

Open Report on behalf of Andy Gutherson - Executive Director for Place

Report to:	Planning and Regulation Committee
Date:	13 February 2023
Subject:	County Matter Application - S/035/02549/21

Summary:

Supplementary Report

Planning permission is sought by W R Hanson and Son (Agent: Cliff Andrew Architectural Design Services) for the enlargement of an existing irrigation pond and the removal from site of extracted minerals (sand and gravel) for treatment at Bede Farm, Cross Keys Lane, Coningsby.

At its meeting on 7 November 2022, the Planning & Regulation Committee agreed to defer making a decision on the application and to give a three-month extension of time for the applicant to secure an abstraction licence from the Environment Agency that would allow the proposed extended irrigation pond to be filled using underlying groundwater. Such an abstraction licence is a pre-requisite requirement of Policy M14 of the Lincolnshire Minerals & Waste Local Plan and without this the proposal was considered non-compliant and Officers recommended that permission be refused.

For reasons explained in this report the applicant has been unable to secure the revised abstraction licence within the three-month extension of time previously given. However, Officers understand that the reasons for this are outside the control of the applicant however it is highly likely that a licence would be awarded in due course. Rather than refuse the application a further extension of time is therefore sought by the applicant.

Recommendation:

Given the specific circumstances of this case, a further extension of time is considered reasonable. The Committee is therefore asked to:

- a) defer a decision on this application and agree to a further extended period of time for the applicant to secure the amended abstraction licence – suggested end-date of the extension being 31 October 2023;
- b) that Officers be given the authority to issue the decision under delegate powers should the licence be received before the extended deadline of 31 October 2023.

Background

1. Planning permission is sought by W R Hanson and Son (Agent: Cliff Andrew Architectural Design Services) for the enlargement of an existing irrigation pond and the removal from site of extracted minerals (sand and gravel) for treatment at Bede Farm, Cross Keys Lane, Coningsby.
2. The planning application seeking an enlargement to the irrigation pond was validated in November 2021 and so when the application was presented to the Planning & Regulation Committee at its meeting on 7 November 2022, it had been under consideration for over 12 months. Despite this extended period, the applicant had failed to be able to demonstrate a suitable abstraction licence from the Environment Agency had been secured which would allow the proposed extended irrigation pond to be filled using underlying groundwater. The need for such an abstraction licence to be in place is a pre-requisite requirement and key aspect of Policy M14 of the Lincolnshire Minerals & Waste Local Plan and so failure to meet this requirement meant that Officers had recommended that planning permission be refused. A copy of the original Officers report is attached in Appendix B.
3. At the meeting on 7 November 2022, the Committee heard that the applicant had experienced difficulties and delays in getting an abstraction licence to the Environment Agency and only recently had they been given the correct department and advice on how to apply. Following consideration of the Officer's report and having heard representations made by the applicant and subsequent comments from Officers, the Planning and Regulation Committee resolved not to refuse the application as recommended but rather to give the applicant more time to secure the abstraction licence. The Committee therefore agreed to give the applicant a three-month extension of time and, in the event the licence is not secured within this period, that the item be brought back to the Committee for their reconsideration.
4. Since the meeting in November 2022 the applicant has been in contact with the Environment Agency and an application to amend the licence made. However, the Environment Agency has advised that due to staffing shortages and current workloads licence applications are taking on average 8 months to be allocated to a permitting officer for consideration. As a result, the applicant has been unable to secure an amended licence within the three-month extension period granted by the Committee and until this is confirmed the applicant has still failed to demonstrate compliance with Policy M14. However, your Officers understand that it is highly likely a revision to the current licence will be accepted once it has been allocated to a permitting officer to review. Therefore, rather than refuse the application at this stage, it is recommended that the Committee agree to a further extended period of time for the applicant to secure the amended abstraction licence with a suggested end-date for the extension being 31 October 2023.

Human Rights Implications

5. The Committee's role is to consider and assess the effects that the proposal will have on the rights of individuals as afforded by the Human Rights Act (principally Articles 1 and 8) and weigh these against the wider public interest in determining whether or not planning permission should be granted. This is a balancing exercise and, in this case, given the facts as set out within this report, a decision to further delay making a decision on this application would be proportionate and not in breach of the Human Rights Act (Articles 1 & 8) and the Council would have met its obligation to have due regard to its public sector equality duty under Section 149 of the Equality Act 2010.

RECOMMENDATIONS

Given the specific circumstances of this case, it is recommended that the Committee:

- A.** agree to defer a decision on this application and agree to a further extended period of time for the applicant to secure the amended abstraction licence with a suggested end-date for the extension period being 31 October 2023;
- B.** that Officers be given the authority to issue the decision under delegate powers should the licence be received before the extended deadline of 31 October 2023.

Appendix

These are listed below and attached at the back of the report

Appendix B	Planning and Regulation Committee Report 7 November 2022
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This report was written by Felicity Webber, who can be contacted on 01522 782070 or dev_planningsupport@lincolnshire.gov.uk

Open Report on behalf of Andy Gutherson - Executive Director for Place

Report to:	Planning and Regulation Committee
Date:	7 November 2022
Subject:	County Matter Application - S/035/02549/21

Summary:

Planning permission is sought by W R Hanson and Son (Agent: Cliff Andrew Architectural Design Services) for the enlargement of an existing irrigation pond and the removal from site of extracted minerals (sand and gravel) for treatment at Bede Farm, Cross Keys Lane, Coningsby.

The existing irrigation pond is approx. 40 metres long by 30 metres wide and 3.5 metres deep and is a seepage reservoir meaning that it is filled from the ingress of underlying groundwater when the water table is high. It is proposed to extend the pond northwards by 40 metres so as to double the footprint of the existing pond to 2,400 square metres. The extended pond would increase the holding capacity of the existing pond allowing additional irrigation water to be stored to support the growing of vegetables such as leeks and root crops on the applicants farmholding.

The main issues to be considered in the determination of this application are whether the applicant has demonstrated a proven need for an extended irrigation pond of this size and holding capacity; whether the design of the reservoir is "fit for purpose", and whether removal of the minerals from the site and impacts associated with the development would have a significant detrimental and unacceptable adverse impact on the environment and amenity of nearby residents.

Having assessed the information contained within the application, whilst the need and justification for an enlarged irrigation pond and its design and size appear reasonable given its intended purpose, the applicant has failed to demonstrate that an abstraction licence has been granted which would allow the volume of water required to fill the extended pond to be taken from the underlying groundwater. Without an appropriate abstraction licence in place, the applicant has failed to demonstrate compliance with criterion (iii) of Policy M14 which is a key pre-requisite requirement that needs to be met. Failure to have met this policy therefore means the applicant has also failed to demonstrate the proposal is fully compliant with the aims and objectives of the NPPF or DM1, DM2 and DM16 of the CSDMP which seeks sustainable development, and which require development to demonstrate that it would not have an unacceptable impact on ground waters.

Recommendation:

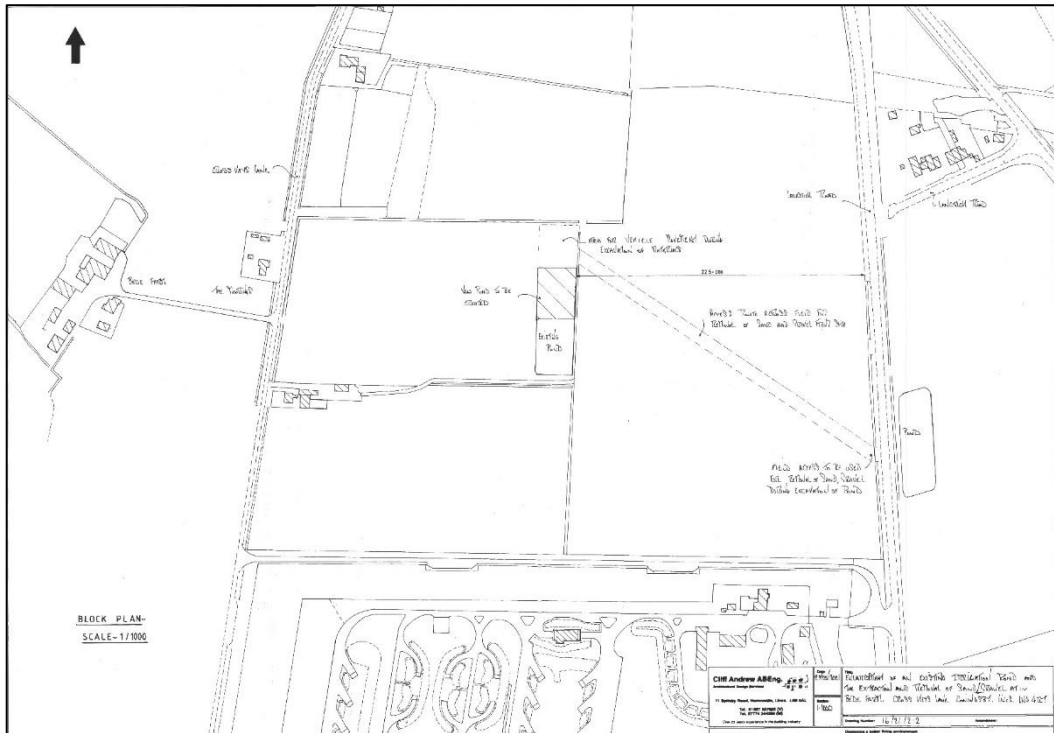
Following consideration of the relevant development plan policies and the comments received through consultation and publicity it is recommended that planning permission be refused.

Background

1. In March 1991 the Mineral Planning Authority granted planning permission to construct an irrigation pond in the field adjacent to the current application site (ref. E/2100/90) however there is no evidence this pond was ever constructed in the location identified. There is however an existing irrigation pond that adjoins the current proposal site which has been established for several decades and benefits from an abstraction license issued by the Environment Agency. The applicant is proposing to extend the existing irrigation pond and seeking to remove and export the extracted underlying mineral off the farm holding. Planning permission is therefore required as the export of minerals constitutes a 'county matter' and so the application has been made to the Mineral Planning Authority for determination rather than the District Council.

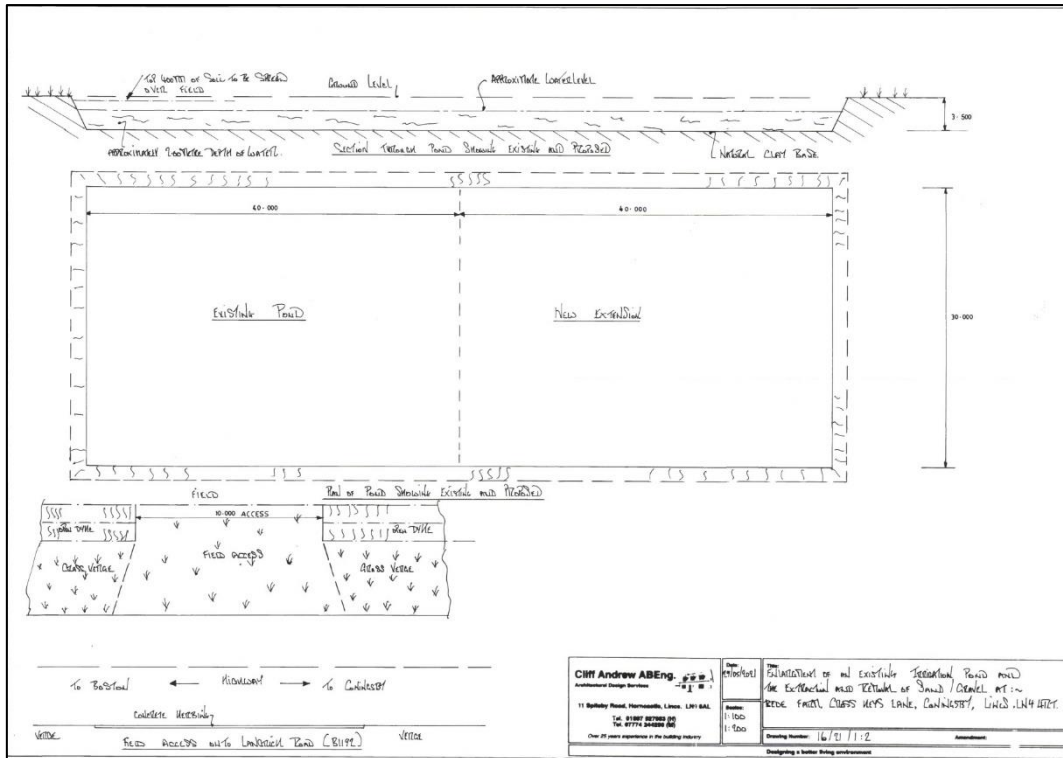
The Application

2. Planning permission is sought for the enlargement of an existing irrigation pond and the removal from site of extracted minerals (sand and gravel) for treatment at Bede Farm, Cross Keys Lane, Coningsby, Lincolnshire. The existing pond is approx. 40 metres long by 30 metres wide and 3.5 metres deep and is a seepage reservoir meaning that it is filled from the ingress of underlying groundwater when the water table is high. The sides of the pond are clay lined to prevent water escaping and the applicant has an existing abstraction licence from the Environment Agency which permits its current use.



Site Plan

3. This proposal seeks to extend and enlarge the existing pond and the application site, including temporary construction access road, cover an area of 0.5 hectares. It is proposed to extend the pond northwards by 40 metres so as to double the footprint of the existing pond to 2,400 square metres. The overlying topsoil/subsoil (approx. 400mm) would be removed and redistributed across the adjoining field that is also in the ownership of the applicant. The pond would then be excavated to a depth of 3.5 metres (to match the existing) with the underlying sand and gravel being extracted and exported off site 'as raised' for processing elsewhere by a third party/aggregate company. It is estimated that approximately 4,200m³ or 6,300 tonnes of sand and gravel would be removed from site. The water level of the finished pond would be approximately 2 metres as the height of the winter water table is 1.5 metres below ground level. The slopes of the pond would be 3 degrees off the vertical and, like the existing pond, the sides of the extension would be clay lined to prevent water escaping through the sides. The existing abstraction licence issued by the Environment Agency (EA) would require an amendment to allow for the additional water holding capacity created by this enlargement/extension and the applicant confirms that an application seeking a licence has been submitted to the EA.



Pond Details and Section Plan

4. The applicant states the extended pond would be used to store water that would be used to irrigate crops grown on their farm holding. The farm holding extends to 17.5 hectares of land surrounding irrigation pond with a further 12 hectares located to the west of Cross Keys Lane. The applicant current grows sugar beet, carrots, and potatoes on 8.5 hectares of their land however the increasing demands for water cannot be met by the existing pond and a larger pond would enable the applicant to grow an increased variety of crops including leeks and brassicas and thereby deliver increased yields of high-quality vegetables.
5. It is estimated that it would take a total of four weeks to fully complete the development. Hours of work would be limited to daytime hours only between 0800 and 1700 hours with the extraction of mineral taking place over a two to three week period by a local aggregate company (dependant on weather conditions). A temporary haul route would be laid to the existing field entrance allowing access onto/off the B1192. This field entrance measures 10.0 metres in width and is flanked by a highway verge, with an existing culvert over a drainage ditch. There is unobscured visibility in both directions and the surface of the field entrance is currently compacted hardcore suitable for agricultural vehicles. In order to accommodate the HGV and construction equipment a temporary track would be laid using matting to reinforce the surface and to prevent mud and debris being deposited on the highway.

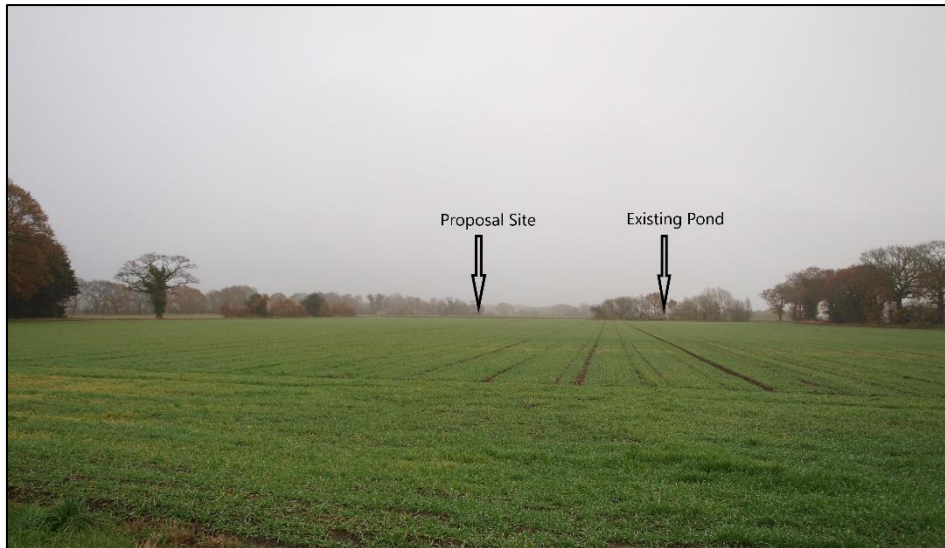


Photo view south from existing field entrance onto Langrick Road

6. The applicant states that contractors would liaise with the Highway Authority to ensure that correct signage is used, and no excavated sand and gravel would be stored at the site with all excavated material being removed by HGV for processing elsewhere. It is estimated that there would be approximately 40 lorry loads (80 two-way movements) per day during the extraction phase.
7. Finally, the existing pond and waterbody has been allowed to naturalise with established reeds beds and surrounding vegetation including mature trees. It is not proposed to damage or remove these during the construction works, rather this proposal seeks to increase the biodiversity interest in and around the site with an intention to retain the existing vegetation and to propagate reed beds into the extended pond. No landscape screening is proposed as the visual impact of the extension would not give rise to any adverse effects given the distance of the site from external views and as no raised earth banks are considered necessary.

Site and Surroundings

8. The site lies centrally between Cross Keys Lane to the west and B1192 to the east and is surrounded by agricultural land growing both grain and vegetables.



View from Cross Keys Lane Extent of existing and proposed ponds

9. The site is approximately 225.0 metres distant from either road. The proposed extension to the pond would be constructed to the north.



Photo View across existing pond to site beyond

10. A Public Right of Way Conb/228/2 runs east/west 130 metres to the north of the proposal site and is wholly screened from the site by the existing mature native hedgerow along the northern field boundary. The flat fenland landscape is characterised by a network of drainage ditches and native species hedgerows interspersed by mature trees and copses of trees and isolated farmsteads. The nearest residential property is a bungalow approximately 200 metres to the

southwest of the existing pond. The site does not lie within Flood Zone 1 and the proposal site is less than 1 hectare in area.

11. The site lies within the Impact Risk Zone of the Site of Special Scientific Interest being Troy Wood approximately one kilometre to the east. There is a Site of Nature Conservation Interest (SNCI) approximately 250 metres to the south and within a fenced secure compound ancillary to RAF Coningsby which lies further to the south and west of the proposal site.

Main Planning Considerations

Planning Policy Context

12. The National Planning Policy Framework (July 2021) sets out the Government's planning policies for England. It is a material consideration in determination of planning applications and adopts a presumption in favour of sustainable development. A number of paragraphs are of particular relevance to this application as summarised:

Paragraphs 7 to 11 (Achieving sustainable development) advises that LPAs should approve 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:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraphs 110 & 111 (Considering development proposals) In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraphs 119 & 120 (Making effective use of land) Planning policies and decisions should promote in effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Planning policies and decisions should recognise that some undeveloped land can perform many functions, such as for wildlife,

recreation, flood risk mitigation, cooling/shading, carbon storage or food production.

Paragraphs 174 & 179 (Conserving and enhancing the natural environment)
Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

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

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Paragraph 180 (Habitats and biodiversity) when determining planning applications, local planning authorities should apply the following principle - development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.

Paragraph 187 (Ground conditions and pollution) the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraphs 199 & 202 (Proposal affecting heritage assets) when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraphs 209 & 211 (Facilitating the sustainable use of minerals) it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings,

energy, and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation. When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health, or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality. Provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances.

Paragraph 218 & 219 (Annex 1: Implementation) the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which the Framework has made. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Annex 3: Flood risk vulnerability classification.

Lincolnshire Minerals & Waste Local Plan: Core Strategy & Development Management Policies (CSDMP) 2016. Of relevance in this case are the following policies:

Policy M11 (Safeguarding of Mineral Resources) seeks to protect mineral resources (including sand and gravel) from permanent sterilisation from other development. Applications for non-minerals development in a minerals safeguarding area will be granted provided that it would not sterilise mineral resources or prevent future minerals extraction on neighbouring land.

Policy M14 (Irrigation Reservoirs) states that planning permission will be granted for new or extensions to existing irrigation reservoirs that involve the extraction and off-site removal of minerals where it can be demonstrated that:

- there is a proven agricultural justification for the reservoir; and
- the need can be met by an irrigation facility; and
- an abstraction licence has been granted by the Environment Agency; and
- the design is fit for purpose; and
- the environmental impacts of removing material off-site would be less than constructing an above ground facility; and
- the proposals accord with all relevant Development Management Policies set out in the Plan.

Policy DM1 (Presumption in Favour of Sustainable Development) states that when considering development proposals, the County Council will take a positive approach. Planning applications that accord with the policies in this Local Plan will be approved without delay, unless material considerations indicate otherwise.

Policy DM2 (Climate Change) proposals for minerals and waste management developments should address the following matters where applicable:

- Identify locations which reduce distances travelled by HGVs in the supply of minerals and the treatment of waste, unless other environmental/sustainability and, for minerals, geological considerations override this aim.
- Encourage ways of working which reduce the overall carbon footprint of a mineral site;
- Promote new/enhanced biodiversity levels/ habitats as part of restoration proposals to provide carbon sinks and/or better connected ecological networks;
- Encourage the most efficient use of primary minerals.

Policy DM3 (Quality of Life and Amenity) states that planning permission will be granted for minerals and waste development provided that it does not generate unacceptable adverse impacts to occupants of nearby dwellings or other sensitive receptors as a result of a range of different factors/criteria (e.g., noise, dust, vibrations, visual intrusion, etc).

Where unacceptable impacts are identified, which cannot be addressed through appropriate mitigation measures, planning permission will be refused.

Policy DM4 (Historic Environment) states that proposals that have the potential to affect heritage assets including features of historic or archaeological importance should be assessed and the potential impacts of the development upon those assets and their settings taking into account and details of any mitigation measures identified.

Policy DM6 (Impact on Landscape) planning permission will be granted for minerals and waste development provided that due regard has been given to the likely impact of the proposed development on landscape and townscape, including landscape character, valued or distinctive landscape features and elements, and important views.

Policy DM8 (Nationally Designated Sites of Biodiversity and Geological Conservation Value) states that planning permission will be granted for developments on or affecting such sites (e.g., SSSI's and Ancient Woodland) provided it can be demonstrated that the development, either individually or in combination with other developments, would not conflict with the conservation,

management, and enhancement of the site to have any other adverse impact on the site.

Policy DM9 (Local Sites of Biodiversity Conservation Value) planning permission will be granted for minerals and waste development on or affecting locally designated sites {including Local Wildlife Sites and their predecessors: Sites of Nature Conservation Importance; County Wildlife Sites; Local Nature Reserves; Critical Natural Assets), sites meeting Local Wildlife Site criteria and undesignated priority habitats identified in the Lincolnshire Biodiversity Action Plan, provided that it can be demonstrated that the development would not have any significant adverse impacts on the site.

Policy DM11 (Soils) proposals for minerals and waste development should protect and, wherever possible, enhance soils.

Policy DM12 (Best and Most Versatile Agricultural Land) proposals for minerals and waste development that include significant areas of best and most versatile agricultural land will only be permitted where it can be demonstrated that:

- no reasonable alternative exists; and
- for mineral sites, the site will be restored to an after-use that safeguards the long-term potential of the best and most versatile agricultural land.

Policy DM13 (Sustainable Transport Movements) proposals for minerals and waste development should seek to minimise road-based transport and seek to maximise where possible the use of the most sustainable transport option.

Policy DM14 (Transport by Road) planning permission will be granted for minerals and waste development involving transport by road where:

- the highway network is of, or will be made up to, an appropriate standard for use by the traffic generated by the development; and
- arrangements for site access and the traffic generated by the development would not have an unacceptable impact on highway safety, free flow of traffic, residential amenity, or the environment.

Policy DM15 (Flooding and Flood Risk) states that proposals for minerals and waste developments will need to demonstrate that they can be developed without increasing the risk of flooding both to the site of the proposal and the surrounding area, taking into account all potential sources of flooding and increased risks from climate change induced flooding. Minerals and waste development proposals should be designed to avoid and wherever possible reduce the risk of flooding both during and following the completion of operations. Development that is likely to create a material increase in the risk of off-site flooding will not be permitted.

Policy DM16 (Water Resources) planning permission will be granted for minerals and waste developments where they would not have an unacceptable impact on

surface or ground waters and due regard is given to water conservation and efficiency.

Policy R1 (Restoration and Aftercare) proposals must demonstrate that the restoration of mineral workings and landfill operations will be of high quality and carried out at the earliest opportunity.

Policy R2 (After-use) the proposed after-use should be designed in a way that is not detrimental to the local economy and conserves and where possible enhances the landscape character and the natural and historic environment of the area in which the site is located.

After- uses should enhance and secure a net gain in biodiversity and geological conservation interests, conserve soil resources, safeguard the potential of the best and most versatile agricultural land, and decrease the risk of adverse climate change effects. Such after-uses could include agriculture, nature conservation, leisure, recreation/ sport, and woodland.

East Lindsey Local Plan (ELLP) (2018) - of relevance in this case are the following policies:

Policy SP10 (Design) the Council will support well-designed sustainable development, which maintains and enhances the character of the District's towns, villages and countryside

Policy SP11 (Historic Environment) the Council will support proposals that secure the continued protection and enhancement of heritage assets in East Lindsey, contribute to the wider vitality and regeneration of the areas in which they are located and reinforce a strong sense of place.

Policy SP22 (Transport and Accessibility) supporting development which is shown to link with the existing road and public transport systems operating within the District.

Policy SP23 (Landscape) the District's landscapes will be protected, enhanced, used and managed to provide an attractive and healthy working and living environment. Development will be guided by the District's Landscape Character Assessment and landscapes defined as highly sensitive will be afforded the greatest protection. The Council will ensure that the distinctive character of the District's landscapes whether they are of cultural, natural or historic significance, will not be compromised.

Policy SP24 (Biodiversity and Geodiversity) development proposals should seek to protect and enhance the biodiversity and geodiversity value of land and buildings and minimise fragmentation and maximise opportunities for connection between natural habitats. Where new habitat is created it should, where possible, be linked to other similar habitats to provide a network of such sites for wildlife.

Lincolnshire Minerals and Waste Local Plan Review (Issues and Options) – work has begun on replacing the current Lincolnshire Minerals & Waste Local Plan with an ‘Issues and Options’ paper and ‘Call for Sites’ consultation having recently been carried out. Given the review is at an early stage of preparation and no draft policies or preferred allocated sites have yet been identified, this can be given very little weight at this stage.

Results of Consultation and Publicity

13. (a) Natural England – has no objection based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Natural England’s has provided an Informative relating to generic advice on other natural environment issues.
- (b) Environment Agency (EA) – has no objection to the application but has advised that to fill and/or maintain the extended pond the applicant will need to apply for an increase to the current abstraction licence. It is added that there is no guarantee that a licence will be granted.
- (c) Highway and Lead Local Flood Authority (Lincolnshire County Council) – has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.
- (d) Lincolnshire Police (Designing out Crime) – do not have any objections to this application.
- (e) Ministry of Defence (Safeguarding RAF Coningsby) – has no statutory safeguarding objection
- (f) Cadent – has no objection but provided an informative relating to their assets in the vicinity of the application site.
- (g) Western Power – has no objection but provided an informative relating to their assets in the vicinity of the application site
- (h) Historic Places Quarries (Lincolnshire County Council) – has no objection and commented that the application makes no reference to any assessment of the impact the development will have on heritage assets as required by the NPPF. That said, there is no indication that archaeological features will be harmed by this development. Also, the setting of listed buildings in the vicinity will not be harmed.
- (i) Local County Council Member – Councillor T Ashton is a member of the Planning and Regulation Committee and therefore reserves his position on the application until the Committee date.

The following bodies/persons were consulted on the application on 08 December 2021. No comments or response had been received within the statutory consultation period or by the time this report was prepared:

Coningsby Town Council
Environmental Health Officer (East Lindsey District Council)
Public Health (Lincolnshire County Council)
Health and Safety Executive (Quarries)
Lincolnshire Fire and Rescue
Lincolnshire Wildlife Trust
Arboricultural Officer (Lincolnshire County Council)

14. The application has been publicised by notices posted at the gate to the field on Cross Keys Lane and near the proposed access on the B1192 and in the local press (Skegness Standard and News on 15 December 2021). No representations have been received as a consequence of the publicity.

District Council's Recommendations

15. East Lindsey District Council has no objection in principle subject to there being no harm to biodiversity and encourage additional landscaping to help integrate the development within the wider, rural surrounding, and highlights concerns is undertaking work during the winter resulting mud on the highway. It is advised that an Informative be included that remediation to widen the existing farm access to serve would require separate planning permission.

Conclusions

16. The main issues to be considered in the determination of this application are whether the applicant has demonstrated a proven need for an extended irrigation pond of this size and holding capacity; whether the design of the reservoir is "fit for purpose", and whether removal of the minerals from the site and impacts associated with the development would have a significant detrimental and unacceptable adverse impact on the environment and amenity of nearby residents.

Agricultural justification and need for an irrigation facility

17. The sand and gravel to be extracted would be incidental to the creation of the extended pond and so are not the primary purpose or driver for this development. As a result, the policies contained in the CSDMP which usually apply when considering applications for new sand and gravel workings (namely Policies M1, M2 and M3) are not applicable in this case. Instead, Policy M14 of the CSDMP applies as this specifically relates to proposals for irrigation reservoirs where the extraction and export of minerals is proposed, and this policy sets out the criteria that must be met if proposals are to be supported.

18. The proposed extension/enlargement of the existing pond would increase its overall holding capacity allowing more water to be stored and retained for irrigating the applicant's surrounding farmland. The applicant states that the farmholding is cropped mainly for root crops, including potatoes, carrots, and sugar beet and that they are looking to increase crop varieties by introducing leeks and brassicas in the future. In recent years the demand for irrigation water has increased because of climate change and drier summers and the capacity of the current irrigation pond is no longer sufficient to meet current demands and insufficient to meet the water requirements needed to produce high quality vegetables over a wider area of land. An extension to the existing pond would therefore enable more water to be abstracted during the winter months so that this can be stored for use during the summer months when the pressure on water resources is greatest.
19. The applicant has not provided any detailed or quantitative evidence or information to support the water consumption requirements and demand of existing/future crops however it is accepted that crops such as sugar beet and potatoes require high volumes of water. In this case the farmholding where the crops are to be grown is relatively small (less than 30 hectares in size) and the irrigation pond, when extended, would have a holding capacity of less than 4,800m³. Given the current and future crop types and farmholding size, the need for, and additional holding capacity created by, the extended pond seems reasonable and reflective of the reasons given as the basis and justification for this development. Therefore, in principle at least, I am satisfied that criterion (i) and (ii) of Policy M14 have been met.
20. Criterion (iii) of Policy M14 of the CSDMP requires all new and extended irrigation reservoirs to demonstrate that an abstraction licence has been granted by the Environment Agency before permission is granted. This is purposefully a pre-requisite requirement to ensure that planning permission is only granted for irrigation reservoirs/ponds (where mineral extraction and export is proposed) where they have consent to be filled and so reducing the risk that such proposals are simply a pretence for the working of unallocated mineral reserves. Given the relatively small volume of mineral identified to be extracted and exported by this development, Officers are content that the main driver for this proposal would appear to genuinely be for irrigation purposes rather than being a guise for mineral extraction itself. However, Policy M14 still requires that an abstraction licence be in place if a proposal is to be compliant with this policy. Whilst the Environment Agency has confirmed there is an existing abstraction license in place which allows water to be extracted and stored in association with the current pond, a variation to this licence would be required to allow the additional volume of water required to fill the proposed extended pond. The applicant has advised such an application has been made however this has not been granted and so has failed to demonstrate compliance with this criterion. The planning application for this development was submitted and received by the Mineral Planning Authority in September 2021 and so it has now been over 12 months since the application was first submitted. Given the absence of an appropriate abstraction licence (or any

evidence to suggest this is forthcoming) it is uncertain whether consent would be given to abstract the volumes of water required to fill the larger pond. As the construction of the extended pond involves the extraction and export of mineral then the justification and need for the development needs to be considered more carefully and therefore without an appropriate abstraction licence in place, there is no need to create a larger pond or to extract the mineral as proposed. As a result, the applicant has failed to demonstrate compliance with criterion (iii) of Policy M14 which is a key pre-requisite requirement that needs to be met. Failure to have met this policy therefore means the applicant has also failed to demonstrate the proposal is fully compliant with the aims and objectives of the NPPF and or in accordance with Policy M14, DM1, DM2 and DM16 of the CSDMP which seeks sustainable development, and which require development to demonstrate that it would not have an unacceptable impact on ground waters and due regard is given to water conservation and efficiency.

Design

21. Policy M14 also requires a development to demonstrate that: the design of the reservoir is fit for purpose; that the environmental impacts of removing material off-site would be less than constructing an above ground facility; and the proposals accord with all relevant Development Management Policies set out in the Plan.
22. In terms of design, the proposed pond extension would be excavated to reflect that of the existing pond with steep sides and utilise underlying clays to seal the sides to contain the irrigation water at a level equal to that of the natural surrounding water table. The excavated mineral would not be stockpiled or processed at the site and instead would be removed from site 'as raised' by a local aggregates company. The construction of the pond would not require the retention of the soils as no bunds are proposed and so the development would not result in the creation of any above surface structures or alien features within an otherwise flat landscape which is characterised by native species hedgerows interspersed with trees and drainage ditches. The stripped soils would not be removed from the farmholding but instead spread and distributed over the adjoining farmland to enhance the existing soil condition and structure. The MoD has confirmed that there are no safeguarding (bird strike zone) objections to this proposal and no objections have been received from any of the other consultees in respect of the overall size, scale, design or appearance of the extended pond. I am therefore satisfied that the design, size and capacity of the extended pond seem reasonable and not excessive given its intended purpose and so would be "fit for purpose" and meet criterion iv and v of Policy M14 and would also not broadly comply with Policy DM3, DM4, DM6, DM11, DM12 and DM16 of the CSDMP as well as Policies SP10, SP11 and SP24 of the ELLP that seek to preserve the historic and landscape character, best and most versatile soil and water resources of the district through good design and practices.

Environment and Amenity Considerations

Natural Environment

23. The existing pond and waterbody contains established reed beds and these are to be retained and propagated in order to increase biodiversity interest in the extended pond. Following construction, the periphery of the pond would be seeded with a wildflower mix and this would increase the existing value of the agricultural field. Natural England do not consider that the proposal poses an unacceptable risk to Troy Woods SSSI which is located 1 kilometre to the east and as the pond would be allowed to naturalise over time, it would not only have a functional role as an irrigation pond but also create new and extended biodiversity interest and habitat and so reflect the wider objectives of the NPPF and Policies DM6, DM8 and DM9, R1 and R2 of the CSDMP and Policies SP23 and SP24.

Highways

24. Following the provision of additional information requested by the Highway and Lead Local Flood Authority, the Highways Officer has raised no objection but has commented that the construction phase of the excavation has the potential to result in the deposit of debris on the highway. However, given that the proposal is for a limited period and the use of track matting is proposed, this would protect the road infrastructure at the existing field entrance and ameliorate the potential for mud being tracked into the highway. The comments of East Lindsey District Council are noted however this proposal does not seek to make any permanent changes to the existing field entrance and should planning permission be approved then conditions could be imposed to secure the use of track matting, and which imposes a requirement that debris and mud should not be deposited on the highway. Subject to such conditions the development would be considered acceptable from a highways perspective and therefore compliant with Policies DM2 and DM14 of the CSDMP and would not compromise or conflict with Policy SP22 of the ELLP.

Historic Environment

25. Whilst the application is not supported by any formal statement or assessment relating to archaeology or the historic environment, the Historic Environment Team has commented that there is no indication that archaeological features would be harmed by this development and that the setting of listed buildings in the vicinity would not be harmed. It is therefore considered that the proposal meets the aims and objectives of the NPPF and Policy DM4 of the CSDMP and would not conflict with or compromise Policy SP11 of the ELLP which seeks to secure the continued protection and enhancement of heritage assets in East Lindsey.

Final Conclusion

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.
27. Planning permission is sought to extend an existing irrigation pond in order to increase its holding capacity so that additional water supplies can be stored to help support the growth of a wider range of vegetable crops on the applicants farmholding. Whilst the justification for an enlarged irrigation pond and its general design and size appear reasonable, the applicant has not been granted an abstraction licence which would allow the volume of water required to fill the extended pond to be taken from the underlying water environment. As the construction of the extended pond involves the extraction and export of mineral the Mineral Planning Authority requires evidence that an appropriate abstraction licence is in place before permission will be granted. Without this there is no guarantee a larger pond could be filled and used as intended and therefore no need to create a larger pond or extract the mineral as proposed. As a result, the applicant has failed to demonstrate compliance with criterion (iii) of Policy M14 which is a key pre-requisite requirement that needs to be met. Failure to have met this policy therefore means the applicant has also failed to demonstrate the proposal is fully compliant with the aims and objectives of the NPPF and or in accordance with Policy M14, DM1, DM2 and DM16 of the CSDMP which seeks sustainable development, and which require development to demonstrate that it would not have an unacceptable impact on ground waters and due regard is given to water conservation and efficiency.

Human Rights Implications

28. The Committee's role is to consider and assess the effects that the proposal will have on the rights of individuals as afforded by the Human Rights Act (principally Articles 1 and 8) and weigh these against the wider public interest in determining whether or not planning permission should be granted. This is a balancing exercise and matter of planning judgement. In this case, having considered the information and facts as set out within this report, should planning permission be granted the decision would be proportionate and not in breach of the Human Rights Act (Articles 1 & 8) and the Council would have met its obligation to have due regard to its public sector equality duty under Section 149 of the Equality Act 2010.

RECOMMENDATIONS

That planning permission be refused for the following reasons:

1. The proposed development would extend an existing pond that acts as an irrigation reservoir serving the applicants farmholding. Whilst the justification for an enlarged irrigation pond and its general design and size appear reasonable, the

applicant has not been granted an abstraction licence which would allow the volume of water required to fill the extended pond to be taken from the underlying water environment. As the construction of the extended pond involves the extraction and export of mineral the Mineral Planning Authority requires evidence that an appropriate abstraction licence is in place before permission will be granted. Without this there is no guarantee a larger pond could be filled and used as intended and therefore no need to create a larger pond or extract the mineral as proposed.

2. Without an appropriate abstraction licence in place, the applicant has therefore failed to demonstrate compliance with criterion (iii) of Policy M14 which is a key pre-requisite requirement that needs to be met. Failure to have met this policy therefore means the applicant has also failed to demonstrate the proposal is fully compliant with the aims and objectives of the NPPF or DM1, DM2 and DM16 of the Core Strategy and Development Management Policies (2016) which seeks sustainable development and which require development to demonstrate that it would not have an unacceptable impact on ground waters and due regard is given to water conservation and efficiency.

Informatives

Attention is drawn to:

- (i) Environment Agency letter dated 23 December 2021 Ref: AN/2021/132577/01-L01
- (ii) Natural England letter dated 20 December 2021 Ref: 377581
- (iii) Cadent e-mail dated 07 December 2021 Ref: 24103045
- (iv) Western Power letter dated 07 December 2021 Ref: 24103045
- (iv) East Lindsey District Council letter dated 28 January 2022 Ref: S/035/02549/21
- (v) In dealing with this application the Mineral Planning Authority has worked with the applicant in a positive and proactive manner seeking further information to address issues identified and enhancements to the proposal and processed the application efficiently so as to prevent any unnecessary delay. This approach ensures the application is handled in a positive way to foster the delivery of sustainable development which is consistent with the requirements of the National Planning Policy Framework and as required by Article 35(2) of the Town & Country Planning (Development Management Procedure)(England) Order 2015.

Appendix

These are listed below and attached at the back of the report	
Appendix A	Committee Plan

Background Papers

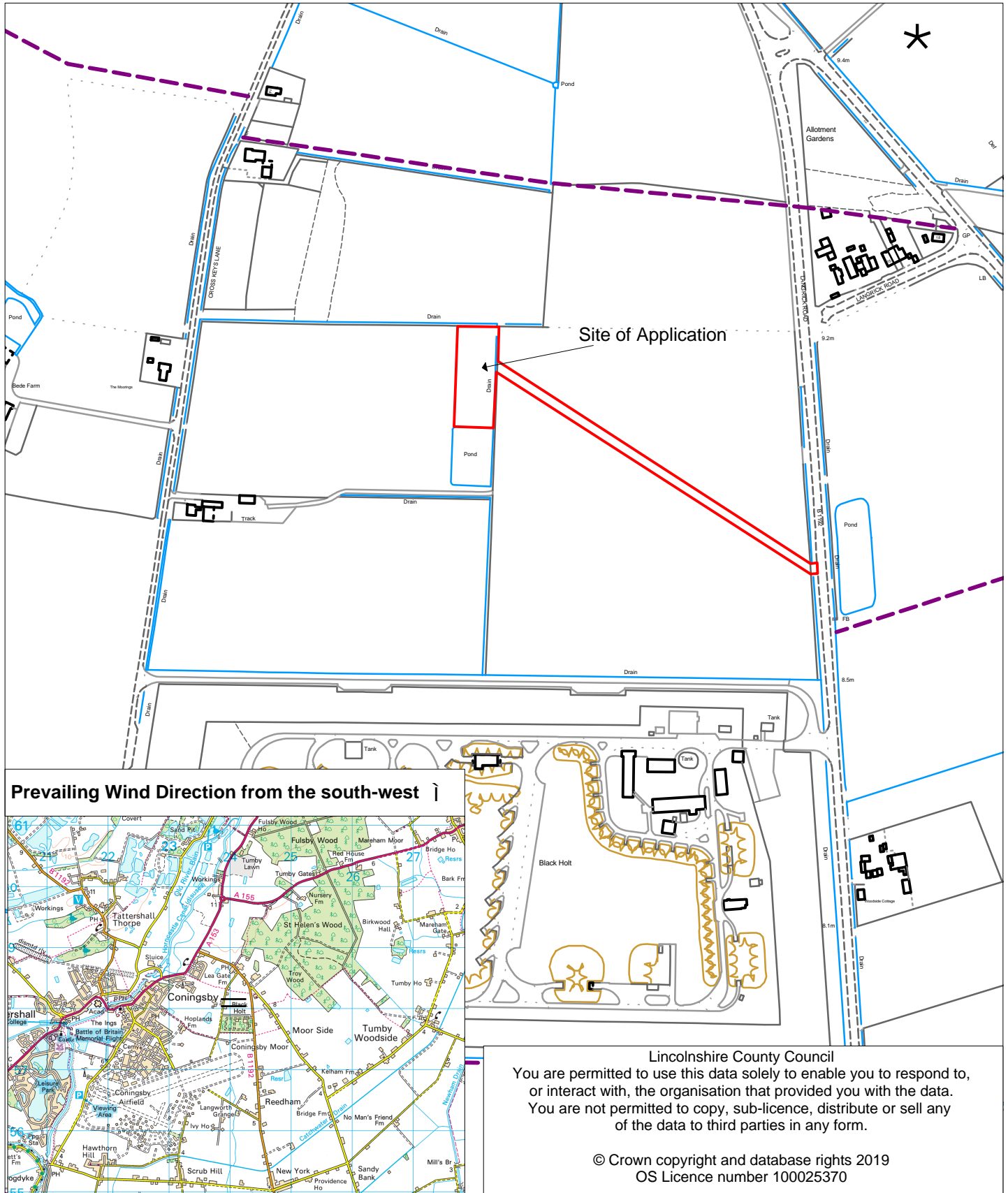
The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Application File S/035/02549/21	Lincolnshire County Council's website https://lincolnshire.planning-register.co.uk/
National Planning Policy Framework (2021)	The Government's website www.gov.uk
Lincolnshire Minerals & Waste Local Plan (2016) Lincolnshire Minerals and Waste Local Plan Review (Issues and Options)	Lincolnshire County Council's website www.lincolnshire.gov.uk
East Lindsey Local Plan (2018)	East Lindsey District Council's website www.e-lindsey.gov.uk

This report was written by Felicity Webber, who can be contacted on 01522 782070 or dev_planningsupport@lincolnshire.gov.uk

LINCOLNSHIRE COUNTY COUNCIL

PLANNING AND REGULATION COMMITTEE 07 NOVEMBER 2022



Location:
 Bede Farm
 Cross Keys Lane
 Coningsby

Application No: S/035/02549/21
Scale: 1:2500

Description:

For the enlargement of an existing irrigation pond and the removal from site of extracted minerals (sand and gravel) for treatment