

<b>APPLICATION NO</b>	<b>PA/2022/1575</b>
<b>APPLICANT</b>	Mr Nigel Durdy
<b>DEVELOPMENT</b>	Outline planning permission with all matters reserved to erect a dwelling in connection with an agricultural business
<b>LOCATION</b>	Ninevah Farm, Idle Bank, Epworth, DN9 1LG
<b>PARISH</b>	Epworth
<b>WARD</b>	Axholme Central
<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 Tim Mitchell – significant public interest) Support by Epworth Town Council

## **POLICIES**

**National Planning Policy Framework:** Sections 2, 5, 12, 14 and 16 apply.

Paragraph 79 – Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside
- (b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets
- (c) the development would re-use redundant or disused buildings and enhance their immediate setting
- (d) the development would involve the subdivision of an existing residential dwelling, or
- (e) the design is of exceptional quality, in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

## **North Lincolnshire Local Plan:**

RD2 – Development in the Open Countryside

RD11 – New Agricultural or Forestry Dwellings

H5 – New Housing Development (Part Saved)

H8 – Housing Design and Mix

LC7 – Landscape Protection

DS1 – General Requirements

DS3 – Planning Out Crime

DS7 – Contamination

DS14 – Foul Sewerage and Surface Water Drainage

DS16 – Flood Risk

T2 – Access to Development

T19 – Car Parking Provision and Standards

**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

CS7 – Overall Housing Provision

CS8 – Spatial Distribution of Housing Sites

CS17 – Biodiversity

CS18 – Sustainable Resource and Climate Change

CS19 – Flood Risk

CS25 – Promoting Sustainable Transport

LC5 – Species Protection

LC6 – Habitat Creation

**Housing and Employment Land Allocations DPD:**

PS1 – Presumption in Favour of Sustainable Development

The site lies outside the development limits of Epworth within the open countryside.

**New North Lincolnshire Local Plan Submission:** The new North Lincolnshire Local Plan was submitted for public examination to the Planning Inspectorate on 11 November, 2022.

Examination of the Plan has therefore commenced, although public hearing sessions are not anticipated until early in 2023.

SS1 – Presumption in Favour of Sustainable Development

SS2 – A Spatial Strategy for North Lincolnshire

SS3 – Development Principles

SS5 – Overall Housing Provision

SS11 – Development Limits

RD1 – Supporting Sustainable Development in the Countryside

DQE3 – Biodiversity and Geodiversity

DQE1 – Protection of Landscape, Townscape and Views

HE1 – Conserving and Enhancing the Historic Environment

## **CONSULTATIONS**

**Highways:** No objection subject to a condition requiring the access, parking and turning facilities to be completed before the dwelling is occupied and thereafter retained.

**Environment Agency:** No objection subject to condition to reduce the risk of flooding. No comments in relation to meeting the sequential and exceptions tests. This is for the local planning authority to consider and can be grounds alone to refuse an application.

**Doncaster East IDB:** The site is within the Doncaster East Internal Drainage Board district.

The Board-maintained Meres & Scawcetts East Drain, an open watercourse, exists to the north of the site to which bylaws and the Land Drainage Act 1991 apply.

The Board's consent is required for any works that increase the flow or volume of water to any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

The Board's written consent will be required prior to construction of any discharge point from any biotechnical unit/package treatment plant/septic tank into any watercourse or culvert within the Board's district (other than directly to a main river for which the consent of the Environment Agency will be required).

The Board's consent is required irrespective of any permission gained under the Town and Country Planning Act 1990. The Board's consent will only be granted where proposals are not detrimental to the flow or stability of the watercourse/culvert or the Board's machinery access to the watercourse/culvert which is required for annual maintenance, periodic improvement and emergency works.

The suitability of soakaways, as a means of surface water disposal, should be ascertained prior to planning permission being granted. Soakaways should be designed to an appropriate standard and to the satisfaction of the approving authority in conjunction with the local planning authority. If the suitability is not proven, the applicant should be

requested to re-submit amended proposals showing how the site is to be drained. Should this be necessary this Board would wish to be re-consulted.

The design, operation and future maintenance of site drainage systems must be agreed with the lead local flood authority and local planning authority.

**LLFA Drainage:** No objections subject to inclusion of an informative relating to existing pipe network/surface water.

**Environmental Protection:** This application for residential development is a sensitive end use. Furthermore, the proposed development is on existing agricultural land. Agricultural sites have the potential for contaminants such as PAHs, metals, petroleum hydrocarbons, and asbestos, from the over-application of slurry and the illegal deposition of waste, which are harmful to human health. It is the developer's responsibility to assess and address any potential contamination risks, however no supporting information has been provided that demonstrates potential risks can be reduced to an acceptable level. Condition proposed to address phase 1 and any subsequent works required.

To prevent sensitive receptors being introduced to the site, this department would recommend the following condition should the application be approved.

'The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, or a widow or widower of such a person, and to any resident dependants.'

## **TOWN COUNCIL**

Support the planning application subject to:

- an agricultural tie;
- a contaminated land report being submitted.

## **PUBLICITY**

Advertised by site notice – no comments received.

## **ASSESSMENT**

### **Planning history/designations**

There is no existing planning history on the application site. The following history is relevant to the wider farm:

2/1981/0776: Construction of an 11000 volt overhead line – approved 03/12/1981

PA/2010/0825: Planning permission to retain a domestic double garage – approved 02/09/2010

PA/2019/1471: Application for determination of the requirement for prior approval for a proposed change of use of an agricultural barn to dwelling – refused 17/10/2019

PA/2019/700: Application for prior notification for a proposed change of use of an agricultural building to a dwellinghouse (Use Class C3) – refused 04/06/2019

PA/2014/0078: Application for the determination of the requirement for prior approval for an agricultural building – not required 21/03/2014.

The original farmhouse is to the north-west of the site and the following planning history is relevant:

PA/2010/0825: Planning permission to retain a domestic double garage – approved 02/09/2010.

There is no agricultural tie on the existing farmhouse, which is in a different ownership to the applicant and does not form part of this application.

The site is within SFRA flood zone 2/3 (a) fluvial.

The site is within the open countryside.

### **Site location**

The Housing and Employment Land Allocations DPD designates the site as being within the open countryside. It is in close proximity to a working farm (to which this application relates) as well as the already established farmhouse. The farmhouse is no longer within the applicant's ownership. The current owner of the farmhouse has a right of access over the applicant's land to access the property.

The application site is south-east of the existing farmhouse and designated as within flood zone 2/3a in the North and North East Lincolnshire SFRA 2022.

Access to the site is via a metal farmgate. Existing agricultural buildings are located to the north-west and west of the site, some of which appear to be in a poor state of repair. To the east is an open agricultural building which, at the time of a site visit, was full of hay/straw bales. Machinery and other agricultural equipment was sited further east/north-east within the wider side.

Access to the site is gained via a private track from Idle Bank (west). Two previous applications for the conversion of agricultural buildings to residential use were refused.

The land is currently vacant and includes a mix of vegetation, grass/weeds, hedges, scrub and small trees. The site does not have any boundary treatments and is open to views to the south, west and east. Views to and from the north are restricted by existing development in the form of the existing farmhouse and agricultural buildings, as well as planting.

The site is not within a conservation area, does not relate to a listed building and does not affect any protected trees. It does not fall within policy LC14 land (Area of Special Historic Landscape Interest – Isle of Axholme).

## **Proposed development**

Outline planning permission is sought (with all matters reserved) to erect a dwelling in connection with an agricultural business. No detailed plans are provided to demonstrate how the site might be laid out. The applicant has provided a statement in support of the application relating to agricultural need, citing the following:

- The family business has been operating as N & A Durdy for 40 years and N & A Durdy (Agricultural Contractors) Ltd for 7 years. Both businesses are based at Ninevah Farm.
- There have been break-ins at Ninevah on average twice a year. The farm suffers from visits by teams of 'lampers' who are seeking to illegally kill and take game from the land, but also do damage to standing crops. The majority of the machinery belonging to the farm is kept at Ninevah Farm when not in use.
- Farmers need to be in a position to respond in a timely fashion, and this can mean crop care at anti-social hours, late nights and very early mornings. Being on the spot where the equipment is based reduces the risk of missing opportunities when short weather windows crop up. This is especially relevant for crop spraying or fertiliser applications.
- Livestock are kept at the farm when grazing conditions permit. This is usually from midsummer through to spring, depending on grass growth. Having a permanent presence on site would enable a greater diversification of stock, including beef stores. Livestock add another attraction to thieves, and current livestock prices are at record levels. Clearly all livestock require frequent oversight for health and welfare reasons.
- There are no suitable properties on the market, – properties at West End, Epworth are too remote from the farm.

**The main considerations in the determination of this application are:**

- **the principle and assessment of agricultural need for a farm dwelling on this site;**
- **impact on character and amenity;**
- **flood risk and drainage; and**
- **other matters.**

## **Principle of development/agricultural need**

The application site is outside of any defined development boundary and is therefore considered to be in the open countryside in planning terms. In such areas, development is highly restricted. Whilst there is a housing shortfall in North Lincolnshire, the open and isolated nature of the proposal site would not allow for sustainable development which would normally be permissible when accounting for NPPF paragraph 11, tilted balance in favour of sustainable development.

One exemption to this restriction, however, is highlighted within NPPF paragraph 79 as outlined in the Policies section of this report. This is reiterated by local plan policy RD2 which states that planning permission will be granted for development which is essential to the efficient operation of agriculture or forestry, provided that:

- (a) the open countryside is the only appropriate location and development cannot reasonably be accommodated within defined development boundaries;
- (b) the proposed development accords with the specific requirements set out in the relevant policies of this chapter and elsewhere in this local plan;
- (c) the development would not be detrimental to the character or appearance of the open countryside or a nearby settlement in terms of siting, scale, massing, design and use of materials; and
- (d) the development would not be detrimental to residential amenity or highway safety; and
- (e) account is taken of whether the site is capable of being served by public transport; and
- (f) the development is sited to make the best use of existing and new landscaping.

Policy RD11 relates to new agricultural dwellings and will only permit development where the applicant demonstrates that:

- (i) there is no other viable option for utilising alternative types of accommodation including:
  - existing vacant dwellings – *No detailed assessment has been undertaken or evidence provided. The only information is to state that a search of properties on Rightmove has been undertaken and none were deemed suitable.*
  - conversion of an existing building on or close to the holding – *The applicant has sought this in the past through a prior notification/prior approval application. Both were refused for failing the necessary tests, being located in an undesirable location not appropriate for C3: undesirable given the proximity of the proposal and the potential and its relationship with working plant. The applicant has not sought to explore pre-application discussions or a planning application in relation to the existing buildings on the site.*
  - the rearrangement, subdivision or extension of existing dwellings – *The existing farmhouse dwelling is no longer within the applicant's ownership.*
  - any viable options for the refurbishment of a derelict or under-used dwelling on the holding or in the locality – *No evidence has been provided to demonstrate that this option has been explored. The only information is to state that a search of properties on Rightmove has been undertaken and none were deemed suitable.*
  - extant residential permissions in the locality – *No assessment has been provided/evidenced.*
- (ii) the proposed dwelling should be located within, or adjacent to, existing buildings on the holding – *The site is located close to the existing farmyard and cluster of buildings on the site.*

- (iii) the applicant must demonstrate by means of a functional test that there is a need for a full-time worker to live in or near the unit –*The applicant has failed to provide sufficient evidence to demonstrate how the site currently operates and that there is a need for a full-time worker to live in or near to the unit based on current operations. More details have been requested regarding the operations, the location of any livestock at the farm, the locations of crops, the business plan etc but this information has not been provided.*
- (iv) the dwelling is of a size appropriate to the established functional requirements of the unit. Dwellings which are unusually large in relation to the needs of a unit, or unusually expensive to construct in relation to the income that the unit can sustain in the long term, will not be permitted – *The application is made in outline at this time with all matters reserved. This would be a condition to development and dealt with through subsequent reserved matters submissions.*
- (v) the unit to which the dwelling must be attached will have been proved to have been in existence for more than three years and profitable for at least one of them and be currently financially sound – *The applicant has confirmed that a business has operated on the site for many years with Nigel Durdy and his brother operating an agricultural business across two sites, one in Epworth and the second in Haxey. The in-hand farms cover a total of 550 acres and additional land is farmed on behalf of other farmers in and around the Isle of Axholme. The Durdy family have farmed in the area for many generations, and younger members of the Durdy families are also involved in the business. Accounts are available on request. The applicant confirms that the business has a good financial track record and the business has been in profit since inception. There is a farmhouse connected with the farm at Haxey which is 10.4 kilometres from Ninevah Farm. This is considered to be too distant to provide accommodation for the person responsible for crops, animals and machinery to give assistance in an emergency, or security in the event of intrusion at the Ninevah Farm site.*
- (vi) the occupation of the dwelling shall be restricted to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants – *The application is made in outline at this time with all matters reserved. This would be a condition to development.*
- (vii) where necessary, an agreement or obligation will be entered into between North Lincolnshire Council and the applicant in order to tie the occupancy of the dwelling to the related operation – *The application is made in outline at this time with all matters reserved. This would be a condition to development.*
- (viii) the external appearance and materials reflect local building traditions and the means of access is acceptable – *The application is made in outline at this time with all matters reserved. This would be a condition to development.*

In assessing the 'essential need' requirement of current national policy for isolated new dwellings in the countryside, and the functional test that there is a need for a full-time worker to live in or near the unit in RD11, cancelled PPS7 Annex A criteria and tests still have a valid role in assisting to evaluate rural worker dwelling proposals.



The primary test of the acceptability of the proposed development is whether the development is 'essential to the efficient operation of agriculture'. This will be considered below.

The submitted appraisal of need identifies that Nigel Durdy (applicant) and his brother operate an agricultural business across two sites: one in Epworth and the second in Haxey. The in-hand farms cover a total 550 acres and additional land is farmed on behalf of other farmers in and around the Isle of Axholme. The Durdy family have farmed in the area for many generations, and younger members of the Durdy families are also involved in the business.

Discussions with the agent suggest that land within the applicant's ownership is 250 acres. The agent has also confirmed that the partnership farms 550 acres at Epworth and Haxey. They also farm on a contract basis the following:

Haxey: 386 and 200 acres for two landowners

Epworth: 1000 acres for one landowner

Conisborough: 200 acres.

This is all in addition to the land in their ownership at Epworth and Haxey.

The main premise of the applicant's case is that an on-site presence is required at the farm to maintain crops, seasonal livestock when present (although no information has been provided in this regard) and prevent break-ins and vandalism (again no evidence has been provided).

The overall size of the farm is of a scale which can reasonably be assumed to be viable, albeit no evidence of financial viability has been provided, but is available for inspection if required. There is evidently an ongoing farm which the applicant states has been undertaken for many years. It is also evident that much of the business comprises farming land off site on behalf of other farmers. The supporting statement notes that the applicant 'is fully engaged seven days a week managing his family's own land in Epworth and Haxey.'

The existing farm house is no longer within the applicant's ownership and as such is not a viable option for accommodation. The current farm is, however, still in operation and has been for over 10 years without an on-site presence. Evidence within the council's planning files demonstrates that the farmhouse was changed from joint names (one of which was the applicant) to the current owner in 2010. It is noted that this is a freehold property and not connected to the farm in any way.

The applicant confirms that there are no alternative dwellings that meet the needs of this business, and there are no dwellings connected with the farm. The existing farmhouse is no longer in the applicant's ownership, nor is it available or will it become available to purchase in the near future. As such, alternative accommodation is sought. This proposal is to erect a dwelling at the farm in the adjacent parcel of land to the existing agricultural buildings. The dwelling is required to allow a permanent presence on site for operational and security reasons. Mr Durdy has previously unsuccessfully applied to convert existing farm buildings into a dwelling under Class Q of the General Permitted Development Order (GPDO).

The applicant has confirmed that there is a farmhouse connected with the farm at Haxey which is 10.4 kilometres from Ninevah Farm. This is considered to be too distant to provide

accommodation for the person responsible for crops, animals and machinery to give assistance in an emergency, or security in the event of intrusion.

The applicant argues that Ninevah Farm is in a very isolated position.

Limited evidence has been provided to demonstrate the types of crops at the farm: Appendix B of the needs assessment provides a standard chart for winter wheat, barley, rye beans, linseed, spring barley and permanent grass but no plan is provided to show where this is at the farm. Case law demonstrates that arable farms seldom provide a situation where the functional test may be satisfied.

**Case Law Example:** *An appellant argued that the premium quality of their cereals required an additional worker's dwelling on the farm. The inspector appreciated that the field operations required to produce the high quality crops might need two agricultural workers nearby, but he was unconvinced by the evidence presented that alternative arrangements could not be made to ensure these operations could take place in a timely manner. For example, the weather forecasts could be monitored so that workers could be brought in to the farm with prior notice. See East Northamptonshire 29/05/2015 DCS No 200-003-660.*

Limited evidence has been provided to suggest alternative dwellings have been considered and rejected. The applicant confirms that they undertook a search of Rightmove and no properties were considered suitable, and properties at West End, Epworth are too remote from the farm. West End Road is approximately 3.1 kilometres away (only a 6 minute drive) and a range of properties are for sale in this location. The centre of Epworth is only some 6.7 kilometres from the site where a range of properties can also be accessed. It is considered that the distances and times would not significantly add to the response time compared with someone living at the site. There is already a property within close proximity to the site which provides an existing deterrent and a form of natural surveillance at the site. There is no guarantee that living on the site would prove any more a deterrent to potential thieves than the existing property, albeit not in the same ownership.

The applicant has failed to provide any evidence of alternative security measures being explored at the site. Measures such as security systems, alarms and CCTV could provide the level of security which is needed on site. Even if a farm manager lived on site, this person would not be present 24/7. The applicant has suggested another need for a presence on site is the care of crops, especially in extreme changes in weather conditions. It is not considered that living on the site compared to 3.1 kilometres away would offer much difference in terms of responding to changes in weather conditions. No detail has been provided in relation to the types of crops at the farm that require such urgent assistance/maintenance such that someone needs to live on site. An assessment of case law demonstrates that security is rarely a justification for a rural worker's dwelling.

In addition, little information has been provided in relation to the number/type of animals or where these are located on the site. A more detailed understanding of how the farm is operated has been requested but not provided.

It has not been demonstrated that there is an essential need for a new dwelling to accommodate a rural worker on the site or that the functional test that there is a need for a full-time worker to live in or near the unit has been passed. The development would therefore be contrary to policies RD1, RD2, RD11 and H5 of the local plan which seek to ensure, amongst other things, that new build dwellings in the open countryside are necessary and where an essential need can be justified. The proposal is also contrary to

paragraph 80 of the National Planning Policy Framework which seeks to avoid isolated new homes in the countryside.

### **Flood risk and drainage**

Policies CS19 and DS16, both relating to flood risk and drainage, require proposals to be assessed appropriately and to ensure that suitable drainage strategies are secured for developments.

The application site lies within an area identified as having a high flood risk (SFRA Flood Zone 2/3(a)). The proposal is therefore subject to a sequential test, and it should be adequately demonstrated that there are no other sites in the surrounding area suitable for this development. As the farm holding is wholly within the higher flood risk area, it is considered that a farm worker's dwelling in any other location (outside of existing settlements) would not be reasonably available. If the application were to be acceptable in principle, it is considered that the exceptions test would be met by virtue of agricultural need.

Notwithstanding the above, any design would need to carefully account for the flood risk. It is possible that the finished floor levels necessary to reduce flood risk to future occupants, would result in a dwelling of a height which would result in unacceptable visual dominance in this relatively flat rural location. The submitted flood risk assessment has been assessed by the Environment Agency and is considered to be sufficient, and the proposed mitigation measures are considered to be appropriate. The Environment Agency recommends a condition, if permission is granted, to ensure the development takes place in accordance with the mitigation measures set out in the submitted flood risk assessment, in particular, finished floor levels shall be set no lower than 4.1 metres above Ordnance Datum.

The LLFA drainage team have not raised any comments or objections to the proposal but recommend the inclusion of an informative to consider upsizing the pipe network increasing storage around the development.

It is considered that the proposal complies with local plan policy DS16 and Core Strategy policy CS19 in this regard.

### **Other matters**

All matters relating to access, layout, scale, appearance and landscaping of the proposed dwelling have been reserved for subsequent consideration. However, the following is noted.

The site is in an open and exposed area of agricultural land and any dwelling here would be highly visible within the rural setting (east, west and southern aspects). If this application were to be approved, any future reserved matters application would need to carefully account for the need to balance the visual impact of a dwelling here with the flood risk and the potential requirement for a design of more than one storey in height. Any dwelling would be required to be of a scale commensurate with the size of the land holding for essential agricultural purposes only.

Adequate landscaping, including hedging, would likely be required to reduce the visual impact of a dwelling on this site if permission were to be granted.

Access is shown to be from Idle Bank to the west via an existing access track. This is not an adopted highway and it is unlikely that the access to the site would result in significant

highway issues. Adequate access and parking could be provided on the site and would be fully assessed at any reserved matters stage. Highways have raised no objection subject to conditions.

## **Conclusion**

In summary, insufficient agricultural need has been identified for a dwelling as proposed. The application is therefore considered to be contrary to policies RD2 and RD11 of the local plan, CS2 and CS3 of the North Lincolnshire Core Strategy, and the broader aims for sustainable development within the NPPF and Core Strategy.

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

The proposed development is contrary to policies RD2 and RD11 of the North Lincolnshire Local Plan, CS2 and CS3 of the North Lincolnshire Core Strategy and guidance in the National Planning Policy Framework in that the site lies outside of a defined settlement, in the open countryside, and is located in an unsustainable location, remote from local services and public transport. In addition, it is not considered that the application demonstrates there is sufficient essential agricultural need for the new dwelling as proposed, accounting for the history of the site and wider farm, current scale and type of the farm business, and the proximity of nearby settlements.

## **Informative**

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

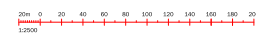
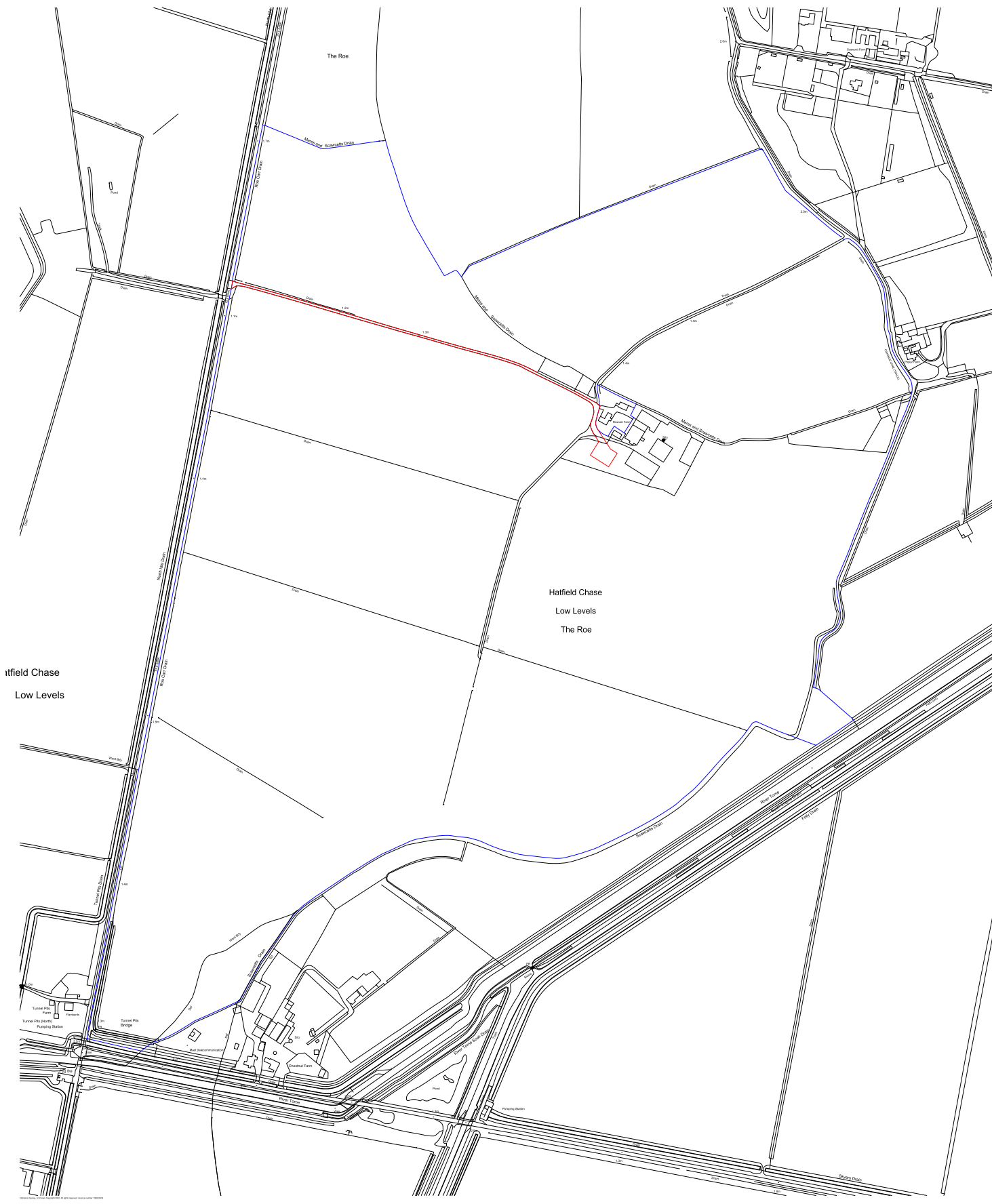


**North  
Lincolnshire  
Council**

**PA/2022/1575**

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# PA/2022/1575 Proposed siting & access (not to scale)



Revisions:  
 A (17.11.22) Area widened, drawing scale and paper size amended

Project Ninevah Farm, Idle Bank, West Carr			
Drawing Location Plan	Rev 595.01	Scale 1/2 A	Date 02.09.22
Date 02.09.22	Scale 1:2500@A1	Author HM	Checker KK