood Warning and Evacuation are appropriate measures to be used, in combination with other measures, to mitigate and 'minimize' (my emphasis) residual risk. In this case, various measures would collectively seek to reduce this residual risk.
As can be seen from the Councils Safer Communities Manager, there is no objection, and there is a recognition that there are some practicalities associated with managing residual risk and a proportionate and pragmatic approach is required. In this case, with the measures proposed, they have no concerns that the residual risk has not been 'minimized' as required.
4. The Flood Risk Assessment (FRA) sets out in section 7 (FRA volume 1) the approach to Flood Warning and Evacuation which would be applied to the whole site. This recognises that there will be some additional burden but also advises that the Estate Management Company would be able to plan a role in supporting the LRF and Emergency Services should the need arise. The following summarises the flood procedures that have been proposed for the site-recognising that each development

parcel will have its own stand-alone plan which would conform to the overall site plan principles:

- The Estate Management Company will retain up to date information of occupancy, and assist in coordination with relevant services as well as evacuation. They will assist with providing information on evacuation decisions; managing expectations and managing evacuation routes; providing advice and support to residents/occupants and supporting vulnerable people; providing guidance and advice regarding reoccupation.
- All properties to be signed up to EA Flood Warning service.
- Specific advice for properties on raised plateaus; with further specific advice relating to supported living elements including additional support from the Estate Management Company.
- Use specific measures for tourism, commercial, crematorium based on evacuation and closure of sites.
- Clearly identifying and educating site occupants and users of the identified evacuation routes (via the A52); which align with the Mass Evacuation Plan for Skegness.
- Estate Management Company to liaise with the LRF and emergency services in assisting with provision of evacuation centres and accommodation of residents from the development and also potential to support the wider community.
- There will be an ongoing education and training strategy available for the residents/occupiers of the site in relation to flood risk and these procedures.
- The Estate Management Company would also be obligated to work with partners to undertake a specific update to the Mass Evacuation Plan for the Coast, and assist in regular reviews of the plan, to ensure that the Gateway is appropriately accommodated and can play its role in minimizing the effect on the existing communities of Skegness.

Flood Warning and Evacuation has therefore been considered in detail, and when combined with other measures are considered to provide a robust framework within which flood risk can be managed and mitigated. These measures would be applied on a whole site, and then individual parcel basis, and would be secured through both the LDO conditions and associated legal agreement.

To that end, Officers consider, that in light of the lack of objection from any emergency service, LCC, and the comments of the Councils own Safer Communities Manager, the issue of Flood Warning and Evacuation, as part of managing residual risk, has been dealt with.

5. Consultation on the Framework of the Emergency Plan has been undertaken as part of the LDO process to date. No objections have been raised by the Police, Fire, LCC, the LRF or the Councils Safer Communities Manager. Consideration has been given to

ensuring any resultant burden on emergency services is minimised and mitigated as discussed under point 4. As such, this aspect has been adequately dealt with.

6. This requirement has been met; a site specific FRA has been presented, in considerable detail, which sets out a package of measures which would manage the risk over the lifetime of the development. These measures would then be secured by conditions forming part of the LDO, and the associated legal agreement. Both of which would provide regulatory controls in terms of future planning enforcement action.
7. This requirement has also been met; as with the above, the development proposal includes a package of measures designed to reduce the residual risk. In addition to the points raised above, further consideration has been given to offsite impact assessments; and additional measures which can help reduce the wider effects of flood risk. As discussed the development seeks to utilise the Estate Management Company to play a key role in this. Further, it is proposed that a contribution would be collected from property within the development which would be put towards the locality in terms of managing and reducing flood risk overall – this could raise an estimated c£150m over 120years.

8.27 In respect of the last point regarding wider flood risk overall, the proposals would provide financial contributions which could be utilised to provide flood risk management infrastructure or other flood risk management activities which would reduce the risk to existing communities. This is set out within section 8 of the Flood Risk Assessment (volume 1). This identifies an approach which would generate significant sums from the development forming part of the LDO, which would form a Flood Defence Fund, which could then be accessed by the EA (and other similar partners) to deliver initiatives, improvements or activities which would ultimately help to protect, or make resilient, the wider area of Skegness. This is an innovative approach, which can be secured as a result of the development coming forward through an LDO as opposed to the traditional allocation/permission routes. The supporting information indicates that this fund could accumulate significantly over time, reaching up to c£150m over 120years – this is considered to potentially offer a sizeable opportunity to contribute as match funding to any local schemes.

8.28 Given all of the above, it is Officers view that the proposals reasonably comply with the requirements of the Planning Practice Guidance in respect of managing residual risk. Further, in view of the lack of objection from any emergency service, LCC, and the comments of the Councils own Safer Communities Manager, the issue of Flood Warning and Evacuation, the issue of managing residual risk, has been dealt with. This is subject to appropriate measures being put in place through the conditions and legal agreement associated with the LDO in relation to flood risk matters as discussed above and formally set out within the Flood Risk Assessment (FRA)

Is the Environmental Statement Fit for Purpose, Particularly in respect of Alternatives?

8.29 The EA advances that they consider that the Environmental Statement does not adequately describe or consider alternatives; and therefore consider it contrary to the EIA regulations 2017.

This is a decision for the Council as decision-maker.

- 8.30 In particular, regard should be given to the following from the Planning Practice Guidance (Paragraph: 041 Reference ID: 4-041-20170728):

“Does an applicant need to consider alternatives?”

The 2017 Regulations do not require an applicant to consider alternatives. However, where alternatives have been considered, paragraph 2 of Schedule 4 requires the applicant to include in their Environmental Statement a description of the reasonable alternatives studied (for example in terms of development design, technology, location, size and scale) and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”

- 8.31 As set out in the OR; the LDO has been accompanied by an Environmental Statement (ES), this has been carefully considered, and has been reviewed. An additional Addendum which deals specifically with the consideration of alternatives has also been presented. Officers consider that the ES is fit for purpose and that suitable alternatives have been considered. That is a decision for the Council.
- 8.32 This proposal is for a large, mixed-use development, designed with the key purpose of providing a range of uses and facilities to meet the current and longer-term future needs of Skegness. It has been designed to respond to the specific challenges of Skegness; and support the longer-term aspiration of Skegness as a place to live, work, visit and enjoy, and provide a prosperous place for residents, visitors and business. The proposals would contribute positively to the future of Skegness; stimulate the local economy; provide year-round permanent employment through commercial development; provide jobs and education facilities to provide learning opportunity; provide new housing stock contributing to housing needs and assists in the delivery of the wider development project; provide significant biodiversity and environmental enhancements and provide opportunities for improvements to affordable housing provision, sustainable transport, health and education facilities.
- 8.33 This project has been in the public domain since 2019; and since that time the Council has not been approached or been made aware of similar or alternative proposals which could achieve the aims and contributions set out above.
- 8.34 Whilst it may be possible to break the development down in to respective components (e.g. commercial units) and there may be suitable, available, and deliverable opportunities for those component uses which would have lesser environmental impacts; it is considered that such an approach (namely to break up the development into smaller parts) is not appropriate. This is a large scale proposal, presented as such (akin to a sustainable urban extension) which seeks to provide a new entrance and gateway to Skegness. The proposal is promoted on the basis of being a large scale proposal, with an acceptable level of environmental impact (as considered through the ES) and which would as a result of the sum of all its parts, provide a viable development opportunity, with significant benefits arising.
- 8.35 The Council has considered the EA position in respect of alternatives, but does not agree. This is a matter for the decision-maker, and in Officers opinion, the objection raised by the EA, is not found to be a basis for not moving forward with the LDO.

Are the Tourism uses with Year Round Occupation Contrary to SP19 of the Local Plan, and Should Occupancy Restrictions be Imposed?

- 8.36 The basis of the EA concern with the tourism uses appears to be based on struggling to grasp what the tourism areas could be, and how these could be used.
- 8.37 The LDO refers to Sui Generis Tourism Accommodation and clarifies in Table 1 that this relates to “Holiday Accommodation and associated passive recreation on areas shown on the Masterplan”. The LDO has always sought to include an element of tourism and recreation as an integral part of Masterplan. Based on demonstrating the ‘Art of the Possible’ it was intended and always accepted to try and identify new and diverse proposals intended to find ways of securing year-round employment and holiday activity and new forms of tourism to serve the Coast, supporting the local economy year round. Thus it could be new forms of accommodation, but equally it could be new attractions. As such it was described as ‘Sui Generis Tourism’.
- 8.38 The response from the Environment Agency has focused on the traditional form of holiday accommodation on the Coast.
- 8.39 The Design Code outlines more detail including:
- Perimeter areas of the development will consist of tourism which will seek to capitalise on the established seaside offering of Skegness together with plentiful countryside and coastal walks.
 - Holiday lodges elevated above existing and proposed ground levels with access to fishing lakes and secluded pond areas.
 - Prefabricated factory methods of construction to be explored during the manufacture of the holiday lodges to encourage a sustainable ethos.
 - Permeated with green and blue infrastructure to create an attractive holiday destination while simultaneously increasing biodiversity in the area.
 - Observed areas of easily accessible open spaces, walking routes and appropriately designed areas of play to promote social interaction and benefit health and well-being.
 - Additional tourism opportunities for both luxury lodge and static caravans to bolster the existing tourist economy and provide easy access to the Gibraltar Point Nature Reserve as a notable SSSI.
- 8.40 Thus it can be seen that this is not intended to be ‘more of the same’ or ‘just caravans’. It is well understood that the EA and the LRF have concerns regarding the impacts associated with caravan occupancy during the winter season when the flood risk implications are higher. This is the basis for the restrictions in policy SP19.
- 8.41 This proposal seeks to provide year round opportunities, and is clearly intended to be of a non-traditional approach. Therefore it is considered that this is generally supported by the thrust of the Local Plan, including SP19, and other material considerations.

The key question is therefore relates to the need for the occupancy restrictions as set out in policy SP19.

- 8.42 Given the unique and site-specific nature of the proposal, it is considered that there should be a degree of flexibility applied here. Occupancy restrictions do not come without consequences – namely the creation of a seasonal economy. Tourism has moved on and visitors/users wish to diversify their offer and take advantage of winter holidays at key periods such as Christmas and New Year. Thus it is considered that a balanced approach should be taken which recognises the flood risk implications, but also the site specific elements and the overall thrust to create a diverse and viable year round economy.
- 8.43 In this case, it is considered that a suitably worded condition can be imposed which requires a site specific flood risk assessment, and associated mitigation measures (which could include occupancy restrictions) when the detail for the relevant parcel of land is known. For example, if a proposal for high-ropes were to come forward (with no accommodation) there is no reason it could not be used year round; equally, a hotel could provide a robust building and with other mitigation measures it could be acceptable without restrictions on season; however yurts or other glamping structures may require occupancy restrictions as the risk in flood risk terms cannot be adequately mitigated by other measures.
- 8.44 This is considered to be a Gateway specific approach, which would accord with the overall policy objectives, not just of policy SP19, but would also allow a balanced approach to be taken towards flood risk and other matters at a time when the detail is known. Subject to the inclusion of an appropriate condition within the Order, this matter can be addressed.

Concluding Remarks in relation to EA Comment

- 8.45 For the reasons set out above, whilst the Council has considered the comments and concerns of the EA, Officers do not necessarily agree with all of the content or sentiment of the comments. It is considered that the basis of the objections are unfounded, outweighed by other factors, or insufficient for the Council to resist the proposals when considered in the context of the scheme as a whole. Overall, Officers consider that there are cogent and compelling reasons for departing from the advice given by the Environment Agency. Officers also recognise the considerable efforts by the consultants who have prepared the Flood Risk Assessment in seeking to address and overcome the objections of the EA, including the provision of various amendments to the FRA.
- 8.46 In their closing remarks, the EA advise that if the Council moves to make the LDO without addressing their objections they would intend to notify the Secretary of State and request revocation of the LDO. Officers consider that the EAs comments have been addressed, noting that some of these matters are specifically for the Councils consideration and not the EA. The EA are not the end decision-maker, and whilst the Council has to have regard for their comments, we do not have to agree with their position. To that end, it would be unfortunate if the EA were to progress in the manner they have set out, however, that should not deter the Council from reaching its own, balanced conclusions. The implications of this statement, and associated risk management, are set out in later sections of this report.
- 8.47 Officers would also highlight that there are examples within East Lindsey where similar positions have been reached with the EA. Most notably at Golf Road, Mablethorpe, where an initial objection was received from the EA. This was subsequently withdrawn, but with concerns continuing to be expressed. That scheme being heavily reliant on both large scale land raising, and flood warning and evacuation. Whilst it is noted that the Local Plan position has moved on since that time, the general approaches to flood risk mitigation and making development 'safe' remain consistent. In particular, it is noted that the Committee took a 'balanced view' on that application.

- 8.48 Officers would also cite the other notable examples within Skegness, including sites immediately adjacent to the northern part of the Gateway site, wherein wholly affordable housing schemes have been provided. These schemes which are acceptable in terms of principle based on the Local Plan, require lesser mitigation than is presently proposed by the Gateway, and in some cases did not attract objections from the EA. It should also be noted that the EA have not objected to the affordable housing element of the Gateway scheme.
- 8.49 Returning to the issue of flood risk in general terms, on the basis of the above, and all of the documentation forming part of this report and the LDO as a whole, it is concluded that the Sequential Test (ST) is passed in this instance. Further to that, it is considered that the Exceptions Test (ET) is also passed. The remaining residual risks can be appropriately managed and mitigated so as to ensure that the development will be safe over its lifetime, will not have significant adverse impacts upon neighbouring uses, and that the proposals would have the potential to help reduce the overall consequences of flooding in the locality. Appropriate measures would be secured through the LDO and its associated legal agreement.
- 8.50 Thus in this case, Officers consider that the proposed development that would be facilitated by the LDO would be acceptable in flood risk terms. Even if the contra view were to be taken in respect of the Sequential Test (ST) with reliance on the Local Plan policy position in relation to market-housing; this lack of compliance could be weighed within the planning balance as a negative but would be likely to be outweighed by other material considerations and other policy aspects. The other areas of concern of the EA relating to the ES and also the tourism occupancy have also been dealt with as set out earlier in this report.
- 8.51 In closing on this matter, it is considered that whilst the issues raised by the EA have been considered, there is nothing which precludes the Council from moving forward from taking a decision on the LDO.

Lincolnshire County Council (LCC)

- 8.52 LCC have provided comment on behalf of all of their services. They have not objected to the development, and have requested that if adopted, appropriate conditions and S106 requirements are included. The comments provided have been considered, and as far as practicable have either been incorporated or can be given due regard to as the detailed scheme comes forward for delivery. The S106 requests relating to highways, and education have been actioned and agreed to. It is also noted that the County Council recognise the Coastal Flooding issue, and have recognised the need for a robust flood warning and evacuation plan which should be developed in conjunction with the Lincolnshire Resilience Forum.

Impact on the Future Prosperity of Skegness-Economic Development

- 8.53 The SELCP Assistant Director for Economic Growth has advised of their support for the proposals, and highlights the importance of the development for the future economic prosperity of the area. They have provided an economic case which provides analysis of the benefits arising from the proposals in terms of the creation of additional housing and workforce capacity. Key facets of their comment includes:
- The proposals align with the Skegness Town Investment Plan which secured inward investment through the Governments Towns Fund.

- The proposals align with the Midlands Engine Plan for Green Growth, through promoting health and wellbeing; blue and green spaces and encouraging tourism and boosting the visitor economy.
- The proposals align with the Levelling Up agenda from Government, building more homes to encourage home ownership, empowering communities, restoring local pride, and regenerating towns and cities.
- Skegness has acute levels of deprivation, with a far higher proportion of low band properties (in rateable value) which is reflective of this deprivation.
- Wages are well below national average; and the population is described as being low skill and low wage in terms of qualifications; income and employment levels are in the second bottom decile. Job density is higher than the national average. Most people work locally.
- Skegness has stagnated over the past 6years-losing 5% of job stock; compared to a 5% increase in the national average. It remains overly dependent on tourism which are very seasonal in nature. The current approach to housing growth reinforces this stagnation, effectively trapping the settlement.
- The 2022 ONS shows a higher proportion of older people compared with the national average. This development could provide 1200 new employees.
- Skegness has a low critical mass (less than 25,000) and lacks good quality public sector jobs. The proposal would lead to a c7% increase in overall housing stock.
- The Towns Fund investment seeks to begin the process of addressing this, through encouraging developments which support skills, culture and visitor offerings.
- Skegness Gateway provides the potential for long-term, proportionate growth over time to make Skegness sustainable. In view of the challenges faced by Skegness, this is an opportunity to harness considerable investment from both public and private sectors. This is likely to lead to higher wages; better skills; a more balanced demographic; a wider range of year round jobs; reductions in deprivation.
- The ES sets out a credible series of positive socio-economic effects, both during construction and following completion, which would be significant for Skegness and its future.

8.54 The above paints a credible, evidence based picture which demonstrates the positive effect that this development could have towards addressing the socio-economic challenges presently faced by Skegness. A proactive, positive, and front footed approach to addressing the critical mass of Skegness, and providing a large scale intervention that has the potential to have profound economic advantages to the area. Whilst this would result in the provision of additional people, assets, and businesses within the coastal area which is at risk of future flooding, it is considered that the associated risks of this must be balanced against the impact of stagnation, and deprivation that is currently occurring. Essentially the effect of future flood risk versus the long term damage to the community of Skegness caused by a restriction on growth and continued economic restraint must be called in to question.

- 8.55 This development seeks to provide an innovative, and well considered proposal that seeks to be of a scale which is appropriate drive investment and aspiration for Skegness; whilst offering a carefully thought through solution which takes account of and would provide an acceptable approach to flood risk.
- 8.56 The socio-economic benefits of this proposal cannot be understated, they would be significant in both in-direct and direct terms, and would therefore be of considerable positive benefit within the overall planning balance.

The Need for the Scheme - Housing on the Coast

- 8.57 As set out earlier, the approach in the Local Plan adopted an approach of development restraint towards new housing on the Coast. That was clearly an approach which was developed in collaboration with the EA, and which was accepted by an Inspector at examination-albeit as set out, there were some concerns with the approach and its effect.

The challenge with this approach is:

- It limits choice and market flexibility - constraining both location, but also type, tenure and size of unit.
 - It also limits the number of developers in the area (due to land often being optioned or tied up already) which again impacts on choice as well as build out rates and general delivery.
 - It advances Affordable Housing as the 'go to' form of housing - which is often reliant on securing public sector/government funding, as well as an end Registered Provider to manage the units. Affordable housing is also by definition "for those whose needs are not met by the market" and therein only captures a section of overall housing need and demand. This is not solely the only form of housing need, as there is a spectrum of need (whether that is rented, or owner occupied) - from those who can afford market housing, to those requiring social or affordable housing.
- 8.58 Since the adoption of the Local Plan, the Council has produced Annual Monitoring Reports this reports on the delivery of housing in the Coastal area. In recent years, this has potentially begun to demonstrate some of the above concerns, despite overall delivery potential (based on the number of permitted, or extant sites) being above the level of need identified. In the latest AMR for 22/23 states (**emphasis**):

*"The new build market in the Coast **continues to be quite slow in terms of delivery**, though there appears to be a relatively good supply of completions, as set out above in Section 6, this is **mainly from a small number of large sites in Skegness, one of which is 100% affordable housing. One of these sites is now nearing completion**, although it is understood that the developer wishes to discuss extending that site."*

- 8.59 On detailed examination of the information pertaining to Skegness, the above and the AMR appear to confirm the above challenges, with 72 of 78 delivered units coming from 2 sites, with more than half of the annual delivery coming from one of those sites being brought forward as 100% affordable housing which itself is over halfway through completion. Therefore it is clear that the opportunities for market housing in Skegness are extremely

constrained, and without the affordable housing site, there would be no other large sites being developed out.

- 8.60 Whilst it is recognised that overall there continues to be a number of commitments and permitted sites which would be able to deliver more than the need identified in the plan (thus indicating a 36% over-provision), it must be remembered that these are minimum targets and not a ceiling. Therefore over-provision can be a good thing, as it provides potential for flexibility in delivery.
- 8.61 However, to counter this over-supply, due regard must be given to the fact that the approach of the plan limits new permissions and sites coming forward (beyond affordable) and thus there is only a finite number of opportunities as things stand - some of which may never come forward. Again, this negatively skews the market and creates inflexibility, which in turn can leave the housing supply position in difficulty and leave the Councils overall delivery need in the hands of one or two developers. Equally, for example the evidence indicates that sites in Mablethorpe are close to being completed, and thus, there would be no new units emerging to meet the needs of that community.
- 8.62 It is therefore considered that there is a reasonable basis for revisiting the approach by the current local plan - that review is ongoing and will not be complete for some time. Irrespective, it is considered that there is no reason the Council cannot consider making an LDO, which includes open market housing, much in the same way as the Council would be duty bound to determine a planning application for such if one was submitted.
- 8.63 Due to the scale, and nature of the LDO proposal, there is significant opportunity to bring forward a volume of housing which would boost supply and delivery in the area. The 1000 units being proposed being delivered out over an anticipated 20-year period – this is based on an anticipated 50 units being completed per year, which assumes more than a single outlet being in operation at any one time. Clearly if the number of builders increased, the build programme could be shorter. Given the scale of development, there is potential for various parcels of land to come forward which can be built out by a range of developers and provide for a wide range of housing opportunities including affordable and open market, as well as more specialist housing. This site could therefore provide a medium-longer term steady supply of housing to meet both need and demand, and ensure that the challenges set out earlier, which as reported are holding Skegness back, can be addressed. Cumulatively the additional units would, as set out by economic development colleagues, add to the critical mass of population which Skegness urgently needs. Additionally, it should be recognised that the numbers for housing delivery set out in the plan are the minimum requirement, and there is no ‘cap’ or ceiling on these - thus having a site which can over-provide and therefore create vibrancy and diversity in the market, is not necessarily a bad thing.
- 8.64 Equally, the approach to housing on this site, has been carefully considered as set out within the Flood Risk Assessment, and the scale of site allows an ability to mitigate the impact of flood risk in a proportionate and considered way. The proposals would bring forward a range of measures which would help alleviate and mitigate the future risk of flooding. The housing itself would be on raised plateaus and would be above predicted flood levels, and thus should stay dry, albeit access to and from them may be restricted. Some of these measures (such as large scale land raising) have already been accepted in other locations across the Partnership such as Boston and South Holland, in order to allow large scale housing to come forward.
- 8.65 Taken in isolation, it is recognised that there are areas within East Lindsey as a whole which could accommodate open market housing in a way which would not be at risk of flooding, or

indeed lower risk than that faced on this site. However, those sites would not contribute to the wider objectives of supporting housing growth for Skegness, to enable it to address the challenges of decline, deprivation and stagnation which it faces if the current approach is continued.

8.66 To that end, it is considered that the approach afforded by this LDO is an opportunity, which presents significant opportunities to provide a form of housing delivery for the medium and longer-term benefit of Skegness; as well as providing an improved level of choice and flexibility for other areas of the Coast when compared to the current approach which is presently limited and decreasing. The scheme would also provide for Key Worker housing as a specific element of the scheme, to support public sector workers and those in key employment sectors within the area.

8.67 The proposals would also incorporate a commitment to affordable housing, which is acceptable in policy terms, but which for market schemes is not currently a policy requirement. Again, this would support a varied mix of housing types and tenures which can be accommodated by the development.

The Need for the Scheme - Other Uses

8.68 In respect of the other uses that are proposed, some of these are:

- Responsive to policies of the Local Plan - which seek to support employment and diversity of the tourism offer;
- Responsive to a specific need/demand identified by the promoters/landowner - such as the crematorium;
- Required in connection with mitigation measures -such as the large areas of landscaping or biodiversity habitat;
- Required to support the aspiration of the scheme and align with other strategies such as the Skegness Town Investment Plan -such as the college and local centre

8.69 Considering these in the context of the existing Local Plan, and emphasis of sustainable development within the NPPF, it is considered that the proposals would align precisely with what the Council wishes to achieve for Skegness. The proposals would provide opportunities to extend and diversify all-year round employment opportunities, contribute to the local economy and diversify the tourism market (SP17) and the vision for Coastal East Lindsey.

8.70 Other factors which form the basis of support for the uses within the LDO, and the scheme as a whole have been set out elsewhere within this report.

8.71 Section 5 of the Sequential and Exception Test report (STET) sets out the benefits of the development proposed by the LDO, including:

- a volume of housing with variety of type and tenure to reset and re-balance the local population;

- facilities to support all ages, including older persons provision;
- increased access to jobs, education, skills and training;
- sustainable economic growth and new jobs, providing local finance in to the economy;
- sports pitches, open spaces, active travel, and accessible routes;
- environmental benefits including blue and green infrastructure and new habitat;
- a flood defence fund that would contribute to improving infrastructure locally for the benefit of Skegness – that could raise significant sums as per 8.10 of the Flood Risk Assessment

Design and Approach - An exemplar Form of Development

- 8.72 From its inception, the Council has been clear with its intention to secure an exemplar form of development on this site which would compliment the Towns Fund investment, and create a form of development which is exemplar in local and regional terms. There are many examples of similar, large scale urban extensions or new settlements, which have created vibrant and successful places and award winning developments. The landowners/promoters see the value in this and equally want to achieve a form of development of which they, the Council, and wider communities can be proud.
- 8.73 To achieve this, an extensive Design Code has been prepared. This aligns with the emerging national approach to encouraging Design Codes as a way to guide, facilitate and regulate development to ensure design quality is achieved.
- 8.74 The Design Code has considered the existing context of the site, and identifies how the proposed masterplan has been shaped by the various technical constraints and opportunities, led by the green and blue infrastructure and the provision of strategic corridors for accessibility and connectivity. This in turn led to the plot parcels. The Design Code establishes detailed principles and frameworks for the uses that are proposed, as well as street hierarchy, and scale of development.
- 8.75 The following images give some examples taken from the Design Code:



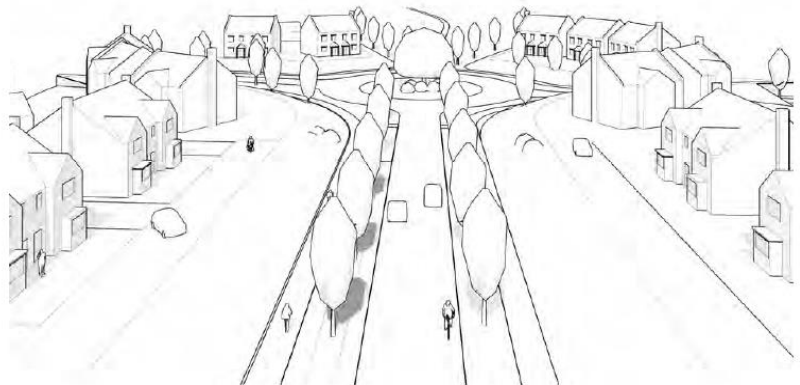
Residential - Centre Development

Residential centre development forms the main routes within the development and will be used by most local traffic. They will be wider than the other roads on the site and will accommodate bus routes.

Verges will be located either side of the road to accommodate planting, trees, and lighting columns. Parking will be a combination of on street parking for visitors, and in curtilage / garage parking for residents.

Built frontages are to be continuous where possible and buildings will be taller in general than in the other neighbourhood areas. Building heights will be two to two-and-a-half storeys, with some three storey buildings for emphasis.

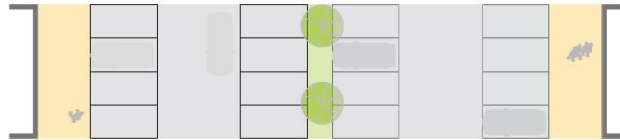
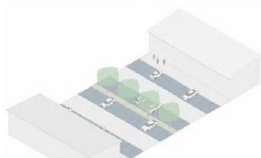
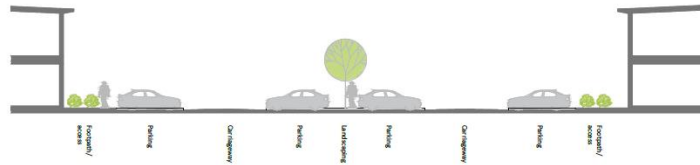
Areas of private planted space will be included between the building line and the footpath / cycle path.



Employment - Offices

Two storey office to office arrangement. Central parking

- Central parking area with incurtilate parking provided to units for larger business operators.
- Vehicular access for vans and small lorries – no articulated lorry access.
- Utilities to be located on discrete elevations.
- Electric car and electric bike charging points to be placed adjacent to main entrance – 1 No. per unit.



Supported Living

- Active frontage to main approach road and rear landscaped garden areas.
- Car parking and landscaped areas to provide buffer space between the supported living bungalows and the three storey residential care home.
- Gable elevations to provide active elements and remain relatively shallow.
- Visible services should be located to the rear or side elevations if it is not possible for them to be hidden.
- Service areas to be placed to rear of development.
- Massing of three storey care home to be between 12-15 metres.



8.76 The Code is ambitious, and is based upon best practice, it seeks to 'inspire' and 'enable' for future generations, and deliver a new neighbourhood which delivers economic growth, reduces inequality, provides biodiversity net gain, is low carbon and impact, contributes to health and well-being, and which provides quality place making. These pillars are set out as below:



As an example, low carbon includes:

- On site renewable energy opportunities
- EV charging points
- Reduction in materials being sent off site, and encouraging recycling
- Use of recycled products in construction
- Fabric/Material first approach to design
- Carbon capture through green infrastructure
- Measures to reduce car use and encourage accessibility

8.77 Based on the Design Code and all of the documents forming part of the LDO, there is no reason that this development cannot be an exemplar form of development which the area

can be proud of. Equally, the conditions of the LDO will also provide a regulatory framework to ensure that as the detail of each parcel is brought forward, there are mechanisms to ensure that this quality is achieved. This would be further reinforced by the role of the landowners, and the presence of the Estate Management Company, who would have responsibility for ensuring that the quality is achieved and maintained moving forward. Thus in effect providing a 'triple lock' in respect of quality, in an approach that is very similar to many Government advocated Garden Villages and New Towns.

- 8.78 Throughout the work to reach this point, the landowners/promoters have actively worked with the Council, LCC, and an array of stakeholders and interested parties, seeking to encapsulate all possible ideas to ensure that Skegness Gateway is an aspirational and innovative scheme, building on best practice, and seeking to create a unique form of development with its own identity and sense of place.

Environmental Issues and Biodiversity Net Gain

- 8.79 The LDO is accompanied by a considerable level of information in relation to ecology, biodiversity and wider environmental issues.

Concerns were originally raised by both Natural England and the Lincolnshire Wildlife Trust in respect of the scheme.

- 8.80 Following re-consultation after the provision of additional information was presented, neither Natural England or Lincolnshire Wildlife Trust have provided a response. Officers have sought to contact both bodies on numerous occasions seeking an update or further formal comment, but none has been forthcoming. Unfortunately, the Council has to move the matter on and take a view.

- 8.81 The scheme proposes considerable on and off-site mitigation and biodiversity enhancement. A comprehensive 'blue and green' strategy proposes to integrate water and landscape features in a coordinated way alongside the placemaking. A commitment to a minimum 10% Biodiversity Net Gain (BNG) is put forward.

- 8.82 The image earlier from the Design Code shows how much of the site would be comprised of landscape elements, and these are strategic landscape features to provide buffers, designed walks/routes, and demonstrate that integrated approach. Further, the 'off-site' mitigation areas which fall within the red-line provide opportunities for further natural habitat and natural capital to be created. The aim of the Design Code also aims to create a place where residents and users of the site co-exist with nature, and equally provide new spaces for such interaction which can be beneficial to the existing residents of Skegness.

- 8.83 As part of our assessment of the scheme, the Council has commissioned a Habitats Regulations Assessment which concludes that there would be no likely significant effects as required to be demonstrated through the relevant regulations. This a separate test the Council is required to undertake in relation to the impact on ecological designations. Had this conclusion not been reached, the Council could not have granted the LDO.

As such, it is considered that subject to the imposition of conditions and the framework approach suggested by the supporting documentation, the proposal has the potential to deliver significant environmental gains.

9.0 STRUCTURE OF THE LDO

Conditions

9.1 A series of conditions are set out within the draft Order, these have been amended as a result of the revisions to the scheme and the Order. These have been formally consulted upon.

The proposed conditions can be seen in the draft Order (available on the Councils website) but have also been referenced within **Appendix 1**.

9.2 These are considered sufficient to ensure that the development that would result from the Order is brought forward in the fashion intended, and in accordance with the technical documents provided. They would also allow sufficient scope for an exemplar form of development to come forward, whilst providing sufficient regulation.

9.3 The conditions cover key matters including:

- **Time period** - LDO time limited for 10years; with a review after 5years where the LDO can be amended or revoked. Development which gains a Certificate of Compliance prior to revision or revocation has 3 years to commence.
- **Implementation** - Requirement for a Certificate of Commencement before implementation.
- **Compliance** - Must be undertaken in accordance with conditions of the LDO and all associated documents-including Design Code, ES, etc.
- **Commencement** - 14day notification of commencement required.
- **Flood Risk & Biodiversity Mitigation Strategy** - Whole site strategy required before any Certificate of Compliance can be given to individual parcels. All development to be in accordance with agreed strategy.
- **Phasing Plan** - Whole site phasing plan to be agreed; to be updated throughout to ensure site wide infrastructure is being provided as required.
- **Code of Construction Practice**
- **Archaeology investigation**
- **Flood Risk - Site specific** - an assessment for each parcel.
- **Surface Water drainage** - Surface water scheme for each parcel.
- **Foul drainage** - Foul drainage scheme for each parcel.
- **Finished Floor Levels**
- **Landscaping scheme and Planting**

- **Landscape maintenance plan**
- **Travel Plan**
- **Roads and Footways – provision**
- **Off-site highways improvements**
- **Restriction on Class E uses** - to be in line with documentation.
- **Restrictions on Class E and MA uses** - to be in line with documentation.

9.4 As recognised in **Appendix 1**, Members should note that there may be a need for further conditions to be included at the final stages of refinement of the Order; however these will only be imposed where they are required and would meet the ‘tests’ for conditions. These can be added in the usual way following a resolution from Members, in accordance with the principles of existing delegations to Officers.

Legal Agreement

9.5 As set out earlier in this report, it is proposed that there is a legal agreement which accompanies the Order which secures various mitigation measures; and other requirements which are relevant to the development.

9.6 The Planning Practice Guidance and Planning Advisory Service (PAS) guidance on LDOs advises that *“Section 106 planning obligations cannot be required under a Local Development Order. This does not however prevent section 106 agreements being offered by a developer.”* It then goes on to say that LDOs should set out where *“section 106 obligations may be used to address the impacts of the permitted development. This should take into consideration onsite and offsite impacts to be mitigated.”*

9.7 In this case, legal agreement is being presented by the landowner as a side document linked to the LDO. This agreement would seek to require those elements requested by consultees (such as the LCC request pertaining to footway enhancements) as mitigation measures; as well as providing the legal basis for other measures (such as the on-site management measures, and safeguarding of a protected route for a future bypass opportunity). This would be dealt with through a section 106/section 111 (Local Government Act) agreement which is entered in to on a voluntary basis by the Council and landowner.

9.8 It is therefore considered reasonable, and appropriate for a legal agreement to sit alongside the LDO itself. Provisions within the legal agreement will state that in the event of amendment or revocation of the LDO, the landowners will not be entitled to seek or retain financial compensation against the Council.

9.9 A document setting out draft Heads of Terms for the legal agreement accompanied the LDO submission and has been available on the website.

During the consultation process, responses from some consultees such as LCC and the NHS have made requests for requirements within the legal agreement.

9.10 Thus a full suite of Heads of Terms would include:

- **Affordable Housing** - to secure a minimum 5% provision
- **Housing mix** - including mechanisms to secure 5% Key Worker housing
- **Monitoring fee** - £10k per annum
- **Bypass route** - securing this for a minimum of 20years from the 800th dwelling
- **Highway improvements/sustainable transport contribution** - £2.5m
- **TRO contribution** - £5k
- **Travel Plan monitoring** - £5k
- **Education contribution** - £4.86m
- **Health contribution** - £605k or provision of land
- **Establishment of a Flood Risk Resilience Fund** - and associated requirements
- **Establishment of a ManCo** - and associated requirements
- **Provision of a Clerk of works** - to secure and regulate delivery of the development

9.11 These Heads of Terms can be given weight, and can be considered as being included in the legal agreement. As recognised by **Appendix 1**, there may be a need for these to be refined or supplemented prior to completion of the agreement, this can be undertaken as part of usual negotiations and utilising existing delegations.

9.12 It should be noted, that in order to enable full weight to be given to the legal agreement as part of the decision as to whether to make the LDO; the agreement would be required to be completed in full prior to the order's adoption. Thus the recommendation of this report is worded so as to resolve to adopt the order, but only once the associated legal agreement has been completed.

10 CONCLUSION

10.1 This report provides Members with an update on the progress of the Skegness Gateway Local Development Order. It also seeks approval from the Executive for the making and adoption of the Skegness Gateway Local Development Order (LDO). The report proposes that the Executive resolve to make, and formally adopt the Skegness Gateway LDO, subject to the satisfactory completion of all associated legal agreements.

10.2 This is a complex report, reflective of the scale and nature of the proposed development pursued by the LDO. The full basis for taking forward the LDO is set out throughout the various documents, including this report (and appendices), the Order itself and its Statement of Reasons, and the supporting documents including Environmental Statement which are available on the Councils website.

10.3 The Council has undertaken the necessary consultation on the proposed LDO, and has considered the responses received, and has as far as practicably possible sought to address

any concerns identified. Where those concerns or objections cannot be overcome, they have been duly considered and weighed in the planning balance. Relevant policy and other material considerations have also been considered and also weighed in the planning balance.

- 10.4 The main area of concern is the issue of housing and flood risk, and the approach in policy which seeks to restrict housing growth (particularly open market) in this location. This has then various sub issues as set out earlier in this report. The Council and proposer have been unable to reach agreement with the EA on this issue, nor the withdrawal of their objection. Despite this, the issue has been carefully considered as set out, and Officers are satisfied that the development can be made safe for its lifetime – particularly for future residents of the housing – despite this the established application of Local Plan policy relating to open market housing in this location clearly weighs against granting the LDO.
- 10.5 However, in counter to this, the proposal in many areas is considered to be policy compliant, and is an exceptional opportunity to bring forward a form, type and scale of development which has the potential to address significant challenges which Skegness faces. The proposals would compliment the ‘Levelling Up’ agenda, and provide synergies with the considerable public investment in to the area through the Town Deal and others. The development would create a new, year round community for Skegness, with significant economic potential and benefits. Additional social and environmental benefits would also be presented through the way this scheme is being pursued as an exemplar form of development with integrated blue and green infrastructure; community facilities; and improved access to accommodation and facilities to support all ages. The proposals are considered to present a significant opportunity to bring forward positive effects both directly and in-directly as a consequence of the development. Taken collectively, these factors all weigh significantly in favour of granting the LDO.
- 10.6 Additionally, as set out earlier in this report, notwithstanding the existing application of Local Plan policy, it is considered that there is a justified basis upon which the scheme could be considered to pass the Sequential and Exceptions Tests, as well as being safe over its lifetime, and thus in any event it is possible to conclude that the scheme could be considered as being compliant with the general direction of the Local Plan and the NPPF.
- 10.7 Clearly the future flood risk implications for this development (and the wider coast) are a significant issue that warrants careful consideration. The scheme also includes considerable mitigation measures for both the site and the wider community which are considered to assist in reducing the risk and the subsequent impacts of flood risk should an event occur. The Councils Safer Communities Manager has also recognised that the risks from the development are reduced such that no objection has been raised. Further it is recognised that the development has the potential to offer benefits for existing residents and visitors to Skegness in the event that a significant event were to occur. It is Officers view that the proposals reasonably comply with the requirements of the Planning Practice Guidance in respect of managing residual risk - including the provision of Flood Warning and Evacuation.,
- 10.8 Notwithstanding the flood risk issue, the ongoing economic and social challenges faced by Skegness are also serious issues, which various initiatives are seeking to address. The provision of this development aligns with those initiatives, particularly those of the Town Investment Plan and the Government support for levelling up. To that end, it is recommended that on balance, the benefits arising from this scheme are such that the conflicts in respect of flood risk are considered to be outweighed.

10.9 Taking all factors in to consideration, it is recommended that the LDO is made and adopted by the Council.

11 EXPECTED BENEFITS TO THE PARTNERSHIP

11.1 Although focused on East Lindsey, the proposals would align with the aspirations of the Partnership, in particular, it would align with the direction of travel of the sub-regional strategy and the desire to be a bold and ambitious partnership. The sub-regional strategy, which aligns with the 2050 Vision for Greater Lincolnshire, places Growth & Prosperity, Healthy Lives, Safe and Resilient Communities, and the Environment at the heart of what the partnership aspires to achieve. The Skegness Gateway LDO plays strongly into these sub-regional priorities.

Additionally, the approach is unique, and again, seeks to bring forward an innovative approach which raises the profile of the sub-region.

12 IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

12.1 None specifically for the Partnership beyond bringing forward a large mixed-use development, which may be attractive to new entrants to the area, as well as supporting existing businesses, visitors and residents.

CORPORATE PRIORITIES

12.2 Aligns with all 4 priorities in the Sub-Regional Strategy, and the general direction of travel for the emerging sub-regional economic strategy. Would also achieve an objective in the Annual Delivery Plan.

STAFFING

12.3 None

WORKFORCE CAPACITY IMPLICATIONS

12.4 None

CONSTITUTIONAL AND LEGAL IMPLICATIONS

12.5 Relevant legal considerations have been referred to as relevant throughout the report. The making of an LDO is an Executive function.

12.6 One representation has indicated that in their view, the making of the LDO would represent *“the abandonment of the Council’s legal responsibility to plan in a way that contributes to the mitigation of, and adaptation to, climate change” as required by provisions in Schedule 7 (15C) of the Levelling Up and Regeneration Act 2023 (which amends the Planning and Compulsory Purchase Act 2004)*. This is not agreed with.

12.7 There are various embedded measures and examples that would provide opportunities for adaptation to climate change. Examples include: Additional capacity being provided in terms of numbers and types of housing in the Skegness area); making significant contributions towards biodiversity net gain; additional landscaping which would contribute to carbon capture; and the ability for renewables and new energy efficiency techniques to be included through the design of the development.

DATA PROTECTION

12.8 None

FINANCIAL

Council tax / business rates

- 12.9 As a result of the scale and nature of the development, there could be a considerable benefit to the Council arising from the increased provision of Council Tax and Business Rates from the new development. It is not possible to accurately quantify or model this at the current time as it will need to be modelled at the time when the actual scale and type of development has been completed and its value can be assessed accurately.
- 12.10 Matters pertaining to Council tax/business rates, and other associated income such as new homes bonus can be material to planning decisions, as set out in the planning practice guidance. *“Whether or not a ‘local finance consideration’ is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.”*
- 12.11 Whilst the provision of additional Council Tax and Business Rates would be of benefit to the Council, it is considered that these factors add a modest level of positive weight to the decision. Particularly set in the context that the development would result in significant economic benefits generally, and contribute to the aspiration of securing the longer-term economic sustainability and opportunities for Skegness.

Planning Application Fees - Compliance in LDO

- 12.12 With some LDOs there can be a net effect of a loss of planning fee income to the Council. For example, at Fantasy Island, as there is no longer a need to apply for certain changes, the Council does not receive the fee income associated with those changes. However, in that case, the fee income lost would be offset by there being no longer a need to undertake work associated with fairly small scale applications. Thus the benefits of the LDO in terms of speed and flexibility outweighed the loss of income.

In this case, because of the scale and nature of development, the fee income reduction could be significant.

- 12.13 In order to balance this, as part of providing a degree of regulation within the LDO, the Certificate of Compliance approach ensures that the Council would receive fee income relative to the type and scale of development sought, in line with either the nationally published fees or an alternative scale that the Council may set. To that end, the Council would continue to receive significant fee income from the development in future. Thus there will be no negative effect in this case. In part, owing to the subsequent process for discharge the conditions would be simpler than determining traditional applications, and thus, the process could be more cost efficient for the Council relative to the fee received.

PPA

- 12.14 The terms of the adopted PPA have enabled the Council to work with the landowners in a proactive fashion, with engagement over a long period of time, including over technical matters. This has been supported by the Council retaining technical consultants and legal

support. The terms of the PPA have enabled the Council to recharge this work to the landowners, further, the PPA also includes a one-off payment at adoption. Thus in real terms, the proposals have been brought forward at nil-cost to the Council and wider tax-payers.

RISK MANAGEMENT

Call-in / Revocation

12.15 The provisions of the Town and Country Planning Act pertaining to LDOs allows the Secretary of State (for the Department of Levelling Up, Housing and Communities (DHLUC) to intervene in the making or adoption of an LDO. In this case, the Secretary of State has not intervened to date or made a formal direction. They may however choose to intervene after they are notified of the formal adoption of the Order.

12.16 If this were to occur, the Secretary of State could require the revocation of the order, providing its reasons for doing so.

Equally, the Council may at any time decide to revoke the Order.

In the event that the Order is revoked, or the Council is advised to revoke it, the Council could be at risk of compensation based on the requirements of the legislation.

12.17 The Environment Agency within their comments has made a clear statement of intent that if the Council moves to make the LDO in light of their objections, they would notify the Secretary of State for Levelling Up, Housing and Community of their concerns and seek revocation of the order. There is therefore a very clear risk here.

12.18 If this approach is successful, it potentially could play out in a similar way to the Fantasy Island and Coastal LDOs; with considerable correspondence from all sides, and potential for legal dispute. There are many courses of action that could then follow; ranging from confirming the Order to revocation and or requesting the Council make amendments. It is likely that the Secretary of State could request that the parties participate in further proceedings, including public inquiry, before making their decision.

12.19 Whilst there is no certainty of what may or may not happen if the Council moved to make the Order, ultimately though there is a risk for all parties relating to what may happen next in terms of certainty, and cost/resource impacts.

12.20 In order to reduce this risk, the Council has worked with the landowner to acknowledge this risk, and reduce the impact on the public purse. Firstly the parties have sought to engage with the Environment Agency over an extensive period of time, and considerable efforts have been made to seek to resolve their formal objections. The parties have also undertaken considerable levels of engagement, including with wider stakeholders. Secondly, there is a clear understanding of the risk from the landowner/promoter, a risk which they accept and understand that the Council has sought to manage as far as practical, and they are advised that in the event the Secretary of State were to intervene, they would work with and support the Council in seeking to defend the Order.

Legal Advice and Compensation

12.21 Officers have sought legal advice from Leading Counsel in respect of the implications of potential revocation and compensation implications. In summary, Leading Counsel advised

that whilst it has not been directly tested in the Courts, he was of the view applying general principles, that the Council and Croftmarsh can agree to exclude the right to statutory compensation in the event that the Council makes the LDO which is then subsequently modified or revoked by the Secretary of State. However, he also stated that a covenant to this effect would not arguably fall with the statutory purposes in respect of which a s.106 agreement can be entered into. Out of an abundance of caution, Officers take the view that provisions excluding the right to claim statutory compensation should be included within the section 106 agreement and also in a separate, free-standing contractual agreement.

In light of this advice, steps have been taken to reach agreement with the landowner/promoter to acknowledge this, and remove this risk.

STAKEHOLDER / CONSULTATION / TIMESCALES

12.22 Relevant considerations have been referred to as relevant throughout the report.

REPUTATION

12.23 Relevant considerations have been referred to as relevant throughout the report. There are reputational impacts, both positive and negative, potentially arising from any decision taken. All of which are considered to be manageable.

CONTRACTS

12.24 None

CRIME AND DISORDER

12.25 None

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

12.26 The proposal would result in a mixed use form of development that can accommodate a wide range of uses, facilities and services, and accommodation which can cater for a wide range of groups. The proposal is unlikely to have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), or sexual orientation. It is therefore considered that equality or diversity implications have been appropriately considered and there are no issues arising directly from this report or the development proposed.

HEALTH AND WELL BEING

12.27 Relevant considerations have been referred to as relevant throughout the report. The proposal has the potential to positively impact upon the health and wellbeing of existing and future residents of Skegness, in particular through the provision of new development of a mix of sizes and types, the provision of new facilities, and the significant enhancement of the natural environment and provision of new walking and cycling routes and public spaces.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

12.28 Relevant considerations have been referred to as relevant throughout the report and appendices. The impact of climate change has been considered, particularly in respect of Flood Risk. Wider environmental considerations have also been well documented. The proposal offers, through the Design Code and detailed scheme design, an opportunity to

bring forward a type and approach to development which seeks to be mindful of future climate challenges.

LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

MISSIONS	
The development proposed by the LDO would directly and indirectly contribute to the following missions outlined in the Government's Levelling Up White paper.	
Living Standards	By 2030, pay, employment and productivity will have risen in every area of the UK, with each containing a globally competitive city, with the gap between the top performing and other areas closing.
Research and Development	By 2030, domestic public investment in Research & Development outside the Greater South East will increase by at least 40% and at least one third over the Spending Review period, with that additional government funding seeking to leverage at least twice as much private sector investment over the long term to stimulate innovation and productivity growth.
Transport Infrastructure	By 2030, local public transport connectivity across the country will be significantly closer to the standards of London, with improved services, simpler fares and integrated ticketing.
Digital Connectivity	By 2030, the UK will have nationwide gigabit-capable broadband and 4G coverage, with 5G coverage for the majority of the population.
Education	By 2030, the number of primary school children achieving the expected standard in reading, writing and maths will have significantly increased. In England, this will mean 90% of children will achieve the expected standard, and the percentage of children meeting the expected standard in the worst performing areas will have increased by over a third.
Skills	By 2030, the number of people successfully completing high-quality skills training will have significantly increased in every area of the UK. In England, this will lead to 200,000 more people successfully completing high-quality skills training annually, driven by 80,000 more people completing courses in the lowest skilled areas.
Health	By 2030, the gap in Healthy Life Expectancy (HLE) between local areas where it is highest and lowest will have narrowed, and by 2035 HLE will rise by 5 years.
Wellbeing	By 2030, well-being will have improved in every area of the UK, with the gap between top performing and other areas closing.
Pride in Place	By 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between the top performing and other areas closing.
Housing	By 2030, renters will have a secure path to ownership with the number of first-time buyers increasing in all areas; and the government's ambition is for the number of non-decent rented homes to have fallen by 50%, with the biggest improvements in the lowest performing areas.
Crime	By 2030, homicide, serious violence, and neighbourhood crime will have fallen, focused on the worst-affected areas.

APPENDICES

(If none then insert the word 'None' and delete the below text/boxes).

Appendices are listed below and attached to the back of the report: -

Appendix 1	<i>Officer Report – Skegness Gateway</i>
Appendix 2	<i>Examples of parameter plans</i>
Appendix 3	<i>EA objections –March 24, January 24, December 23.</i>

BACKGROUND PAPERS

There are various background papers as defined in Section 100D of the Local Government Act 1972, which were used in the production of this report and its appendices. These are referenced (and linked) throughout the report, or are directly available via the Councils website, in particular its planning register pages relating to the LDO wherein an extensive array of documents as well as responses are available. A more detailed summary of the documents provided can be found within Appendix 1 which can be cross related to the Councils planning register pages.

CHRONOLOGICAL HISTORY OF THIS REPORT

None

REPORT APPROVAL

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Approved for publication:	Cllr Ashton / Cllr Kirk