

## **Notice under Article 38 for a Local Development Order**

**REFERENCE:** S/153/02320/22 **APPLICANT:** Mr R Doughty

**VALID:** 01/12/2022 **AGENT:** Mr R Doughty

**PROPOSAL:** Notice under Article 38 for a Local Development Order granting planning permission which is accompanied by an Environmental Impact Assessment

**LOCATION:** LAND NORTH AND SOUTH OFF, WAINFLEET ROAD, SKEGNESS

### **1.0 THE SITE AND SURROUNDINGS**

- 1.1 The site is located on the edge of Skegness on the A52 Wainfleet Road to the west of the town. The site is primarily farmland consisting of 206 ha of land, which is in three separate parcels. The A52 Wainfleet Road runs north-east to south-west cutting through the centre of the site. Within the southern part of the site is a railway line, the Boston to Skegness line.
- 1.2 The site contains undeveloped farmland with the eastern boundary adjoining residential properties, holiday park and industrial estate on the edge of the town. There are no current buildings on the site, however, the site boundary excludes isolated properties on Warth Lane to the north west of the site and Skegness Holiday Cottage on the A52 Wainfleet Road.
- 1.3 Main Drain forms the northwest boundary and Winthorpe Drain lies to the north. To the southwest is Cow Bank Lane and Cow Bank Dain.

### **2.0 DESCRIPTION OF THE PROPOSAL**

- 2.1 A Local Development Order (LDO) is sought for planning permission for development on the Skegness Gateway Site. This is a summary of the development under the LDO, the LDO and appendices is available to view in full on the Council's website.
- 2.2 The LDO will grant outline planning permission, with all matters reserved, for the following uses:
  - Use Class E – Commercial Uses (41,200m<sup>2</sup> of Commercial, business and service uses)
  - Use Class B2 – General Industry (3,200m<sup>2</sup>)
  - Use Class B8 – Storage and Distribution (4,000m<sup>2</sup>)
  - 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 (1,400m<sup>2</sup> convenience store), a pub restaurant (E(b) and sui generis) and 750m<sup>2</sup> of local retail units (E(a)/F2/sui generis) including a transport mobility centre;

Use Class F1 – Learning and Non-residential institutions comprising a 4,805m<sup>2</sup> Further Education College and a 1,600m<sup>2</sup> primary school

Use Class Sui Generis – Tourism Accommodation

Use Class Sui Generis – Crematorium.

- 2.3 The LDO also seeks consent for planning permission for associated infrastructure and site preparation works.
- 2.4 The LDO is separated into two Parts, Part 1: Permitted Development, this 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. Part 2: Planning Considerations, which sets out the wider context for the Skegness Gateway LDO, the Statement of Reasons, the strategic and planning policy considerations and other items required by legislation and LDO requirements.
- 2.5 During the course of the application amendments have been made to the proposal and updated technical documents submitted, including an updated ES and Habitat Regulations Assessment. The red line and masterplan have been amended to include an additional 77.5 hectares of land to the southeast of the Boston to Skegness railway line identified within the LDO for flood risk and ecological mitigation purposes.
- 2.6 Further additional clarifications and minor amendments have also been provided prior to the formal determination of the proposal. These respond to comments made and issues raised throughout the determination process.

### **3.0 CONSULTATION**

- 3.1 Set out below are the consultation responses that have been received on this application. These responses may be summarised and full copies are available for inspection separately. Some of the comments made may not constitute material planning considerations.

#### **Publicity**

- 3.2 The application was advertised by way of 11 site notices, displayed close to the site. Where relevant, neighbouring properties sharing a common boundary were notified by letter. Advertised by notice in the press.

#### **Consultees**

- 3.3 ADDLETHORPE PARISH COUNCIL – Neutral.
- 3.4 BURGH LE MARSH – Neither support nor object due to not being sure of impact on Burgh le Marsh
- 3.5 SKEGNESS TOWN COUNCIL – supports the scheme in general, concerns over infrastructure including traffic flow and access, healthcare provision and future maintenance of the grass verges.
- 3.6 SKEGNESS AREA BUSINESS CHAMBER - Support
- 3.7 NHS LINCOLNSHIRE - This development will have an impact on the capacity of the local health partnerships. At the moment, there is no provision for health and wellbeing on the Order. Further to current conversations, we are looking at the potential opportunity and capacity for health and care provision and would like the Order to reflect/acknowledge this impact. Using the current NHS funding tariff for Section 106, for a development of up to 1,000 dwellings this would equate to a request for £605,000.00. We would like further conversations to determine what requirements are needed for the population of Skegness.
- 3.8 ELDC HOUSING STRATEGY – There is a strong need in Skegness for rented affordable housing consisting of 1, 2, 3 and a small number of 4 bedroom properties. These should be managed by a Registered Provider and let through the East Lindsey Common Housing Register. The Local Housing Authority is supportive of this application if the affordable housing contribution is included within a s106 agreement along with the requirement to discuss and agree with the council the type, size (including the number of bedrooms) and tenure of the affordable homes when reserved matters are submitted. The S106 should also include the standard affordable housing requirements relating to letting, sales and perpetuity. The applicant should also engage with a Registered Housing Provider, who would need to acquire and manage the affordable housing, to ensure that the affordable housing design and quality standards are complied with and that the development is included in their pipeline of developments/ affordable housing acquisitions. Provides comments on Nationally Designed Space Standards.
- 3.9 ELDC ECONOMIC GROWTH – Support. Confident that the Skegness Gateway development can provide economic sustainable benefits for the town and the Lincolnshire Coast.
- 3.10 HISTORIC ENGLAND – No comment, refer to expertise of own archaeological and built heritage advisors
- 3.11 ENVIRONMENT AGENCY – Object, object to the proposal set out in their initial Position Statement and object to the Environmental Statement which has not adequately considered alternatives to the scheme.

*Environmental Statement* – The ES does not provide an adequate description of the reasonable alternatives and therefore does not comply with Regulation 18 3(d) or Schedule 4, Article 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

*Draft Local Development Order (LDO)* – Provides commentary or queries on relevant sections of the LDO and the General Conditions.

*Foul Sewage* – Due to incident involving high flows with the sewerage catchment that have impacted on the ability of Ingoldmells WRC and pumping stations within the catchment to operate properly it is recommended that Anglian Water Services Ltd are consulted. Based on the size of the development and proximity to the existing sewer would not support any non-mains proposals for foul drainage disposal.

*Ground Water and Contamination* – Request conditions

*Waste* – The proposal identifies the need for waste management and potential need for environmental permits(s) for the raising of land levels. Any party undertaking development allowed by the LDO should contact the EA to seek advice and guidance.

- 3.12 LINCOLNSHIRE COUNTY COUNCIL HIGHWAY AUTHORITY AND LEAD LOCAL FLOOD AUTHORITY - Requests further information on the future Skegness Bypass and protective corridor. Provides general comments on conditions, Transport Assessment, Framework Travel Plan, Design Code, FRA, Public Health and Section 106 requests.

On receipt of updated LDO – No objection subject to the imposition of conditions and the following S106 requests;

- £2,500,000 towards provision of footpath/cycleway improvement on A52
- £5000 towards TRO costs for changing speed limit on the A52
- £5000 (£1k for 5 years) towards cost of monitoring the Travel Plan
- £605,000 for NHS Lincolnshire
- £4,864,991 for LCC Education

- 3.13 ELDC HISTORIC ENVIRONMENT OFFICER – The development will not impact on two listed farmsteads. The biggest impact is on archaeology and should refer to Heritage Lincolnshire for archaeological advice. Proposed materials are in context apart from the white bricks. Boundary treatment to Wainfleet Road should be considered not just the outside edges.

- 3.14 HERITAGE LINCOLNSHIRE- It is considered that the site offers a potential for archaeological remains to be present based on the extent

and type of remains recorded within and in the vicinity of the site. Insufficient information is available at present with which to make any reliable observation regarding the impact of this development upon any archaeological remains. It is recommended that an archaeological evaluation be carried out.

- 3.15 NATURAL ENGLAND – Object. The proposal would have an adverse effect on;
- the integrity of Saltfleetby – Theddlethorpe Dune & Gibraltar Point Special Area of Conservation.
  - the integrity of Gibraltar Point Special Protection Area (SPA) and The Wash (SPA)
  - adverse effect on the integrity of Gibraltar Point Ramsar and The Wash Ramsar
  - Damage or destroy the interest features for which Gibraltar Point Site of Scientific Interest (SSSI) and The Wash SSSI has been notified

**Attempts have been made to seek an updated/amended comment from Natural England following receipt of the revised plans, but none has been forthcoming.**

- 3.16 ANGLIAN WATER – Will need time to undertake network surveys to understand the impact of the site additional flows into the network, especially in peak summer period. Require a foul drainage condition and a surface water condition to be applied.
- 3.17 LINDSEY MARSH DRAINAGE BOARD – There are several Board maintained watercourses bordering and running through the site, to which Byelaws and the Land Drainage Act 1991 applies. The Boards consent is required for any works, where temporary or permanent, in, over or under, any Board maintained watercourse or culvert. Advises that the Boards consent is needed for any increase in flow or volume, discharge, flow or stability etc. The development should not be allowed until the applicant is able to demonstrate that the development is safe from flooding and flood risk. In principle, the Board does not object to proposed discharge. Provides comments on drainage routes.
- 3.18 NETWORK RAIL - Provision should be made within the order to protect railway assets and to ensure that development does not impact on operational railway safety either during construction or subsequent operation of the scheme. Construction works in proximity to the operational railway environment should be discussed and agreed with Network Rail in advance. Traffic haulage routing associated with construction and operation of the site should be agreed with Network Rail to ensure that any impact on railway assets (such as railway bridges with height or weight restrictions and operational railway level crossings) is avoided or mitigated where necessary. We also note the lack of any drainage strategy which we will require further information on this

element and agreement between Network Rail and the developer in relation to this aspect of the scheme. Any use or crossing of Network Rail owned land, structures or assets must be agreed in advance and the developer must engage with us to ensure that the appropriate licences and agreements are entered into beforehand. Provides comments on level crossings, railway station links, boundary treatments and conditions on works in proximity of railway, vehicle incursion measures, landscaping and lighting.

### **Neighbours**

- 3.19 Comments are summarised below. Full comments are available on the file.

#### Concerns/comment

Road Infrastructure - Consideration should be given to the infrastructure of the two main roads coming into Skegness. The A52 is of a width that hardly accommodates articulated trucks and farm vehicles. Speed limit and volume of traffic create bottlenecks and long journey time. Traffic will come to a standstill.

Ground Levels – clarification needed on ground level changes and finished floor levels to understand impact on visual amenity.

Boundary Landscaping – clarification sought over visual mitigation measures along the southern boundary and any landscaping/green infrastructure mitigation measures.

#### Support

The proposed addition of new homes, specialist accommodation, tourism, employment and commercial land as well as green spaces and amenities for local people reflects the ambition and strategy in the Skegness Town Investment Plan and Towns Fund projects.

## **4.0 CONSULTATION ON AMENDED PROPOSALS**

- 4.1 Consultation undertaken on the amended Local Development Order.
- 4.2 LINCOLNSHIRE POLICE – no objection
- 4.3 ELDC CARAVAN SITE LICENSING TEAM – advises that caravan licenses maybe required.
- 4.4 LINCOLNSHIRE FIRE AND RESCUE -no objection subject to inclusion of access to buildings for fire appliances and fire fighters, weight limits on private/shared access roads and fire hydrants.
- 4.5 HERITAGE LINCOLNSHIRE- Advice remains as previously submitted.

- 4.6 SKEGNESS TOWN COUNCIL – support
- 4.7 HISTORIC ENGLAND - No comment, refer to expertise of own archaeological and built heritage advisors.
- 4.8 NHS LINCOLNSHIRE INTEGRATED CARE BOARD - The scheme will have an impact on the health and care capacity that is needed in Skegness, and we are currently in the process of reviewing what the specific impact and opportunities are. Therefore, we would like to be actively involved in the planning process.
- 4.9 ENVIRONMENT AGENCY – Object. The EA does not consider that the evidence presented demonstrates that the proposed LDO satisfies the sequential or exception test. It is considered that the flood risk assessment fails to demonstrate that the development will be safe throughout its lifetime without increasing flood risk elsewhere. Accordingly, do not consider that the LDO should be adopted.

*Flood Risk Sequential Test* – Object, as the open market residential use is contrary to SP18 and Annex 2 of the East Lindsey Local Plan 2018 and paras 161 and 162 of the NPPF and fails the flood risk Sequential Test.

*Flood Risk Safety* – Object, the FRA demonstrates that the development cannot be safely occupied without reliance on complete evacuation of the site in advance of a flood alert.

*Environmental Statement* – Object, as the ES does not provide an adequate description of the reasonable alternatives studied, an indication of the main reasons for selecting the chosen option and a comparison of the environmental effects. Does not comply with Regulation 18 3(d) or Schedule 4, Article 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

*Tourism Uses* – Object, as the LDO allows the delivery of caravan, log cabin, chalets, camping and touring sites with year-round occupation. It should be subject to occupancy restrictions.

If the council is minded to make the LDO in its current form without addressing these objections, the EA intends to notify the Secretary of State for Levelling Up, Housing and Community of their concerns and request that they revoke the LDO.

- 4.10 RIGHTS COMMUNITY ACTION (RCA) – The consultation may not have been legally adequate and there is no clear start and end point for the period of consultation for the public. Concerned that TCDMPO (s.38) 6b(iii) was not complied with. Object on the following grounds;
- contrary to the Local Plan.
  - inadequately applied the sequential approach, does not consider alternative areas which are intrinsically more resilient to current and future flood risk.
  - Misapplication of the exceptions test, no evidence that there is an overwhelming public interest in the development of the site as compared

with a more resilient location. Fails to adequately demonstrate that the development will be safe over its whole lifetime.

- The proposed flood risk management relies on land raising, which will increase flood risk for other properties and in particular Skegness.

- The proposal relies heavily on emergency evacuation procedures as the foundation for its flood resilience strategy.

4.11 ELDC SAFER COMMUNITIES SERVICE MANAGER - I would not object to the scheme as I feel the risks can be mitigated through the proposed evacuation plan that would be overseen and implemented by managed community group. I note that there are no other objections from services who make up the LRF, such as Police, Fire & Rescue, LCC Emergency Planning, LCC Highways, so I am unclear as to how the assumption that the development places an additional burden on the emergency services has been reached.

4.12 TOWN AND COUNTRY PLANNING ASSOCIATION – concerns

- East Lindsey's Local Plan set a strategic approach to coastal development that responded to the increasing vulnerability of the district's low-lying coastal region in the face of climate change, and increased risk of extreme weather events such as storm surges. The local plan seeks to limit housing growth along the coast in response to this level of flood risk. This approach was supported at examination by the Inspector, and there is not evidence to demonstrate this has impacted housing completions since plan adoption.
- The Flood Risk Assessment demonstrates the site is vulnerable to widespread flooding in the event of flood defense breach or overtopping, both in the present day and climate change scenarios, with the potential for widespread flooding depths of 2-3 metres.
- This level of flood risk is clearly incompatible with residential development, as demonstrated by the list of mitigations proposed which, when taken as a whole, begin to verge into the absurd. These include 'sacrificial' ground floor uses, structural reinforcements (so property can withstand breach events), protected car parking to reduce potential risk from 'floating' vehicles, strong anchoring of caravans to avoid flotation, and flood warning and evacuation plans.
- Reliance on emergency evacuation is of significant concern. If such a flood event were to happen, existing communities along the coast would be affected, meaning the emergency services would be under enormous strain. Adding a significant additional residential population (including elderly and vulnerable populations such as a dementia care village) puts them and other existing communities at significant risk.
- The application of the sequential test to the town of Skegness is not justified. The local plan approach of applying this to the whole



district is much more appropriate given the coastal flood risk challenges. There is no evidence that housing demand in Skegness is so high as to warrant this limited search area for the application of the sequential test.

- The Planning Advisory Service guidance on the use of LDO's states that '*the input of development management officers is imperative to ensuring that all of the issues that would be considered as part of a planning application are dealt with.*' Given the level of flood risk identified in the SFRA and the Council's spatial strategy which directs development away from the coastal area, it is unlikely that a planning proposal for strategic development in this location would gain consent. However, that does not mean that it is an appropriate use of an LDO to circumnavigate such scrutiny and bring forward development in an unsafe location.

4.13 ELDC HISTORIC ENVIROMENT OFFICER - The documents identify all of the surrounding designated heritage assets and list a number of possible non-designated build heritage assets too. It appears the proposals main impact is in change to setting, moving away from the current agricultural landscape. Not only through physical development but through increased green infrastructure to.

The two listed farmsteads have already been encroached on, this development would not impact.

It is clear the biggest impact therefore is on archaeology. Especially in the area of high density development for residential. Refer to Heritage Lincolnshire for archaeological advice here. Note there are a number of proposed water courses, where possible these should follow historic channels, Caitlin Greens work could be helpful to inform this.

The proposed materials are in context apart from the white bricks.

Boundary treatments to perimeter of the site to Wainfleet road should also be considered not just the outside edges. to maintain a consistency, post and rail or hedging for example to maintain an agricultural setting providing some link to its past. This road is also the gateway to the resort so street lighting could incorporate banner arms to announce arrival and support progression onwards to the town centre. This treatment should continue beyond the site.

No further comments.

4.14 LINCONSHIRE WILDLIFE TRUST: No objection

4.15 NEIGHBOURS – One additional letter expressing concern over the road infrastructure surrounding the area, A52 between Skegness and Boston.

## **5.0 RELEVANT SITE HISTORY**

5.1 No relevant history on the majority of the site.

*Parts of the application site*

- 5.2 S/153/00982/00 – Outline erection of a public house, hotel, petrol station, car showroom together with units to be used under Class B1. (Business), B2. (General industrial) and Class A3. Food and drink of the Town and Country Planning (Use Classes) Order 1987 (with siting and means of access included) – Approved August 2001
- 5.3 S/153/02189/02 – Detailed Particulars relating to the erection of a public house together with 84 bed hotel, staff quarters and managers flat, erection of a petrol filling station and forecourt with the provision of a car wash, erection of a car showroom, drive-thru restaurant, 24no. detached buildings to provide office accommodation, 2no. buildings each comprising 1no. industrial unit, 2no. buildings each comprising 2no. industrials units and 1no. building comprising 10no. industrial units, construction of access roads, provision of bus lay by and right turn lane facility, construction of pond, provision of parking and construction of a vehicular and pedestrian access (outline planning permission reference S/153/0982/00)– Approved 28.10.03.
- 5.4 S/153/02773/07 - Construction of a roundabout. Approved 08.01.08.
- 5.5 S/153/02388/10 – Construction of a roundabout (renewal of S/153/02773/07) Approved 24.01.11
- 5.6 S/153/01227/13 - To use land for the siting of 20no. touring caravans, excavation of land to form 3no. lakes (conservation/attenuation lake and 2no. lakes one for to be commercial fishing lake and one for landscape feature), excavated material to be used to spread across application site raising site levels to a maximum height of 340mm, construction of footpath/cycle routes and roads, provision of car parking and one existing vehicular access to be permanently blocked up. Withdrawn 21.06.16.
- 5.7 S/153/00153/14 – s73 application to vary condition one of S/153/02189/02 to enable roundabout to be provided after the development off Hassall Road. Approved 24.03.14
- 5.8 S/153/00613/16- Hybrid application consisting of full planning permission for the change of agricultural land to use for the siting of 48 no. touring caravans, and excavation of land to form a lake with excavation material used to create embankments to a maximum height of 2 metres and remaining material to be spread across application site and outline erection of a museum and visitors centre and associated landscaping, parking, roads, play area and residual buildings associated with caravan park to include reception building and toilets/washing facilities. Approved 29.06.16.
- 5.9 S/153/00513/17 – Consultation from LCC on an application for the construction of 19 commercial business units (use classes B1, B2 and

B8) including vehicular access and parking. Approved by LCC on 05.05.17.

- 5.10 S/153/01899/22 - Erection of a Further Education College with a MUGA, car parking, floodlighting and fencing. Construction of a vehicular access and internal roads. Provision of new bus stops and a footway on Wainfleet Road. Approved 03.02.23.

## **6.0 PLANNING POLICY/LEGISLATIVE FRAMEWORK**

- 6.1 The detailed legislative framework for LDOs is contained in section 61A to 61D of the Town and Country Planning Act 1990 (as amended) and in Articles 38 and 41 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Growth and Infrastructure Act 2013 removed the requirement to consult with the Secretary of state prior to adoption and enables local planning authorities to approve an LDO immediately.
- 6.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises: the East Lindsey Local Plan (adopted 2018), including the Core Strategy and the Settlement Proposals Development Plan Document; where relevant the Skegness Neighbourhood Plan; and where relevant the Lincolnshire Minerals and Waste Plan 2016. The government's National Planning Policy Framework (NPPF) is a material consideration.

Paragraph 10 of the National Planning Policy Framework outlines the following in relation to the principle of development:

"So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development".

Paragraph 11 goes on to say:

"For decision-taking this means:

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

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

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

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

### **Local Plan**

SP1 – A Sustainable Pattern of Places  
SP2 - Sustainable Development  
SP3 – Housing Growth and the Location of Inland Housing  
SP5 – Specialist Housing for Older People  
SP6 – Neighbourhood Planning  
SP7 – Affordable and Low Cost Housing  
SP10 – Design  
SP11 – Historic Environment  
SP17 – Coastal East Lindsey  
SP18 – Coastal Housing  
SP19 – Holiday Accommodation  
SP21 – Coastal Employment  
SP22 – Transport and Accessibility  
SP23 – Landscape  
SP24 – Biodiversity and Geodiversity  
SP25 – Green Infrastructure  
SP26 – Open Space and Recreation  
SP28 – Infrastructure and S106 Obligations  
SP29 – Reviewing the Local Plan

### **Settlement Proposals DPD**

Skegness – pages 186 – 194. Part of the site is identified as an existing employment area.

### **Skegness Neighbourhood Plan (May 2023)**

Policy E1 – Start Business Floorspace  
Policy E2 – New Employment Floorspace  
Policy E4 – New Education Uses  
Policy V1 – Tourism and Visitor Economy  
Policy V3 – Applications for Overnight Tourist Accommodation  
Policy INF1 – Sustainable Transport  
Policy INF2 – Car Parking Provision for New Developments  
Policy INF3 – Parking for Service and Delivery Vehicles  
Policy INF4 – Disabled Parking Standards for New Development  
Policy INF5 – Motorcycle Parking Standards for New Development  
Policy INF6 – Cycle Parking Standards for New Development  
Policy INF7 – Ultra Low Emission Vehicles (ULEV) Parking Standards and Future Provision  
Policy H3 – Older Persons Accommodation  
Policy C2 – New Community Facilities (non-health related) and Public Spaces  
Policy C3 – Community Health Facilities  
Policy D1 – Design in New Developments  
Policy D2 - Design of New Car Parking

Policy D3 – Gateway Sites and Edge of Settlement Development

## **National Planning Policy Framework**

### **Other legislation/guidance**

Landscape Character Assessment 2009  
Strategic Flood Risk Assessment  
Town Investment Plan – Skegness 2020  
Planning Practice Guidance

## **7.0 BACKGROUND PAPERS**

Environmental Statement Volume 1 (ES)  
Environmental Statement Volume 2 (Appendix)  
Transport Assessment  
Framework Travel Plan  
Waste Management Strategy  
Air Quality and Dust Technical Appendix  
Noise and Vibration Technical Appendix  
Phase 1 Ground Condition Assessment  
Flood Risk Assessment  
Landscape and Visual Assessment  
Habitat Regulations Assessment

This is a summary of the background papers all the LDO and appendices are available to view in full on the Council's website.

## **8.0 OFFICER ASSESSMENT OF THE PROPOSAL**

The main planning issues in this case are considered to be:

- **The Principle of Development;**
- **Housing matters including Affordable Housing;**
- **Impact on Amenity;**
- **Suitability of the Access Arrangements;**
- **Impact on the Character of the Area;**
- **Drainage and Flood Risk;**
- **Biodiversity and Geodiversity;**
- **Contamination and Land Stability;**
- **Impact on Heritage Assets;**
- **Agricultural Land;**

- **Noise;**
- **Air Quality;**
- **Health and Wellbeing;**
- **Waste and Recycling;**
- **Planning Obligations;**
- **Other Matters**

### **The Principle of Development**

- 8.1 Paragraph 7 of the National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. Paragraph 8 of the NPPF sets out 3 dimensions to sustainability – Social, Economic and Environmental. The Framework goes on to advise that development must satisfy all 3 dimensions. It goes on to state that these objectives will be delivered through the preparation and implementation of plans. *‘Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.’*
- 8.2 Paragraph 11 of the Framework sets out the principle in favour for sustainable development. In decision making this is set out as;
- approving development proposals that accord with an up-to-date development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date , granting permission unless:
  - the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed ; or
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.3 SP1 of the Local Plan relates to the distribution, scale and nature of future development, with Skegness identified as a town where development is supported. Skegness is classified as a town due to the opportunities it presents and support it offers to other areas of the district, including district-wide services which cannot be located in other areas. The overall spatial strategy seeks to direct development to the Towns in the first instance.
- 8.4 SP2 relates to sustainable development and that proposals should be approved wherever possible to secure development that improves the

economic, social and environmental conditions in the area. The site does lie on the edge of Skegness within close proximity to all of the services and amenities that the town has to offer. In location terms, the site is considered to be in a sustainable location.

- 8.5 The LDO is for a mixed use development which includes employment, tourist accommodation, healthcare facilities, retail, crematorium and education and as such would improve the economic, social and environmental conditions in the area.
- 8.6 Policy SP3 of the Local Plan relates to housing growth and the location of inland growth. Residential development is directed towards inland areas. This site is situated within the coastal zone, where residential development is restricted.
- 8.7 The proposal relates to the creation of 1000 dwellings on a site within the open countryside, albeit the site is directly adjacent to a main town located in the Coastal Zone. As such, the proposal would not be strictly in accordance with Policy SP3 of the Local Plan.
- 8.8 Policy SP17 of the Local Plan relates to Coastal East Lindsey and is applicable to Skegness. The policy states that high priority will be given to development which extends and diversifies all-year round employment opportunities, contributes directly to the local economy, infrastructure or extends and diversifies the tourism market. It also supports new community buildings within or adjoining an existing settlement. Linked to SP17, Annexe 2 sets out which types of development are considered to have passed the Sequential Test and which that have not (specifically highlighting residential development as not having passed and therefore requiring separate assessment). Annexe 2 then provides detail on how the Exception Test should be applied and the need to provide adequate flood mitigation.
- 8.9 The LDO includes employment uses (including Class E, Class B2 and B8), a local centre including shops, pub/restaurant and local retail units as well as a Further Education College and primary school, crematorium and tourist accommodation. These aspects will all contribute to the local economy and extend employment opportunities in the town as well as providing new community facilities and tourism opportunities. As such, these aspects of the LDO would comply with Policy SP17 of the Local Plan.
- 8.10 SP18 in relation to Coastal Housing states that open market housing will be supported on brownfield sites whereas affordable housing and specialised forms of housing for vulnerable or minority groups will be supported where there is an evidenced local need.
- 8.11 The application proposes open market housing in the open countryside and as such this element of the scheme would not be policy compliant with SP18 of the Local Plan.

- 8.12 SP18 goes on to state that the Council will support affordable housing and specialised forms of housing for vulnerable or minority groups in the towns providing there is evidence of local need. The application proposes a provision of a minimum of 5% affordable housing and there will be supported living accommodation. The site is located outside of, but directly adjacent to the boundary for Skegness and as such, the proposal would not strictly comply with policy SP18, however it is considered that the proposals would be in line with the general direction of that policy (ie to direct affordable housing to the towns) as opposed to other areas of the Coastal Zone. That said, it is noted that whilst SP18 allows affordable housing in the towns and larger villages in the Coastal Zone, policy SP7 does not require affordable housing to be provided in connection with development proposals in the coastal zone.
- 8.13 SP21 of the Local Plan relates to Coastal Employment and allocates employment land in Skegness. Part of the site is allocated for employment in the Settlement Proposal DPD. Policy E2 of the Skegness Neighbourhood Plan states that employment on allocated sites will be supported. As such, the employment element of the scheme would be compliant with Policy SP21, subject to detailed consideration of all other issues/policies.
- 8.14 SP19 relates to holiday accommodation in the Coastal Zone and states that The Council will support new and extensions to caravans, log cabins, chalets, camping and touring site development where sites adjoin or are in a town, large or medium village, providing it can be demonstrated that they add to the built and natural environment by the provision of extensive landscaping and green infrastructure, do not cause unacceptable harm to the wider landscape, protected or important habitats and they are connected to the existing settlement by road and footpath. As such, the holiday accommodation element of the scheme would be supported by Policy SP19 and could be acceptable, subject to detailed consideration of all other issues/policies.
- 8.15 The application also proposed a retail element, Policy SP14 of the Local Plan states that proposals for 'edge of' and 'out of centre' retail schemes will be subject to the sequential test to establish and ensure that there are no suitable, available sites in the Town Centre which should be brought forward first. Furthermore, Policy SP14 requires proposals for retail, leisure and office development in 'edge of centre', or out of centre locations with a floor space in excess of 1000 sqm net to include an impact assessment to demonstrate that the proposal would not harm the vitality and viability of the town centre.
- 8.16 The LDO states that there would be 1400 sq metres of convenience store and 750 sq metres of local retail units and as such a sequential test would be required and an impact assessment. There would also be a pub restaurant and it is stated that one of the local retail units would include a transport mobility centre.
- 8.17 The application has not been supported by a retail assessment, a statement has however been provided. This identifies that the retail



element is intended to be part of a Local Centre, the primary purpose of which is to provide local goods and services for people within the development but who would also travel elsewhere for larger food and major retail development. This Local Centre is intended to create a hub, with more than a retail function and is part of the ethos of a sustainable urban extension.

The Local Centre is described in the design code and the floorspace is intended to be limited as follows by condition:

- A total of 2150m<sup>2</sup> GFA
- No single unit to exceed 1000m<sup>2</sup>
- Local Centre comprising..."shops 1400m<sup>2</sup>....and 750m<sup>2</sup> of local retail units..."

Given the above, whilst there would be a total of 2150m<sup>2</sup> of retail floorspace, no single unit could exceed 1000m<sup>2</sup>, and it is envisaged that the total figure would be made up of a number of smaller offerings.

The Retail Statement highlights the existing policy in SP14. Sequentially is it considered appropriate in this instance that as the proposals are intended to serve and be integral to the gateway, that there are no alternatives which are preferable. In terms of retail impact, the development recognises the need to protect the existing retail offer within Skegness, and it is considered that the limitations proposed would assist in protecting the vitality of Skegness and ensure that the retail offer is of a scale which is commensurate to the Gateway and to support the function of the Local Centre. As such, the statement concludes that the proposals would be unlikely to have any detrimental impact on retail activity outside of the site.

To this end, whilst the proposal provides only limited consideration of this issue, there is a logic to the arguments that are presented. It is recognised that the Local Centre is an integral asset to the development, designed to provide a range of facilities and services, including retail, to support the immediate needs of the new community and reduce reliance on the private car. For larger goods and bigger retail offerings, occupants of the development would be reliant on existing facilities found elsewhere in Skegness which may require them to visit or be delivered from. To that end, it is considered unlikely that the proposals would have a significant adverse impact upon the vitality or prosperity of Skegness from a retail perspective. Indeed it could be argued that on the contrary, the proposed development could have a significant positive impact as a result of the provision of new residents and users of the development who will be reliant on the larger range of goods and services found in Skegness. As such there is the potential that the occupants and users of the development would add to the overall critical mass of people for Skegness which would be served by its existing retail offer, and therefore aid in ensuring its ongoing vitality, viability, diversity and sustainability.

As such, whilst consideration of this issue has been limited in nature, it is considered that it has been appropriately dealt with and is not an issue upon which this proposal turns.

8.18 The site lies on the edge of Skegness and is presented as a mixed-use scheme. The site is considered to be in a sustainable location on the edge of one of the largest urban areas in East Lindsey. The LDO would provide housing, affordable housing, employment, tourism, healthcare, retail and education/community facilities. As a whole scheme the proposal would meet the economic objectives, social objectives and environmental objectives of the NPPF, and would in general terms be considered in accordance with many aspects of the policies and direction of travel of the Local Plan. The main area of conflict with the Local Plan being that relating to the provision of open market housing within the scheme and its conflict with the approach to flood risk.

8.19 Skegness Neighbourhood Plan identifies Wainfleet Road as a Gateway Site on the edge of the settlement which is supported under Policy D3. The site is located within the extent of the Neighbourhood Plan boundary. It is considered that the development is in conformity with a number of elements of various policies of the NDP, and moreover the proposal is compliant with the general Neighbourhood Plan Vision & Objectives which seek to ensure:

*"Skegness will continue to be a thriving coastal town, expanding upon its well-established tourism and leisure offer, within an increasingly diverse economy. The Town will be a desirable place for families to live and prosper and attract visitors throughout the year."*

The objectives then go on to cover Economy; Social; Retail, Leisure and Tourism.

All of the above have been tested through the Neighbourhood Plan process, including independent examination. The Skegness Gateway is considered to be a proposal which compliments this vision, the aims and objectives of the Neighbourhood Plan and the wishes of the community.

8.20 Additionally, it is noted that the site is located within the boundary for the Skegness Town Deal, and that the site is specifically referenced within the Skegness Town Investment Plan which identifies the gateway site for important investment and infrastructure. Whilst this is not established planning policy, it is an aspirational document developed by the Connected Coast Board to support the aspiration and activities associated with the Town Deal. It does therefore support the general thrust of development and how this proposal can contribute towards addressing challenges faced by this community.

8.21 As a whole the scheme would be in a sustainable location and would comply with Policy SP1 and SP2 of the Local Plan. The provision of affordable housing would comply with Policy SP18 and the provision of tourist accommodation would meet the requirement of Policy SP19. Part of the scheme provides employment and economic development which would comply with Policies SP17 and SP18. As such it can be concluded that a number of elements of the LDO are supported in principle.

- 8.22 When assessed against the policy requirements of the Local Plan the market housing elements may be considered as being not in accordance with Policy SP3 and SP18 of the Local Plan. However, this lack of compliance can be weighed in the planning balance.
- 8.23 In conclusion, the affordable housing, employment, tourism, retail, healthcare and education are supported in principle, subject to a detailed consideration of all other issues/policies. This will need to be balanced against the proposed open market housing which would be contrary to the requirement of the local plan. These factors, along with all other material considerations will be weighed in the planning balance at the end of the determination of the proposals.

### **Affordable Housing**

- 8.24 The application proposes the provision of affordable housing (5%), as well as including key worker accommodation.

SP7 of the Local Plan supports the delivery of affordable housing and a 30% developer contribution. Policy SP7 identifies that no contributions would be sought in coastal flood hazard areas and as such the 5% provision would be above the minimum requirement (0%) of the Policy SP7. This weighs in favour of the proposal.

- 8.25 Policy SP18, Coastal Housing, supports affordable housing. It is identified in the Local Plan that the coastal area has the highest need for affordable housing in the District. Opportunities are considered to be limited for affordable housing and as such, the provision of this type of housing within the coastal area will be supported. Whilst as per earlier sections of the report, this relates to development within towns, the Gateway site is recognised as being outside of but immediately adjacent to the edge of Skegness. As such, the proposal would not strictly comply with policy SP18, however it is considered that the proposals would be in line with the general direction of that policy (ie to direct affordable housing to the towns) as opposed to other areas of the Coastal Zone.
- 8.26 The provision of a minimum of 5% affordable housing would provide much needed housing within an area of the highest need. This provision would be a positive benefit when weighing the scheme up in the planning balance.

### **Open Market Housing**

- 8.27 The NPPF supports the Governments objective of significantly boosting the supply of homes. Policy SP3 identifies the need for housing and states that housing on the coast will be constrained to existing commitments and exceptions as set out in Policies SP18, SP8 and SP9. The open market housing element of the scheme would not meet the exceptions as set out in these polices and as such would not be policy compliant with the Local Plan.

8.28 Whilst open market housing would not comply with the policy requirements of the Local Plan the proposal would bring forward some positive benefits. New build residential development on the coast has been slow and opportunities for market housing in Skegness are extremely constrained. For Skegness to continue to grow and be viable there is a need to boost supply and delivery of housing. Skegness faces underlying challenges within the town such as deprivation, skills, job opportunities etc to which the supply of housing will assist in addressing the challenges of decline, deprivation and stagnation which has been identified as an objective in Skegness. The provision of up to 1000 homes, of varying sizes, types and tenures, including the provision of accommodation for key workers would create potentially significant economic and social benefits. Most notably the economic benefits from construction and subsequent occupation of the units would create a substantial positive effect. Further, the scheme would make a significant contribution to the wider overall housing need for the District. Thus it is considered that the potential economic and social effects of this development, both directly and indirectly, would weigh positively in favour of the scheme.

### **Impact on Amenity**

- 8.29 Paragraph 135 and 191 of the Framework and SP10 of the Local Plan seek to ensure a good level of amenity is achieved for current and future occupants. Para 180 seeks to ensure that development does not cause undue environmental impacts.
- 8.30 The site is located on the edge of Skegness on the A52 Wainfleet Road to the west of the town. The site is primarily farmland consisting of 206 ha of land, which is in three separate parcels. The A52 Wainfleet Road runs north-east to south-west cutting through the centre of the site. Within the southern part of the site is a railway line, the Boston to Skegness line. The eastern boundary adjoining residential properties, holiday park and industrial estate on the edge of the town. There are isolated properties on Warth Lane to the north west of the site and properties on the A52 Wainfleet Road.
- 8.31 Existing properties to the east of the site are shown to be adjacent to green space with proposed development some distance from adjoining residential properties. The existing dwellings enclosed by the site on Wainfleet Road and Warth Lane are again shown on the Masterplan as being surrounded by open space and some distance from the residential development.
- 8.32 An assessment of the environmental impacts of the proposal in relation to noise, air quality, contamination and highway implications are considered elsewhere within the report.
- 8.33 Due to the design and layout of the master plan it is considered that the development proposal would not have any adverse impact on the residential amenity of adjoining properties.

- 8.34 The LDO includes a design code which incorporate distance separations within the development, which includes a minimum back-to-back distance of 22m to mitigate potential issues of overlooking. The design code also includes parking arrangements and waste management. It is considered that these distance separations are acceptable and the development can be designed in a manner that would not result in any adverse impacts on the amenities of future occupiers of the dwellings.
- 8.35 Overall, given the aforementioned, it is considered that the development would be acceptable in relation to the impact on neighbouring amenity.

### **Suitability of the Access Arrangements and Transport matters**

- 8.36 The Framework in paragraphs 114 and 116 seeks to ensure that highway safety is not compromised and that development takes account of sustainable modes of transport.
- 8.37 SP22 of the Local Plan also seeks to promote accessibility and to support developments that provide for sustainable modes of transport.
- 8.38 The application has been supported by a Transport Assessment, Travel Plan and a chapter in the ES covers transport and access.
- 8.39 The A52 Wainfleet Road runs north-east to south-west through the central section of the site. It is proposed to construct a new primary junction on the A52, approximately 485 metres south-west of the access point into the existing Skegness Retail and Industrial Park. This junction would serve the majority of the northern and southern sections of the proposed development with one additional junction approximately 75 metres north of Warth Lane.
- 8.40 Internally, the road network will be guided by the principle set out in the design code which sets out a street hierarchy for the layout and design of the internal roads.
- 8.41 The submitted transport assessment concludes that the proposed development accords well with national and local transport policy and guidance to the delivery of sustainable development as the location of the site is within easy walking distance of facilities within Skegness. The proposal also includes sustainable modes of transport. The scheme includes the provision of footways/cycleways to encourage walking and cycling and the provision of a footway towards Skegness Town Centre. The proposal also includes the provision of two sets of bus stops on the A52 and a Framework Travel Plan which includes a series of measures to encourage mode-shift away from single occupancy vehicles.
- 8.42 The County Council has considered the application and has not raised any objection on the ground of highway safety. Comments have been provided and conditions including a condition in relation to a

safeguarding corridor to the A52. The Highway Authority has also requested S.106 developer contributions to mitigate against the impact of the development which include;

- £2,500,000 towards provision of footway/cycleway improvements on A52 from Burlington Road east to the Town Centre. The development will be conditioned to provide the footway/cycleway improvements on the A52 site frontages, and from the site to Burlington Road.
- £5000 towards TRO costs for changing the speed limit on the A52
- £5000 (£1k per year for 5 years) towards covering costs for monitoring the Travel Plan

8.43 Concern has been expressed with regards to road infrastructure and the volume of traffic, bottlenecks and long journey time and some concern is expressed with regards to traffic congestion. The proposal includes traffic control measures on the A52 approaching Skegness; sustainable transport measures; and on-site opportunities to encourage travel by other means has been designed into the scheme. The County Council has reviewed the transport data and has raised no concerns and has acknowledged that the future development of a Skegness by-pass (rerouting the A52 around the site) which could help alleviate concerns in respect of congestion at peak times.

8.44 In view of this it is difficult for this Officers report to consider recommending refusal on highway grounds. It should also be noted that the proposed improvements to the A52 and off-site mitigation would be a benefit to be considered in the planning balance. It also should be noted that the proposal assists in safeguarding the potential for a future bypass route.

8.45 However a condition should be imposed to secure a construction traffic management plan (including hours that construction traffic can visit the site, parking areas for construction traffic and provisions for wheel washing to avoid hazard on the highway).

### **Impact on the Character of the Area**

8.46 The NPPF in section 12, achieving well-designed and beautiful places, states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

8.47 SP10 of the Council's Local Plan relates to the design of new development and also notes that Gateway sites will be supported. It sets out criteria by which the Council will support well-designed sustainable development which maintains and enhances the character of the District's towns, villages and countryside. This advice is reiterated in the National Planning Policy Framework. SP23 states that development will be guided by the Landscape Character Assessment, with landscapes

defined as highly sensitive being afforded the greatest protection. The policy seeks to protect and enhance the Districts landscapes.

- 8.48 Policy SP25 of the Local Plan relates to Green Infrastructure and requires the safeguarding and delivery of accessible green infrastructure and sets out the criteria against which new development should be assessed. It further states that on housing sites over 1 hectare, the Council will require the provision of multi-functional green infrastructure, for example, recreation areas, landscaped cycle ways and footpaths, wildlife areas.
- 8.49 Policy SP26 of the same plan states that the council will support development that increases participation in sport and physical activity. For new residential developments of 10 and over the policy expects the provision of quality and accessible sports and recreational facilities in order to meet the need it generates in line with the standards set out in the accompanying text.
- 8.50 Skegness Neighbourhood Plan aims to raise the standard and quality of design in new built developments, Policy Theme 7. It recognises that good quality design is not just about what buildings look like but how the buildings interact with the wider built environment and how outdoor amenity space is designed. Policy D1 of the NP relates to design in new developments and Policy D3 relates to Gateway Sites and Edge of Settlement Development. Policy D1 states that, among other criteria, that development should contribute to the character by creating a sense of place and make provision for an appropriate amount of landscaping and outdoor amenity/green space. Policy D3 recognises that gateway locations should enhance and improve the visual approaches and main arrival points of the town. Furthermore, development on the edge of Skegness should not have a significant adverse effect on the landscape setting.
- 8.51 The site is located on the edge of Skegness on the A52 Wainfleet Road to the west of the town and is considered to be a gateway site. The site is primarily farmland with the A52 Wainfleet Road cutting through the centre of the site, the southern part of the site contains a railway line, the Boston to Skegness line. The site is predominantly undeveloped farm land with the eastern boundary adjoining residential properties, holiday park and industrial estate on the edge of the town.
- 8.52 There are no public rights of way (ProW) which directly affect the LDO site, however, it should be noted that the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) lies approximately 8.5km to the northeast of the site. A number of statutory and non-statutory designations lie within a 5.0km radius of the development proposals including Gibraltar Point SSSI, NNR, SPA Ramsar and The Wash SSSI, SPA, Ramsar site is located 4.1km to the south of the LDO site.
- 8.53 The site lies within Natural England's National Character Area (NCA) 42, Lincolnshire Coast and Marshes. At a regional level, East Midlands Regional Landscape Character Assessment, the site and its immediate

surroundings to the north, south and west fall into the Group 2a, Settled Fens and Marshes landscape character type. The East Lindsey District Landscape Character Assessment July 2009 has identified the site as within the Tetney Lock to Skegness Coastal Outmarsh landscape character sub-area (J1).

- 8.54 Submitted with the application is a Landscape and Visual Impact Assessment (LVIA). It has been undertaken in accordance with the Guidelines for Landscape and Visual Impact Assessment, Third Edition.
- 8.55 The LVIA details the likely impact that may result as a consequence of the development proposal on the existing landscape and visual receptors in the study area associated with the development and considers the potential significance of effects arising as a result. The reports states that "the landscape character of the proposed development area has capacity to accommodate sensitively designed development and that the susceptibility of the landscape resource to change is considered to be Medium/Low. With regard to landscape value, it is considered that the typical value of the landscape character of the LDO site is Medium/Low to Low. The LDO site is not considered to represent a "valued landscape" in relation to and in the spirit of the NPPF and, when both value and susceptibility of the landscape resource are considered together, it is considered that the site would typically be of Medium/Low to Low landscape sensitivity. Within the localised landscape setting, it is considered that the landscape would be of Medium to Low sensitivity, increasing to Medium sensitivity within the LDO site's wider setting."
- 8.56 The LVIA also considered the impact of the development from viewpoints, impact during construction and mitigation measures proposed.
- 8.57 The report concludes by stating that;
- It is considered that the coastal edge of settlement landscape has the capacity to absorb development and acknowledges the recommendation of the Local Landscape Character assessment that:  
*'The location of new developments should take advantage of the existing screening provided by settlements, tree cover and hedgerows, and should be concentrated around existing settlements to prevent further loss of the rural landscape.'*
- 8.58 The LDO is supported by an indicative masterplan and a Design Code. The Design Code sets out the broad principles that will be applied when assessing compliance applications and will help to ensure that the applications align to the vision and objectives of the LDO. The Design Code will also provide opportunities to strengthen placemaking to ensure that the development is an attractive place to live and work, as well as responding positively to its surroundings and nearby communities. The NPPF encourages the use of local design codes, paragraph 138, and recognises the benefits of design codes in achieving good design.



- 8.59 The design code clearly sets out the design principles to be applied to the development which will ensure a sense of coherence and continuity across the site. The document will guide further planning applications to create a development of character, quality, variety and uniqueness whilst ensuring integrity and harmony with the overall site. The design code will ensure that there is a holistic approach to the design of roads, streets, green infrastructure networks and public spaces as well as architectural principles. The overarching objective of the Design Code is to connect the new distinctive community with the existing settlement to which it belongs.
- 8.60 Submitted with the LDO is an indicative Masterplan. The Masterplan includes substantial areas of open space, landscaping, footpath and cycle links as well as sports facilities.
- 8.61 The application has also been supported by a Landscaping Strategy which indicates keys areas of landscaping, enhanced areas of landscaping and areas of wet meadows, wildflower grassland and bodies of water. The landscaping strategy incorporates significant buffers around the edges of the site to ensure that the landscape setting and amenities of neighbouring properties and land uses have been appropriately considered. The proposed landscaping would also provide a minimum of 10% net gain in biodiversity.
- 8.62 The proposed development would inevitably impact on the character of the area and landscape, as the site is currently undeveloped. However, with the proposed Design Code, landscaping scheme and the inclusion of significant areas of green infrastructure, including areas of open space and perimeter landscaping the proposal would not adversely impact on the character of the area.
- 8.63 Overall, in design and landscaping terms it is consider that the development is exemplar due to the green infrastructure provision and as a development as a whole one that significantly enhances the surrounding environment, local landscape setting and character of the area.
- 8.64 As such, it is considered that the development would be acceptable with regards to its impact on the character of the area and would comply with the requirements of the NPPF. Policies SP10, SP23, SP25 and SP26 of the Local Plan as well as Neighbourhood Plan policies D1 and D3.

### **Drainage and Flood Risk**

- 8.65 The application site lies within Flood Zone 3, an area with a high probability of flooding. Paragraph 165 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It goes on to state that where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

- 8.66 The section "Planning and Flood Risk" sets out the requirement to apply a sequential, risk-based approach to the location of development. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.
- 8.67 Further, Chapter 10 of the Local Plan deals with the matter of flood risk and development within Coastal East Lindsey, with particular attention to policies SP17, SP18 and SP19 being of relevance to this proposal.
- 8.68 The site is within an area at low risk of surface water flooding, but is at high residual risk from breach flooding and high direct flood risk from overtopping of tidal defences.
- 8.69 The application has been supported with a flood risk assessment as is required by the NPPF for Flood Zone 3.
- 8.70 As a statutory consultee The Environment Agency has objected to the proposal, particularly as a result of the inclusion of market housing. 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.

They also provide commentary on the adequacy of the submitted Environmental Statement.

- 8.71 Additional correspondence has been submitted by the Environment Agency requesting to understand why the Council determines that the Sequential Test has been passed. Furthermore, the EA advises on the safety of the proposed scheme and the additional burden it would place on the emergency services and that the safety and wellbeing of people in Skegness is extremely important. The Environment Agency reiterates its position in that it is unable to remove its objections to this proposal as it does not believe the scheme conforms with the evidence and policies available. It also reiterates that if the residential elements were removed then the scheme would conform with the relevant local and national planning policies.

- 8.72 In terms of the sequential test, paragraph 168 of the NPPF states that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. A sequential test has been undertaken where it is stated that it has been agreed with the LPA that the search area should be in relation to Skegness only and not the wider district due to the nature of the development. As all sites in Skegness are at the same risk of coastal flooding, it was concluded that there is no sequentially available alternative site available.
- 8.73 The PPG 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.
- 8.74 Policy SP17 of the Local Plan states that development will need to demonstrate that it satisfies the Sequential and Exception Test and that all relevant development will need to provide adequate flood mitigation. Policy SP18 supports affordable housing and specialised forms of housing for vulnerable or minority groups in the Coastal Zone and flood mitigation should be provided.
- 8.75 Annexe 2 of the Local Plan (which links to policies SP17 and 21 and the Coastal Zone) states which types of development are deemed to have passed the Sequential Test. This includes holiday accommodation, employment developments, community buildings, social housing, housing for specified vulnerable people and specialist housing for older people. As such, only the open market element of the proposal fails to pass the sequential test as a matter of starting principle.
- 8.76 Moreover, Annexe 2 identifies various types of development which have also been deemed to have passed Part 1 of the Exceptions Test. In relation to the LDO, only the open market housing does not pass Part 1 of the Exceptions Test as set out in Annexe 2 and thus further assessment is required.
- 8.77 In terms of the submitted Sequential Test, the search area is in relation to Skegness only. This is accepted as the proposal is intended to address specific challenges faced by Skegness in terms of access to housing, employment and to stimulate the local economy. As the scheme is for a significant regeneration project for Skegness it is considered to be irrational and unreasonable for the search area to be district wide. The Council is not aware of any site/land in and around Skegness, that could accommodate the scale of development proposed that are at a lower level of coastal flood risk. There are no allocated sites, or alternative or available sites, and the general coastal flood risk impacts are similar across the area. The EA asserts the site should fail the Sequential Test as the site did not proceed as an allocation in the current Local Plan, this is not accepted in this case. Fundamentally the site did not proceed as an allocation due to the general approach to the location of housing in the Local Plan. That said, irrespective, this LDO must be treated like any

application, and must be considered on its own merits based on what is known at the time.

- 8.78 Focusing the Sequential Test solely on the open-market element (and not the development as a whole) would not be an acceptable approach, as this housing must be considered in the context of the proposal as a whole when applying the test – ie it would be unreasonable to disaggregate the housing from the wider proposal when considering that this is a proposal for a large-scale, mixed use development, of which housing and other uses are components which contribute to its viability, vitality and sense of place proposed. As stated, the majority of the uses proposed have already passed the sequential test based on the policies within the Local Plan and Annexe 2.
- 8.79 The Local Authority is satisfied that there are no other, alternative, available and sequentially preferable sites within the agreed search area. To that end, it is concluded that the Sequential Test is passed.
- 8.80 The NPPF under paragraph 169 then states that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The application has been supported by an exception test report. In terms of exceptions test the Planning Practice Guidance (PPG) states that;

*The Exception Test requires two additional elements to be satisfied (as set out in paragraph 170 of the National Planning Policy Framework) before allowing development to be allocated or permitted in situations where suitable sites at lower risk of flooding are not available following application of the sequential test.*

*It should be demonstrated that:*

- development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and*
- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

- 8.81 The supporting exception test report states that the LDO scheme provides the opportunity to transform the economic fortunes of Skegness, the quality of life and opportunities that are available to its residents and as such that proposal will deliver wider community benefits that meet the Exceptions test. The site-specific flood risk assessment concludes that with the proposed mitigation measures in place it is considered that the development can be safely operated throughout its lifetime. The proposals respond to many of the questions set out in Annexe 2 in relation to the Exceptions Test, and again, when taken as a whole, the scheme is considered to have a positive effect and meet the relevant Exceptions Test.

- 8.82 As set out in this report, there are wider sustainability benefits of the scheme. These include a sustainable location, a minimum of 5% affordable housing, extension and diversification of employment opportunities, economic growth and healthcare opportunities. It is considered that it has been demonstrated that the wider sustainability benefits to the community outweigh flood risk.
- 8.83 The PPG, then requires for the development to be safe for its lifetime and where possible to reduce flood risk overall.
- 8.84 A Flood Risk Assessment has been submitted which shows that the site will flood during both the present day and climate change enhanced breach and overtopping flood events. This would occur during both the 1 in 200 year and 1 in 1000 year event, therefore a high direct risk remains from overtopping, in addition to a high residual risk of flooding from a breach in tidal defences. As such, the FRA outlines flood resilience measures to be included for all development located at existing site levels and where possible on raised plateaus – in particular it should be noted that all residential areas would be located on plateaus with houses above the predicted flood level. This measure has been used elsewhere in the sub-region including in areas such as Boston.
- 8.85 The submitted proposal includes mitigation measures such as raised ground and flood compensation areas, seasonal restriction on tourism (where necessary), an estate management company (including clerk of works to deliver and maintain mitigation areas), flood warning and evacuation plan and packages of flood resilience and resistance measures. All of which would be secured by conditions and legal agreements in connection with the LDO.
- 8.86 In terms of flood warning and evacuation plans, both the Police and Fire Services have been formally notified of the LDO and have not raised a formal objection to the proposals.
- 8.87 Any flood warning and evacuation plan (fwep) would need to be developed in collaboration with the Lincolnshire Resilience Forum (LRF), who again has not objected to the development. The proposal has also been reviewed by the Council's Safer Communities Manager who has raised no objection to the scheme. The fwep and wider flood risk proposals for this site would also demonstrate a variety of ways in which the development would contribute to assisting other areas of Skegness in the event of a flood, or would support emergency services and relevant agencies.
- 8.88 Included in the design process are sustainable drainage methods to provide the required attenuation and outfall flow controls will restrict flows to greenfield equivalent run-off rates.
- 8.89 When considering the proposed mitigation measures and drainage scheme the proposed development can be made safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. As such, 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.

- 8.90 The objection by the EA is noted and has been considered as part of the determination of the application. 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.
- 8.91 The proposed measures would be secured through the conditions of the LDO and its associated legal agreement.
- 8.92 Turning to the other aspects of the EA objection, firstly additional information has been supplied in respect of the consideration of alternatives within the Environmental Statement and the Council is content that sufficient alternatives have been presented and considered in EIA terms.
- 8.93 On the tourism aspect of the proposal, the EA requests a standard condition to be imposed to align with policy SP19 and overcome its objection. It is considered that this is one approach which could be adopted, however, due regard must be given to all documents forming part of the LDO including the Design Code. The Design Code provides for further information in relation to the approach to the tourism elements of the proposal, this emphasises that accommodation could be one approach to be taken and there are many forms which this could take to add to the diversity of and increasing the availability of high quality tourism options for Skegness. To that end, it is not 'unspecified' as indicated by the EA.
- 8.94 Moreover, it is considered that whilst there is an acceptance that a condition can be imposed, it is felt that a more specific wording can be applied to the LDO which enables both flexibility, but also due consideration of site specific flood risk measures, as well as the imposition of occupancy requirements.
- 8.95 Occupancy limitations are a blunt tool, and have a negative impact on both the viability of proposals, but also create a seasonal aspect to the proposals which may not be necessary or justified. Further, modern tourism is based on a year-round basis, with people wishing to holiday in UK destinations in the winter and at key holidays such as Christmas. Such seasons being important to supporting a year round economy. In this case, the LDO is predicated on being an exemplar form of development, and 'not just caravans'. As such, it is accepted that an alternative form of wording, but with the underlying ethos of ensuring appropriate, site specific responses to flood risk, can be included in this instance.
- 8.96 Overall, whilst it is recognised that there is some lack of compliance in relation to the open market housing element of the scheme when

considered against current Local Plan policy, there must also be an acceptance that the majority of the scheme is compliant with the NPPF and Local Plan in so far as the other uses are concerned. In respect of the Sequential Test and Exceptions Tests for the open market housing, it is considered that in the circumstances presented through the LDO and the evidence provided, the proposals would pass both tests. Thus the scheme as a whole is considered to be compliant with the relevant requirements of Local Policy and the NPPF. It is considered that subject to appropriate conditions and legal agreements, the necessary measures to further reduce risk and mitigate the impact of the development to ensure safety can be incorporated and maintained. As such, whilst the views of the EA are noted, it is considered that an objection to the LDO on this basis would not be sustainable.

- 8.97 Whilst due regard is given to the severity and implications of the flood risk issue, even if the contra view were to be taken, and it is considered that the scheme as a whole did not comply with flood risk policy (owing to the provision of open market housing) it is considered that this lack of compliance would simply be a matter which would need to be weighed within the overall planning balance.

### **Biodiversity**

- 8.98 The Wildlife and Countryside Act and the European Conservation of Habitats and Species Regulations afford protection to various species. Section 15 of the Framework requires Local Planning Authorities to closely consider the impact on the natural and local environment. Where a proposed development has the potential to impact on biodiversity, the LPA must ensure appropriate mitigation is in place. The ES includes a chapter on Ecology and Nature Conservation and the application is supported by a Biodiversity New Gain Statement.
- 8.99 There are no sites with statutory or non-statutory protection for nature conservation within the site boundary or directly adjacent to it. However, the site lies in close proximity to two Internationally Important Sites designated under the Conservation and Habitats and Species Regulations 2017. Detailed assessment has been undertaken and submitted in support of the application.
- 8.100 The ES concludes that site clearance and construction activities will result in a permanent or irreversible loss of foraging habitats for winter birds associated with The Wash SPA and The Wash Ramsar site.
- 8.101 Natural England has been consulted on the proposed development and has objected to the proposal on the grounds that it would have an adverse effect on;
- the integrity of Saltfleetby – Theddlethorpe Dune & Gibraltar Point Special Area of Conservation.

- the integrity of Gibraltar Point Special Protection Area (SPA) and The Wash (SPA)
- adverse effect on the integrity of Gibraltar Point Ramsar and The Wash Ramsar
- Damage or destroy the interest features for which Gibraltar Point Site of Scientific Interest (SSSI) and The Wash SSSI has been notified

8.102 Additional information and habitat creation has been submitted as part of the development scheme. The application has now been supported by a Biodiversity Net Gain (BNG) Statement where two main areas have been identified for delivering BNG, the northern area and southern area. The development also incorporates areas of suitable alternative natural greenspace (SANG) to relieve pressure on The Wash SPA and the southern area is to provide flood storage with integrated ecological mitigation and compensation. The BNG concludes that the delivery of habitat creation in the SANGs and Southern Area is likely to generate between 574.11BU and 647.04BU for Habitats (25.54% to 41.54% net gain) with additional further habitat creation within the remaining land which is yet unquantified.

8.103 The revised information has been provided to Natural England, however no further commend has been received. Owing to this, the Council has undertaken its own Habitats Regulations Assessment, and based on the submitted information is satisfied that the proposals are not likely to have a significant detrimental impact upon protected species. Overall it is considered that the scheme would be compliant with the Habitats and Conservation Regulations, and would also be compliant with both local and national policy on this issue. Overall, it is considered that the proposal has the potential to result in a net beneficial effect, which weighs in favour of the scheme.

8.104 The developer is also bound by separate legislation that protects species should they be found during work, this is a point which is referenced in the LDO, and would be in addition to the relevant conditions and requirements of the LDO itself.

### **Contamination and Land Stability**

8.105 Paragraph 189 of the NPPF states that decisions should ensure that a site is suitable for its proposed use taking into account any ground conditions and any risks arising from land instability and contamination.

8.106 The application is accompanied by an Environmental Statement (ES) and a Phase 1 Ground Condition Assessment (Land Contamination and Ground Stability) has been undertaken and submitted with the supporting documentation.

8.107 The ground conditions desk study identifies four potential sources of contamination (PSC) relevant to the development proposals based on



historical or current land uses. Such PSCs relate to the usage of agricultural chemicals, such as fertilisers, pesticides and herbicides, on the land and a disused former railway station/soil storage area, an electricity substation and several infilled former ponds and gravel pits. The report concludes that the on-site potential sources of contamination have either a very low or low potential to generate significant contamination.

- 8.108 The preliminary ground stability assessment concludes that the risks to the development, with respect to ground stability, could occur as a result of: steepening or loading the ground, clay soil shrinkage (subsidence), water bearing soils and poor ground associated with Tidal Flat Deposits and fill material/ made ground.
- 8.109 Whilst some investigation has already been done in respect of ground stability and contamination, given the scale of the scheme and its potential effects it is considered reasonable to impose conditions which require further analysis, investigation and protection measures.
- 8.110 Subject to the imposition of the suggested conditions any risks arising from land instability and contamination can be suitably mitigated against, in accordance with paragraph 189 of the NPPF.

#### **Impact on Heritage Assets**

- 8.111 Strategic Policy 11 relates to heritage assets and that proposals should preserve or enhance heritage assets and their settings. Section 16 of the NPPF requires proposals that affect heritage assets to describe their significance, including any contribution made by their setting.
- 8.112 An archaeological desk-based assessment and heritage statement has been submitted in support of the application and a chapter on the Historic Environment has been included within the ES.
- 8.113 A total of 91 heritage assets were revealed within the 2.5km search area of the development which included; 6 prehistoric finds and features, 1 Saxon/early medieval, 22 medieval, 23 post-medieval, 2 modern features, 30 buildings or structures of architectural or historical significance and 1 historic park and garden. Of the historic buildings, nine were designated (listed) heritage assets. The HER records that 26 archaeological investigations have been carried out within the study area.
- 8.114 The ES concludes that it can be anticipated that the development and proposed flood mitigation cut areas will not significantly affect the settings of any designated heritage assets in the study area. As a result the proposal would not affect the heritage significance of any of those assets. The proposal has been considered by Historic England and the Council's Historic Environment Officer.
- 8.115 With regards to designated heritage assets, it appears that an impact of the proposal would be on the change to setting, moving away from the

current agricultural landscape. The Historic Environment Officer concludes that the two listed farmsteads have already been encroached on and the development would not have any adverse impact. Historic England has not commented on the scheme and refers back to the Council's specialist in this regard.

- 8.116 The main impact the proposal would have on heritage assets is considered to be on archaeology. Heritage Lincolnshire has advised that the site offers a potential for archaeological remains to be present based on the extent and type of remains recorded within and in the vicinity of the site. They have further advised that insufficient information is available at present with which to make any reliable observation regarding the impact of this development upon any archaeological remains and have recommended that an archaeological evaluation be carried out.
- 8.117 In terms of Archaeology, there are three non-designated heritage assets within the boundaries of the application site registered on the HER records. These include Late Medieval earthwork field system and ridge and furrow, possible medieval earthwork enclosures and boundary and site of Whitehouse Farm. Much of the land inland from Skegness was farmed as arable fields and there are records of earthworks remains associated with medieval ridge and furrow cultivation and field systems. The ES identifies that it may be possible that unknown sub-surface archaeological remains may survive within the LDO site boundary.
- 8.118 As such, it can be anticipated that groundworks will have a medium-to-high adverse impact upon any in-situ archaeological remains. If deep or piled foundations are proposed, it is likely that these will have a high adverse impact upon any underlying archaeological remains or geo-archaeological material.
- 8.119 Whilst the comments from Heritage Lincolnshire are noted, the site covers a large area. As identified in the ES given the known presence of archaeological remains within the boundaries of the LDO Site, it is likely that it will be necessary to undertake a programme of archaeological investigations to determine the potential and identify appropriate measures to mitigate the impact of the Proposed Development upon the archaeological resource. This can be completed through a programme of archaeological field evaluation which could include non-invasive survey techniques, including topographical earthwork survey and archaeological geophysics and an appropriate strategy to record the extent and character of the probable medieval and post medieval archaeology. It is considered that this can be controlled via means of a condition as well as any suitable mitigation measures.
- 8.120 Subject to the imposition of the suitable conditions and mitigation measures the LDO would preserve any heritage assets in accordance with policy 11 and NPPF.

### **Agricultural Land**

- 8.121 Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside including the economic and other benefits of the best and most versatile agricultural land.
- 8.122 The application site is primarily farmland and the accompanying ES includes a chapter on land use and soils. This section considered the likelihood and significance of impacts due to the loss of agricultural land as well as damage and loss of soil resources. An Agricultural Land Classification Report has also been submitted.
- 8.123 The NPPF defines the best and most versatile (BMV) agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification. The ES has assessed the soil quality, and identified that a significant extent of the site is BMV land. The ES concludes that the development will result in the permanent loss of all agricultural land present within the site and is considered to be Major Adverse and Significant in EIA terms.
- 8.124 It is not possible to mitigate against the permanent loss of the agricultural land. However, consideration should be given to the amount of loss when considered against the whole district. The estimated area of BMV land within the administrative boundaries of East Lindsey District Council is estimated to be circa 117,135.70 ha and as such, the BMV land present within this site accounts for 0.108% of all BMV quality land within the wider district.
- 8.125 Therefore, the permanent loss of 0.108% BMV needs to be weighed in the planning balance. Whilst this loss would be of detriment, and due regard is given to the provision of significant weight to be applied to the prevention of the loss of BMV, the amount is relatively modest. Thus the negative weight would be minor in overall terms, and this is not considered to be a matter upon which the suitability or acceptability of the overall development turns.

### **Noise**

- 8.126 The LDO primarily relates to residential development which is not expected to generate significant noise levels. However, noise from construction is a material consideration. The ES includes a chapter on noise and environmental sound and vibration surveys have been carried out and an acoustic model was then made with the results of the environmental sound survey used to verify the sound levels within the model.
- 8.127 The ES concludes that construction noise at sensitive receptors is likely to have a moderate, large or very large significance. The impacts of traffic noise due to the proposed development are calculated to result in a minor noise impact.
- 8.128 A Construction Environmental Management Plan (CEMP) is to be implemented and this includes mitigation measures to reduce the

significance of effects at the noise sensitive receptors. This can be controlled via means of a condition.

- 8.129 Subject to the imposition of a condition requiring the implementation of a CEMP, any impact of noise from construction can be suitably mitigated against, in accordance with paragraph 191 of the NPPF.

### **Air Quality and Dust**

- 8.130 The accompanying ES includes a chapter on Air Quality and Dust which concludes that demolition and constructive activities have the potential to create dust. Recommendations have been put forward to mitigate any construction dust which can be controlled via means of a condition. Emissions associated with the proposed development are considered to be not significant as they will not exceed National Air Quality Objectives. As such the air quality impacts of the development are considered to be 'not significant' and additional mitigation is not required.
- 8.131 Subject to the imposition of a condition with regards to construction dust, any impact from construction can be suitably mitigated against, in accordance with paragraph 192 of the NPPF.

### **Health and Wellbeing**

- 8.132 Paragraph 96 of the NPPF states that decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which: promote social interaction, are safe and accessible and enable and support healthy lifestyles.
- 8.133 Policy SP5 of the Local Plan states that "Development should be designed to meet the particular requirements of residents with social, physical, mental and/or health care needs". In Coastal Zones housing for vulnerable and minority groups is supported, as is affordable housing, in SP18 as well as employment and economic growth (SP19, SP20, SP21). Policy SP26 in relation to open space, sports and recreation states that there will be support for development that facilitates the Council's aspiration to increase participation in sports and physical activity and that the Council will safeguard, expand, enhance and promote access to sports and recreational facilities and open spaces.
- 8.134 The Neighbourhood Plan, Policy C3 (Community Health Facilities) states that new community health facilities will be supported, subject to certain criteria including opportunities for walking, cycling and access to public transport, compatible with surrounding, adequate parking and Health Impact Assessment. In addition, the overall vision and aspiration of the Neighbourhood Plan (as set out earlier in this report) seek to support the development of a thriving community for Skegness.
- 8.135 The LDO would include provision of housing, employment, community facilities, education and healthcare services. The LDO would also include opportunities to improve walking and cycling as well as access to public transport (bus stops). Significant areas of open space, footpaths and

cycle links are included in the scheme. There are also a number of sports facility areas built into the LDO Masterplan.

8.136 A S.106 will be sought for the provision of

- £2,500,000 towards provision of footpath/cycleway improvement on A52;
- £605,000 for NHS Lincolnshire; and
- £4,864,991 for LCC Education

The proposal would provide necessary healthcare, education and footpath/cycle links – these are required to mitigate the impact of the development. Along with the sports facilities, open space and community facilities the proposal would comply with the above policies.

8.137 The proposal would provide access to housing, housing mix and affordability, local employment, education, walking and cycling, connectivity, access to open space and nature which will be to the advantage of the area. These will all deliver both direct and indirect positive effects for existing and future communities in the area and in general terms the proposals would align with the direction sought by the community through the Skegness Neighbourhood Plan. This is in addition to aligning with other opportunities including the Town Deal investment (Skegness Town Investment Plan) and the general ethos of the wider Government Levelling Up Agenda. There is considered to be a significant benefit of the proposal, which should be classed as a significant positive benefit arising from the scheme which attracts significant weight in the overall planning balance.

### **Waste and Recycling**

8.138 Section 2 of the NPPF, achieving sustainable development sets out an environmental objective in which 'using natural resources prudently, minimising waste and pollution' are core tenets. The National Planning Policy for Waste (2014) states that Local Planning Authorities should ensure that:

"the likely impact of proposed, non-waste related developments on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the Waste Hierarchy and/or the efficient operation of such facilities; and

the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities and minimises off-site disposal."

8.139 The accompanying ES includes a chapter on Waste and Recycling which assesses the likely significant environmental effects of the proposed development in relation to waste, during construction and at post

completion. Recommendations have been put forward for mitigation and the report concludes that with reasonable mitigation no significant environmental effect will result as a result of waste generation and management. The proposal within Skegness Gateway are expected to result in less than 1% reduction of landfill void over the assessment period.

- 8.140 Subject to the imposition of a condition with regards to mitigation measures the proposals are considered acceptable in this regard.

### **Planning Obligations**

- 8.141 Strategic Policy 28 of the Core Strategy states that Developer contributions on major schemes (10 or more dwellings or major other development) will be sought towards the delivery of infrastructure where it is shown to be necessary for the development to proceed.
- 8.142 In order to mitigate against the impacts of the LDO a number of planning obligations have been requested which can be secured through a S.106 Legal Agreement. A draft Heads of Terms has been produced to mitigate against the impacts, the nature of which have been set out in the report.
- 8.143 The S106 agreement will cover Affordable Housing, Transport, Flood Risk Resilience, Health, Education, Open Space and other matters. These factors are able to be attributed weight in the planning balance as the LDO would not be granted until and unless the required legal agreements are in place.

### **Other Matters**

- 8.144 The LDO would enable the increase in number of residential properties built in the area which would give the Council further access to the New Homes Bonus (NHB) as well as the provision of additional Business Rates and Council Tax income as result of the development that is proposed. Collectively these would be a local finance consideration which is a material planning consideration. The Planning Practice Guidance advises that 'Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms'. These benefits are likely to be significant in financial and economic terms and would recognise the role development can play within the wider economy and in terms of supporting local facilities and services.
- 8.145 The proposal, with local employment, community facilities, education establishments and retail will create jobs and other local economic benefits. The NPPF, paragraph 85, states that significant weight should be placed on the need to support economic growth and productivity. SP21 relates to Coastal Employment and part of the site is allocated for employment in the Settlement Proposal DPD and also benefits from an extant permission. The increase in residential properties, employment and tourism will also have a positive impact on the local economy and tourist economy with increased spending in the local area. The proposed

economic benefits (both direct and indirect) of the scheme should weigh significantly and positively in the planning balance.

- 8.146 The National Levelling Up Agenda sets out how the Government will spread opportunity more equally across the UK. This proposal aligns with the Levelling Up Agenda as it would allow the building of more homes; to encourage home ownership, empower communities, restore local pride and regenerate Skegness. The proposal would also align with the Skegness Town Investment Plan, which has secured inward investment through the Governments Towns Fund. All of which also align with the aspiration of the Skegness Neighbourhood Plan.
- 8.147 An assessment in the ES has been undertaken as to the impact on Greenhouse Gas and Climate Change. The ES concludes that the effects of climate change on the proposed development would not be significant following mitigation measures. It is considered that this issue can be dealt with sufficiently through the imposition of conditions.

### **Planning Balance**

- 8.148 Section 38(6) of the Act requires that proposal are determined in accordance with the development plan unless materials considerations indicate otherwise. It is well-defined in case law that the development plan (in this case the East Lindsey Local Plan and Skegness Neighbourhood Plan) should be taken as a whole and it is for the decision-maker to weigh up the extent to which proposals are in accordance with/conflict with policies of the development plan and their objectives, along with all relevant materials considerations. The weights attributed to each of these factors within the exercise is known as the 'planning balance'.
- 8.149 Although the site is technically in countryside, given its location on the edge of Skegness, it must be recognised that the site is located on the edge of and adjacent to the existing boundary of a main town which is identified as a key area for providing facilities and services to support the wider community and wider district. Thus the site has been adjudged to be in a generally sustainable location. As a mixed use scheme, the proposal would improve the economic, social and environmental conditions in the area. There are a number of considerations that weigh in favour of the proposal which are;
- The amount and provision of affordable housing;
  - The provision of housing generally – of a mix of types, tenures, styles and sizes to meet both local need and market demand, creating choice, and securing a pipeline for the future.
  - Economic benefits - including employment opportunities, tourism and retail – at all stages of the development including construction and operation/occupation;

- Social benefits – including provision of space for new services and facilities;
- Improvement to highways and sustainable transport methods;
- Health and wellbeing – including provision of space for new services and facilities;
- The design and approach of the LDO as an exemplar form of development and place-shaping;
- The provision of community facilities and infrastructure (including walking and cycling routes) to benefit both existing and new communities;
- Environmental benefits including Biodiversity Net Gain;
- Local Finance Considerations (including Business Rates, New Homes Bonus and additional Council Tax)
- Alignment with the aspirations of the Skegness Town Investment Plan (and Town Deal investment) and the Skegness Neighbourhood Development Plan.

All of these factors weigh in favour of the development that is proposed.

- 8.150 The LDO would have a neutral impact on climate, amenity, contamination and land stability, Heritage, Noise. Air Quality and Waste.
- 8.151 The proposed scheme would inevitably have an impact on flood risk with the provision of open market housing which could be argued as not being policy compliant with the Local Plan. These factors weigh against the development that is proposed.

Notwithstanding the above, it should be noted that only the open market housing would be required to pass the sequential and exceptions test when considered in isolation. The Council considers that when these tests are applied to the development as a whole, they are sufficiently passed. Further the proposed mitigation and management measures would ensure that the development is safe over its lifetime and would have the potential to help reduce the overall consequences of flooding in the locality. Thus it is considered that having applied the relevant tests (as required by policy and the NPPF) to this development, thus it could be argued that the scheme as a whole is compliant in relation to flood risk policy.

- 8.152 The proposals would result in the loss of Best and Most Versatile agricultural land (BMV). This would weigh against the proposal. The amount of agricultural land to be lost would be negligible in the context of all BMV quality land within the wider district. Whilst this loss is considered



to weigh against the proposal, and notwithstanding the desire to avoid the loss of such land and the significant weight to be attributed to it, in light of the overall level of loss, this would only attract a small degree of negative weight to be weighed in the overall balance.

- 8.153 As set out by the Government there is a strong desire to spread opportunity more equally across the UK and the NPPF is clear that proposed economic benefits of the scheme should weight positively in the planning balance. The provision of housing, including affordable housing, economic development, future investment, large areas of habitats to be created along with the exemplar design of the scheme are considered to outweigh the relatively modest harm and minor conflicts with policy that have been identified.
- 8.154 To conclude, this proposal is considered to be an acceptable form of development that accords with the Development Plan when taken as a whole – including the East Lindsey Local Plan, and the Skegness Neighbourhood Plan – and would also be in conformity with the NPPF (2023). When taking all material considerations into account as outlined above, it is not considered that there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme. Therefore, the planning balance weighs in favour of development

## **9.0 RECOMMENDATION:**

To approve, make, and formally adopt the Skegness Gateway LDO, subject to the satisfactory completion of all associated legal agreements, and satisfactory completion of the final Order document and its associated documents.

### **Heads of Terms for the S106 agreement to include:**

- Affordable Housing
- Housing Mix
- Safeguarded route for a future bypass
- Highway improvements/sustainable transport contributions
- Education contributions
- Healthcare contributions
- Flood Risk Resilience Fund
- Establishment of a ManCo and provision of a Clerk of Works and associated maintenance requirements

- Monitoring Obligations

To delegate to Officers, in consultation with the relevant Portfolio Holders (as may be necessary), 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.

### **Conditions within the draft Order:**

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.

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 3years 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

In addition to these, it is considered that further or revised conditions may be required to respond to matters and consultations set out in this report – for example tourism occupancy – thus the final suite of conditions will be known at the point the Order is about to be made. It is however considered that they would only be imposed where the relevant ‘tests’ are met, and would not be likely to significantly alter the overall findings or conclusions of this report.