

<b>APPLICATION NO</b>	<b>PA/2021/1087</b>
<b>APPLICANT</b>	Mr James Pearson, Charworth Homes
<b>DEVELOPMENT</b>	Planning permission to erect three dwelling houses and three detached single garages with associated landscaping (including demolition of existing outbuildings)
<b>LOCATION</b>	Dondoreen, Marsh Lane, Barton upon Humber, DN18 5HF
<b>PARISH</b>	Barton upon Humber
<b>WARD</b>	Barton
<b>CASE OFFICER</b>	Jennifer Ashworth
<b>SUMMARY RECOMMENDATION</b>	<b>Refuse permission</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Cllr Paul Vickers – 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 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

Chapter 16 – Conserving and Enhancing the Historic Environment

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

H5: New Housing Development (part saved)

H7: Backland and Tandem Development

H8: Housing Design and Mix

HE2: Development in Conservation Areas

HE3: Demolition in Conservation Areas

HE9: Archaeological Excavation

DS1: General Requirements

DS3: Planning Out Crime

DS7: Contamination

DS14: Foul Sewage and Surface Water Drainage

DS16: Flood Risk

T2: Access to Development

T19: Car Parking Provision and Standards and Appendix 2

LC12: Protection of Trees, Woodland and Hedgerows

**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

CS7: Overall Housing Provision

CS8: Spatial Distribution of Housing Sites

CS9: Affordable Housing

CS17: Biodiversity

CS18: Sustainable Resource and Climate Change

CS19: Flood Risk

CS25: Promoting Sustainable Transport

**Housing and Employment Land Allocations DPD:** The site lies within the development limits of Barton upon Humber and within the conservation area (policy HE2) as shown on Proposals Map Inset 07.

Policy PS1 (Presumption in Favour of Sustainable Development)

**CONSULTATIONS**

**Environment Agency:** The Environment Agency was not consulted until later in the application process when the fourth case officer took over the project. The response was received on 15 July 2022. The EA has no objection to the amended plans with finished floor

levels of 5.6m AOD (plans uploaded 24 June 2022). A condition similar to permission PA/2019/1798 is requested. Whilst the EA has not objected on flood risk grounds this does not remove the need to apply the sequential test. A failure to satisfy the sequential test can be grounds alone to refuse planning permission.

**Environmental Protection:** No objections subject to a condition to address the potential for contamination of the site.

**LLFA Drainage:** No objection subject to conditions. The applicant has worked closely with the LLFA drainage team to seek the removal of their original objection. The drainage team do still require conditions to address surface water drainage and the drainage scheme on the site. The team have also set out a series of informative comments and notes for the developer to take into account as part of these works.

**Tree Officer:** No objection but makes the following comments:

The trees mentioned within the arboricultural report are within the ownership of an adjacent landowner and not on the site; this means the applicant does not have a legal right to remove these trees without specific permission from the tree owners.

These trees are also within the conservation area, which offers them some protection, and unless the removal of these trees is required to implement any planning permission given, which it appears they do not, the applicant would need to go through an application giving notice of intended works to trees within a conservation area. Although the location of the trees is such that making a tree preservation order on them is probably not likely to occur, they do need to go through this process, as removal of trees without doing so is an offence under the legislation.

**Historic Environment Record (Archaeology):** The HER originally placed a holding objection until a Written Scheme of investigation (WSI) was completed on this site. The HER has now confirmed that the final report is required to be submitted to allow them to withdraw their objection.

**Conservation:** Objects and recommends a design change, making the following comments:

*In relation to the design:*

The principal aim of new development should be to marry-in the new with the existing, rather than making the new building completely different. This is because the attractiveness of the town centre relies on the visual cohesiveness of the streetscape.

- All new development should therefore reflect the scale and materials of adjoining property. The form of any new building, including its height, relationship to the street, and any rear extensions, should be sympathetic to the surrounding buildings. Because most new development will be within existing terraces or groups of buildings, rooflines, eaves heights and details, window details and shopfronts (or front doors) should match or reflect adjoining properties. The addition of chimneystacks in some locations may be required, to ensure compatibility with adjoining properties.
- Historic building lines should always be replicated when designing new development.

### *In relation to materials:*

Materials for new development in Barton-upon-Humber will usually be chosen to match existing buildings in the area, so red brick, or in some locations, a rendered finish, will be appropriate. Roofs should be covered in clay pantiles, clay 'French' tiles or Welsh slate. Modern, machine-made flat clay tiles will rarely be acceptable; neither will concrete tiles or artificial slate. Windows should be made from timber and traditionally detailed with vertically sliding sashes or horizontally sliding casements. Top-hung false 'sashes' are not suitable. Front doors should be made from timber, with four or six recessed moulded panels. All timber should be painted not stained.

- Traditional materials and details should be specified for new development. The use of material other than timber is unacceptable for windows, doors and conservatories in conservation areas.

It is accepted that the buildings in Tyson Close are mostly modern and therefore, in principle, having a new development that reflects a more modern style of build is acceptable but the buildings still need to be sympathetic to the overall character of the conservation area. There is an issue with the aluminium dormers which stand out too much and will clearly be seen as an incongruous modern element in an historic area.

The adopted policy in the Barton SPG states, 'The use of material other than timber is unacceptable for windows, doors and conservatories in conservation areas.' Considering this, I recommend that the dormers are clad in timber for the new development to sit better in the historic area.

**Highways:** No objection but recommend two conditions to ensure vehicle access and parking is completed prior to occupation and vehicle wheel cleaning is undertaken in accordance with details to be approved in writing by the local planning authority.

### **TOWN COUNCIL**

Objects on grounds of the design of the access and locality, and would like access from Frederick Fields to be considered rather than Tyson Close.

### **PUBLICITY**

A site notice has been displayed. Fourteen responses have been received, all objecting to the scheme. The points raised are summarised below:

- Frederick Fields is a private road and is not built for heavy duty vehicles, vehicles over 3.5t are not allowed to access the road due to the way it was constructed, we are currently in disagreement regarding several issues with the roadway and many residents are taking further action (legally and via the LABC) and as residents we are not happy allowing access to a building site.
- Frederick Fields currently has 2 (or 2.5) parking spaces on the development for visitors, adding further dwellings to the development would cause large issues with parking.
- The bin store at the entrance of Frederick Fields is not fit for purpose, this doesn't even have capacity for the 5 properties' here not to mention adding more.

- Frederick Fields is block paved and the paving is already damaged from heavy plant delivering equipment to the site. Increased use by vehicles, pedestrians, wheelie bins will damage this further.
- Frederick Fields cannot support additional traffic.
- Frederick Fields already includes collapsing drains and sinking block paving.
- Windows to the rear of properties will overlook existing garden spaces resulting in overlooking and privacy issues.
- Noise/disturbance from additional vehicles.
- The proposed development is submitted using out of date plans whereby the boundary lines adjacent to my property have been subsequently amended and are incorrect on the proposed development plans.
- Over-development and overbearing impacts.
- Detrimental to the open aspect of the current site.
- Would result in excessive demand for services and infrastructure which require maintenance at the cost to residents on Frederick Fields.
- No public footpaths on Frederick Fields – additional traffic will result in increased pedestrian safety issues.
- Development will impact on wildlife and environment.
- No additional visitor parking being provided, the 3 spaces is not enough to serve 11 properties.
- Tyson Close – previous application rejected due to existing road construction not being to Highways' standards.
- Concerns over construction access and who will be liable for reinstatement of existing road from any damage caused by construction activities.
- Residents from Fredrick Fields have now once again seen the sewer drainage fail.
- Tyson Close was originally given planning for the erection of 5 bungalows. This has already been completed. A further 3 dormer bungalows exceeds the number originally planned for and as such will overcrowd the site.
- The plans show dormers to the bungalows, which, because of the proximity across the narrow road to the existing bungalows, in particular number 2, will mean that the new occupants will have a direct downward view into the existing bungalows thus destroying the privacy of the current occupants.
- Concerns visitors to new properties will park on Tyson Close and block the access for emergency vehicles as well as general congestion.
- Tyson Close is too narrow for any extra use other than that for which originally intended.

- We always knew there would be two more bungalows, however three more dwellings will increase the vehicles using the close.
- Drainage, footings and even walls are under construction and demonstrates, at the least, a complete disregard for the application process and any decision made by the planning officer/committee.

## **ASSESSMENT**

### **Planning history**

PA/2003/1660: Planning permission to erect a detached bungalow with integral garage – approved 12/03/2004.

The following permissions relate to Frederick Fields to the rear of the site:

PA/2019/397: Planning permission for a first floor extension with replacement windows and doors – approved 22/05/2019

PA/2017/1109: Planning permission to erect five dwellings including demolition of outbuildings to rear – approved 13/04/2018

PA/2019/832: Planning application to vary condition 2 of planning permission PA/2017/1109 namely to re-configure the layout of plot 4 and the internal layout to plot 5 together with alterations to the roof of these plots – approved 05/07/2019

7/1989/0610: Planning permission to erect a detached house – approved 14/09/1989

PA/2004/1444: Planning permission to erect a detached house – refused 07/12/2004

PA/2017/1576: Outline planning permission for four dwellings with associated access road and landscaping with all matters reserved – approved 21/06/2018

PA/2019/1798: Planning permission for access and associated parking – approved 20/05/2020.

### **Planning designations/considerations**

The site lies within the development limits of Barton upon Humber and within the conservation area. There are existing trees outside, but very close to, the boundary of the site and their location within the conservation area offers them some protection.

There are no known listed buildings within close proximity of the site.

The site is within SFRA Flood Zone 2/3a which is considered to be at high risk of flooding.

### **The proposal**

From a site visit on 24 June 2022, it was evident that the development is underway, existing outbuildings have been demolished, and dwellings are being constructed without planning permission. The application is for the erection of three 1.5-storey, 4-bedroom detached dwellings and three detached single garages with associated landscaping (including demolition of existing outbuildings).

All dwellings have pedestrian access to front doors and side gates off Tyson Close. Vehicle access to two of the dwellings and their respective garages is proposed off Frederick Fields via the existing turning head/visitor parking area which has been extended into the application site. The third dwelling is to be accessed off Tyson Close via a dropped kerb. Each property has a single garage and two off-street parking spaces. Both are private roads and have not been adopted by the highway authority.

All three plots front onto Tyson Close and sit beyond the existing building line (3D visual, page 25, Design and Access Statement), with the frontage of properties in line with the side boundary wall of Dondoreen and front wall of 5 Tyson Close.

The proposed design and style of the three dwellings is reflective of those off Frederick Fields. The applicant sets out that the private garden spaces of Frederick Fields range between 550m<sup>2</sup> to 1200m<sup>2</sup> and the proposed garden spaces are 680m<sup>2</sup> and 1200m<sup>2</sup>.

Bin collections are proposed via the existing collection area at the access to Frederick Fields from Marsh Lane.

### **The site**

The site lies to the south of Tyson Close, a small cul de sac comprising five detached single-storey bungalows with a further two properties, Dondoreen and 7b Marsh Lane, fronting and being accessed off Marsh Lane; however, the main body of the property and side elevation sit within Tyson Close. The style of both these properties is reflective of the five properties off Tyson Close.

Bramley Close is further north of the site and comprises largely single-storey bungalows with a handful of two-storey detached properties at the end of the development. Frederick Fields is to the south of the site and includes eight detached two-storey properties, all fronting onto and accessed off Frederick Fields.

The site is currently under construction.

Google Maps dated 2009 shows evidence of the site being an extension of the garden space for Dondoreen with a brick-built detached garage with apex roof, small storage shelters with what appears to be an asbestos roof, two further sheds, a greenhouse and hardstanding for a caravan, as well as the wider site being laid to grass.

### **This assessment will therefore focus on the following issues:**

- **Principle of development**
- **Historic environment/design, layout, appearance**
- **Residential amenity**
- **Flood risk**
- **Contamination**
- **Highway safety**
- **Ecology**

- **Trees and Landscape.**

### **Principle of development**

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 saved policies of the North Lincolnshire Local Plan (NLLP), the North Lincolnshire Core Strategy (NLCS) and the Housing and Employment Land Allocations Development Plan Document (HELADPD). Material considerations exist in the form of national policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising National Planning Practice Guidance (NPPG).

Policy CS1 of the Core Strategy sets out the overarching spatial strategy for the district. It states that in Scunthorpe ‘...High quality, well designed new housing will be provided on a range of previously developed sites within the urban area followed by a greenfield urban extension with a focus on areas to the west of the built up area’. The policy specifically refers to market towns and recognises Barton upon Humber as a thriving place to live, work and visit and supports an appropriate level of new housing development to support the market towns as sustainable communities. The policy states, ‘North Lincolnshire’s Market Towns will continue to provide important services for the area’s rural communities and support the higher level services provided by Scunthorpe. Levels of growth and development will be more limited reflecting their position in the settlement hierarchy. All growth will take account of existing infrastructure, environmental constraints and ensure that the distinctive character of the town is protected.

Policy CS2 sets out a sequential approach to where development should be focused. It states, ‘...Previously developed land and buildings within the Scunthorpe urban area, followed by other suitable infill opportunities within the town, then by appropriate greenfield urban extensions’ is the first priority. The second priority is then ‘Previously developed land and buildings within the defined development limits of North Lincolnshire’s Market Towns, followed by other suitable infill opportunities then appropriate small scale greenfield extensions to meet identified local needs’. Policy CS2 requires all future development in North Lincolnshire to contribute towards achieving sustainable development. Policy CS2 also requires development to be designed to a high standard, consistent with policy CS5, and use sustainable construction and design techniques.

Policy CS7 is concerned with the spatial distribution of housing sites and policy CS8 is concerned with overall housing provision. As well as setting out locations for the distribution of housing, CS7 also sets out net density ranges (unless site constraints dictate). Housing density within Scunthorpe and market towns’ development limits are 40–45 dwellings per hectare. The policy also states, ‘Housing development will be required to make efficient use of land but the density of new development should be in keeping with the character of the area and support the development of sustainable, balanced communities.’

The proposal would generate a residential density of 30 dwellings per hectare (site area 0.1ha). This is under the requirement of policy CS7 which indicates a requirement of a site of this size in this location to yield a density of between 40–45 dwellings per hectare; this does, however, need to take into account the surrounding character/other material considerations.



Policy CS8 states that the first priority is to re-use previously developed land and buildings within North Lincolnshire's built up areas which will be promoted by setting a target of 30% of the housing provision on such land.

Notwithstanding the development plan policies set out above, the NPPF is a material consideration when determining planning applications. Paragraph 10 of the NPPF states, 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.' Paragraph 11(d) of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies which were most important to determining the application should not be considered up-to-date.

A recent appeal decision dated 20 July 2022 (planning reference PA/2020/554) has been issued where the Inspector has concluded that the council does not currently have a five-year housing land supply of deliverable sites. The council's Five Year Housing Land Supply Position Statement is awaiting an update and as such 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 which are most important for determining the application will carry reduced weight during this period.

The site is within the development boundary of Barton upon Humber where the principle of residential development is considered acceptable. The proposal generally accords with the relevant policies of the development plan. As such the statutory presumption in section 38(6) of the Planning and Compulsory Purchase Act 2004 is engaged, which states that planning permission should be granted unless other material considerations indicate otherwise. The proposal is considered to represent sustainable development and the presumption in favour set out in paragraph 11 of the Framework is triggered. In determining the principle and sustainability of the proposed development, an assessment is required on the technical elements of the proposal which will be discussed below.

Paragraph 11 d) ii) is clear that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (\*including where no five year land supply can be demonstrated), permission should be granted unless:

- 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.

### **Historic environment/layout, design and appearance**

Paragraph 126 of the NPPF states, 'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.'

Paragraph 130 of the NPPF states, '...planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users;
- (g) and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

Paragraph 134 states that development that is not well designed should be refused. Significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

Policies H5 (part saved), CS5 and DS1 seek to deliver quality design in North Lincolnshire. As the site is within the conservation area, the design of the properties would need to respect the criteria set out within the relevant policies. Policy H7 permits backland and tandem development where there is no adverse effect on the amenities of any residential premises through adjoining uses and where development would not affect the general quality and character of the area.

Policy CS5 of the North Lincolnshire Core Strategy is concerned with delivering quality design in North Lincolnshire. It states that '...All new development in North Lincolnshire should be well designed and appropriate for their context. It should contribute to creating a sense of place. The council will encourage contemporary design, provided that it is appropriate for its location and is informed by its surrounding context. Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable.' This is reinforced by local plan policy DS1. Policies H7, H8 and DS1, and paragraph 127 of the NPPF, are also considered relevant.

Policy CS6 states, '...The council will seek to protect, conserve and enhance North Lincolnshire's historic environment, as well as the character and setting of areas of acknowledged importance including historic buildings, conservation areas, listed buildings (both statutory and locally listed), registered parks and gardens, scheduled ancient monuments and archaeological remains.

All new development must respect and enhance the local character and distinctiveness of the area in which it would be situated, particularly in areas with high heritage value.

Development proposals should provide archaeological assessments where appropriate.'

Whilst Policy HE2 requires, '...All development proposals in, or which affect the setting of, conservation areas should preserve or enhance the character and appearance of the area and its setting. Development should harmonise with adjoining buildings. Building materials should be appropriate to the locality and context and sympathetic to those of existing and nearby buildings in terms of type, texture, colour and size. Walls, gates and fences should be of a type traditionally used in the locality. Development should be of a standard of design which respects the appearance and character of the conservation area in terms of its bulk, height, mass, vertical and horizontal emphasis, proportions, layout, siting, landscaping and other matters of design such as roofscape and architectural style and detailing.'

Policy HE3 relates to demolition in conservation areas and sets a series of criteria against which a building will be assessed...and consent for demolition of a building will be conditional on it not being demolished until either:

- (a) detailed planning permission for the redevelopment of the site has been obtained and the council has had sight of an agreed contract for the carrying out of works of redevelopment; or
- (b) a landscaping and improvement scheme is submitted and an agreement is entered into to maintain the scheme, if the site is to be kept in open space use;
- (c) whenever appropriate, proposals which would entail the loss of historic fabric from a listed building will be conditional upon a programme of recording being agreed and implemented.

Whilst the site is located within the conservation area, there are no listed buildings within close proximity. There is a mix of styles of properties within the wider area and as such it is considered that development of this site should look to the existing immediate area for inspiration. This includes Tyson Close, Frederick Fields and Marsh Lane.

The Conservation Officer has considered the proposals and objects to the proposals, recommending design changes. These relate to two matters:

### ***Design***

The principal aim of new development should be to marry-in the new with the existing, rather than making the new building completely different. This is because the attractiveness of the town centre relies on the visual cohesiveness of the streetscape.

All new development should therefore reflect the scale and materials of adjoining property. The form of any new building, including its height, relationship to the street, and any rear extensions, should be sympathetic to the surrounding buildings. Because most new development will be within existing terraces or groups of buildings, rooflines, eaves heights and details, window details and shopfronts (or front doors) should match or reflect adjoining properties. The addition of chimney stacks in some locations may be required, to ensure compatibility with adjoining properties.

Historic building lines should always be replicated when designing new development.

## **Materials**

Materials for new development in Barton-upon-Humber will usually be chosen to match existing buildings in the area, so red brick, or in some locations, a rendered finish, will be appropriate. Roofs should be covered in clay pantiles, clay 'French' tiles or Welsh slate. Modern, machine-made flat clay tiles will rarely be acceptable; neither will concrete tiles or artificial slate. Windows should be made from timber and traditionally detailed with vertically sliding sashes or horizontally sliding casements. Top-hung false 'sashes' are not suitable. Front doors should be made from timber, with four or six recessed moulded panels. All timber should be painted not stained.

Traditional materials and details should be specified for new development. The use of material other than timber is unacceptable for windows, doors and conservatories in conservation areas.

It is accepted that the buildings in Tyson Close are mostly modern and therefore in principle having a new development that reflects a more modern style of build is acceptable but the buildings still need to be sympathetic to the overall character of the conservation area. There is an issue with the aluminium dormers which stand out too much and will clearly be seen as an incongruous modern element in an historic area.

The site represents an infill plot off Tyson Close. In terms of policies CS5, H5, H7 and H8 the proposal is regarded in part as backland/tandem development: part of the land comprises land which formed the rear garden of Dondoreen, whilst another part of the site benefits from an extant planning permission for a single dwelling. The scheme submitted should take account of dwellings off Frederick Fields as well as Tyson Close. The properties will be 1.5-storeys high with a dormer bungalow design which, in theory, would create a natural transition from the single-storey detached bungalows off Tyson Close through to the two-storey detached dwellings off Frederick Fields. As a result of raised floor levels (5.6AOD) required by the Environment Agency to satisfy Flood Risk requirements, the dwellings would be much higher than a standard 1.5-storey dormer bungalow. The elevations provided show the ridge height of the proposed dwellings above the height of the houses off Frederick Fields and therefore it is considered they would appear overbearing within the street scene off Tyson Close.

The overall modern design and materials (dark grey antique slate roof tiles and red brick) are more reflective of the properties off Frederick Fields rather than Tyson Close. The properties on Tyson Close include a red brick and terracotta Roman ridge roof tile. Whilst Tyson Close does not offer a high quality in terms of design standard, it does offer a uniformed approach to materials as well as in the layout of plots and siting of buildings within those plots.

Whilst a modern design is considered acceptable and is welcomed on the site, the development is required to address the overall character and appearance of Tyson Close.

The existing properties off Tyson Close are all set back from the main highway (private road) by approximately:

- 1 Tyson Close: 3.8m
- 2 Tyson Close: 4.5m

- 3 Tyson Close: 4.6m
- 4 Tyson Close: 3.5m
- 5 Tyson Close: 4.6m
- Dondoreen (side elevation): 5.2–7.4m
- 7b Marsh Lane: 4.2m.

In comparison, the proposed dwellings are approximately:

- Plot 1: 2.0–2.4m
- Plot 2: 1.4–1.7m
- Plot 3: 1.6–2.4m.

The applicant argues that the properties are set back a similar distance to those adjacent (1, 2, 3 Tyson Close); however, the applicant's measurements are taken from the footpath and not the private drive/road. The design interrupts the existing area of informal footpath along this part of Tyson Close. This existing footpath is a feature of Tyson Close.

All three properties front Tyson Close and pedestrian access to the front doors and side gates are off Tyson Close. It is considered that the proposed dwellings are positioned too close to their northern boundary with Tyson Close and will create a narrowing effect on Tyson Close both visually and for users, as well as for adjacent properties. The existing distance between the front of properties 3 and 5 Tyson Close is 14m. The proposed development would result in between 10–14m distances from the front of plots 1, 2 and 3 with existing properties 1, 2 and 3 Tyson Close. Both 5 Tyson Close and Dondoreen, as well as all other properties on the estate, include an area of shared space/footpath in front of the front garden/amenity space and any boundary wall. This is not replicated at the application site.

The applicant argues that the properties are set back 2m from the highway, and whilst the main building is set further back, the built form/access steps to the property are set 1m or less from the highway bringing the overall development closer to the boundary and the adjacent properties.

Concerns have also been raised regarding visitors to these new properties and the potential congestion/road block this would create. The proposed dwellings are set in front of the building line of both no. 5 and the side elevation of Dondoreen which, along with other properties, sets the character of Tyson Close. The applicant considers that the scheme relates to Frederick Fields in terms of plot size and rationale; however, the council considers that the development should reflect the character of Tyson Close as set out above.

The proposal is considered to be out of character with this area of Barton upon Humber and is therefore contrary to policy CS5 of the Core Strategy, and policies H5, H7 H8 and DS1 of the North Lincolnshire Local Plan.

In terms of siting, the proposal will yield 30 dwellings per hectare which is below the 40–45 density set out within part of policy CS7 of the Core Strategy. Policy CS7 also states that

the density of new development should be in keeping with the character of the area. This site represents an infill site off Tyson Close and should reflect the character of Tyson Close. Tyson Close is different in character to the surrounding Frederick Fields and the wider conservation area but development on the site still needs to respond to Tyson Close. Tyson Close is a small cul de sac formed by single-storey bungalows set back from the highway with space between plots.

The submitted scheme shows vehicle access via both Frederick Fields and Tyson Close and no objections have been raised by the Highways department.

The three dwellings will provide three four-bedroom properties on the site and an acceptable level of internal accommodation. The scheme, however, is considered to be cramped due to the siting, layout and design of the dwellings. The buildings are positioned in front of the existing building line and do not reflect the plot layout of existing dwellings off Tyson Close. The dwellings include much smaller gardens than existing dwellings on Tyson Close and the proposed dwellings would be close to boundaries, unlike existing properties. This results in a scheme that is out of character with the surrounding area of Tyson Close and loss of amenity to future occupiers by virtue of small gardens (Plots 2 and 3 in particular), as well as very little/no amenity space to the front of properties.

In relation to materials, it is considered that the conservation officer's comments cannot be considered appropriate at this time. The existing properties off Tyson Close include a range of materials, including uPVC windows and doors. It would be unreasonable for the proposed dwellings to include timber frames when this is not a feature of other properties in the area. It would, however, be reasonable to encourage a similar palette of materials, including a similar roof tile to properties off Tyson Close. Were the properties to be set further back, and the overall height of the properties reduced, then dormer windows would also be considered acceptable on front elevations in this location. Due to the requirement of the Environment Agency that finished floor levels are set at 5.6m(AOD), this may not be achievable on the site.

The rear dormers of all plots largely overlook the blank façade of properties off Frederick Fields as well as the parking area. There are areas where glimpses could be achieved into rear gardens of properties off Frederick Fields as well as Dondoreen from Plot 3; however, these are not considered to result in undue harm. It is considered that the proposed dwellings are of a high standard and would help in raising the quality in the area.

Although the proposal will bring a vacant site into use and will create additional dwellings in a sustainable location, Tyson Close is characterised primarily by detached single-storey bungalows set within good-sized plots which are set back from the highway by no less than approximately 3.5m with amenity space around the properties. This proposal creates three 1.5-storey, 4-bedroomed dwellings located tightly together within smaller plots. It is considered that the siting of the proposed development would be visually harmful to the character and appearance of the surrounding area, in particular Tyson Close, and plots would not provide a satisfactory level of amenity space/defensible space to the front or rear of the property which is typically required for a 4-bedroom property.

The case officer has sought to work with the applicant to amend the scheme to set the buildings further back within the site, in line with the front of 5 Tyson Close and side elevation of Dondoreen and to consider either two dwellings or three smaller dwellings on the site. The applicant has not sought to amend the scheme enough to address these

comments. The applicant also considers, given the original case officer's advice, that the scheme should be recommended for approval on that basis.

The proposal does not accord with chapters 5 and 12 of the NPPF, CS5 of the Core Strategy, and policies H5, H7, H8 and DS1 of the North Lincolnshire Local Plan.

### **Residential amenity**

Policy H7, part-saved policy H5 and policy DS1 all refer to amenity. Policies H5 and H7 require development to not result in overlooking or loss of privacy to existing developments, or any other loss of amenity to existing dwellings, including levels of nuisance from movement of vehicles. Policy DS1, in relating to amenity, states that there should be no unacceptable loss of amenity to neighbouring land uses in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.

As a result of the positioning/siting of dwellings and the close relationship with the highway, the dwellings appear overbearing within the street scene. The height of the properties would dominate the character of this traditional bungalow estate. It is considered, as a result of the height of the dwellings and the relationship with 1 and 2 Tyson Close, that there is potential for overlooking (from the proposed dormers) and overshadowing impacts (overall height of the properties). Plot 1 also causes concern in its relationship with 5 Tyson Close. It is considered that the property is positioned too close to and forward of 5 Tyson Close leading to unacceptable overbearing impacts. Whilst loss of light is generally more of a concern at the rear of properties, it is considered that plot 1 would lead to overshadowing and loss of light to 5 Tyson Close.

The proposed vehicle access to plots 1 and 3 will be achieved off Frederick Fields and represent parking to the rear of properties.

Parking provision at the rear of properties can lead to inactive frontages, discouraging a sustainable movement hierarchy, and creating safety and security problems both on-street and within the parking courtyards or unobserved garages. Furthermore, rear parking courts use large areas of land and often result in small gardens, reduced privacy, less activity in the street and antisocial parking (by those cars without allocated rear spaces). For as long as there remains a demand for private vehicles, there will remain an in-built contradiction by providing parking at the rear. 'Car parking. What works where, 2019' states, 'Do not park in the back of the block until on-street and frontage parking permutations have been exhausted. Use of the mews or rear court should support frontage and/or on-street provision, not replace it.' The council therefore advises that, to meet the requirements of local plan policies T2, T6, T8, T19, DS1 and H8, parking should be provided on-street or on-plot, accessed from the front of the curtilage (frontage access).

Residents of Frederick Fields have objected to the proposals and consider that increased access would lead to further damage to the block paving of this private road which already serves nine properties. Frederick Fields is a narrow private road; however, no objection has been made by the Highways department. It is considered that the provision of two more properties utilising this access would result in overuse of this private drive. The application also proposes that the three existing visitor spaces off Frederick Fields would be made available to serve the three proposed properties. Plot 2 will include a dropped kerb and vehicle access will be via Tyson Close. This is in keeping with the existing properties off Tyson Close. Concerns have been raised by local residents that there is no parking available for visitors to all three properties and fears have been raised that visitors will park

on the existing narrow Tyson Close and block residents accessing/exiting their properties, as well as emergency vehicles, delivery vehicles and other users. However, this issue currently exists and whilst no additional visitor spaces are proposed, the scheme does include three off-street parking spaces per property as well as the use of three visitor spaces to the rear.

Whilst parking at the rear of properties would generally be unacceptable and is considered to result in an increase in disturbance to the quiet enjoyment of private gardens, there is existing parking to the rear of gardens off Frederick Fields. It is not considered that the movements associated with three additional dwellings would result in an unacceptable level of noise and disturbance and a refusal of planning permission could not be justified on these grounds.

Lighting for the access road can be controlled by planning conditions to safeguard residents' amenity from light spillage.

The proposed parking to the rear of the properties is not considered a favourable option for the site as these areas would have a reduced level of natural surveillance from overlooking, and provide opportunities for antisocial behaviour and antisocial parking. It is considered that access to properties off Tyson Close would be a more preferable option.

## **Archaeology**

The applicant has undertaken an archaeological field evaluation comprising the excavation of two trial trenches to identify and assess the significance of any remains within the application site. The results of the trenching indicate that the site contains buried remains of mid-late Saxon activity of 7th to 9th century date.

The proposed development would destroy the remains resulting in substantial harm to the archaeological interest of the site; as a non-designated heritage asset paragraph 203 of the NPPF should inform the planning decision. The Historic Environment Record Team (HER) recommended that the applicant should submit a Written Scheme of Investigation (WSI) that sets out the mitigation strategy prior to the determination of the application for the planning authority to be satisfied that the details proposed are appropriate.

The archaeological significance of the application site and the impact of development should be taken into account when determining this application (NPPF, 203). In this case, where the planning authority considers that substantial harm to the non-designated heritage asset is justified, provision should be made to record the evidence and enhance public understanding of the heritage asset (NPPF, 205; local plan policy HE9).

The Historic Environment Record team have reviewed the submitted information and have confirmed that the majority of required works in relation to the Written Scheme of Investigation has now been undertaken. The team have, however, confirmed that they are yet to receive a copy of the final reporting and completion report.

The HER recommends a holding objection until this information is submitted. It is considered, should the application be considered acceptable, then this could be a condition to development.



## **Ecology**

Section 15 of the NPPF recognises the need to conserve, restore and enhance ecological networks as well as identifying and pursuing opportunities for securing measurable net gains for biodiversity. Improving biodiversity (biodiversity net gain) on sites is an approach used to improve sites' biodiversity value. Sites are required to provide a positive ecological impact, delivering improvements through habitat creation or enhancement after avoiding or mitigating harm. Biodiversity net gain is set out within the Environment Act and the Act requires all development schemes in England to deliver a mandatory 10% biodiversity net gain to be maintained for a period of at least 30 years. The concept seeks measurable improvements for biodiversity by creating or enhancing habitats in association with development. Development proposals must 'leave biodiversity in a better state than before'.

The applicant has not provided any details in respect of net gain on the site. As such it is recommended that a suitably worded condition be imposed to secure biodiversity net gain on the site.

## **Trees**

Policy LC12 requires proposals for all new development to ensure the retention of trees, woodland and hedgerows. Particular regard will be given to the protection of these features within the setting of settlements, the protection of ancient woodlands and historic hedgerows and the amenity value of trees within built-up areas. Tree preservation orders will be made where trees which contribute to local amenity or local landscape character are at risk. Landscaping and tree and hedgerow planting schemes will be required to accompany applications for new development where it is appropriate to the development and its setting.

Following a site visit and review of the site layout plan it is evident that there are existing trees on the boundary but outside the site. The applicant has submitted an arboricultural report and the trees mentioned are within the ownership of adjacent landowner and not on the site; this means the applicant does not have a legal right to remove these trees without specific permission from the tree owners.

These trees are also within the conservation area, and this offers them some protection, and unless the removal of these trees is required to implement any planning permission given, which it appears they do not, the applicant would need to go through an application giving notice of intended works to trees within a conservation area. Although the location of the trees is such that making a tree preservation order on them is probably not likely to occur, they do need to go through this process, as removal of trees without doing so is an offence under the legislation.

The planning application does not require the removal of the trees and as such no further works are required. In terms of the impact on adjoining trees, the proposal accords with policies LC12 of the North Lincolnshire Local Plan and CS5 of the Core Strategy.

## **Flood risk and drainage**

Paragraph 159 of the NPPF is clear in that 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.'

Paragraph 162 notes, 'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.'

Paragraph 163 highlights the need for the exceptions test to be carried out if it is not possible for development to be located in areas with a lower risk of flooding. To pass the exceptions test it should be made clear that the development would provide wider sustainability benefits to the community that outweigh flood risk and that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, wherever possible, will reduce flood risk overall. Both elements of the exceptions test should be satisfied for development to be allocated or permitted (paragraph 165).

Paragraph 167 states, 'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- (b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed; and
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'

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 flood zone 2/3a and is therefore within a location which is considered to be high risk in terms of flood risk. Policy CS19 is consistent with the NPPF and states:

'The council will support development proposals that avoid areas of current or future flood risk, and which do not increase the risk of flooding elsewhere. This will involve a risk based sequential approach to determine the suitability of land for development that uses the principle of locating development, where possible, on land that has a lower flood risk, and relates land use to its vulnerability to flood. Development in areas of high flood risk will only be permitted where it meets the following prerequisites:

1. It can be demonstrated that the development provides wider sustainability benefits to the community and the area that outweigh flood risk.
2. The development should be on previously used land. If not, there must be no reasonable alternative developable sites on previously developed land.

3. A flood risk assessment has demonstrated that the development will be safe, without increasing flood risk elsewhere by integrating water management methods into development.'

The applicant has submitted a flood risk assessment which sets out that the primary risk to the site is from tidal flooding from the River Humber resulting from the river defences being breached or overtopped during an extreme flood event. The report notes that for new developments which lie within the flood zone it is a requirement to provide an additional 300mm of flood resilience above the elevated ground floor construction level in order to minimise any flood damage and provide ease of reconstruction, should flood waters enter the building. Section 6.2.2 of the report states, 'For this development, this would equate to a flood resilience level of 5.60m OD(N) (Flood Level of 5.30m + 0.3m).

The report recommended the following measures be adopted:

- The ground floors should be of solid concrete or an appropriate precast concrete flooring system incorporating a waterproof membrane.
- The external walls should be of water-resistant construction up to 300mm above ground floor level.
- There should be no voids within the external walls, other than doorways and windows within 300mm of finished floor level which would allow flood waters to enter the dwellings.
- All partition walls constructed at ground floor level should be of suitable robust construction or metal stud partitions fixed with plasterboard, with the lower boarding laid horizontally for ease of replacement.
- All electrical apparatus or other flood sensitive equipment should be elevated to a minimum of 300mm above finished floor level to prevent damage occurring should flood waters enter the buildings.
- All cables should be routed at high level with vertical drops to the fittings.
- The ground floor electric circuits should be suitably isolated such that the upper floors of the development can remain in operation should the ground floor electrical installation become damaged.
- Floor finishes provided at ground floor level should be suitable for ease of cleaning after flooding, should this situation occur.

The Environment Agency has been consulted and consider that the scheme is acceptable in flood risk terms. They do consider the sequential test needs to be considered by the local planning authority.

Section 1.4.5 of the submitted Flood Risk Assessment, dated June 2021, sets out the need for a sequential test to be undertaken/applied to steer new development to areas within the lowest probability of flooding (zone 1). Section 4.2.2 of the report notes that the development will require an exceptions test in respect of flood zone compatibility. The applicant has failed to submit any evidence that they have undertaken or satisfied the

sequential test or the exception test. The application should therefore be refused on this basis.

The LLFA Drainage Team have reviewed the proposals and whilst they have removed their objection they do consider there still remain many issues to be resolved on the site. The LLFA Drainage Team have set out a schedule of notes for the developer to consider. As such the following conditions are recommended:

1. No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100-year critical storm (including an allowance for climate change which should be based on the current national guidance) will not exceed the run-off from the existing site. It shall also include details of how the resulting completed scheme is to be maintained and managed for the lifetime of the development so that flood risk, both on and off the site, is not increased.

#### Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with Policy DS16 of the North Lincolnshire Councils Local Plan & Policies CS18 and CS19 of the North Lincolnshire Councils Core Strategy and paragraphs 159 to 169 of the NPPF

2. The drainage scheme shall be implemented in accordance with the approved submitted details required by the above condition, completed prior to the occupation of any dwelling or building within each phase or sub-phase of the development on site, and thereafter retained and maintained in accordance with the scheme for the life of the development unless otherwise agreed in writing with the local planning authority.

#### Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 159 to 169 of the NPPF.

#### *Informative comment*

The proposals indicate a new (restricted discharge) connection into the private surface water sewer on Tyson Close. This is not a public sewer and therefore the developer has no 'as of rights' connection into this drain. Any additional flows into this drain must be fully modelled by the developer and upgrades to this drainage system may be required to facilitate the connection (at the developer's expense). This must be consented by the current landowners and North Lincolnshire Council's LLFA Drainage Team, in their capacity as Lead Local Flood Authority through an Ordinary Watercourse Consent and appropriate discharge rates must be agreed. Please contact the LLFA Drainage team on 01724 297522 or via email for further details. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

In terms of surface water disposal, concerns from residents are noted. The LLFA has carefully assessed all the submitted information and have some concerns but are recommending planning conditions requiring the submission of a detailed surface water

drainage scheme, together with details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway. Subject to conditions, this aspect of the proposal will accord with policies CS18 and CS19 of the Core Strategy, and DS14 and DS16 of the North Lincolnshire Local Plan.

The applicant has failed to undertake a sequential test or exceptions test and as such fails to fulfil the requirements of the NPPF or policy CS19. The applicant has failed to demonstrate that the development provides wider sustainability benefits to the community and the area that outweigh flood risk. The development is not on previously developed land and no assessment of alternative development sites has been undertaken. The NPPF is clear that garden land does not constitute previously developed land. (This excludes land in built-up areas such as residential gardens – page 70, NPPF). The applicant has, however, satisfied the Environment Agency and the council that the development will be safe without increasing flood risk elsewhere.

### **Contamination**

Policy DS7 of the North Lincolnshire Local Plan is concerned with land contamination. It states that in the case of proposals for development on land known or strongly suspected as being contaminated, applicants will be required to demonstrate that the level of contamination can be overcome by remedial measures or improvements.

The council's Environmental Protection Team have reviewed the proposal and note that the application for the development of residential properties is a sensitive end use. No supporting information has been provided by the applicant that demonstrates the land has not been impacted by contamination, and that any potential risks can be reduced to an acceptable level. As such the team have recommended the inclusion of a condition requiring a Phase 1 desk study be carried out and submitted to the local planning authority for approval prior to proceeding to future site investigation.

The condition is not considered unreasonable given the lack of information that has been offered up by the applicant. Therefore, subject to the aforementioned planning condition, the proposal is in accordance with policy DS7 of the North Lincolnshire Local Plan.

### **Highway safety/access**

Policy T2 of the North Lincolnshire Local Plan states that all development should be served by a satisfactory access. Policy T19 of the local plan is concerned with parking provision as well as general safety and is also considered relevant.

The site has good access to public transport links and some local services are within reasonable walking distance. The location of the site therefore complies with national and local objectives of creating sustainable patterns of development. The proposal would utilise the existing private road. Concerns have been raised by residents of Frederick Fields who have objected to the proposals and consider that increased access would lead to further damage of existing block paving on this private road which already serves nine properties. Frederick Fields is a narrow private road, however no objection has been made by the Highways department.

The application also proposes that the three existing visitor spaces off Frederick Fields would be made available to serve the three proposed properties. Plot 2 will include a dropped kerb and vehicle access will be via Tyson Close. This is in keeping with the existing properties off Tyson Close. Concerns have been raised by local residents that

there is no parking available for visitors to all three properties and fears have been raised that visitors will park on the existing narrow Tyson Close and will block residents accessing/exiting their properties as well as emergency vehicles, delivery vehicles and other users. However, this issue currently exists and whilst no additional visitor spaces are proposed the scheme does include three off-street parking spaces per property as well as use of three visitor spaces to the rear.

Concerns have also been raised regarding the upkeep and maintenance of both Tyson Close and Frederick Fields. Residents from both estates have confirmed that they are required to contribute to the maintenance of the road at their own cost and expense. Complaints have been received from residents that construction vehicles used to build out the site have already damaged the road and that the developer has not made any effort to replace or repair. Concerns are raised regarding the long-term maintenance of the two private roads and where liability lies.

Given the scale of the proposed development it is not considered that the scheme would result in a significant or unacceptable increase in vehicular movements in the locality. Adequate off-street parking will be provided within the site. With these factors in mind, and in the absence of an objection from the council's Highways section, it is considered that the proposal, with the recommended conditions, would be acceptable in highway terms.

## **Other matters raised**

### ***Service/timeframe***

The planning application was validated on 16/06/2021 and from this time has been sat with four different planning officers. The first two case officers left the authority before a decision was made on the application, the third case officer, who had the application for a month, was conflicted and removed from the project before the project was passed across to the fourth case officer who has written this report.

It is acknowledged by the planning authority that the level of service provided to the applicant for the past year has not been satisfactory with limited contact being made by the original case officer. The time taken to determine the application also reflects the fact that additional surveys/reports/information have been requested from the applicant post validation date and subsequently additional time has been required to allow consultation with the relevant consultees.

It is also understood that past case officers have suggested to the applicant that the proposed scheme was 'acceptable' in its current form. This was the officer's opinion at the time and no discussions were undertaken with the planning management team. Once the project was moved across to the fourth officer discussions were undertaken regarding the officer's concerns in relation to layout/design/siting/over-development of the site. These concerns were then relayed to the applicant and agent and a meeting via MS Teams was undertaken. The applicant considered that given the positive advice received from the original case officer the council should accept the proposals; however, the council explained that the scheme would not have been signed off at the time had it been issued by the case officer. The case officer and Development Management Lead confirmed that they would be keen to work with the applicant to achieve a scheme which could be supported. The applicant has rejected the comments raised and considered that there was no harm in relation to the current scheme. The applicant has commenced works.

Local residents have raised concerns in relation to the ongoing construction works and damage to the existing roads at Tyson Close and Frederick Fields. The road is privately maintained at the cost of local residents. Residents of Frederick Fields have raised concern regarding the quality of construction of existing properties by the same developer and have raised concerns in relation to existing drainage within Frederick Fields and Tyson Close. These issues are not planning matters. The drainage for the application site is a matter which can be addressed through this planning application.

Concerns have been raised in relation to the level of bin store provision for the site. It is considered that a planning condition can be attached to ensure the bin store provision is adequate for both existing and future residents.

In relation to the red line boundary, the applicant has confirmed that this is wholly within their ownership. Certificate A has been signed to confirm this.

The applicant has commenced development and the local planning authority has sought to work with the applicant to address issues raised, however this has not been successful. The applicant has not adequately addressed the comments raised by consultees and third parties and has commenced development without planning permission.

### ***Red line/blue line plan/certificates***

The fourth case officer has undertaken a review of the whole application and noted that the redline does not abut the public highway. Following a request for a land registry search it is understood Tyson Close is within the ownership of the applicant, Charworth Homes and Frederick Fields is in the ownership of Marsh Lane Developments.

Access is proposed to two of the dwellings via Frederick Fields and one via Tyson Close. The red line should be drawn to include both Tyson Close and Frederick Fields and abut Marsh Lane, which is the public highway.

The applicant has completed Certificate A which certifies that the applicant was the owner of the land within the application boundary. Based on the findings of the land registry search notice should have been served on Marsh Lane Developments.

### **Conclusion**

The proposal has been subject to a full assessment giving due consideration to responses from technical consultees and third parties as well as comments raised initially by previous officers. The proposal is located within a sustainable location with access to a range of transport modes, services and facilities. The site benefits from an extant planning permission. The principle of development is acceptable. In light of the recent appeal decision which demonstrates that the council does not have a five-year housing land supply of deliverable sites, the presumption in favour set out in paragraph 11 of the Framework is triggered; however, this needs to be considered in light of technical and other material considerations.

There has been a high level of local opposition to the proposal and the material points have been considered under the relevant sections within this report. Whilst the case officer has sought to address concerns regarding the siting of buildings and reducing the number of units to two or to three smaller properties, these comments have not been taken on board by the applicant. It is considered that the dwellings are positioned too close to the boundary with Tyson Close and do not reflect the character in this area. Whilst the council are

accepting of residential development on the site, a modern approach to design and a relaxation in the palette of proposed materials, the objection remains in relation to the overall layout.

The applicant has failed to undertake a sequential test or exceptions test and as such has failed to fulfil the requirements of the NPPF (section 14) or policy CS19. The applicant has failed to demonstrate that the development provides wider sustainability benefits to the community and the area that outweigh flood risk. The development is not on previously developed land and no assessment of alternative development sites has been undertaken. The NPPF is clear that garden land does not constitute previously developed land. (This excludes land in built-up areas such as residential gardens, page 70, NPPF).

It is considered, given the above assessment, that the adverse impacts related to the development would significantly and demonstrably outweigh the benefits that would follow from the proposed scheme. The proposal is considered to be out of character with the area due to the number of dwellings proposed on the site and those dwellings sitting in front of the existing building line. The proposal would result in overbearing and overlooking impacts, bringing the front of properties within an unacceptable close distance. The proposal is therefore considered to be unacceptable in planning terms, contrary to the guidance set out within the Framework, specifically paragraph 11 and Section 12, and therefore cannot be supported.

During a meeting with the newly appointed planning consultant and via emails to the applicant the council has advised that further amended plans would not be accepted and a new planning application should be submitted to address the outstanding comments. The applicant has submitted further plans contrary to this advice; these plans have not been accepted or subject to either consultation or detailed review. Notwithstanding this, the proposed changes are minor and are not considered to address the full range of issues identified in this report.

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

1.

The proposal, by virtue of the amount of development, its siting and proximity to existing dwellings, would lead to unacceptable overbearing and overlooking impacts. In fitting three, large detached dormer bungalows onto the site there are considered to be a number of indications that this is overdevelopment of the site. The proposed dwellings would be considerably higher than the dwellings off Tyson Close resulting in the proposal being out of character with its immediate surroundings. The proposed development would also cause harm to the street scene through the positioning of dwellings in front of the existing building line/set too close to Tyson Close, which would not reflect the character of Tyson Close where all dwellings are set further back from the main highway. This form of development is out of keeping with the existing development pattern of Tyson Close. For these reasons it is considered that the proposed development would have an unacceptably detrimental impact on the existing street scene off Tyson Close as well as the wider character and appearance of the area, contrary to policies HE2, DS1, H5, H7 and H8 of the North Lincolnshire Local Plan, and policies CS5 and CS6 of the North Lincolnshire Core Strategy, as well as section 12 of the NPPF.

2.

The proposed development would result in a poor standard of residential amenity for future occupiers of the proposed dwellings due to the lack of amenity space to the front of the



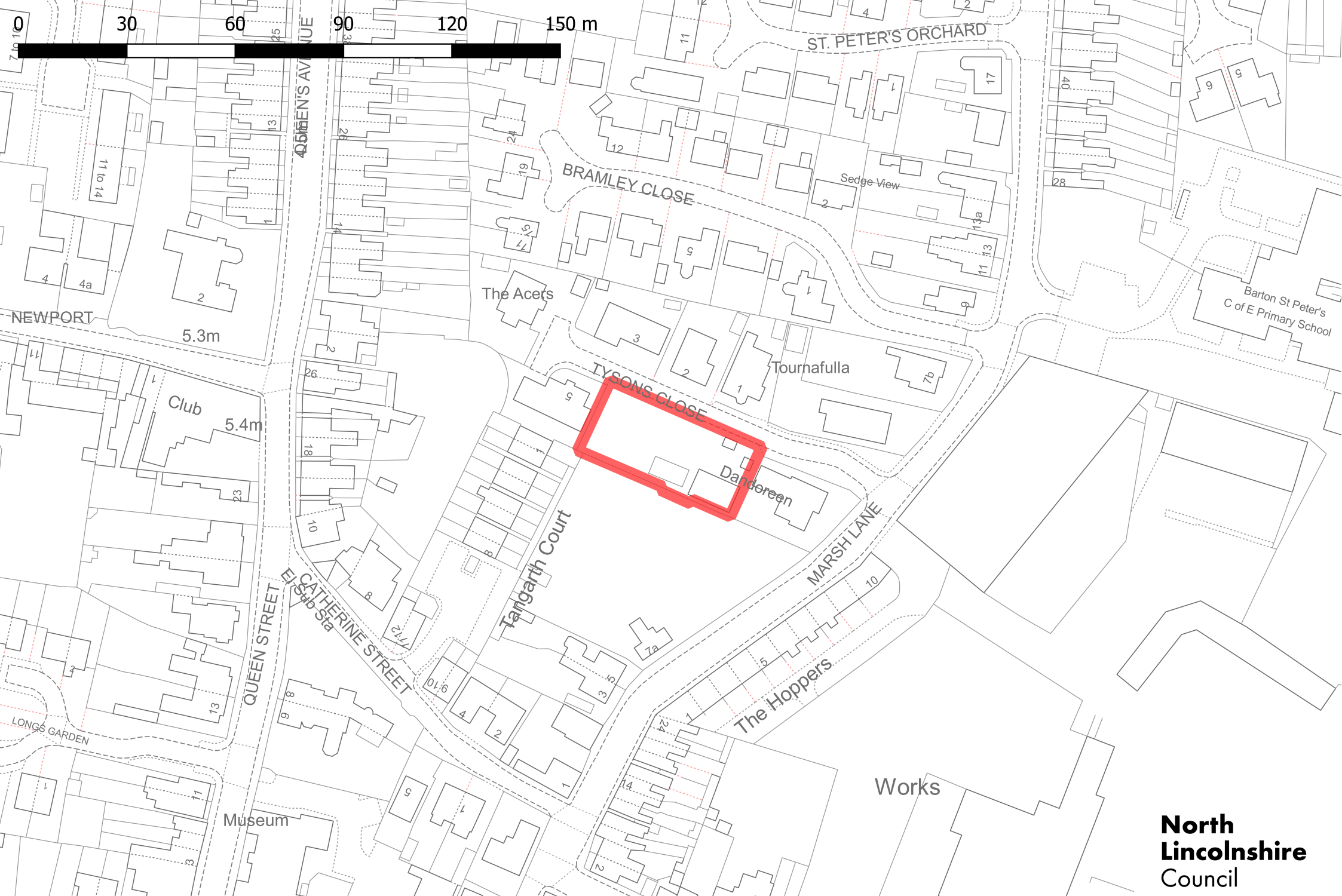
properties and small private garden areas. The proposal is therefore contrary to policies DS1 and H5 of the North Lincolnshire Local Plan, and policy CS5 of the Core Strategy.

3.

The applicant has failed to undertake a sequential test or exceptions test and as such has failed to fulfil the requirements of the National Planning Policy Framework (NPPF) or policy CS19 of the Core Strategy. The applicant has failed to demonstrate that the development provides wider sustainability benefits to the community and the area that outweigh flood risk. The development is not on previously developed land and no assessment of alternative development sites has been undertaken. The NPPF is clear that garden land does not constitute previously developed land. (This excludes land in built-up areas such as residential gardens - page 70, NPPF).

### **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.

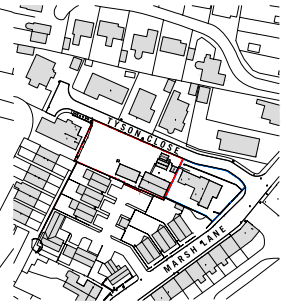


**PA/2021/1087**

# PA/2021/1087 Existing layout (not to scale)

REV: | DRAWN: | DETAILS: | DATE:  
 A | ABI | OS reference added | June 21

GENERAL NOTES  
 This drawing is to be read in conjunction with all relevant Architects, Engineers and specialists drawings as relevant and as noted.  
 All figured dimensions and levels are to be checked on site as relevant prior to construction or fabrication. Do not scale from this or any other ID architecture drawing. Any dimensional anomalies are to be brought to the attention of ID Architecture.



**Location Plan**  
 1:1250  
 OS Crown Copyright reference 100054135



**Existing Block Plan**  
 1:200

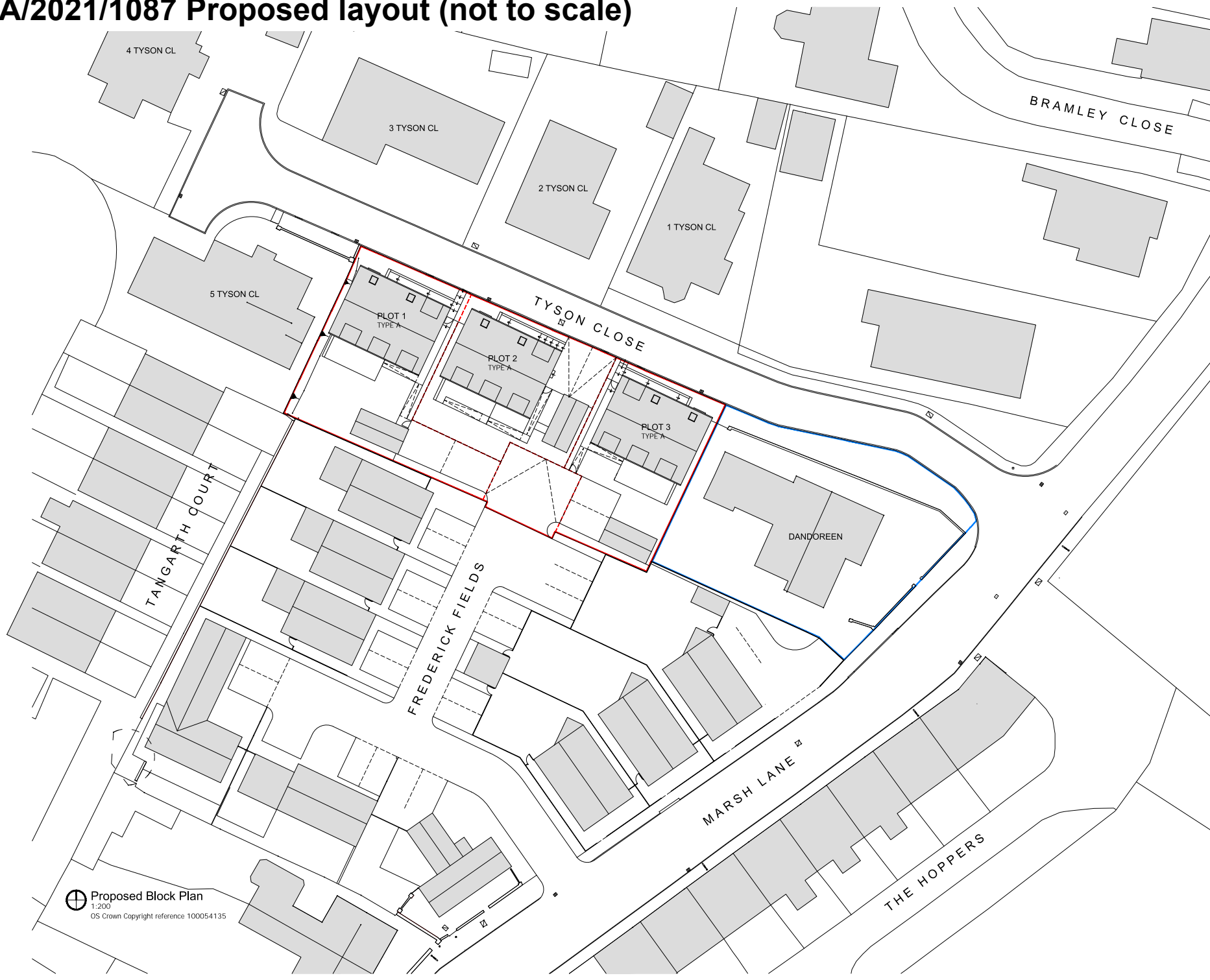
id architecture

TITLE: SITE LOCATION PLAN  
 CLIENT: Charworth Homes  
 PROJECT: 3-Dwelling Development  
 LOCATION: Land adj Tyson Close, Barrow-upon-Humber  
 DRAWN BY: ABI  
 CHECKED BY: TW  
 SCALE: 1:200  
 SIZE: A1  
 DATE: April 2021  
 STAGE: Planning Application  
 DRG NO: **21003/01**  
 REV: **A**

# PA/2021/1087 Proposed layout (not to scale)

REV.	DRAWN:	DETAILS:	DATE:
A	ABI	Exit landscape adjusted to suit FRA	June 21
B	ABI	Plot 2 vehicle access taken from Tyson Close	Aug 21
C	DS	Levels amended to suit flood risk	Feb 22

**GENERAL NOTES**  
 This drawing is to be read in conjunction with all relevant Architects, Engineers and specialists drawings as relevant and as noted.  
 All figured dimensions and levels are to be checked on site as relevant prior to construction or fabrication. Do not scale from this or any other ID architecture drawing. Any dimensional anomalies are to be brought to the attention of ID Architecture.



⊕ Proposed Block Plan  
 1:200  
 OS Crown Copyright reference 100054135

**id architecture**

TITLE:	PROPOSED BLOCK PLAN
CLIENT:	Charworth Homes
PROJECT:	3-Dwelling Development
LOCATION:	Land adj Tyson Close, Barrow-upon-Humber
DRAWN BY:	ABI
CHECKED BY:	TW
SCALE:	1:200
SIZE:	A1
DATE:	● April 2021
STAGE:	Planning Application
DRG NO:	<b>21003/13</b>
REV:	<b>C</b>

T: 01472 358734 E: info@idarchitecture.co.uk W: idarchitecture.co.uk  
 2, Rosemary Road | Gillingham | North East Lincolnshire | DN21 1JW

# PA/2021/1087 Proposed elevations (north, west and east) (not to scale)

REV: DRAWN: DETAILS: DATE:  
 A. ABI Plot 2 vehicle access taken from Tyson Close Aug 21  
 B. DS To suit LA advice Site levels amended to suit flood risk Feb 22

GENERAL NOTES  
 This drawing is to be read in conjunction with all relevant Architects, Engineers and specialists drawings as relevant and as listed.

All figured dimensions and levels are to be checked on site as relevant prior to construction or application. Do not scale from this or any other ID Architecture drawing. Any dimensional anomalies are to be brought to the attention of ID Architecture.



Proposed North Elevation facing Tyson Close  
1:100



Proposed West Elevation from 5 Tyson Close  
1:100



Proposed East Elevation from 'Dandreen'  
1:100

**id architecture**

TITLE:	PROPOSED SITE ELEVATIONS (V2)
CLIENT:	Charworth Homes
PROJECT:	3-Dwelling Development
LOCATION:	Land adj Tyson Close, Barrow-upon-Humber
DRAWN BY:	ABI
CHECKED BY:	tw
SCALE:	1:100
SIZE:	A1
DATE:	April 2021
STAGE:	Planning Application
DRG NO:	<b>21003/20</b>
REV:	<b>B</b>

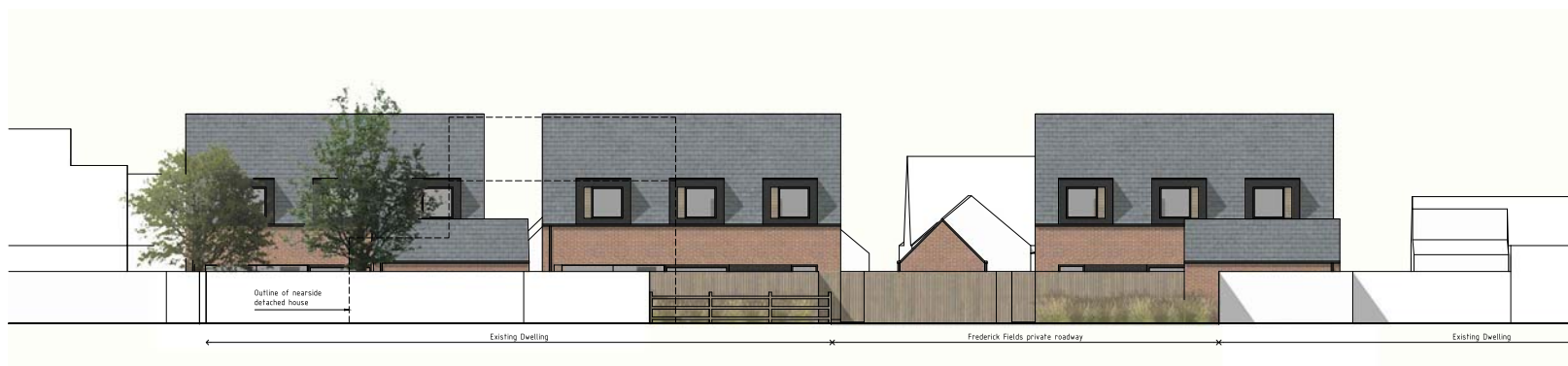
T: 01472 358734 E: info@idarchitecture.co.uk W: idarchitecture.co.uk  
 2 Riverside Road | Gillingham | North East Lincolnshire | DN21 1BW

**AMENDED**

REV: | DRAWN: | DETAILS: | DATE:  
 A | ABI | Plot 2 vehicle access taken from Tyson Close | Aug 21  
 to suit LA advice

GENERAL NOTES:  
 This drawing is to be read in conjunction with all relevant Architects, Engineers and specialists drawings as relevant and as noted.

All figured dimensions and levels are to be checked on site as relevant prior to construction or fabrication. Do not scale from this or any other ID Architecture drawing. Any dimensional anomalies are to be brought to the attention of ID Architecture.



**Proposed South Elevation from Frederick Fields**  
 1:100



**Proposed Private Garden Elevation**  
 1:100

id architecture

TITLE: PROPOSED SITE ELEVATIONS 12/21  
 CLIENT: Charworth Homes  
 PROJECT: 3-Dwelling Development  
 LOCATION: Land adj Tyson Close, Barrow-upon-Humber  
 DRAWN BY: ABI  
 CHECKED BY: TW  
 SCALE: 1:100  
 SIZE: A1  
 DATE: © April 2021  
 STAGE: Planning Application  
 DRG NO: **21003/21**  
 REV: **A**