

<b>APPLICATION NO</b>	<b>PA/2020/764</b>
<b>APPLICANT</b>	Mrs Smith
<b>DEVELOPMENT</b>	Planning permission to change the use of a paddock to a children's eco-nursery, including the erection of an office, teaching lodge and polytunnel, and other associated alterations
<b>LOCATION</b>	Field south-east of Catchwater Farm, Butterwick Road, Messingham, DN17 3PL
<b>PARISH</b>	Messingham
<b>WARD</b>	Ridge
<b>CASE OFFICER</b>	Scott Jackson
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Cllr Neil Poole – significant public interest) Significant public interest

## **POLICIES**

**National Planning Policy Framework:** Sections 6, 12, 15 and 15 apply.

**North Lincolnshire Local Plan:** Policies DS1, DS9, DS16, RD2, C4, T1, T2, T19

**North Lincolnshire Core Strategy:** CS1, CS2, CS3, CS5, CS19

## **CONSULTATIONS**

**Highways:** No objection, but recommend conditions. Following the last meeting additional comments have been received which state that the initial travel plan submitted with the application allows existing travel patterns to be monitored and baseline data and targets to be established. The conditions in respect of travel plans are therefore considered to be robust.

**Health and Safety Executive:** Does not advise on safety grounds against the granting of planning permission.

**Shire Group of IDBs:** No objection, comments made in relation to surface water disposal.

**Environment Agency:** No objection, recommend a condition.

**Humberside Fire and Rescue:** It is a requirement that adequate access for fire-fighting is provided to all buildings or extensions to buildings.

**Drainage (Lead Local Flood Authority):** No objection.

**Public Health:** No objection, support the recommendations of both the Environment Agency and the IDB.

**Environmental Protection:** No objection, recommend conditions.

## **PARISH COUNCIL**

No objection, request that consideration be given to the impact on neighbouring residential properties and highway safety.

## **PUBLICITY**

A site notice was displayed; 24 letters of objection have been received raising the following issues:

- competition with existing children's nurseries and potential job losses
- not a sustainable location
- lack of information with the planning application
- environmental sustainability
- not accessible for walking
- the location choice is opposite to the sustainable merits of the application
- no footpath provision
- no travel plan
- too many nurseries
- it is located in the countryside
- pedestrian and highway safety issues
- lack of parking provision
- no public transport.

Two letters of support have also been received.

## **STATEMENT OF COMMUNITY INVOLVEMENT**

No Statement of Community Involvement has been submitted with this application.

## **ASSESSMENT**

This application was deferred at a previous meeting of the planning committee to allow members to visit the site before making a decision. It was then deferred at the subsequent meeting to allow additional information in respect of travel plans and sustainable modes of travel to the site.

The application site is an agricultural field, which extends to 1.08 hectares in area and is outside the defined settlement boundary for Messingham, to the west of the Catchwater cross-roads (where Butterwick Road intersects North Moor Road/Lane). It is a rectangular piece of land bounded by watercourses along three of its boundaries and has an existing gated field access from Butterwick Road to the north. There is a row of residential properties to the north-east and a fishing lakes business to the west. This application seeks to establish a change of use of the land for an eco-children's nursery on this agricultural field consisting of an office block, classroom, allotments, car park and poly tunnels.

**The main issues in the determination of this application are the principle of development, impact on the character and appearance of the countryside and flood risk.**

## **Principle**

The proposal is for the creation of a new business in the open countryside. Of direct relevance to this proposal is policy RD2 of the North Lincolnshire Local Plan (NLLP) which states that development in the open countryside will be strictly controlled and only permitted for development which is employment related development appropriate to the open countryside. Policy CS3 of the adopted Core Strategy (CS) echoes this policy approach and states the following in respect of development outside defined settlement boundaries:

*Development outside these defined boundaries will be restricted to that which is essential to the functioning of the countryside. This will include uses such as those related to agriculture, forestry or other uses which require a countryside location or which will contribute to the sustainable development of the tourist industry.*

In terms of national planning policy, the NPPF, at paragraphs 83 and 84, states:

*Planning policies and decisions should enable:*

a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*

and

*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).*

It is worth noting the NPPF is not discriminatory about the types of businesses to be located in a rural area, save they are grown in a sustainable manner and that they may be sited in locations not well served by public transport. This proposal is for the change of use of land to establish an eco-children's nursery. The location has been chosen to take account of the activities required in a countryside location such as outdoor learning, educating children on how to live more sustainably, developing an appreciation for nature, growing fruit and vegetables, rearing animals and reducing waste (including that generated from the proposal). The applicant proposes semi-permanent buildings and structures which are designed to be in keeping with the rural nature of the proposal and the promotion of

spirituality, managing emotions and moral well-being in a quiet rural setting. It is considered that the proposal complies with policies RD2 of the NLLP and CS3 of the CS as it is employment-related development appropriate to a countryside setting as the range of services being offered and business ethos (outdoor learning, outdoor play, learning about nature etc) requires a rural setting which could not reasonably be accommodated in defined settlement limits. In addition, the applicant is not proposing to develop the whole site as they are seeking to grow the business organically; this is consistent with the NPPF which requires them to be grown in a sustainable manner and the site offers room for expansion in the future.

Policy C4 of the NLLP applies and sets out the criteria for considering sites for children's day care provision. Applying this criteria to the development proposals, it will provide a safe environment for children, being located away from the car park and from Butterwick Road; there are facilities for visitor and staff parking, and servicing; and there is landscaping in the form of hedge and tree planting along all boundaries, including the northern boundary facing towards Butterwick Road. In addition, there are opportunities to supplement this landscaping but for the reasons set out in the next section of this report this is not considered to be a requirement at this time. The plans show there is provision for public and staff parking and this area is kept separate from the main teaching block and reception area; no objections have been received from Highways in relation to the level of parking provision or on grounds of highway safety. A condition is recommended by Environmental Health limiting the hours of operation of the nursery from 7.30am to 6.30pm Monday to Friday; this is consistent with the hours recommended in policy C4 in a residential area. It is worth noting that policy C4 does not specify that a countryside location is not an appropriate site for a children's day nursery.

A number of objectors have raised issues in relation to the location of the site in that it is not a sustainable location and that the business being eco in its ethos is questioned owing to its proposed location in the countryside. It is noted that this site is located in the countryside, outside of any defined settlement boundary, and is not close to bus stops or sustainable modes of travel, and it does not have a highway footpath serving it. However, the business model is one that requires a rural location and Highways have not objected to the proposal on pedestrian or highway safety grounds, and the proposal is not considered to result in an alien or discordant form of development in the rural landscape. In addition, the nature of a children's nursery is that parking provision is normally a requirement for drop-off and pick-up purposes and therefore these types of business generate traffic regardless of whether they are located within the built framework of a settlement or within the countryside. Following the last meeting, Highways have confirmed that the initial travel plan submitted with the application establishes existing travel patterns and baseline data. Their response adds that travel plans are live documents and the recommended conditions (9 and 10) allow for the travel plan to be submitted and then reviewed over time, taking into account the way in which the business will operate once it becomes established, the nature of the business and the location in which it is situated. Highways confirm a similar position to that above in that the nature of a children's nursery, regardless of its location, tends to have the car as its principal mode of travel to and from the facility and this site has good visibility along a straight section of Butterwick Road in both directions. Finally, Highways are of the opinion that the conditions recommended in relation to the submission and review of travel plans are robust in this case.

The applicant has put forward the environmental credentials of the site in that energy will be generated from on-site renewables (solar panels), waste will be reduced by composting, rainwater harvesting and waterless composting toilets, and food products will be grown on

the site. These factors, together with the eco-nursery business model, are considered benefits which outweigh the potential harm to the rural location of the site. The proposal is thus considered to comply with policies RD2 and C4 of the NLLP, C3 of the adopted CS and guidance in the NPPF.

### **Impact on rural landscape**

The applicant has already undertaken some works on the site which consist of the formation of the car parking area and some fencing. However, the introduction of the semi-permanent buildings, including the classroom, office and polytunnel, has the potential to impact on the character and appearance of the rural landscape. The largest of these buildings is the classroom which measures 17 metres by 7.782 metres, with an overall height of 3.9 metres. This building will be located approximately 25 metres to the south of the vehicular entrance and will be constructed from timber walls with a dark shingle roof. Similarly, the proposed office building will be of timber construction and measures 5.1 metres by 4.8 metres, with a ridge height of 2.38 metres. The majority of these structures and buildings will be located in the central part of the site, away from the site entrance. In addition, there is mature tree and hedge planting along all boundaries of the site and further screening is provided by a dense wooded area to the east and south-east. Therefore, it is considered that the built aspects of the proposal will not be highly visible in the open countryside, and given the materials of construction (i.e. timber) and low heights (classroom 3.9 metres, office 2.38 metres and polytunnel 2.54 metres), these buildings/structures will not form alien or discordant features in the rural landscape. In addition, the nature of these buildings/structures are that they are not permanent and can easily be removed from the site when no longer required.

### **Flood risk**

The site is located in flood zone 2/3a as defined in the North Lincolnshire Strategic Flood Risk Assessment or SFRA. A Flood Risk Assessment (FRA) has been submitted with the application, which has been reviewed by the Environment Agency and no objections have been received on flood risk grounds. The response from the Environment Agency states that the site level is slightly below the critical flood level of 4.1 metres AOD as established in the SFRA. However, the Environment Agency has not objected to the proposal and recommends a condition that the development takes place in accordance with the mitigation measures set out in the FRA. On this basis it is considered that the development is safe without increasing flood risk elsewhere.

The proposal is for a 'more vulnerable' use (non-residential uses for health services, nurseries and educational establishments) in a high flood risk area, therefore there is a requirement for both the sequential and exceptions test to be applied and passed. The applicant has submitted an updated FRA which includes additional details of the sequential and exceptions test. The applicant has applied the sequential test and set out the radius of the search area to that which would reasonably be located within the catchment of the proposed children's nursery; this takes into account the villages of Messingham and Scotter and the southern edges of Scunthorpe. The sequential test was applied using an online search of available sites and through contacting property agents in the area. Two sites in Scunthorpe were identified but were discounted on account of them being located on industrial estates and the sites do not provide the space and setting required for an eco-nursery. A site was identified on Wendover Road in Messingham but this was located within the settlement boundary (an inappropriate setting for an eco-nursery) and had planning

permission for residential development. Given the requirement for a rural setting to provide a children's eco-nursery, it is considered that the sequential test is passed in this case.

The exceptions test then needs to be applied. Essentially, the two parts to the test require proposed development to show that it would provide wider sustainability benefits to the community that outweigh flood risk, and that it would be safe for its lifetime, without increasing flood risk elsewhere and, where possible, reducing flood risk overall. Subject to the condition recommended by the Environment Agency, it is considered that the FRA satisfactorily demonstrates that the development would be safe without increasing flood risk elsewhere. In respect of the exceptions test, the updated FRA states that the proposal will have socio-economic and environmental benefits, there is demand for an additional children's nursery in this area and the nursery will be a relatively unique offer in the area. As stated previously in this report, it is considered that the proposal complies with policies RD2 of the NLLP and CS3 of the CS as it is employment-related development appropriate to a countryside setting, as the range of services being offered and business ethos (outdoor learning, outdoor play, learning about nature etc) requires a rural setting which could not reasonably be accommodated in defined settlement limits. On this basis it is considered that the proposal would provide wider sustainability benefits that outweigh flood risk; the exceptions test is considered to be passed. In conclusion, the applicant has satisfactorily demonstrated that the proposal would provide wider sustainable benefits to the community which outweigh flood risk. The proposal is therefore considered to comply with policies DS16 of the local plan, CS19 of the Core Strategy and the NPPF in terms of flood risk.

Following the last meeting, the applicant has confirmed by email, that the floor levels of the proposed buildings on the site (including the classroom and office) can be lifted to a maximum of 0.5 metres above the existing ground levels. This would ensure that the applicant can meet the terms of condition 4 recommended by the Environment Agency and can therefore demonstrate the development is safe in flood risk terms.

### **Other issues**

A number of objectors have raised issues relating to the impact on existing children's nurseries in the Messingham area. It should be noted that competition to existing businesses is not considered to be a material planning issue and therefore it will not be assessed in this case.

### **Conclusion**

In the opinion of the local planning authority, the development proposals represent a form of employment-related development which is appropriate in a rural setting. Furthermore, the proposed children's eco-nursery will be sufficiently screened and will not form an alien or discordance feature in the rural landscape. In addition, the applicant has satisfactorily demonstrated that the proposed development would provide wider sustainable benefits to the community which outweighs flood risk and thus the proposal is considered to comply with policies DS16 of the local plan, CS19 of the Core Strategy and the NPPF in terms of flood risk. The application is therefore recommended for approval.

### **Pre-commencement conditions**

The applicant has agreed to a pre-commencement condition being imposed, if planning permission is granted, requiring the submission of a contaminated land investigation report.

**RECOMMENDATION**      **Grant permission subject to the following conditions:**

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: PA/2020/764/01, 2020/764/P1, 2020/764/O1, 2020/764/O2, 2020/764/L1, 2020/764/L2, 2020/764/L3, 2020/764/L4, 2020/764/L5 and 2020/764/L6.

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 4 has been complied with in relation to that contamination.

#### Part 1: Site Characteristics

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health;
  - property (existing or proposed), including buildings, crops, livestock, pets, woodland, and service lines and pipes;
  - adjoining land;
  - groundwaters and surface waters;
  - ecological systems;
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and a proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the management of Land Contamination, CLR 11'.

#### Part 2: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### Part 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks' written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

#### Part 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 3.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policy DS7 of the North Lincolnshire Local Plan.

#### 4.

The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) and in particular the following mitigation measures detailed within the FRA:

- all buildings to be set at or above existing site levels
- flood emergency procedures to be in place.

Reason

To reduce the risk and impact of flooding to the development and future users.

5.

No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

6.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), nothing shall at any time be erected, retained, planted or allowed to grow over 1.05 metres in height above the level of the adjoining carriageway for a distance of 2 metres from the highway boundary across the site frontage.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

7.

The proposed new facilities shall not be brought into use until the vehicle access to it and the vehicle parking, turning and servicing areas serving it have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

8.

No signage of any kind associated with the proposal shall be positioned within the limits of the adopted highway.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

9.

The final travel plan shall be submitted to and approved in writing by the local planning authority within six months of the proposed development being brought into use and all conditions and requirements of the plan, once approved, shall be implemented and retained at all times.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

10.

The travel plan, once approved and in place, shall be subject to monitoring on an annual basis for a period of three years from the approval date. The monitoring report on the impact of the travel plan shall be submitted to the local planning authority on the first of January each year following the grant of planning permission. All amendments to the approved travel plan identified as a result of the monitoring process shall be implemented and retained.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

11.

The hours of operation for the children's eco-nursery hereby permitted shall be restricted to the following:

- Monday to Friday: 7.30 am to 6.30 pm
- Saturdays, Sundays, bank/public holidays: closed.

Reason

To define the terms of the permission and in the interests of safeguarding residential amenity in accordance with policies DS1 and C4 of the North Lincolnshire Local Plan.

### **Informative 1**

The development hereby granted planning permission requires works to be carried out within the limits of the adopted (public) highway. Therefore:

- before ANY construction works take place within the limits of the highway you MUST contact the highway authority on telephone number 01724 297000 to arrange for the relevant permissions/licenses to be issued;
- before ANY service (utility) connections take place within the limits of the highway you MUST contact the highway authority on telephone number 01724 297319 to arrange for the relevant permissions/licenses to be issued.

### **Informative 2**

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/2020/764 Proposed layout (not to scale)

Kate s Medow, Butterwick Road, Messingham, North Lincolnshire, DN17 3PL

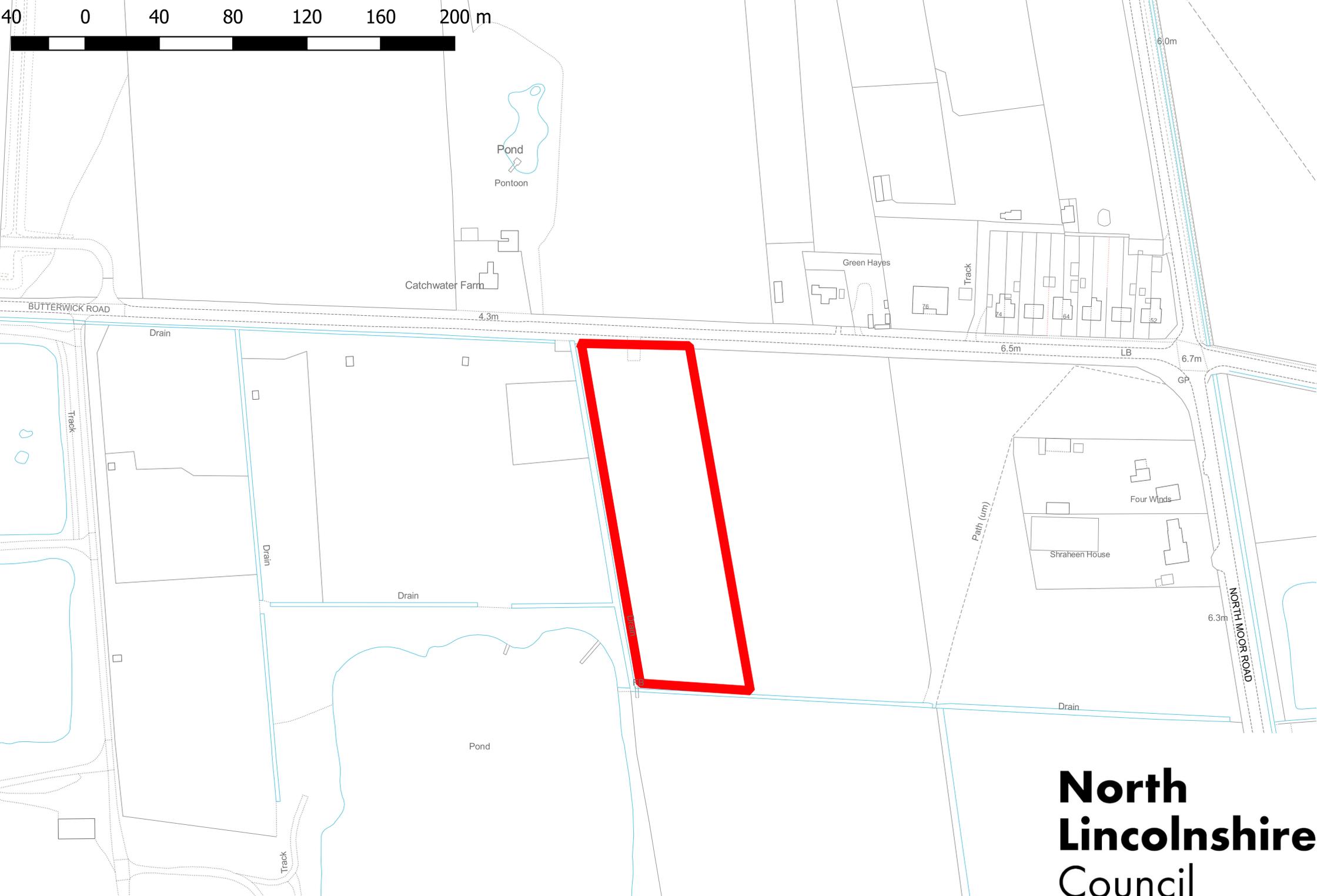


Site Plan shows area bounded by: 487681.25, 404025.0 488081.25, 404425.0 (at a scale of 1:2500), OSGridRef: SE8788 422. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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**North  
Lincolnshire  
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**PA/2020/764**

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