

**APPLICATION NO** PA/2020/329

**APPLICANT** Mr Peter Oliver

**DEVELOPMENT** Outline planning permission to erect a dwelling with appearance, landscaping, layout and scale reserved for subsequent consideration

**LOCATION** Land opposite Kelholme, Owston Ferry Road, Kelfield, DN9 1AG

**PARISH** Owston Ferry

**WARD** Axholme South

**CASE OFFICER** Andrew Cotton

**SUMMARY RECOMMENDATION** Refuse permission

**REASONS FOR REFERENCE TO COMMITTEE** Member 'call in' (Cllr David Rose – significant public interest)

**POLICIES:**

**National Planning Policy Framework:**

Chapter 2 (Achieving sustainable development)

Chapter 4 (Decision making)

Chapter 5 (Delivering a sufficient supply of homes)

Chapter 9 (Promoting sustainable transport)

Chapter 11 (Making effective use of land)

Chapter 12 (Achieving well-designed places)

Chapter 14 (Meeting the challenge of climate change, flooding and coastal change)

Chapter 15 (Conserving and enhancing the natural environment)

**North Lincolnshire Local Plan:**

Policy RD2 (Development in the Open Countryside)

Policy H5 (New Housing Development)

Policy H8 (Housing Design and Housing Mix)

Policy LC7 (Landscape Protection)

Policy T1 (Location of Development)

Policy T2 (Access to Development)

Policy T19 (Car Parking Provision and Standards)

Policy DS1 (General Requirements)

Policy DS14 (Foul Sewage and Surface Water Drainage)

Policy DS16 (Flood Risk)

**North Lincolnshire Core Strategy:**

Policy CS1 (Spatial Strategy for North Lincolnshire)

Policy CS2 (Delivering More Sustainable Development)

Policy CS3 (Development Limits)

Policy CS5 (Delivering Quality Design in North Lincolnshire)

Policy CS7 (Overall Housing Provision)

Policy CS8 (Spatial Distribution of Housing Sites)

Policy CS17 (Biodiversity)

Policy CS19 (Flood Risk)

**Housing and Employment Land Allocations DPD (HELA)**

**CONSULTATIONS:**

**Environment Agency:** No objection subject to a condition.

**Highways:** No objection subject to a condition.

**LLFA:** No objection subject to conditions.

**Environmental Protection:** No objection subject to a condition.

**Ecology:**

07/04/20: Objection. Full details in the ecology section below.

06/08/20: Objection following submission of preliminary ecological appraisal. Full details in the ecology section below.

**HER (Archaeology):** Holding objection. Full details in the heritage section below.

**HER (Conservation):** No objection subject to conditions.

**Yorkshire Water:** No comments received.

**Severn and Trent Water:** No comments received.

## **PARISH COUNCIL**

No comments received.

## **PUBLICITY**

A site notice has been posted at the site.

One letter of support has been received stating that the proposal would be a welcome addition to the area offering enhanced security for neighbouring properties. Heritage and historic landscape issues can be complex; there is already a relatively new dwelling that obtained full planning permission between this plot and the Dutch House which therefore sets a precedent.

The land in question is, at the moment, maintained to a good standard. If planning is refused this could change dramatically leaving it in a state of disrepair, therefore becoming an eyesore for both houses either side.

## **ASSESSMENT**

### **Site**

The application site is the land opposite Kelholme, Owston Ferry Road. Kelholme is situated within Kelfield, a small rural area, outside the settlement boundary of Owston Ferry (Housing and Employment Land Allocations DPD (2016)).

The application site lies within the Area of Special Historic Landscape Interest of the Isle of Axholme (Local Plan Policy LC14).

The application site sits within the setting of two listed buildings: grade II listed Dutch Cottage, built in the 17<sup>th</sup> century situated 30 metres immediately west of the application; and grade II listed Trent Holme, which is larger than 'Dutch Cottage' and dates to 17<sup>th</sup> century.

Additionally, the application site is situated within the historic landscape character type of Trent & Riverside Ancient Open Strip Fields (AOSF) that here forms a narrow zone adjacent to the River Trent between Kelfield and Derrythorpe to the north. The characteristic features of the AOSF are well-preserved and legible within this block, and in particular around the hamlet of Kelfield.

### **Proposal**

Outline planning permission is sought to erect a dwelling, including access, with appearance, landscaping, layout and scale reserved for subsequent consideration.

This application is a resubmission of refused application PA/2019/1312. The previous officer report highlighted the need for significant justification with regard to Flood Risk and Heritage.

### **The assessment will focus on the following issues:**

- **principle of development**

- **flood risk and drainage**
- **heritage**
- **ecology**
- **land quality**
- **highway safety.**

No indicative plans have been submitted.

### **Principle of development**

The application site is located outside of any defined settlement boundary and the proposal would represent a departure from the North Lincolnshire Local Plan.

The development plan for North Lincolnshire comprises three parts: those policies of the North Lincolnshire Local Plan (2003) (LP) which were saved by a direction of the Secretary of State in September 2007, the North Lincolnshire Core Strategy DPD (2011) (CS), and the Housing and Employment Land Allocations DPD (2016) (HELAP).

Policy CS1 of the CS sets out a spatial strategy for North Lincolnshire, which, amongst other matters, provides that rural settlements will be supported as thriving sustainable communities, with a strong focus on retaining and enhancing local services to meet local needs and that any development that takes place should be in keeping with the character and nature of the settlement.

Policy CS8 deals with the distribution of housing sites and prioritises development in Scunthorpe and the market towns, with brownfield sites and sites within development boundaries being the primary focus. With regard to rural settlements, the policy states that new housing will create opportunities for small-scale infill development that maintains the viability of the settlement and meets identified local needs without increasing the need to travel.

Policy CS8 goes on to clarify that in rural settlements in the countryside and in the open countryside outside development limits, housing development will be strictly limited. Consideration will be given to development, which relates to agriculture, forestry or to meet a special need associated with the countryside. All development should not have an adverse impact on the environment or landscape.

Policy CS3 provides that development limits will be defined in future development plan documents. Outside these boundaries, development will be restricted to that which is essential to the functioning of the countryside. The development limits were subsequently defined in the HELAP, and the application site is located outside the designated development limit for Owston Ferry.

LP saved policy RD2 restricts development in the open countryside other than in exceptional circumstances. This policy only supports residential development outside defined development limits where it is to meet an essential proven need and the open countryside is the only appropriate location for the development. Whilst this policy remains, it has largely been overtaken by policies in subsequent plans addressing the same issue (such as policies CS2 and CS3 referenced above).

Whilst the Design and Access Statement submitted with the planning application refers to existing buildings upon the site (many of which are now demolished), and therefore the site should be considered brownfield, Annex 2 of the NPPF defines brownfield land or previously developed land as land which is or was occupied by a permanent structure but specifically excludes, inter alia, land that is or was occupied by agriculture or forestry buildings. There is no evidence to suggest the buildings that were/are on the site were used for anything other than in relation to the surrounding agricultural uses; therefore the site does not accord with the NPPF's definition of previously developed land.

No justification has been put forward to substantiate the specific need for a market dwelling in this countryside location; it is considered that a market dwelling does not constitute a dwelling for the specific circumstances associated with this countryside location set out in policies RD2 and CS3.

The aforementioned policies are aimed at focusing housing within settlement limits as defined in the Housing and Employment Land Allocations DPD. The application site is entirely outside the defined development boundary for Owston Ferry and is therefore considered to be contrary to policies CS2, CS3 and CS8 of the Core Strategy and RD2 of the local plan.

Notwithstanding the development plan policies set out above, the NPPF is a material consideration when determining planning applications. Paragraph 11 and Footnote 7 (page 6) of the NPPF state the presumption in favour of sustainable development applies for applications involving the provision of housing where the local planning authority cannot demonstrate a five year supply of housing land and that housing applications should be considered in the context of the presumption in favour of sustainable development.

Early this year the council started to review the Five Year Housing Land Position Statement. As part of this review the council have identified that the deliverability of a number of the sites has changed due to planning permissions having lapsed or a delay in delivery due to site funding changes. The initial review has identified that the council housing land supply has reduced from five years to four years. The council has prepared a Housing Delivery Action Plan in accordance with the NPPF and PPG. The Action Plan will assist in securing a five year land supply; some of the actions include reviewing the windfall allowance calculation, and working with developers to bring forward outline planning applications.

The revised five year housing land supply position statement is awaiting publication. Any decisions made by the planning authority will take account of the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF. The current local policies relating to housing will carry reduced weight during this period.

As such it is considered that there is a clear and demonstrable need for housing development in the area.

The proposed development would have the social and economic benefits of addressing the current under-supply of housing land by the provision of a new market house. There would be a small investment in construction and related employment which would provide limited benefit, as would the support which the small increase in population would produce for the local economy. The Design and Access Statement also asserts that the NPPF requires 'planning policies to identify opportunities for villages to grow and thrive, especially where this will support local services. It goes to state that where there are groups of smaller

settlements, development in one may support services in a village nearby. These statements apply to this application in that Kelfield is immediately adjacent to Owston Ferry, a much larger rural village with the development in Kelfield giving support to the services provided in Owston Ferry. The erection of a single market dwelling would not contribute so significantly to the economy of the neighbouring settlement as to outweigh all other material considerations. In a 2013 appeal decision (APP/Y20003/A/13/2190116), which relates to an appeal for a single market dwelling on the opposite side of Trentside Road, Kelfield, the inspector similarly concluded that 'Kelfield is a very small settlement that does not contain the range of shops, services, facilities and employment opportunities associated with larger settlements...that the appeal scheme would be likely to use...it has not been shown that a dwelling would be necessary in this location to support the services in neighbouring settlements.'

While restricting development to land within development limits, if strictly applied, would severely affect the ability of the authority to address the need for housing, it is considered that the proposal does not represent sustainable development in the context of the NPPF and Housing and Employment Land Allocations DPD policy PS1, which sets a presumption in favour of sustainable development. The adverse impact of granting planning permission would outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. For this reason, the principle of development is not considered to be acceptable in this case.

### **Flood risk and drainage**

Policy CS19 is concerned with flood risk, whilst policy DS14 is concerned with foul sewage and surface water drainage. The application site is located within the Environment Agency flood zone 3 and SFRA Flood Zone 2/3a (fluvial).

The council's drainage team has been consulted and states that they have no objections subject to mitigation of surface water drainage. It is considered, however, given that the proposal is for a single dwelling, that this would be adequately covered at building regulations stage should permission be granted. Furthermore, legislation under the Water Industry Act 1991 would also provide necessary mitigation for the disposal of foul sewage.

The Environment Agency (EA) raise no objection to the proposal given that the applicant has carried out a breach assessment of the River Trent defences which demonstrates the inundation risk to the site. The Flood Risk Assessment (FRA) submitted includes the findings from the breach assessment and includes suitable mitigation. Given that the site plan shows the proposed dwelling would not be built within 16 metres of the raised defences, the EA is satisfied and raises no objection subject to a condition.

The Flood Risk Assessment (FRA) submitted with the planning application advises that there are no alternative sites with lower flood risk available within the applicant's ownership. However, the assessment does not include a sequential test which would be required to explore less vulnerable flood zones (after justifying a geographical area of research) setting out a methodology and reasons as to why these sites have been discounted (if indeed they can be).

The applicant has not taken the opportunity to justify a geographical area of research, put forward a more robust methodology for a search for sites and ultimately established that there are no other preferable sites within a lower zone of flooding.

Given the above, it is considered that the applicant has not demonstrated that there are no other reasonably available sites appropriate for the proposal in areas with a lower probability of flooding. The proposal therefore fails the sequential test and would not be an acceptable form of development with regard to flood risk.

It is noted that the Environment Agency is satisfied with the mitigation measures proposed, although noting that, in accordance with paragraph 158 of the NPPF, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas of lower probability of flooding and that it is for the local planning authority to determine if the sequential test has been applied and whether or not there are other sites available of lower flood risk.

Additionally, as the proposal fails the sequential test, there is no requirement to consider whether the exception test is satisfied.

The proposal is therefore considered to be contrary to policy CS19 of the North Lincolnshire Core Strategy and paragraph 158 of the National Planning Policy Framework (NPPF).

## **Heritage**

The site is within the Area of Special Historic Landscape Interest of the Isle of Axholme (local plan policy LC14), is within and has the potential to impact a grade II listed building and a non-designated built heritage asset. The site is situated within the historic landscape character type of Trent & Riverside Ancient Open Strip Fields (AOSF) that here forms a narrow zone adjacent to the River Trent between Kelfield and Derrythorpe to the north. The characteristic features of the AOSF are well-preserved and legible within this block, and in particular around the hamlet of Kelfield.

The council's HER Archaeology Officer notes that a heritage statement has been submitted with this application; however, the HER was not consulted in the preparation of this statement, contrary to paragraph 189 of the NPPF, which states that this is a minimum requirement. The HER advises that the heritage statement submitted is inadequate because it does not identify or describe the significance of all heritage assets that the proposals would potentially affect. The listed buildings are not identified, nor is the heritage interest of the 19th century barn within the application site properly described. The statement identifies that the site is within the LC14 policy area but does not identify or describe the historic landscape character type, or its significance. It is concluded that there is insufficient information with this outline application to assess the impact on the heritage assets. Because the application has the potential to affect the significance of the core historic landscape character of the AOSF, a detailed heritage statement is required to enable the planning authority to determine the application in line with NPPF and local plan policies. In the absence of any further information, the HER recommends the application is refused as it is contrary to the NPPF, Core Strategy policy CS6 and local plan policies HE5 and HE9; inadequate information has been provided to allow the local planning authority to assess the impact of the development on the heritage assets, or to approve any appropriate mitigation measures.

The council's HER conservation officer has advised that the land in question contains some small barns that are in poor condition and have no formal protection on them. Other site constraints are that it is within the setting of the grade II listed Dutch Cottage located two plots to the west of this site.

From a conservation perspective there is no objection to an outline permission in this instance as there is an intervening building between the listed building and the application site. There is already built form on the site and, considering their condition, their replacement would be considered. However, the proposed building could be seen at certain points on North Street within the context of the listed building. It is therefore recommended, should outline permission be granted, that a condition is included to ensure the building is a maximum of one and half storeys. A larger building would draw the eye and impede the appreciation of the grade II listed Dutch Cottage which should be the dominant visual structure within the surroundings in accordance with saved local plan policy HE5, Section 66 of the Planning Listed Building and Conservation Areas Act 1990 and Section 194 of the NPPF, all of which afford protection to the setting of listed buildings. In addition to the above, the appearance, siting and materials of the proposed building would need to take into account its proximity to the listed building, but this could be controlled at the reserved matters stage.

## **Ecology**

Insufficient information has been submitted for the council's ecologist to be able to determine the ecological impact of the proposed development. The ecologist notes that a Preliminary Ecological Appraisal (PEA) has been submitted. The PEA report recommends that, *'...further survey effort is required to ascertain presence/likely absence of use of the buildings by bats. Such surveys can only be conducted within the bat activity season May to August inclusive.'* No such surveys appear to have been carried out as yet. Planning Circular 06/2005 states, *'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.'*

Therefore, the application should not be determined except for a refusal, until the bat activity survey recommended in the PEA has been carried out. However, considering the other significant reasons for refusal, and that the applicant was previously made aware of the likely need for a bat and breeding bird survey in the ecologist's initial comments of 17/04/20, it is considered that the applicant has had ample opportunity to address this issue.

The ecologist also states that they support the HER objection (see above), placing particular emphasis upon the impact upon the policy LC14 Historic Landscape designation.

## **Land quality**

Policy DS7 is concerned with contaminated land. It states that permission will only be granted on contaminated sites where a detailed site survey has been submitted, and a suitable scheme of remedial measures has been agreed to overcome any existing contamination.

The council's environmental health officer has stated that there is requirement for a phase 1 desk top study, remediation report and a verification report. These details could be secured by condition.

## Highways

Policy T2 of the North Lincolnshire Local Plan is concerned with access to development and states that all development should be served by a satisfactory access. Policy T19 is concerned with parking provision, as well as general highway safety; both policies are considered relevant. The council's Highways department has assessed the proposal and has no objection subject to conditions.

## Conclusion

The application site is entirely outside the defined development boundary for Owston Ferry and is therefore considered to be contrary to policies CS2, CS3 and CS8 of the Core Strategy and RD2 of the local plan. While restricting development to land within development limits, if strictly applied, would severely affect the ability of the authority to address the need for housing, it is considered that the proposal does not represent sustainable development in the context of the NPPF and Housing and Employment Land Allocations DPD policy PS1, which sets a presumption in favour of sustainable development. The adverse impact of granting planning permission would outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole.

In conclusion, the principle of development is considered unacceptable despite the council's Housing Land Supply shortfall and the proposal being assessed against paragraph 11 of the NPPF. The FRA fails to provide a detailed sequential test and as such is contrary to policy CS19 of the North Lincolnshire Core Strategy and paragraph 158 of the NPPF. Further to this, with issues relating to heritage, insufficient information has been received, with some of the council's internal and external consultees raising an objection to the proposal.

There have been no material considerations which outweigh the significant planning issues and as such the recommendation is for refusal. The issues raised above were highlighted in the officer's report for the previously refused application, which emphasised the need for any future submissions to include detailed information/justification in relation to these issues.

## **RECOMMENDATION      Refuse permission for the following reasons:**

1.

The proposal would amount to the construction of a new dwelling in the countryside, without a requirement for a countryside location or being one of the specified forms of development that will be permitted. The proposed dwelling would urbanise an area of open land which contributes to the rural character of the locality, and which would fail to protect the intrinsic character and beauty of this part of the countryside. As such, the proposal would be contrary to policies RD2 of the North Lincolnshire Local Plan, policies CS2, CS3 and CS8 of the North Lincolnshire Core Strategy, and paragraphs 11 and 79 of the National Planning Policy Framework.

2.

The applicant has failed to provide sufficient evidence that there are no alternative sites at lower risk of flooding that could accommodate the proposal. The proposed development is therefore contrary to policy CS19 of the North Lincolnshire Core Strategy and paragraph 158 of the National Planning Policy Framework.

3.

The proposal fails to provide adequate information for the local planning authority to be able to determine the impact the proposed development may have upon heritage assets and their settings, including the Isle of Axeholme historic landscape and Trent & Riverside Ancient Open Strip Fields landscape character area, contrary to policies LC7 and LC14 of the North Lincolnshire Local Plan, policies CS5 and CS6 of the North Lincolnshire Core Strategy, and paragraphs 189 and 190 of the National Planning Policy Framework.

4.

The proposal fails to provide adequate information for the local planning authority to be able to determine the impact the proposed development may have upon biodiversity, contrary to policy CS17 of the North Lincolnshire Core Strategy and the guidance of Chapter 15 of the National Planning Policy Framework.

### **Informative**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 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.



**North Street to  
South Street and  
West Butterwick**

4.3m

**Owsten Ferry Road to  
Owsten Ferry**

3.9m

Pond Farm  
Cottage

Kelfield

Orchard  
Villa

Kelholme

4.6m

TCB

Dutch  
Cottage

Halcyon  
Riverside

Rose  
Cottage

The Paddock

Jubilee Cottage

Mud

Sloping masonry

Mean High Water

Mud

EER, Co Const & UA Bdy

River Trent

Mean High Water

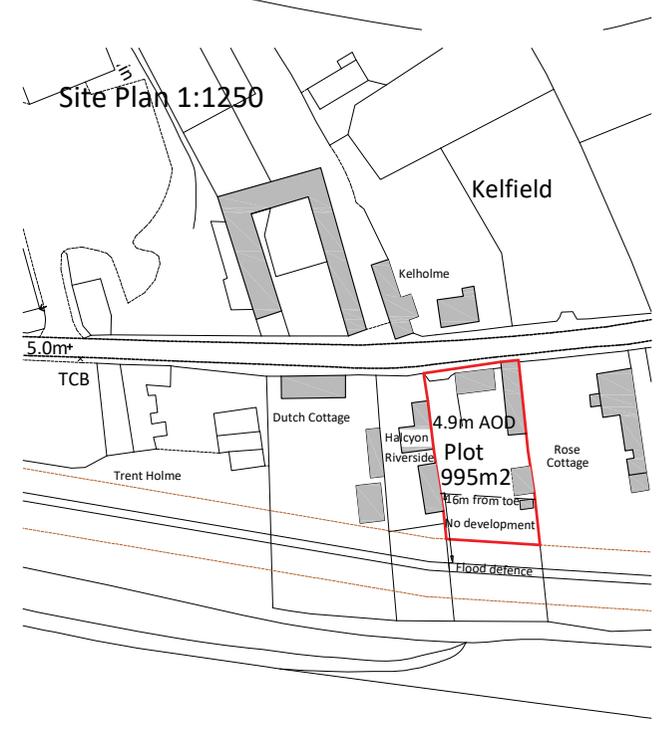
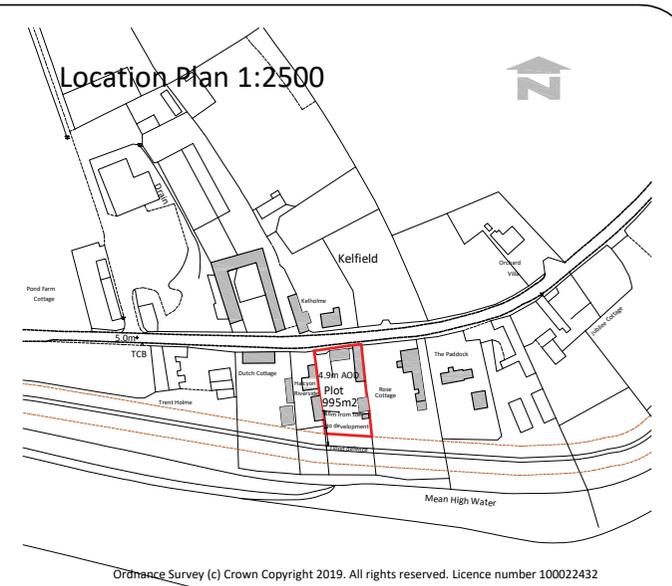
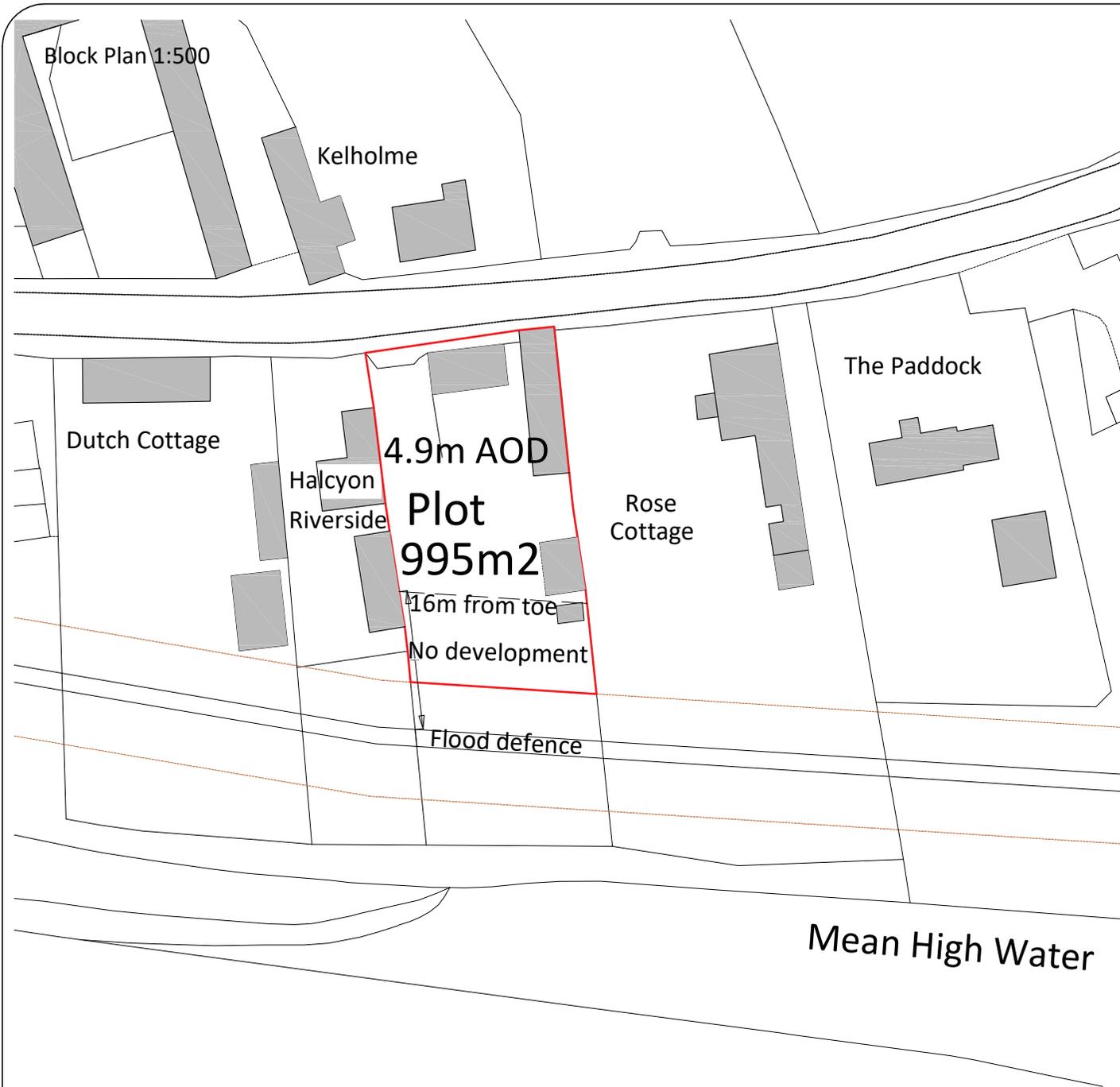
 **LC14 Isle of Axholme Area of Special Historic Landscape**

**North  
Lincolnshire  
Council**

**PA/2020/329**

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# PA/2020/329 Block plan (not to scale)



Howard J Wroot BSc MRICS Chartered Surveyor 240 Wharf Road, Ealand Scunthorpe DN17 4JN	Tel 01724 711068 Fax 01724 710174 Mob 07947 226577	Client	Mr Peter Oliver			Proposal	Residential building plot at land opposite Kelholme Trentside Kelfield Owston Ferry DN9 1AG
		Date	26/2/20	Dwg No	1 of 1		
		Scale	As noted	Ref No	1063	Drawing	Location Block and Site Plans

