APPLICATION NO	**PA/2022/1848**
APPLICANT	T Nothard, Homeacres Farm Ltd
DEVELOPMENT	Outline planning permission to erect a dwelling and garage with all matters reserved for future consideration
LOCATION	Land opposite Paddock View, West End, Garthorpe, DN17 4RX
PARISH	**GARTHORPE AND FOCKERBY**
WARD	Axholme North
CASE OFFICER	Paul Skelton
SUMMARY RECOMMENDATION	**Refuse**
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllr Julie Reed – significant public interest)

POLICIES

National Planning Policy Framework:

2 Achieving sustainable development

4 Decision-making

5 Delivering a sufficient supply of homes

8 Promoting healthy and safe communities

9 Promoting sustainable transport

12 Achieving well-designed places

15 Conserving and enhancing the natural environment

16 Conserving and enhancing the historic environment

North Lincolnshire Local Plan:

H5 New housing development

H8 Housing design and housing mix

RD2 Development in the open countryside

HE5 Development affecting listed buildings

T1 Location of development

T2 Access to development

T19 Car parking provision and standards

DS1 General requirements

DS11 Polluting activities

DS14 Foul sewage and surface water drainage

DS16 Flood risk

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

CS19 Flood risk

CS25 Promoting sustainable transport

Housing and Employment Land Allocations Development Plan Document:

PS1 Presumption in favour of sustainable development

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 later in 2023.

The Submitted North Lincolnshire Local Plan can be given some weight as a material planning consideration in the determination of planning applications. The relevant policies concerning this application are:

SS1 Presumption in favour of sustainable development

SS2 A spatial strategy for North Lincolnshire

SS3 Development principles

SS5 Overall housing provision

SS6 Spatial distribution of housing sites

SS11 Development limits

H2 Housing mix and density

RD1 Supporting sustainable development in the countryside

DQE1 Protection of landscape, townscape and views

T1 Promoting sustainable transport

DM1 General requirements

CONSULTATIONS

Highways: No objection subject to a standard condition requiring access, parking and turning space to be provided and maintained, prohibition of loose material within 10m of the highway and provision of suitable visibility, and an informative note regarding works on the highway.

LLFA Drainage: No objection subject to conditions preventing surface water run-off to and from the highway, and an informative note regarding increasing surface water storage.

Environmental Protection: Object. The proposed dwelling is adjacent to a working farm, and a barn which is used as a joinery workshop. Whilst the noise arising from the workshop could be controlled, no control is possible over activity from the farm.

Also advise that the application for residential development is a sensitive end use. The proposed site is a brownfield site which has previously been developed and has historically been used as an agricultural area. There is, therefore, the potential for the site to have been impacted upon by contamination. This may include metals, PAHs, petroleum hydrocarbons and asbestos, which are harmful to human health. A phase 1 contaminated land assessment should therefore be submitted prior to determination so the council can decide whether further assessment is required. If the council is minded to grant permission without this advice, contrary to the Environmental Protection Officer's advice, then conditions are suggested.

Environment Agency: No objection subject to a condition to secure flood risk mitigation measures. Nevertheless, advise the council needs to apply the sequential test and consider whether it has been satisfied. Where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, there will always be some remaining risk that the development will be affected either directly or indirectly by flooding. A failure to satisfy the sequential test can be grounds alone to refuse planning permission.

PARISH COUNCIL

Object to this application because the proposed access/egress to/from the property will be opposite a number of residential properties which have no off-street parking facilities, so it is considered that existing parking by residents on the street will limit safe egress and access.

PUBLICITY

The application has been advertised by site and press notice – no comments have been received.

ASSESSMENT

This application was deferred at a previous meeting of the planning committee to allow members to visit the site before making a decision.

Planning history

The relevant planning history for the site is as follows:

Outline planning permission to erect a dwelling on the site (PA/2020/428) was refused in May 2020 due to a failure to pass the sequential test for flood risk, and because it had not been demonstrated that an acceptable level of amenity for future residents could be achieved without placing unreasonable restrictions on existing businesses and facilities.

In 2014, an application was made to determine whether prior approval was required for a change of use of the neighbouring agricultural building at Homeacres Farm to a joinery business under permitted development rights. Remaining buildings and the yard were not included in the application and therefore retain their agricultural use. It was determined that prior approval was not required and as such there are no conditions restricting the joinery business.

Directly opposite is a new dwelling which was permitted in 2020 (PA/2019/1534) in the garden of Paddock View. That site falls within the settlement boundary and therefore the principle of development was considered acceptable.

The site and its location

The application site lies to the south of West End, just outside the settlement boundary of Garthorpe. To the north, on the opposite side of the road, is a row of detached and semi-detached houses. To the west is the yard and buildings of College Farm. To the east are the buildings and yard of Homeacres Farm, where, as discussed above, one of the buildings now houses a joinery business.

Further to the south is a grade II listed converted barn. Beyond Homeacres Farm to the east is Mulberry Garth, a grade II listed dwelling.

The application site itself is an overgrown patch of land which appears used only for the storage of old equipment, pallets and other items associated with the farm business.

The development

The application proposes a single detached dwelling. All matters are reserved for future consideration. The Design and Access Statement (DAS) submitted with the application confirms that access would be made directly onto West End.

The DAS claims that the site is in accordance with local planning policies as it is an infill plot and on brownfield land (see below) and will meet local needs and help meet the council's housing target. Furthermore, it is suggested that the development would support local services in Eastoft and Crowle, and is an opportunity for the village to grow and thrive.

Material considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. Section 70(2) of the Town and Country Planning Act states that, in dealing with an application for planning permission, the local planning authority shall have regard to the provisions of the development plan, so far as material to the application; any local finance considerations, so far as material to the application; and any other material considerations.

In this instance, the development plan consists of the saved policies of the North Lincolnshire Local Plan (NLLP) and the North Lincolnshire Core Strategy (NLCS). Other material planning policy considerations include the National Planning Policy Framework (the NPPF), the emerging North Lincolnshire Plan and a suite of supplementary planning documents.

The key issues for consideration for this application are the principle of development, heritage, living conditions, flood risk and highway safety.

The principle of development

The site is outside the settlement boundary of Garthorpe, as defined by the Housing and Employment Land Allocations DPD (HELA), in an area where new housing is strictly controlled by development plan policies. The development boundary is unchanged at this location in the emerging local plan.

Because the site is outside the development boundary, it is treated in policy terms as being in the open countryside. Saved local plan policy RD2 sets out that development in the open countryside will be strictly controlled. This policy only supports residential development outside defined development limits in certain circumstances, none of which apply in this case.

Core Strategy policy CS2 (Delivering More Sustainable Development) sets out that any development that takes place outside the defined development limits of settlements or in rural settlements in the countryside will be restricted. Only development which is essential to the functioning of the countryside will be allowed to take place. This might include uses such as those related to agriculture, forestry or other uses which will contribute to the sustainable development of the tourist industry. A ‘sequential approach’ will also be applied to ensure that development is, where possible, directed to those areas that have the lowest probability of flooding, taking account the vulnerability of the type of development proposed, its contribution to creating sustainable communities and achieving the sustainable development objectives of the plan.

The DAS indicates that the development accords with policy CS2 because it is a suitable infill plot, however this only relates to market towns and is not relevant here. Reference is also made to the site being previously developed land, however the application site is part of the agricultural use at Homeacres Farm. Whilst one of the buildings at the site was changed to a joinery business following the prior approval application in 2014 referred to above, this did not include the application site. On that basis, the authorised use of the site is agriculture, which is expressly excluded from the definition of previously developed land in the NPPF.

Policies CS3 and CS8 similarly strictly limit housing development outside development boundaries to that which is essential to the functioning of the countryside. The DAS states that the site is within the limits of the settlement, which it demonstrably is not as it falls outside

the settlement boundary defined in the HELA. The DAS also suggests that policy CS3 allows for some greenfield development, however this is only in the context of the strategy set out in policies CS1 and CS2. Similarly, the DAS suggests that policy CS8 supports the application as it provides support for 'suitable infill opportunities' in built-up areas, however again, this must be read in the context of the overall strategy set by policies C2 and C3 which strictly limits development outside defined settlement limits (as is also referred to in policy CS8).

In light of the above, it is clear that the proposed development would conflict with saved policy RD2 of the local plan and policies CS2, CS3 and CS8 of the Core Strategy.

Whilst the DAS refers to the NPPF and the consequences of not having a five-year supply of deliverable housing sites, it should be noted that the council is able to demonstrate a five-year housing land supply as identified within the North Lincolnshire Council Five Year Housing Land Supply Statement, August 2023. Therefore, full weight can be attributed to the local plan and local development framework policies and the 'tilted balance' set out in paragraph 11(d) of the NPPF is not engaged.

In these circumstances, paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. In this case therefore, planning permission should be refused unless material considerations indicate that the development plan should not be followed in this case.

Heritage

Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Local plan policies HE5 and HE7, and Core Strategy policy CS6, reflect this duty.

Paragraph 199 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Paragraph 200 continues by stating that any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting), should require clear and convincing justification. Paragraph 202 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

As set out above there are two listed buildings close to the application site. To the rear of the site is The Granary, a converted barn. The setting of this building is an agricultural one, but also one which comprises residential development given its location on the edge of Garthorpe. Similarly Mulberry Garth is a dwelling within a largely residential setting on West End, with the large buildings at Homeacres Farm between it and the application site. The provision of a dwelling on the application site, which is largely overgrown and used for incidental agricultural storage, would not cause harm to the settings of these buildings, subject to their detailed design which would be addressed at reserved matters stage.

Living conditions

Local plan policy DS1 states, '…no unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.' Policy DS11 sets out that planning permission will only be

granted, *inter alia*, where proposals do not create adverse environmental conditions likely to affect nearby developments and adjacent areas.

Policy H5 development requires that new housing development does not result in overlooking or a loss of privacy to existing developments, or any other loss of amenity to existing dwellings.

Core Strategy policy CS5 requires new development to consider the relationship between any buildings and the spaces around them, and how they interact with each other as well as the surrounding area. The function of buildings should also be considered in terms of its appropriateness for the context in which it is located.

Paragraph 130(f) of the NPPF requires new development to create places which, inter alia, promote health and well-being, with a high standard of amenity for existing and future users. Paragraph 185 provides that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Paragraph 187 of the NPPF makes it clear that new development should be capable of being integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Because of its location, there would be no undue impacts arising from the provision of a new dwelling on the site on nearby dwellings.

As described above, the site is set immediately adjacent to two commercial enterprises. The previous application was refused, amongst other things, on the grounds that it had not been demonstrated that there would be an acceptable level of amenity for future residents without placing unreasonable restrictions upon existing businesses. To address this, the applicant has submitted an acoustic report in support of the application.

To the east is the yard and buildings related to Homeacres Farm. These buildings and yard are understood to be within the same ownership as the application site. According to the planning history for the site, one of the buildings on that site has authorised use as a joinery business. The authorise use of the rest of the land, including the other buildings and yard (and including the application site), remains agricultural. Whilst the acoustic report submitted with the application indicates that the site is not currently used for agricultural use, such use could resume at any stage without the need for planning permission.

Because the joinery business was created using permitted development rights there are no planning conditions restricting its operation. The Environmental Health Officer has confirmed that, subject to the recommended mitigation measures set out in the acoustic report, they are satisfied the noise climate from sources within the buildings could be adequately controlled. Nevertheless, noise from external sources, particularly if activity in the yard areas were to increase, could not be adequately controlled.

This is even more the case with the neighbouring College Farm to the west which is outside the applicants' control and which the Environmental Health Officer advises there is no control over from their perspective. Exposing residents of a new dwelling to harmful sources of noise from the east and west would be likely to give rise to unacceptable noise and disturbance which would harm the living conditions of future residents. Whilst there would be possible mitigation in the design of a new dwelling, this would be likely to rely on windows being closed, particularly in the summer months when activity at College Farm can be expected to be greater.

In this case, it is not only the impact of the neighbouring uses on the proposed dwelling, but also the implications on the neighbouring business should the dwelling be permitted that need to be considered. Because the relationship between the land and buildings at College Farm is so close, there is no way of satisfactorily mitigation impacts arising from the activities there. If permission were to be granted and a dwelling built, this could mean that the farm business at College Farm could have restrictions placed upon it meaning that its ability to carry out the business on the site would be severely impacted.

Aside from the noise pollution arising from the neighbouring uses, there is also significant potential for the proposed dwelling to be affected by the presence of existing buildings. Whilst the application is made in outline, it can reasonably be assumed that the garden for the proposed dwelling would be to the south (rear) of the plot and there would be parking/turning space at the front of the site, facing West End. On that basis, it is highly likely that the whole of the eastern boundary of the garden of any new dwelling would be flanked by the side wall of the buildings at Homeacres Farm. Part of the western boundary would also be flanked by one of the agricultural buildings at College Farm. The presence of these buildings means that the rear of the house, and its garden would have extremely poor outlook and the buildings would have an overbearing impact on the proposed garden, the light to which would also be unduly affected.

Overall, in light of the above, the previous reason for refusal has not been adequately addressed. The proposed development would be likely to be subject to unacceptable levels of noise and disturbance and/or could result in unacceptable restrictions placed upon the neighbouring farm business. Overall, the environment for future residents would be extremely poor and for these reasons the proposals are contrary to policies H5, D1 and DS11 of the North Lincolnshire Local Plan, policy CS5 of the Core Strategy and guidance contained in the NPPF.

Flood risk

The site lies in flood zone 2/3 (a) tidal as defined in the North Lincolnshire Flood Risk Assessment, and flood zone 3 of the Environment Agency flood map for planning. The site is therefore located in the area at highest risk if flooding.

Saved policy DS16 of the local plan sets out that development will not be permitted in floodplains where, amongst other things, it would increase the number of people or buildings at risk. Core Strategy policy CS19 supports a risk-based sequential approach to development where development in high-risk areas will only be permitted where it can be demonstrated that the development provides wider sustainability benefits to the community and the area that outweigh flood risk. Development should also be on previously developed land (unless there is no reasonable alternative) and must be demonstrated to be safe, without increasing flood risk elsewhere. Policy DQE5 of the emerging local plan states that risk and impact of flooding will be minimised by, amongst other things, directing development to areas with the

lowest possible risk of flooding. Development in flood risk areas must pass the sequential test. The policy makes it clear that:

‘The sequential test will be based on a **district-wide** area of alternative sites unless local circumstances relating to the catchment area for the development justify a reduced search area (i.e. there is a specific need for the development in that location).’

This sequential approach reflects government guidance in the NPPF and Planning Practice Guidance. Paragraph 159 of the NPPF states that Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 162 confirms that 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. Paragraph 163 introduces the exceptions test only if it is not possible for development to be located in areas with a lower risk of flooding. To pass the exception test it should be demonstrated that:

(a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

(b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Both elements of the exception test should be satisfied for development to be allocated or permitted (paragraph 165).

It is not the case that all development in flood risk areas will be prevented by the proper application of the sequential test. In areas where the local plan supports development, for example within settlement boundaries, development can proceed provided that there are no reasonably available sites within areas of lower flood risk. The site in this case is not within the development boundary and conflicts with the council’s strategic housing policies as set out above. In that case, the area of search for alterative sites should be district-wide, unless there is a specific need for the development in that location.

The area of search carried out by the applicant’s agent in respect of the current application is ‘restricted to Garthorpe and Fockerby’. There is no justification as to why the area of search has been so restricted, nor why it is essential for the development to proceed in this location despite the flood risk policy objection. Even if there were a reason for such a restricted area of search, the applicant has not sought to address the exceptions test in accordance with the requirements of the NPPF.

Whilst the flood risk assessment has demonstrated that the development would be safe, in light of the above, and in the absence of a robust, policy-compliant sequential test, it has not been demonstrated that there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding within North Lincolnshire. The application therefore conflicts with policy DS16 of the North Lincolnshire Local Plan, Core Strategy policy CS19, and guidance within the National Planning Policy Framework and Planning Policy Guidance. This conflict with policy weighs heavily against the proposals in the overall planning balance.

Highway safety

Local plan policy T2 requires all development to be provided with a satisfactory access. The NPPF, at paragraph 110(b), requires safe and suitable access to the site to be achieved for all users. Paragraph 111 advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts would be severe.

The proposed dwelling would be served by an access onto West End which is a cul-de-sac and it can be assumed that vehicle speeds would be low. Whilst there is access to College Farm and Homeacres Farm, it appears that the majority of traffic accessing these sites does so from the south, off Luddington Road (although there do not appear to be any restrictions in place that this must be the case).

It does appear that there would be space for providing sufficient space to vehicles to leave and enter the highway in forward gear, however this would have knock on effects on the acceptability of the proposal as a whole as the dwelling and garden would then be sited immediately adjacent to the commercial buildings on either side of the plot as described above.

The parish council's comments are noted and West End is narrow at the point where access would be made and properties opposite clearly use the street at this point to park (as most of the properties on the north side of the street do not have on-site parking). The width of the plot frontage does give scope for a wider than normal bellmouth which may allow vehicles to access the road even with cars parked opposite and, on balance, it is considered that this could be fully considered at reserved matters stage.

The Highways Officer has been consulted and raises no objection subject to the parking/turning areas being provided and maintained for the lifetime of the development. Overall, it is not considered that the additional traffic arising from the provision of a single additional dwelling would result in any significant highway dangers/hazards.

In light of the above, there is no objection on transport/highway safety grounds.

Conclusions and planning balance

As set out above, s38(6) of the 2004 Act requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case there is a clear conflict with the development plan as the site is located outside any recognised development boundary. This conflict must be given substantial weight in the overall planning balance.

The proposal therefore conflicts with the development plan strategy for the area and the presumption is therefore that planning permission should be refused unless there are material considerations which indicate otherwise.

There would be no harm to the setting of nearby heritage assets.

The social and economic benefits of the proposal are very limited as the proposal seeks only a single dwelling.

Against these benefits, in addition to the conflict with the development plan, are the harms arising from the location of the site in a high flood risk area, without a robust sequential test having been carried out.

Furthermore, future residents would be subject to unacceptable impacts on their amenity due to the location of the site wedged in between two commercial uses. It is also possible that permitting a dwelling in such close proximity to the agricultural business at College Farm would result in unreasonable conditions being placed on the business which could affect its ability to function effectively.

For these reasons, the proposals do not represent sustainable development and it is recommended that the application is refused.

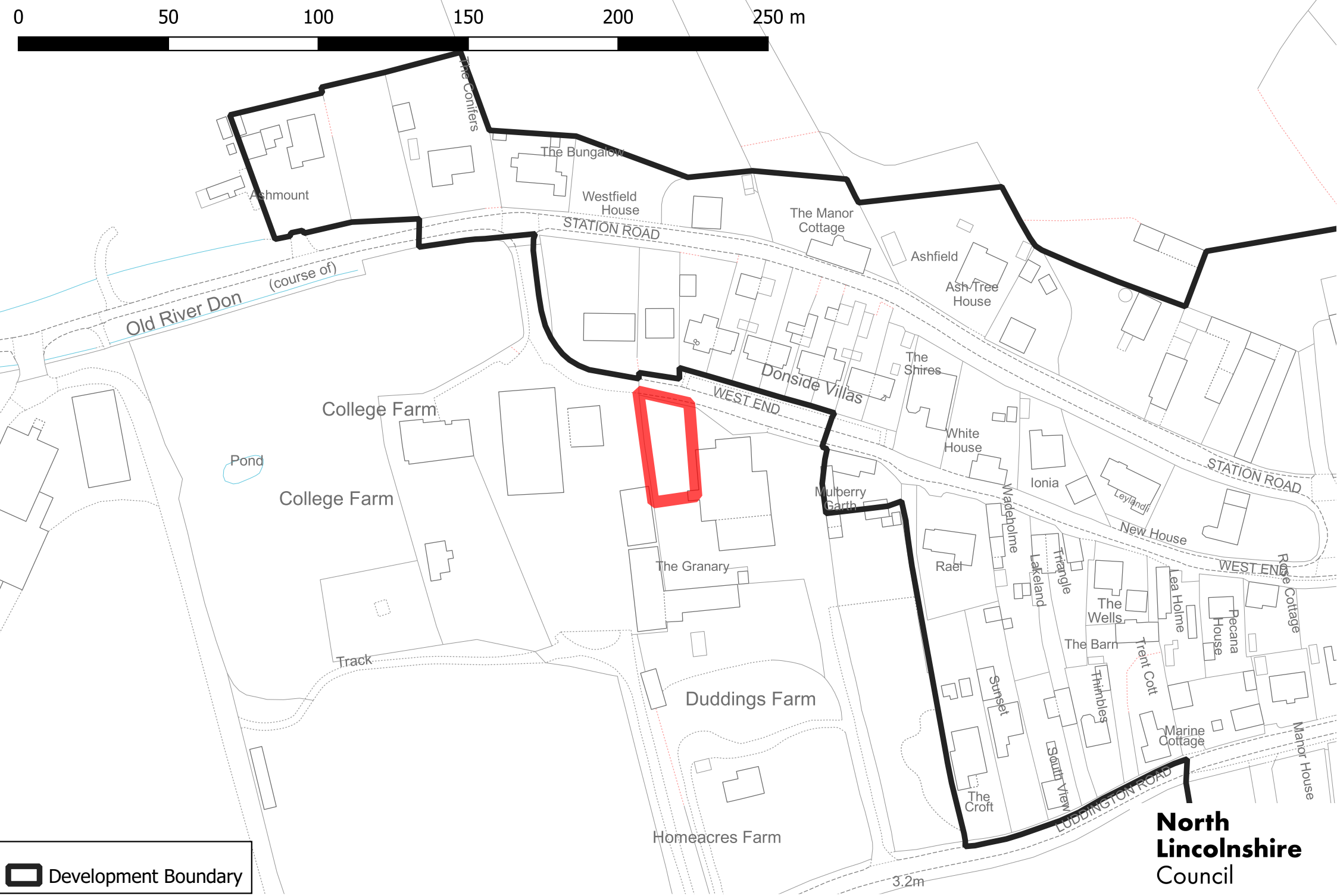
RECOMMENDATION Refuse permission for the following reasons:

1.
The site lies outside any defined settlement limits in a location where new housing development is strictly limited and there are no other specific exceptions/circumstances defined in the Development Plan which indicate that permission should be granted. The proposal does not therefore meet the strategy for the distribution of new housing in North Lincolnshire and would not represent sustainable development, contrary to saved policy RD2 of the North Lincolnshire Local Plan, and policies CS1, CS2, CS3 and CS8 of the North Lincolnshire Core Strategy.

2.
It has not been demonstrated that there are no alternative sites available that could accommodate the proposal in an area with a lower probability of flooding. The proposal is therefore contrary to saved policy DS16 of the North Lincolnshire Local Plan, policy CS19 of the North Lincolnshire Core Strategy, and government guidance set out in the National Planning Policy Framework (September 2023) and Planning Practice Guidance.

3.
It has not been demonstrated that an acceptable level of amenity can be achieved for future residents without placing unreasonable restrictions upon existing business and facilities. The proposal is therefore contrary to saved policies H5, DS1 and DS11 of the North Lincolnshire Local Plan, policy CS5 of the North Lincolnshire Core Strategy and advice contained in section 15 of the National Planning Policy Framework (September 2023).

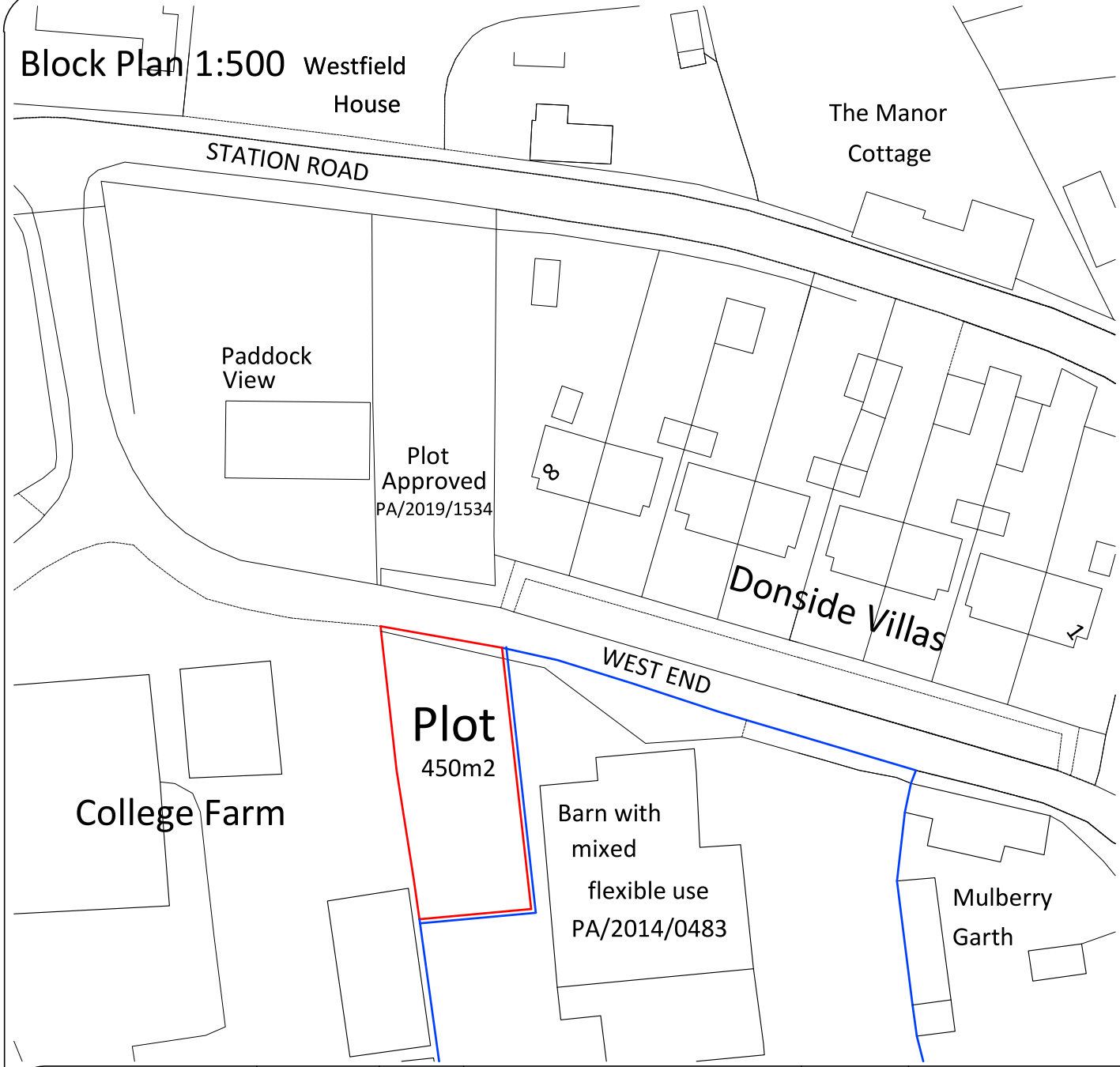
Informative
In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the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



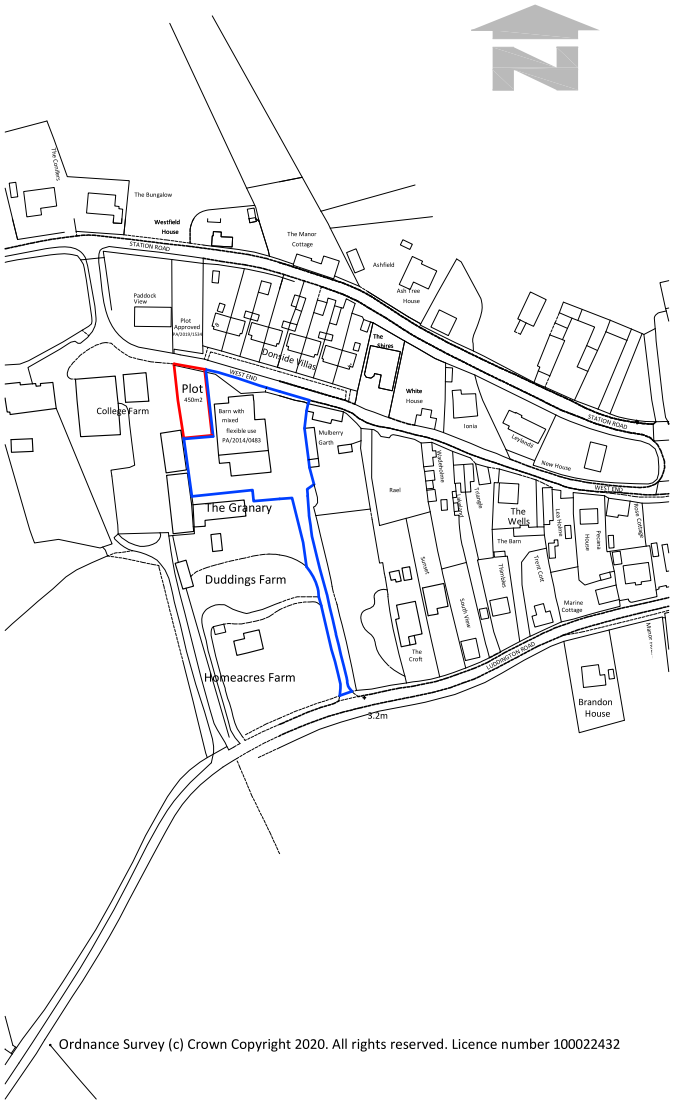
PA/2022/1848

PA/2022/1848 Proposed layout (not to scale)

Block Plan 1:500



Location Plan 1:250



Howard J Wroot BSc MRICS
Chartered Surveyor
240 Wharf Road, Ealand
Scunthorpe DN17 4JN
Tel 01724 711068
Fax 01724 710174
Mob 07947 226577

Client	Homeacres Farm Ltd			Proposal	One residential building plot opposite Paddock View, West End, Garthorpe, DN17 4RU
Date	12/3/20	Dwg No	1 of 1		
Scale	As noted	Ref No	1009-20	Drawing	Location and Block Plans

RICS