

APPLICATION NO	PA/2022/615
APPLICANT	Mr Steven Smith
DEVELOPMENT	Planning permission to erect a detached bungalow
LOCATION	Land to the rear of 17 Cuthbert Avenue, Barnetby le Wold, DN38 6JF
PARISH	Barnetby le Wold
WARD	Brigg and Wolds
CASE OFFICER	Jess Hill
SUMMARY RECOMMENDATION	Refuse permission
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllr Rob Waltham – significant public interest) Objection by Barnetby le Wold Parish Council

POLICIES

National Planning Policy Framework:

Section 5 (Delivering a sufficient supply of homes)

Section 11 (Making effective use of land)

Section 12 (Achieving well-designed places)

North Lincolnshire Local Plan: Policies H5, RD2, R5, T2, T19, DS1, DS16

North Lincolnshire Core Strategy: Policies CS1, CS2, CS3, CS5, CS8, CS19

Housing and Employment Land Allocations DPD 2016: The site is unallocated and outside the development limits of Barnetby le Wold.

CONSULTATIONS

Highways: Advise a condition requiring access, parking and turning to be provided before the dwelling is occupied.

Drainage: No objection subject to conditions requiring a flood risk assessment and drainage strategy to be submitted, and an informative relating to the nearby watercourse.

Neighbourhood Services: Although do not necessarily object to this application from the perspective of public rights of way and access, page eight of the applicant's design and access statement states, 'Access to the site is via a track (Public Right of Way) off St Barnabas Road.' The public right of way in question is Public Bridleway 145. It is an offence under the Road Traffic Act 1988 to drive a mechanically propelled vehicle on a bridleway without demonstrable lawful authority (the police are the prosecuting body under the 1988 Act). Nor must the surface of the bridleway be altered without the prior express

permission of North Lincolnshire Council as highway authority, in whom the surface is vested as a bridleway maintainable at the public expense. Doing so otherwise could also be an offence.

Despite public rights of way being a material consideration in planning applications, on page 37 of his design and access statement the applicant has omitted paragraph 100 of the National Planning Policy Framework from the other paragraphs cited ('Planning policies and decisions should protect and enhance public rights of way and access...'), and from page 40 of the same when referring to policy T2 of the local plan and how 'all developments should be served by a satisfactory access'.

In consideration of the above matters, recommend that the granting of planning permission be made conditional on the applicant being able to show conclusively that the site can be lawfully accessed by drivers of mechanically propelled vehicles (i.e. that there would be no breach of section 34 of the Road Traffic Act 1988 either during or after development).

Environmental Protection: No objections subject to a pre-commencement condition requiring a contamination assessment (phase 1 desk study, remediation scheme if required, implementation if remediation required, reporting unexpected contamination).

Tree Officer: The site appears to be within an open field and if minded to give consent, rural hedges should be considered in order to assist in shielding this development from the more open landscape.

Recycling Officer: No response received.

Strategic/Spatial: No response received.

PARISH COUNCIL

Objects to the application on the ground that the development is in the open countryside.

PUBLICITY

A site notice has been displayed. No responses have been received.

ASSESSMENT

Site location and context

The application site comprises a parcel of land within a field currently used for grazing. The site is on the western edge of Barnetby le Wold, to the south of Cuthbert Avenue and to the west of St Barnabas Road.

The site is outside, though adjacent to, the development limits of Barnetby, as identified by the Housing and Employment Land Allocations DPD 2016.

Planning history

PA/2018/801: Planning permission to erect an extension to a barn – approved 22 June 2018.

Designations/constraints

Outside the development limits of Barnetby le Wold

Not within or adjacent to a conservation area and there are no listed buildings on or adjacent to the site

Within SFRA Flood Zone 1.

There is a public right of way (Public Bridleway 145) to the north of the site which runs from St Barnabas Road to Low Farm to the north-west.

Proposal

The application seeks full planning permission to erect a detached bungalow. The dwelling would comprise 1.5 storeys and feature a pitched roof.

The main considerations in assessing this application include:

- principle of development
- public right of way
- access and highway safety
- design and appearance
- residential amenity
- flood risk and drainage.

Principle of development

The site is outside the development limits of Barnetby, as identified by the Housing and Employment Land Allocations DPD 2016.

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).

Barnetby is defined as a 'rural settlement' in the spatial hierarchy for North Lincolnshire in the Core Strategy. Policy CS1 (Spatial Strategy for North Lincolnshire) supports limited development in rural settlements such as Barnetby provided it is in keeping with the character and nature of the settlement. Policy CS2 (Delivering More Sustainable Development) allows for small-scale development within the defined development limits of rural settlements.

Policy CS3 (Development Limits) allows for appropriate development within defined development limits, provided the proposed development responds to the context of the area and the settlement has capacity to accommodate the proposed development based on existing and proposed infrastructure.

Policy CS8 (Spatial Distribution of Housing Sites) allows for new housing within rural settlements, including small-scale infill development, that maintains the viability of the settlement and meets identified local needs without increasing the need to travel.

The proposed bungalow is on land outside the development limits of Barnetby. As such, the site is within the open countryside in policy terms.

Policy RD2 (Development in the Open Countryside) strictly controls development in the open countryside and only allows for certain types of development, subject to meeting relevant criteria. The proposed bungalow does not meet criteria i) (agricultural worker's dwelling), iii) (affordable housing to meet a proven local need) or vii) (replacement dwelling).

Notwithstanding this, the NPPF represents a material consideration in the determination of any application. A recent appeal decision dated 20 July 2022 (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 most important for determining the application will carry reduced weight during this period.

National Planning Practice Guidance paragraph 008 states that, in decision-taking, if an authority cannot demonstrate a five-year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework.

Given the current five-year land supply deficit, it is considered that there is a clear and demonstrable need for housing development in the area. Accordingly the 'tilted balance' in paragraph 11 of the NPPF is triggered, whereby there is a presumption in favour of sustainable development and development proposals should be approved unless:

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

There are three dimensions to sustainable development as set out in paragraph 8 of the Framework: economic; social; and environmental.

The North Lincolnshire Sustainable Settlement Survey 2019 states Barnetby is ranked 10 out of 76 settlements, with six out of seven key facilities. Barnetby is therefore considered to be a comparatively sustainable settlement. The site is within walking distance of key local facilities and services.

In economic terms the development would provide one dwelling, which would provide some employment during the construction phase, and the local economy could benefit from money spent in the future by occupants.

Allowing additional dwellings at the edge of a settlement would bring social benefits by way of encouraging new social interactions, leading to growing local communities and supporting local services.

Whilst the restrictive policies of the development plan (CS2, CS3 and CS8) do still apply, the lack of a five-year supply of housing land and the scale of the shortfall limit the weight which can be attributed to these policies. Restricting development to land within development limits, if strictly applied, would severely affect the ability of the authority to address the need for housing. In determining the sustainability of the proposed development, an assessment not only relies upon planning principle but also whether the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or if any adverse impacts exist that would significantly and demonstrably outweigh the benefits of the proposal.

Notwithstanding the above in terms of the sustainability of Barnetby, it is necessary to consider how appropriate the site itself is in terms of accommodating a new dwelling when assessing whether the proposals represent a sustainable form of development.

The site adjoins the development boundary of Barnetby and there are properties to the north and east of the site. However, the site currently comprises grazing land on the edge of Barnetby and the site is considered to be rural in character. There is a barn to the south-west of the site (approximately 67m), however the field remains largely open.

A public right of way (PROW) runs to the north of the site and a gate to the north-east of the site along the PROW marks a change in the character of the area. It is considered that the works required to the PROW to facilitate a suitable vehicle access to the bungalow would negatively impact its character and enjoyment of it.

The Tree Officer has suggested securing the provision of rural hedges around the site's boundaries if the authority is minded to grant permission. The purpose of such hedges would be to soften and screen the proposed dwelling from the more open landscape. Whilst this could be secured by condition, the dwelling would still be visible from the wider, more open area to the west.

The Design and Access Statement refers to example applications within the district where residential development has been granted outside the development limits in Haxey (PA/2018/1705 and PA/2019/1117). However, these applications related to sites which were considered to comprise infill development and the context of the site assessments therefore differs to the current application.

This proposal comprises the provision of a new dwelling within the open countryside and would represent a departure from the surrounding form of development. Given the site's location outside the development limits of Barnetby, and the rural character of the site, the proposed bungalow would conflict with policies CS2, CS3 and CS8 of the Core Strategy and RD2 of the local plan. It is therefore considered that the principle of the development on the site is not acceptable.

Public right of way

Public Bridleway 145 runs to the north of the site. Works to the bridleway would be required to provide a suitable vehicle access to the site.

Policy R5 (Recreational Paths Network) seeks to protect and enhance the network of public footpaths within North Lincolnshire. The policy sets out factors that will be taken into account when determining applications that would have implications for the maintenance of the recreational paths network. The following policy criteria are considered to be most relevant in the determination of this application:

- (iv) existing rights of way will be protected from development that would remove or restrict the right of way;
- (v) permission will not be granted for any development which would prejudice public access onto and through the recreational path network, unless specific arrangements are made for suitable alternative linkages.

Paragraph 100 of the NPPF sets out that:

Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.

As set out within Neighbourhood Services' response to the application, it is an offence under the Road Traffic Act 1988 to drive a mechanically propelled vehicle on a bridleway without demonstrable lawful authority (the police are the prosecuting body under the 1988 Act). Nor must the surface of the bridleway be altered without the prior express permission of North Lincolnshire Council as highway authority, in whom the surface is vested as a bridleway maintainable at the public expense. Doing so otherwise could also be an offence. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect.

Whilst the matter regarding whether the applicant can lawfully access the site along the public right of way by a vehicle is separate from the planning process, what is relevant to the determination of the application is whether the proposed development would have a detrimental impact on the enjoyment of the PROW network.

A public right of way (PROW) runs to the north of the site. A gate to the north-east of the site along the PROW marks a change in the character of the area. The works to the PROW that would be required to facilitate a suitable vehicle access to the bungalow would negatively impact the character and enjoyment of the PROW.

The proposals are therefore considered contrary to policy R5(v) and paragraph 100 of the NPPF.

Access and highway safety

Policies T2 (Access to Development) and T19 (Car Parking Provision and Standards) require that proposals do not adversely impact upon highway safety and provide suitable parking for the development.

It is proposed to use the existing public right of way along St Barnabas Road to the north of the site for vehicular access. As set out above, the right to use of part of the public right of way for vehicular access needs to be secured through a process which is separate from the planning process. The access track is narrow and there is only room for one vehicle to use the road at a time. The council's Highways team has reviewed the proposals and confirmed they have no objections subject to a condition requiring the access and parking/turning

spaces to be provided prior to the occupation of the dwelling. An adequate number of parking spaces is proposed and it is considered there is room for a turning space within the site. The proposals would not result in an unacceptable impact in terms of highway safety.

Design and appearance

Policies DS1 and CS5 (Delivering Quality Design in North Lincolnshire) encourage the design and external appearance of proposals to reflect or enhance the character, appearance and setting of the immediate area.

The proposed dwelling comprises 1.5 storeys and includes two bedrooms. The dwelling features a pitched roof with a single-storey front projection. Two dormer windows are proposed on the rear elevation. An integrated garage is proposed within the eastern part of the dwelling and there is room for two parking spaces at the front of the property. The proposed scale and height of the dwelling is similar to other properties on the street scene.

In terms of materials, the external walls are proposed to feature a combination of off-white render and red multi brickwork, red pan roof tiles are proposed and white uPVC windows. The proposed materials are acceptable in principle and respond to the context of the surrounding area, within which dwellings feature similar materials.

As set out above, the positioning of the dwelling within the field would represent a departure from the surrounding pattern of development, given it would represent an encroachment into the field. No boundary treatments are shown on the site plan (Drawing 004 Rev 03), however the hedgerow along the front of the site is shown as being retained and some tree planting is shown within the garden. The council's Tree Officer has identified that planting would be required to soften and screen the edge of the development. Although this could be secured by condition, the proposed bungalow would represent an inappropriate form of development that would not be in keeping with the surrounding settlement pattern.

Policy H5 (New Housing Development) is also relevant. Whilst the strategic element of this policy (criteria i and ii) has been replaced by policies CS1 and CS2 of the Core Strategy, the second part of the policy, criteria a) to m), remains extant and sets out the requirements for all new housing developments. It is considered that the proposals would conflict with part c of the policy, given the development would not be in keeping with the character of the settlement due to its positioning within an open field.

The proposed scale, layout and materials of the dwelling appear to be acceptable. However, the positioning of the dwelling within an open field is contrary to the character of the area. As such, the proposals conflict with policies DS1, CS5 and H5 (part c).

Impact on residential amenity

Policy DS1 (General Requirements) requires proposals to be assessed to ensure they would not result in an unacceptable impact or loss of amenity to neighbouring land uses, including as a result of the effects of overlooking or overshadowing.

The nearest residential properties are located to the east of the site, the nearest of which is 44 Holmedale, approximately 9m to the east of the edge of the proposed dwelling. The garage of 44 Holmedale is closer to the proposed dwelling (approximately 2.5m), however there are no windows along the western elevation which faces onto the site. Also, there are no windows along the eastern elevation of the proposed bungalow. As such, the proposals are not considered to result in an unacceptable impact in terms of overlooking.

The proposed bungalow would not result in an unacceptable impact in terms of overlooking or overshadowing of neighbouring properties. As such, the proposals accord with policy DS1.

Flood risk and drainage

Policies CS19 (Flood Risk) and DS16 (Flood Risk) seek to ensure that suitable drainage strategies are secured for developments. The site is within SFRA Flood Zone 1, which is an area considered to be at a low risk of flooding.

The drainage officer has raised no objections to the proposed dwelling subject to an informative relating to the nearby watercourse. The proposals are therefore acceptable in flood risk and drainage terms and accord with policies CS19 and DS16.

Conclusion

The proposed bungalow is within the open countryside, outside the development limits of Barnetby, and as such would represent a departure from the development plan. The site currently comprises grazing land which is rural in character. The proposed form of development would also be a departure from the surrounding pattern of development and would be inappropriate in terms of its location and siting. The proposed development therefore conflicts with policies, CS1, CS2, CS3 and CS8. The proposals are also considered to conflict with policy R5 and paragraph 100 of the NPPF due to the impact on the PROW to the north of the site.

RECOMMENDATION Refuse permission for the following reasons:

1.

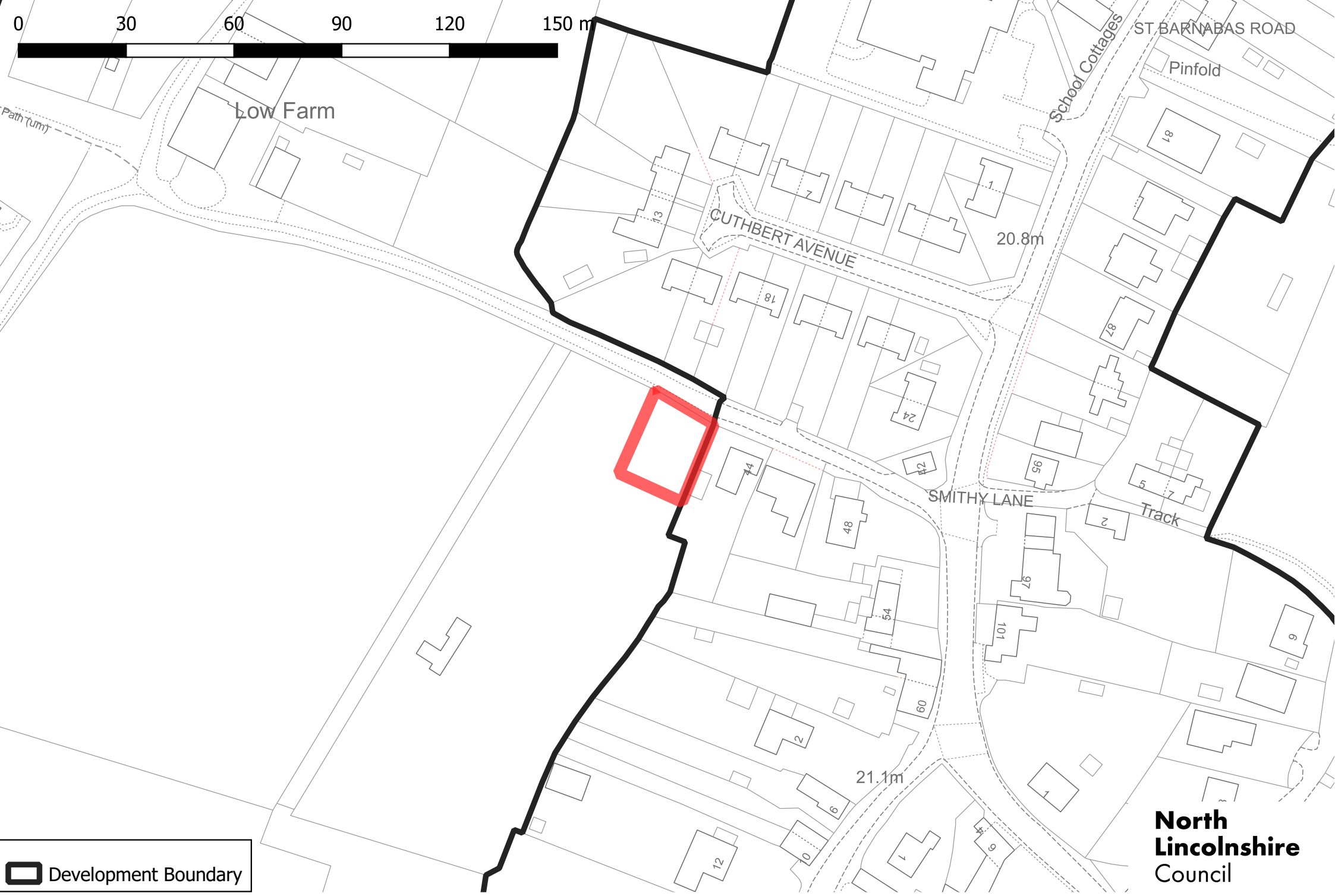
The siting of the proposed dwelling, outside of any defined development boundary, would represent an inappropriate form of development. It is not considered that any benefits of a single dwelling would outweigh the harm to the character of the area. No evidence has been submitted to justify a special need for a dwelling in this location. The proposed development is therefore contrary to policies RD2 of the North Lincolnshire Local Plan, and policies CS2, CS3 and CS8 of the Core Strategy.

2.

The proposed development would have a detrimental impact on the amenity and enjoyment of users of the public right of way to the north of the site. As such, the proposals would conflict with policy R5 of the North Lincolnshire Local Plan and paragraph 100 of the National Planning Policy Framework, which seek to protect and enhance public rights of way.

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.



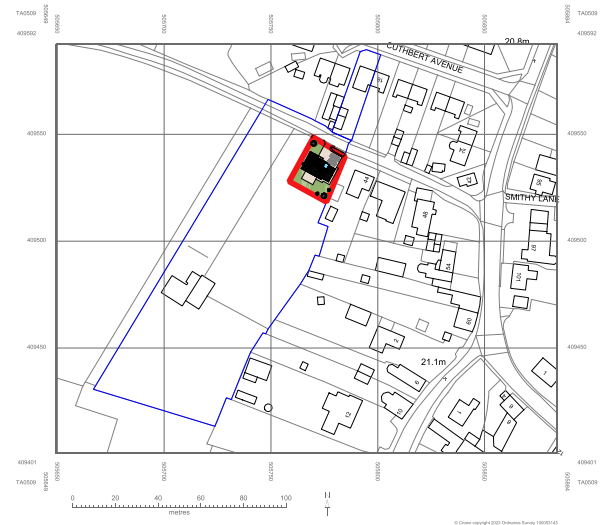
 Development Boundary

PA/2022/615

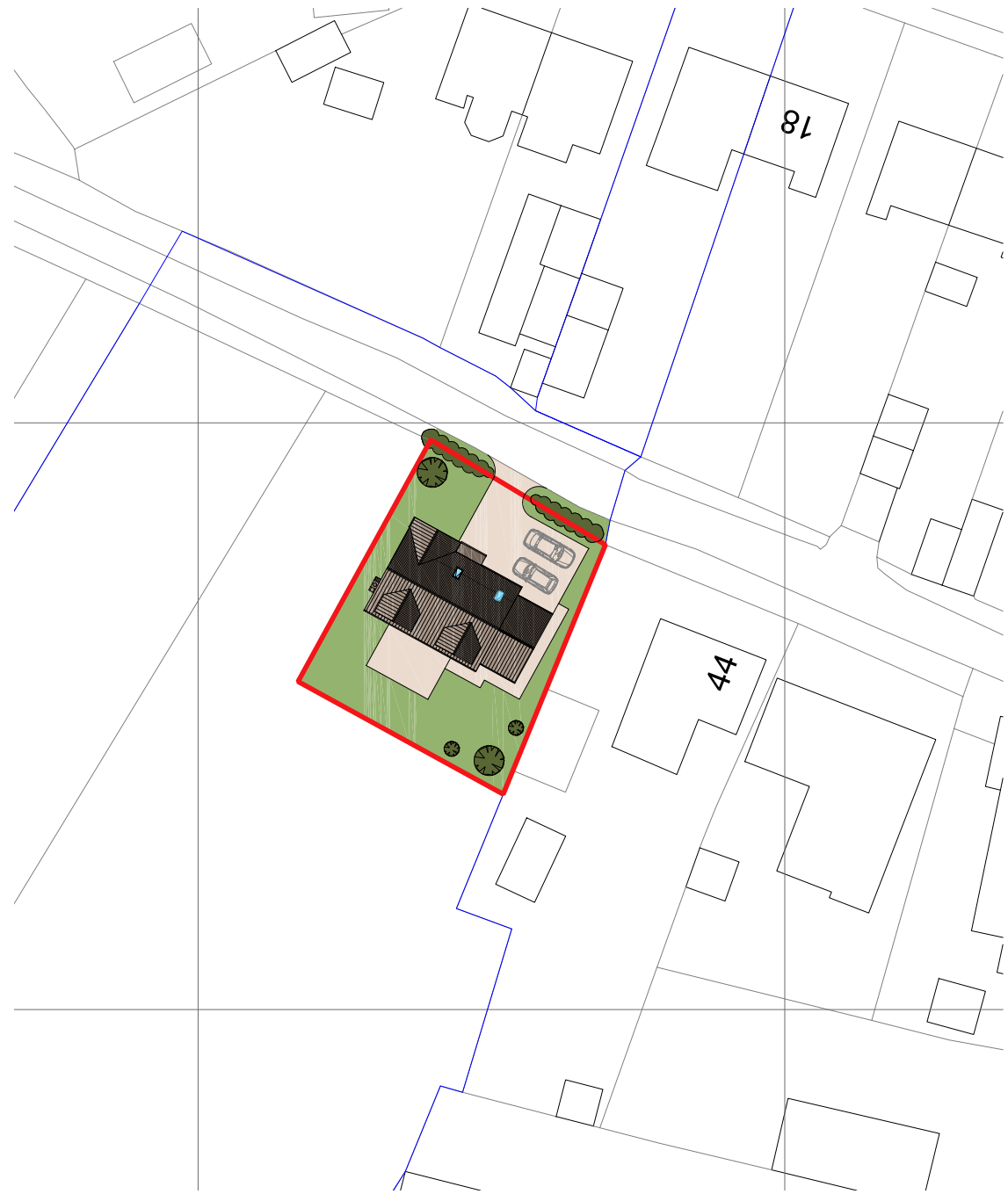
**North
Lincolnshire
Council**

PA/2022/615 Proposed layout (not to scale)

Do NOT scale from this drawing. Use dimensions illustrated only. All dimensions and levels are in millimeters. All dimensions and levels shall be verified onsite before proceeding with works.



Site Plan @ 1:1250



Site Plan @ 1:200

Rev	Date	Description	By	Chk'd



22 Low Road, Worlaby, North Lincs, DN20 0LX
 Mobile : 07841013033
 Email : peter@y6architectural.co.uk

Drawing Status **PLANNING**

Project
 Mr & Mrs Smith, Land to the rear of ,17
 Cuthbert Avenue, Barnetby, North
 Lincolnshire, DN38 6JF

Title
Proposed Garage Details

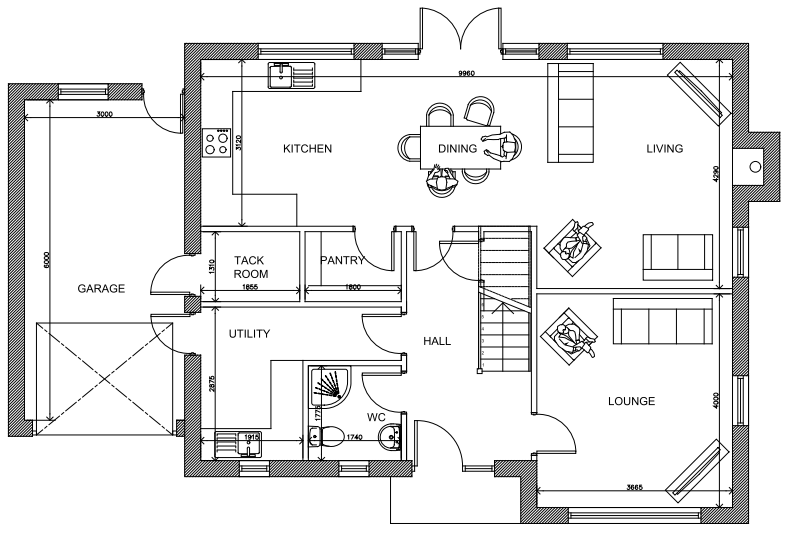
Drawn **PRM** Checked **PRM** Date **10/02/2022**

Scale **As Noted** Plot at **A1**

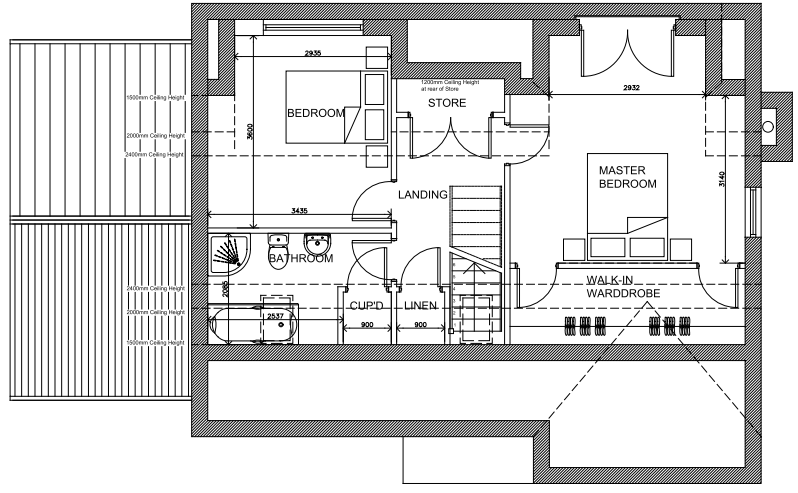
Project No. 028-001	Drawing No. 004	Rev 03
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PA/2022/615 Proposed plans and elevations (not to scale)

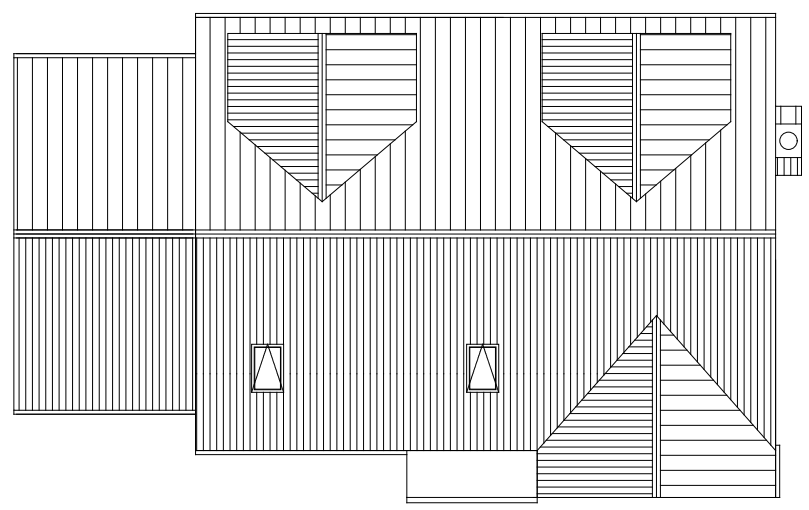
Do NOT scale from this drawing. Use dimensions illustrated only. All dimensions and levels are in millimeters. All dimensions and levels shall be verified onsite before proceeding with works.



GROUND FLOOR PLAN
as proposed - Scale 1:50



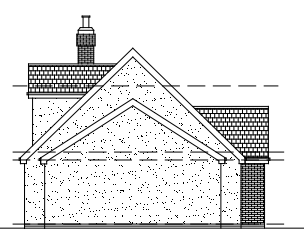
FIRST FLOOR PLAN
as proposed - Scale 1:50



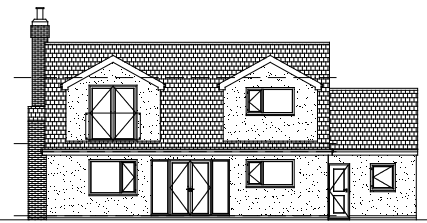
ROOF PLAN
as proposed - Scale 1:50



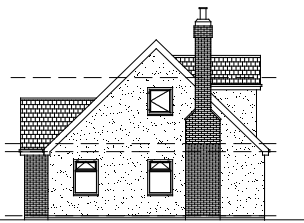
FRONT ELEVATION
as proposed - Scale 1:100



SIDE ELEVATION
as proposed - Scale 1:100



REAR ELEVATION
as proposed - Scale 1:100



SIDE ELEVATION
as proposed - Scale 1:100

Rev	Date	Description	By	Chk'd
03	14.02.22	Rotation of rear living / dining area	-	-
02	13.02.22	Bathroom and Bedroom Update	-	-
01	10.02.22	Updated to clients comments	-	-

Y6 ARCHITECTURAL
PLANNING CONSULTANTS

22 Low Road, Worlaby, North Lincs, DN20 0LX
Mobile : 07841013033
Email : peter@y6architectural.co.uk

Drawing Status: **PLANNING**

Project: Mr & Mrs Smith, Land to the rear of ,17 Cuthbert Avenue, Barnetby, North Lincolnshire, DN38 6JF

Title: Proposed Floor Plans, Roof Plan and Elevations

Drawn	Checked	Date
PRM	PRM	10/02/2022

Scale	Plot at
1:50	A1

Project No.	Drawing No.	Rev
028-001	002	03