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| <b>APPLICATION NO</b>                     | <b>PA/2016/1836</b>  |
| <b>APPLICANT</b>                          | Mr Steve Deeks, Absolute Children's Services   |
| <b>DEVELOPMENT</b>                        | Planning permission to retain change of use from dwellinghouse (C3) to children's home (C2)  |
| <b>LOCATION</b>                           | The Old Barn, Owston Ferry Road, Low Burnham, Haxey Parish DN9 1DB   |
| <b>PARISH</b>                             | Haxey  |
| <b>WARD</b>                               | Axholme South  |
| <b>CASE OFFICER</b>                       | Andrew Willerton   |
| <b>SUMMARY RECOMMENDATION</b>             | <b>Grant permission subject to conditions</b>  |
| <b>REASONS FOR REFERENCE TO COMMITTEE</b> | Objection by Haxey Parish Council<br>Significant public interest<br>Member 'call in' (Cllr David Rose – significant public interest) |

## **POLICIES**

**National Planning Policy Framework:** Paragraph 14 states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking. For decision taking this means approving proposals that accord with the development plan without delay or, where the development plan is absent, silent or out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as whole or where specific policies in the Framework indicate development should be restricted.

Paragraph 19 states that significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

Paragraph 58 states that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Development should also respond to the local character and reflect the identity of local surroundings and materials and should be visually attractive and use appropriate landscaping.

Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 69 states the planning decisions should promote opportunities for meetings between members of the community who might not otherwise come into contact with each other, create safe and accessible environments where crime and disorder do not undermine the quality of life or community cohesion and safe and accessible developments.

Paragraph 70 states that planning decisions should plan positively for the provision of local services to enhance the sustainability of communities and residential environments and ensure that an integrated approach is taken when considering the location of community facilities and services.

Paragraph 123 states that planning decisions mitigate and reduce to a minimum noise and other adverse impacts upon quality of life through the use of conditions whilst recognising that development will often create some noise

Paragraph 129 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal including by development affecting the setting of a heritage asset taking account of the available evidence and any necessary expertise. This assessment should be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 196 states that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise and that the National Planning Policy Framework forms a material consideration.

Paragraph 197 states that in assessing and determining development proposals local planning authorities should apply the presumption in favour of sustainable development.

### **North Lincolnshire Core Strategy:**

- CS1 – Spatial Strategy for North Lincolnshire
- CS2 – Delivering More Sustainable Development
- CS3 – Development Limits
- CS5 – Delivering Quality Design in North Lincolnshire
- CS6 – Historic Environment
- CS22 – Community Facilities and Services

### **Housing and Employment Land Allocations DPD:**

Inset Map for Low Burnham

### **North Lincolnshire Local Plan:**

- H16 – Nursing and Rest Homes
- HE5 – Development affecting Listed Buildings
- LC14 – Area of Historic Landscape Interest

T1 – Location of Development

T2 – Access to Development

DS1 – General Requirements

DS3 – Designing Out Crime

DS4 – Changes of Use in Residential Areas

## **Interim Planning Policy for Residential Care Homes/Institutions**

### **CONSULTATIONS**

**Highways Team:** Advises a condition.

**Drainage Team:** No comments received.

**Archaeology:** No objection.

**Conservation Officer:** No objection.

**Children's Services:** No comments received.

### **PARISH COUNCIL**

Objects to the application and raises the following matters:

- consideration should be given to the needs of clients, in this case children, and planning officers are not trained to identify complex problems that children's care may require given that the children have disturbed backgrounds requiring removal from families, and therefore the council's social care team should be consulted on the merits of the application
- Interim planning policy on Children's Homes states that these facilities should be close to leisure and community facilities
- consideration should be given to the residential character of the surrounding area and there should be no adverse impact on neighbouring residential properties.
- Low Burnham has a largely older population with few young people for the children to associate with
- the applicant has failed to provide sufficient evidence on the effect this proposal will have on the residents of Low Burnham and this material change of use will have a negative impact on the residential character of the area and its amenity
- assessment should be made with regard to: the nature, frequency and timings of vehicle movements, including deliveries; parking arrangements and their enforcement; types of vehicles which visit the premises; ancillary staff; arrangements for visitors and parking arrangements; details of arrangements for visits to external therapists; average length of residents' stay; turnover of residents; emergency arrangements

- lack of facilities within Low Burnham to support the residents of the home
- no information on financial records or performance of the company which was only set up in February 2014
- lack of information on the children involved
- inadequate consultation
- no evidence on consultation on school admissions/local needs/access to doctors and dentists
- the site poses a danger to children
- traffic problems and narrow access roads to the A161
- previous attempts to change the use of the land have been unsuccessful
- contravenes policies H14, H16, C4 and DS4 of the North Lincolnshire Local Plan
- Low Burnham is a small rural hamlet in the open countryside which is subject to limited development and is situated over a mile from Epworth where the necessary facilities are located, which would result in the children being isolated and requiring specialist transport, and there are no bus services, or the children having to traverse the footpath along the A161 which is a busy road
- a material change of use has occurred and the local plan policies should override any exemptions for planning as determined by the General Permitted Development Order
- a public meeting should be held between the applicant and residents of Low Burnham to discuss the application prior to its determination by the Planning Committee.

## **PUBLICITY**

Neighbouring properties have been notified by letter, and site and press notices posted. Sixteen letters of objection have been received raising the following concerns:

- this application makes a mockery of the planning process as the site has been in operation since 2015 without any planning consent and has been rejected by the planning committee and government inspector
- the application is contrary to the Interim Policy for Residential Care Homes/Institutions criteria a), c), i) and k) and Core Strategy policy CS1
- the application should be referred to planning committee
- the council should shut down the site as the site does not have planning consent
- the application states there is room for 15 cars, which is untrue
- vehicular parking for 15 cars is far more than any normal family home would need which will certainly cause an increase in traffic movements and disturbances

- increased traffic to Low Burnham
- there is insufficient parking at the site as staff/visitors park on the verge
- incidents of road traffic accidents due to staff being unfamiliar with the local roads
- increase in noise and disturbance to neighbouring properties
- increase in antisocial behaviour
- the application states Haxey and Epworth are a short walk and underestimates the distances involved by at least 33% and would take longer to walk than stated
- there are no facilities within Low Burnham and few in nearby settlements which would require private transport as the bus service is infrequent which would limit the freedom of the children residing in the home
- this application does not meet criterion a) of planning policy which states that care homes should be located in sustainable locations which have access to facilities
- this type of venture should not be located in a rural location as this is not in the interests of vulnerable children
- the footpath along the A161 is narrow and unsuitable for use and would represent a danger to the children if used
- the planning history for the site is understated
- the application states that the development will result in the creation of 14 jobs which is untrue as these jobs are existing
- the application states that the site cannot be seen from the road which is untrue
- the floor plans illustrate that one bedroom is accessed through another which is inappropriate with regard to the children's backgrounds and/or staff members to use and will cause safeguarding issues
- the credibility of the company should be questioned as they have previously attempted to deceive people by claiming that the business operates as a single household where children received care
- the applicant is potentially affecting the emotional wellbeing of the children in their care as they have placed the children in a location without planning consent; the company has not considered the interests of the children in their care
- retrospective planning should not be given following previous refusals nor because the company has been in operation for two years and has spent money on setting up the business
- the application states that there have been no complaints from the police or local authority which is untrue as there has been an altercation between a staff member and a teenage child on the main road which was reported to the police

- the Ofsted report included within the planning statement does not form a material consideration for planning
- increase in use of the property will affect the existing overstretched sewerage system.

A letter has been received from Andrew Percy MP requesting that the following issues be considered prior to the determination of this application:

- the hamlet of Low Burnham is within an area of historic landscape interest
- Low Burnham is largely an older population
- Low Burnham is a settlement within the open countryside subject to limited development and has few or no amenities for an increased number of youngsters in the hamlet
- concerns about increase in noise, cooking smells and disturbance from the development which would have a detrimental effect upon the character of the surrounding residential area
- the increase in traffic movements from staff, health and care visitors to the home and transport of residents to leisure facilities has the potential to result in a negative impact upon the rest of the community.

## **ASSESSMENT**

The application site is The Old Barn, Owston Ferry Road, Low Burnham. An application, under PA/2014/1094, was made in September 2014 to determine whether the proposed use of the site was lawful falling within Class C3(b) of the Town and Country Planning (Use Classes) Order (1987) which was considered not to be lawful. This decision was subsequently appealed by the applicant and the appeal was dismissed by a Planning Inspector in October 2016 who deemed that a material change of use had occurred at the site and that the activities being undertaken at the site fell under a C2 use and not C3(b). The Inspector clearly highlights in the report that, because of the type of application made, the subsequent assessment and decision has regard to whether the use of the facility falls under use class C3(b) only and does not determine the appropriateness of a C2 Residential Institution, and concludes that planning permission is required but not granted. Therefore, the previous dismissal by a Planning Inspector does not prejudice the determination of the application and as such this application requires determination on its own merits with regard to the development plan. As the change of use has already taken place, retrospective planning permission is now sought to retain the change of use from dwellinghouse (C3) to a children's home (C2).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003 and the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising National Planning Practice Guidance (NPPG).

**The main issues with regard to the determination of this application are whether the principle of development of a children’s home is acceptable within Low Burnham with regard to sustainability, and whether the change of use to a children’s home would be to the detriment of highway safety and residential amenity.**

**Principle and sustainability**

The application site is partly located within the development limit for Low Burnham as defined by the Housing and Employment Land Allocations (HELAs) DPD (2016). The application site is within Flood Zone 1 as identified by the North Lincolnshire Strategic Flood Risk assessment and thus poses no concerns with regard to flood risk issues.

The building known as the ‘Old Barn’ is wholly sited within the limit whereas the associated outdoor space is not. Thus the majority of the application site, outlined in red on the submitted plan, is outside the development limit. However, there is, in principle, an element of sustainability to any proposed development in this location, given that the building is within the development limit and indeed that the settlement of Low Burnham has a development limit. It is therefore paramount to consider the level of facilities and amenities that Low Burnham offers with regard to the proposed use and the scale of the development proposed in order to assess whether the development is sustainable.

The North Lincolnshire Settlement survey ranks Low Burnham 67<sup>th</sup> out of the 79 settlements scored within the survey, these being settlements which have 20 dwellings or more. Low Burnham is classified as a smaller rural settlement and received a total settlement score of 9 as shown in the Settlement Survey Profile Table below:

|  |              |                           |
|--|--------------|---------------------------|
| <b>Overall Settlement Hierarchy Position</b> |              | <b>67</b>                 |
| <b>Total Settlement Score</b>                |              | <b>9</b>                  |
| <b>Key Facilities and Services (Max: 7)</b>  |              | <b>1</b>                  |
| <b>Category (maximum available score)</b>    | <b>Score</b> | <b>Hierarchy Position</b> |
| Conveniences (18)                            | 2            | 58                        |
| Community Services (22)                      | 2            | 64                        |
| Health and Education (17)                    | 0            | -                         |
| Transport & Access to Employment (15)        | 5            | 21                        |
| Living Environment & Community Safety (6)    | 0            | n/a                       |
| Tourism (3)                                  | 0            | n/a                       |

The Interim Planning Policy for Residential Care Homes/Institutions criterion a) states that conversions of residential properties to residential care homes/institutions or the erection of new ones will only be permitted provided that they are located in sustainable locations with good access to key facilities such as shops, schools, health, leisure and other community facilities. This criterion points towards policies CS1, CS2, CS22 of the NLCS and H16 and

T1 of the NLLP. These policies together set out the spatial strategy for North Lincolnshire which steer development to the most sustainable locations and indeed H16 specifically indicates that residential care homes should be sited in the larger, more sustainable settlements, which Low Burnham is not.

However, whilst the site could be unsustainable for the development of a residential care home on the basis of local planning policy, it is noted that this application is made for a small scale children's home, at which there are no more than four children resident at any one time. This matter forms an important consideration for the purposes of planning. To determine this application regard is to be had as to whether this specific type of operation would represent a sustainable form of development given its overall scale. It is evident that Low Burnham has limited facilities and the key facilities required to support the lives of the children are within Haxey and Epworth. A number of objections have been raised with regard to this matter and have raised issue with the distances identified within the supporting information. Electronic mapping suggests that from the site to the edge of Epworth is 0.7 miles and to the Market Place 1.2 miles. The edge of Haxey, adjacent to the primary school, is 1.4 miles and to its centre 1.8 miles. The distances to key facilities offered by Epworth are within a 30 minute walking time of the settlement.

Notwithstanding the above, regard is to be had to the scale of operation in this case to assess its overall sustainability. The applicant has indicated that the total number of children that reside at the facility is four. The number of children resident, therefore, is not significant and could comfortably reside in the Old Barn as a private residential dwelling. Although the development of a care home in this location, in planning policy terms, could be viewed as unsustainable, the scale of the operation in this case is unlikely to significantly cause more harm than that of a large dwelling which could otherwise occupy the site. It is therefore unreasonable to conclude that this proposal would constitute unsustainable development in principle.

On balance, whilst development of a residential care home in this location could be considered unsustainable in broad policy terms, this application is specifically for a children's home where no more than four children are in care at any one time. Providing that strict conditions are imposed to restrict the number of children in residence at the facility, it is considered that this proposal would not represent unsustainable development. The principle of development is therefore established.

### **Impacts upon highway safety and residential amenity**

The applicant, within the submitted planning statement, states that the children's home has a maximum of four children residing at the facility at any one time and that the children reside at the property for at least 18 months. It is stated that care is provided by resident carers who stay overnight at the property and non-resident carers. These carers form the 13 full-time staff and one part-time staff employed by the facility. It is stated that the children's home does not operate like a standard residential institution but seeks to replicate a family unit where children and their carers live together and share facilities. It is stated that there are up to 10 trips from the property each day associated with the transportation of the children to educational facilities and other activities. In addition, a further 8 trips a day are carried out by carers, therapists and other management staff.

The Interim Planning Policy for Residential Care Homes/Institutions continues to discuss, through other criteria, to require: that satisfactory access, parking and servicing facilities are provided; that the development should be safe and accessible for all; that the development



should not result in an adverse impact upon neighbouring residential properties through increased noise and disturbance or have an adverse effect upon the character of the area; and should not require substantial alteration or extension and be served by an appropriate level of amenity space. These matters form material considerations and are further required through other local planning policies within the NLCS and NLLP.

Within the Certificate of Lawfulness Appeal decision, the Inspector concluded that it was likely that this type of operation would result in an increase of traffic movements above and beyond that of a large dwellinghouse and that a material change of use had occurred at the site. The Inspector did not conclude whether or not this increase would have any harm on residential amenity or highway safety.

The example staff shift pattern illustrates that a minimum of two and a maximum of four staff stay overnight at the premises but in the majority of cases three staff stay overnight at any one time. Staff movements are likely to occur at the beginning and end of shifts which are shown as being 8am, 11am, 3pm, 4pm, 11pm and midnight. Not all these shift changes occur on a daily basis and it appears from the submitted example staff pattern that there would be between four and six care staff on the site throughout the day. It is acknowledged that further management staff movements will occur in addition to therapists and others that may visit the children. It is considered that the movements associated with taking the children to school and other activities are comparable to that of a large family home and therefore cannot be said to cause more harm than the current permitted use of the site. However, the additional staff movements, including their regularity, do not form movements associated with a large family home, although it is acknowledged that some homes may have movements associated with carers, and thus causes the material change in use of the property that the Inspector concludes has taken place in the appeal decision. Despite this, the numbers of additional staff movements are not considered to be particularly adverse. It is noted that some movements will occur early and late in the morning but the numbers of movements per day are not significant to cause an adverse impact on neighbouring properties in terms of noise and disturbance.

A number of objections have been raised concerning this matter and further concerns have been raised in relation to the level of parking at the site. The Highways team has been consulted and has not raised any objection to the proposal. It was requested by Highways that information be provided to demonstrate that the site can sufficiently accommodate the 15 vehicles indicated in the application which has subsequently been provided. This level of car parking is considered to be more than sufficient with regard to the scale of children's home that this application seeks to regularise. The Highways team has recommended a condition to secure the submission of a formal car park management plan which is to include measures to be taken to ensure staff and visitors to the facility park within the areas within the curtilage of the site and not on the public highway. Given the response by the Highways team, it is considered that, whilst the development will result in an increase in traffic movements, the total number of movements per day is not considered to be significant and that this increase would not be to the detriment of highway safety.

Concerns have been raised with regard to the potential of cooking odours and noise to have an adverse effect upon residential amenity. Such matters do form material considerations for the purposes of planning. The Environmental Health team has been consulted and has raised no objection to the application. It is considered that the change of use from a large dwellinghouse to a children's home, where no more than four children are resident, would not result in a significant increase in cooking odours or noise any more than

what may occur if the unit were a large family dwelling. If, in future, such issues became apparent this could be dealt with under separate Environmental Health legislation.

A number of concerns have been raised with regard to the notion that Low Burnham has an older population and there are few children for the residents to associate with, and that the proposal is therefore out of character. Given that the property could be occupied by a family with multiple children without any form of planning consent, such comments do not have weight. The NPPF, in paragraph 69, is clear that planning should promote mixed communities where opportunities for meetings between members of the community who might not otherwise come into contact should be encouraged. There are no other known facilities of this type in Low Burnham and the proposal would not lead to over concentration of such facilities that would lead to a detrimental effect upon the character of the area.

Paragraph 69 continues to state that developments should be safe where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. A number of objections have been raised which consider that the submitted planning statement, which states that there have been no issues with the facility, is untrue and the police have been called to deal with incidents. Whilst it is not known whether there have been incidents involving children resident at the facility, such matters are dealt with under separate legislation. Other concerns have been raised with regard to the floor plan and the siting of bedrooms in the premises with regard to child safeguarding. Again, such considerations are addressed through separate legislation and its associated procedures and mechanisms.

It is considered that the property has an appropriate level of open space associated with its use which is not significantly greater than that of a large residential dwelling. The property is served by an appropriate access point and has ample parking for the scale of use. Whilst it is acknowledged that this type of facility will lead to an increase in traffic movements associated with staff in the early morning and late evening, the numbers of movements involved are unlikely to cause a significant level of noise and disturbance that would have an adverse impact upon residential amenity. In addition, the scale of the children's home, that will not have more than four children in residence, is unlikely to cause significantly more noise and disturbance associated with its use as a place where children are resident, or cooking odours, than would occur if the property were a large, private, family dwelling.

### **Other matters**

The Old Barn is adjacent to a listed building and is within an area of historic landscape interest subject to NLLP policy LC14. The council's Conservation Officer and Archaeologist have been consulted and have raised no objections to the proposals. It is therefore considered that the proposed development will not adversely affect the setting of the adjacent listed building or the area of historic landscape interest.

A number of objections have questioned the credibility of the company, given that it has placed children into the home without the appropriate planning consent who, subject to the refusal of this application, could be displaced, which could affect their emotional wellbeing, and that it has previously applied for a certificate of lawfulness. Such matters do not form material considerations for planning, although it is noted that the company has submitted within the associated planning statement an Ofsted Report from June 2015 in which it was stated that the children's home provision was outstanding.

Further issues have been raised with regard to an increased demand on the sewerage network as a result of the increased use of the property. It is not considered that the change of use from a large dwellinghouse to a children's home where no more than four children are in residence which significantly affect the sewerage system.

## **Conclusion**

In conclusion, it is considered that the change of use of a residential dwelling to a children's home where no more than four children are resident would not result in a form of unsustainable development given that the property could host similar numbers of children as a private residential dwelling. It is acknowledged, however, that this type of operation is likely to result in an increase in traffic movements compared to that of a standard residential dwelling. However, the impacts of such an increase are not considered to have a significant adverse effect and would not be to the detriment of highway safety or residential amenity. It is not considered either that the change of use of a building would pose harm to heritage assets or the area of historic landscape interest. It is therefore recommended that planning permission be granted subject to conditions.

## **RECOMMENDATION      Grant permission subject to the following conditions:**

1.

The children's home hereby permitted shall be retained in accordance with the following approved plan reference: PA/2016/1836/01.

### **Reason**

For the avoidance of doubt and in the interests of proper planning.

2.

The children's home hereby permitted shall not at any time have more than four children in residence at the facility.

### **Reason**

The proposal is only justified as being acceptable with regard to the Interim Planning Policy for Residential Care Homes/Institutions, policy CS2 of the North Lincolnshire Core Strategy (2011) and saved policy H16 of the North Lincolnshire Local Plan (2003) on sustainability grounds on the basis of no more than four children being in residence at the facility and to prevent the uncontrolled expansion of the children's home without the prior assessment of its associated impacts by the local planning authority.

3.

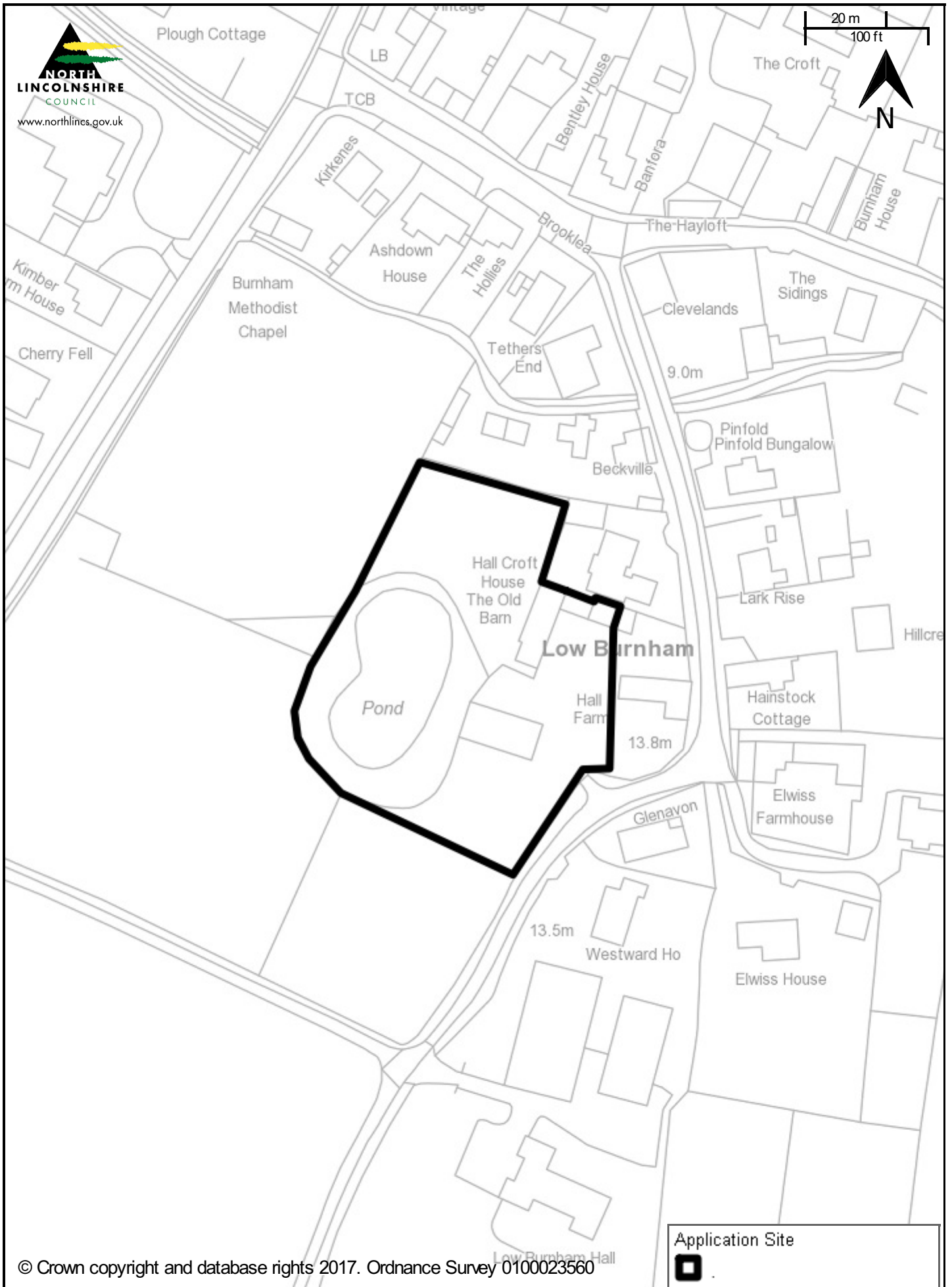
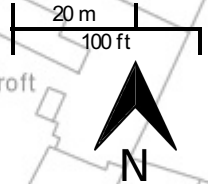
With three months of the grant of permission, a car park management plan shall be submitted for the approval in writing by the local planning authority. The plan shall demonstrate how all staff and visitor vehicles will be accommodated within the curtilage of the site and the measures to be taken to require all staff and visitors to use the parking facilities provided. Once approved, the car park management plan shall be implemented in accordance with the approved details and the vehicle parking facilities within it shall be retained thereafter.

### **Reason**

To ensure that the development is served by an acceptable level of parking in accordance with saved policy T19 of the North Lincolnshire Local Plan (2003).

**Informative**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



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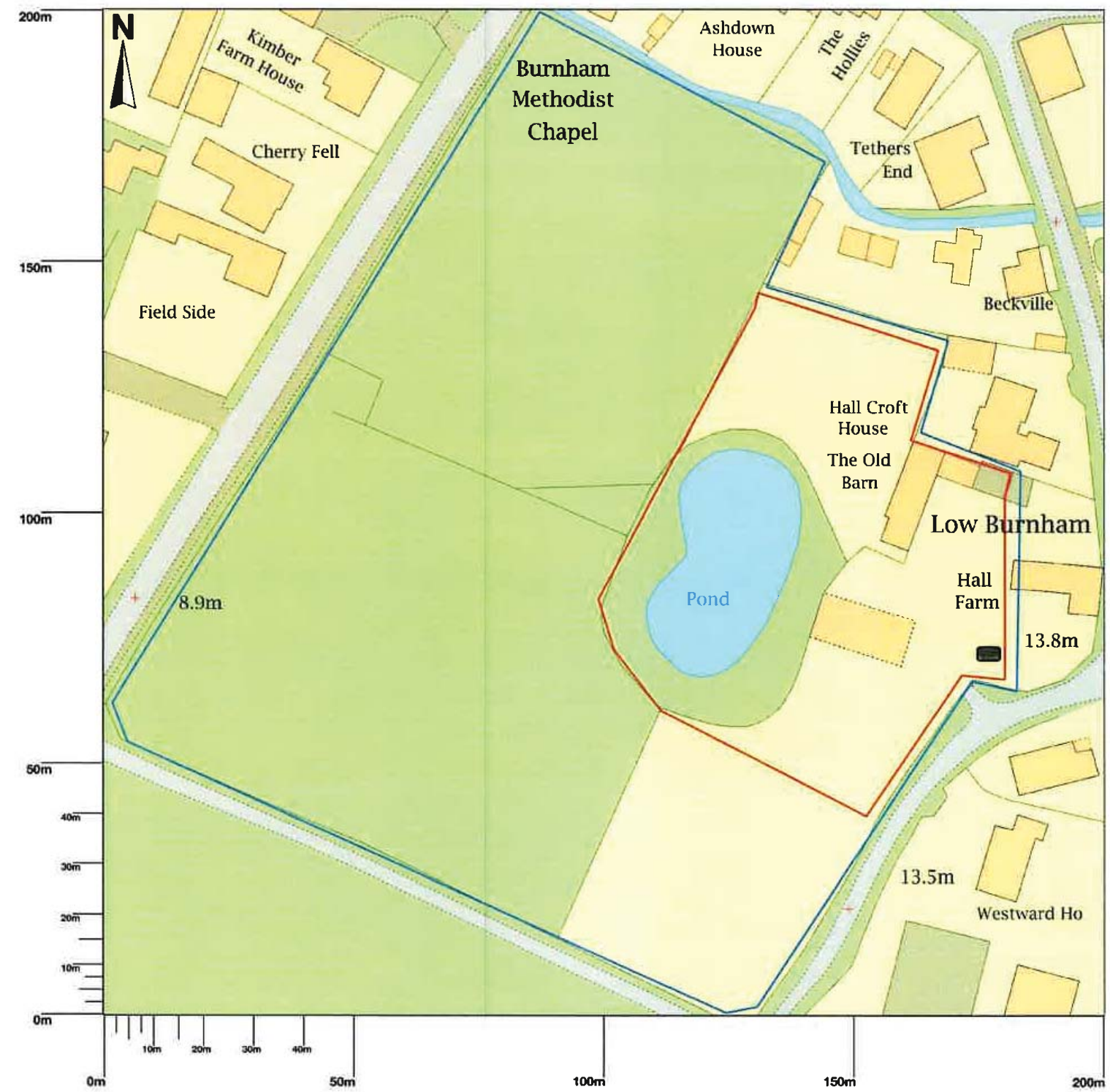
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# The Old Barn, Epworth, Doncaster, DN9 1DB



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