

<b>APPLICATION NO</b>	<b>PA/2021/1286</b>
<b>APPLICANT</b>	Mr Paul Chapman
<b>DEVELOPMENT</b>	Planning permission for change of use from a motel to residential, including demolition of restaurant extension
<b>LOCATION</b>	Duke William Hotel, 27 Church Street, Haxey, DN9 2HY
<b>PARISH</b>	Haxey
<b>WARD</b>	Axholme South
<b>CASE OFFICER</b>	Scott Jackson
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Significant public interest Member 'call in' (Cllr David Rose – significant public interest) Objection by Haxey Parish Council
<b>POLICIES</b>	

#### **National Planning Policy Framework:**

Paragraph 2 – Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Paragraph 11 – Plans and decisions should apply a presumption in favour of sustainable development. For plan-making, this means that:

- (a) plans should positively seek opportunities to meet the development needs of their area and be sufficiently flexible to adapt to rapid change;
- (b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:
  - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type, or distribution of development in the plan area; or
  - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

For decision-taking this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or
- (d) where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.

Paragraph 12 – The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Paragraph 92 – Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

- (a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
- (b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas; and
- (c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

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

C2 – Community Facilities in Minimum Growth Settlements and Rural Hamlets and Villages in the Open Countryside

DS1 – General Requirements

DS14 – Foul Sewage and Surface Water Drainage

T2 – Access to Development

T19 – Car Parking Provision and Standards

LC14 – Area of Special Historic Landscape Interest

H5 – New Housing Development

HE5 – Development affecting Listed Buildings

**North Lincolnshire Core Strategy:**

CS1 – Spatial Strategy for North Lincolnshire

CS2 – Delivering More Sustainable Development

CS3 – Development Limits

CS5 – Delivering Quality Design in North Lincolnshire

CS6 – Historic Environment

CS7 – Overall Housing Provision

CS8 – Spatial Distribution of Housing Sites

CS22 – Community Facilities and Services

**CONSULTATIONS**

**Highways:** No objection, but recommend an informative relating to works within the public highway.

**Environmental Health:** Recommend a condition in respect of contaminated land investigation.

**Conservation:** No objection.

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

**PARISH COUNCIL**

Objects on the following grounds:

- This is the fifth application in three years and nothing has changed in terms of the development proposals.
- No fresh evidence has been presented in respect of the economic viability of the building.
- The sales particulars show the motel to be profitable and financially attractive.
- Questions were raised into the future use of the outbuildings to the rear of the site.

- There is an overwhelming majority to retain the Duke 'pub', expressed at the public meeting held in February 2018, which remains convincing evidence of the massive desire to reject this further application.
- For 300 years the Duke William has been an important village community pub.
- Concern the ownership certificate in the application form appears to be incorrect (the applicant owns only 50% of the issued share capital) and therefore it seems likely that this application is not valid.
- The applicant claims that 'the pub has been financially unviable for 10+ years' and states that accounts to support such claim have been submitted. No such accounts have been made available for public inspection. The parish council takes the view that if financial documents are relied upon in support of this application, then all relevant accounts should be made available for public scrutiny.
- On behalf of the owner the applicant himself actually agreed that the main pub and restaurant building be designated an Asset of Community Value (ACV). In the previous applications NLC planners do not appear to have attributed either sufficient weight or appropriate importance to such designation. The Duke William remains an ACV and must be protected as such.
- The applicant has failed to demonstrate that all options for continuance of the pub and restaurant have been fully explored and this application thus fails to satisfy policy C2. Such also fails as no potential replacement with similar facilities exists.
- The fact that the main pub building and restaurant have been boarded-up and allowed by the applicant and/or Duke William (Haxey) Limited to fall into disrepair to create a blight on the street scene is certainly not a reason to support this application.
- The 'Sales Particular Cover Letter' (RTA Business Sales dated 7 December 2009) appearing on the NLC portal is meaningless. It provides no evidence whatsoever that the Duke William was marketed as such.
- Duke William occupies a fundamentally vital position in the historic tradition of Haxey life and community wellbeing, including the Haxey Hood. Just because the applicant has proved unable to manage the business in an attractive profitable manner there is no reason to allow the asset to be lost – to do so would be a condemnation of this generation and its representatives.
- Conversion of the main pub building to a private house would not constitute or provide affordable housing and would make no contribution to the overall housing supply in North Lincolnshire.
- Concerns about parking: the application is unclear as to where the siting and access would be. The site plan makes no indication at all.
- The Duke William provides important amenities for visitors; any loss of even part of its facilities would adversely impact attracting visitors to Haxey and the immediate area and make the business less viable.

## **PUBLICITY**

A site notice has been displayed and a significant number of objections (185) have been received in relation to this planning application (a number of which have used a generic template and some are from anonymous contributors). These raise similar issues to the parish council together with the following:

- inappropriate development
- the pub is an Asset of Community Value (ACV)
- impact on the listed building
- the previous reason for refusing the application remains valid
- the pub should remain in use for the community
- there is no 'like for like' community facility
- the business has been marketed at an inflated price
- it is contrary to policy CS2
- demolition of the restaurant will impact on the character and appearance of the area
- it offers local accommodation for tourists, workers and contractors
- CAMRA guidance should be applied to measure the economic viability of the business
- accounts have not been made available for public viewing.

## **ASSESSMENT**

The Duke William is a two-storey motel and public house building with a single-storey restaurant extension adjoined to the east. It fronts Church Street (B1396) to the south and is constructed from red brick with a slate tiled roof. It is located within the development boundary for Haxey and is in flood zone 1. It has an existing vehicular access from Church Street to the side (to the east) which provides access to a range of adjoining outbuildings, a car park and grassed area to the rear. The Duke William fronts Church Street to the south and is bounded by a listed building (23 and 25 Church Street) to the west. The rear of the plot is the extended motel rooms. The Duke William is not a listed building and the site is not within a conservation area.

Planning permission is sought for the change of use of the Duke William motel to a dwelling, including the demolition of the restaurant extension adjoined to the east.

By way of background, there have been several planning applications on the site. These include:

PA/2021/240: Planning permission for a change of use of the Duke William motel to a single dwelling, including demolition of part of the restaurant – refused by the planning committee on 04/06/2021

PA/2020/1354: Planning permission to erect six two-storey detached dwellings and change the use of the main building of the Duke William motel to residential use (and demolish an existing side extension to the Duke William and rear chalets) – refused by the planning committee and an appeal dismissed 28/01/2021

PA/2018/814: Planning permission to erect seven two-bedroomed detached bungalows and a two-storey detached dwelling adjacent to the Duke William and change the use of the main building of the Duke William to residential use (including demolition of an existing side extension to the Duke William and rear chalets) – refused by the planning committee and an appeal dismissed 25/10/2019

Of these, PA/2021/240 is most relevant as this current proposal is a resubmission of that application, which was refused by the planning committee on the following grounds:

‘The proposal will result in the loss of a valued facility/service within the rural settlement of Haxey. The council does not consider that it has been adequately evidenced that the facility is not economically viable and that all options for its continuance have been fully explored, and that there is no longer a need for the building in any form of community use. Accordingly, the proposal is contrary to paragraph 92 of the National Planning Policy Framework, policy CS22 of the Core Strategy and policy C2 of the North Lincolnshire Local Plan.’

**The main considerations in the determination of this application are the principle of development, impact on residential amenity, impact on the setting of the listed building, and parking and highway issues.**

### **Principle**

The proposed development, which involves the change of use of the existing building to a dwelling, would result in the loss of a public house and motel, which is considered to be a community facility in planning terms. Paragraph 92 Part C of the NPPF requires planning policies and decisions to ‘guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.’

Policy C2 of the North Lincolnshire Local Plan (NLLP) applies and states that proposals for change of use of vacant premises to non-community uses in rural local centres will only be permitted where it can be demonstrated that these facilities are not economically viable and that all options for their continuance have been fully explored, and/or an accessible replacement facility exists elsewhere in the local centre.

Policy CS22 of the adopted Core Strategy (CS) echoes a similar approach and states the loss of such community facilities should be resisted unless there is no longer a need for the land or building in any form of community use, or there is an acceptable alternative means of meeting such need.

In respect of the policies above, it is noted the proposal, if permitted, would result in the loss of a community facility. However, it is considered there are additional pubs within Haxey (Kings Arms and The Loco) and in the neighbouring settlement of Westwoodside (Carpenters Arms) within the same parish which could sufficiently meet the replacement

need of the facility. In addition, The Loco public house is 10 metres from the Duke William motel and offers an accessible alternative facility.

In considering whether it can be demonstrated the business is economically viable, the business accounts show the Duke William was not operating viably prior to its closure. The applicant has submitted an access and design statement and financial statements for 2009 to 2019. The financial statement cannot be made public under The Data Protection Act 2018, but they set out the agent hired to advertise the property for sale and the reasons for applying for the change of use. The Duke William has been financially unviable for over 10 years and the bar and restaurant has been closed since November 2019. (An account statement has been submitted alongside this application.)

In considering whether it can be demonstrated that these facilities are not economically viable, financial statements submitted with the application demonstrate that the Duke William motel has been unviable for a period of time. Regarding marketing of the motel, all matters taken into consideration, the local planning authority is of the opinion the letter from the RTA Business Sales Specialist, dated 7 December 2009, is acceptable certification of marketing of the business and therefore considered adequate for the processing of the application. The marketing of the business is an attempt to secure suitable alternative business or local community re-use of the Duke William motel by the public. There is some supporting evidence of interested parties submitted with the planning application, however the extent of this interest this was solely on downloading the sales particulars and there is no evidence of a buyer or an offer made for the business from the public who could operate the business successfully.

During the site visit, it was observed by the case officer that the main pub building, and associated restaurant is boarded up and is in a visible state of disrepair. This has also been observed in a number of the representations received from members of the public. It is considered the pub would require considerable investment to upgrade and refurbish and if it continued to stay in its existing condition it would potentially deteriorate further to a point where it would not be economically viable to refurbish. The proposal would also deliver a dwelling in a sustainable location in the historic core of Haxey, close to existing community facilities and sustainable modes of travel. This would also contribute towards the housing supply figure in North Lincolnshire and ensure the building stays in a good state of visible repair.

In this case, on balance, the benefit of the refurbishment and the change of use to a dwelling outweighs the benefit of operating an unviable business and the risk of further deterioration of the business as there is no evidence of interested parties who will run the business as a motel.

A number of objections have been received raising concerns about the way the pub has been marketed and its price. Others have raised doubt over its marketing and indicate that the viability explanation lacks robustness because a change of use of the Duke William motel would result in the loss of a community facility. Similarly, Haxey Parish Council has raised concerns about the loss of the public facility, its marketing, and its viability. The local planning authority acknowledges the issues facing the business which have ultimately resulted in it being unviable to continue operating as a public house.

From the objections, it is evident there is local objection to the way in which the public house has been managed. This is clearly contrary to the views of the management of the public house, but is not within the remit of the council to decide. It is also worth noting that,

for a variety of reasons, the community have a special attachment to the pub, which is at the centre of the objections. While this is reasonable, it does not solve the issue of the viability of the business, any business interest and subsequently whether an alternative use of the building (in this case residential) should be considered.

In conclusion, considering the main issues in the determination of this application, on balance, the impact of harm, when assessed against the associated benefits, as per paragraph 11(d) of the NPPF, policies CS1, CS2, CS3 and CS22 of the Core Strategy and policy C2 of the local plan, it is considered by the local planning authority the proposed change of use to a dwelling is acceptable, the benefit outweighs the current unviable business and the deterioration of the building, and should be supported.

The principle of development is therefore considered acceptable as there is sufficient supporting evidence the Duke William motel is not a viable business, and no prospective buyer has come forward following its marketing. There is no longer a need for the Duke William motel in any form of community use, and whilst the proposed loss of the public house is unfortunate, the settlement of Haxey would still be served by other public houses in accessible locations.

### **Residential amenity**

It is considered that residential use would be acceptable in this location given the public house is situated in an established residential area. The change of use of the public house could have a positive effect on the amenity of residents who live closest to the property by removing a potential source of late-night noise and disturbance. As the new windows proposed in the upper floor side elevation of the converted dwelling (in its eastern wall) will have an outlook onto the new garden serving the dwelling and across the access road to the site, it will not give rise to overlooking in this case. In addition, it is considered there is sufficient residual space (following demolition of the restaurant) of approximately 360m<sup>2</sup> with which to provide an area of private amenity space to the side of the dwelling and to provide a minimum of two off-street parking spaces. A condition is recommended requiring details of the proposed method of boundary treatment to be erected around the area to the side of the dwelling to allow the local planning authority to ensure the garden is sufficiently screened from both the highway footpath and the access to the rear of the site.

### **Impact on the street scene/listed building**

The plans show the only external change to be the demolition of the later single-storey extension to the side of the building and the installation of a number of windows in its eastern elevation (to serve three bedrooms at first floor and a dining room and kitchen at ground floor). The plans also show the traditional appearance of the building along its principal elevation adjacent the highway footpath to the front will remain unaltered and the chimneys to each end of the roof slope and the timber portico that frames the front door will be retained. The new windows proposed in the side elevation of the building will be proportionate to the size of existing openings and will include the same cill and header detailing. In terms of design, the change of use would retain and respect the original character and features of the building and is in keeping with the appearance of neighbouring residential properties. The proposal will also bring the building back into use, albeit an alternative residential use and this will ensure the appearance of the building is maintained and doesn't fall into visual disrepair.



Policy HE5 (Development affecting Listed Buildings) seeks to secure the preservation, restoration and continued use of buildings of special architectural or historic interest. When applications for planning permission relating to a listed building or listed building consent are being assessed, the primary consideration will be the need to preserve or enhance the fabric and character of the building. Permission or consent will not be granted unless it has been demonstrated that the proposed works would meet this objective. The conservation officer has raised no objection to the proposals and given the limited external alterations (including demolition of the restaurant extension) proposed to the building it is considered the proposed conversion will not harm the setting of the adjacent listed building.

### **Highway safety**

Policy T2 of the North Lincolnshire Local Plan states that all development should be served by a satisfactory access. Policy T19 is concerned with parking provision as well as general highway safety. The development would utilise the existing access off Church Street which runs to the east of the site and there is ample space to the side and rear of the property to provide a minimum of two off-street parking spaces. Highways have raised no objection to the proposal on pedestrian or highway safety grounds and the proposed development is not likely to result in an increase in vehicle movements compared to when the public house and motel was in operation. The proposed change of use is therefore considered to be acceptable on highway safety grounds.

### **Other issues**

Environmental Health has recommended a condition for contaminated land investigation as a result of the restaurant extension being demolished. Given there is existing built form on this part of the site and it will be used as garden and parking as a result of the change of use, it is considered neither reasonable or necessary to recommend a condition for contaminated land investigation in this case. Should any unexpected contamination be encountered then a condition is recommended to ensure this is investigated.

In relation to the buildings and land at the rear, this proposal would not impact directly on these buildings or land and would not significantly change the current usage and therefore there is no issue. Other private issues have been raised that are not relevant planning matters for consideration in the assessment of this application. The concerns raised that are relevant to this application have been addressed in this report.

### **Conclusion**

This application is accompanied by information in support of the proposal which seeks to demonstrate that the business is not viable and shows a trading loss, including the marketing of the property. Whilst information such as the publications in which the adverts appeared, along with web addresses for websites on which it was marketed and the dates from and to the advert appeared, have not been submitted, on balance, the council accepts the agreement with RTA Business Sales dated 7 December 2009 that it has been marketed.

From the financial statements submitted with the application, it is considered that the existing use of the Duke William motel is no longer commercially viable. Furthermore, an acceptable level of means of retaining the public house has been explored by marketing it, but no interest has been shown by any prospective buyer and the business is therefore considered no longer commercially viable. Additionally, the application has demonstrated

that the premises could be used to provide a dwelling and there are alternative, accessible community facilities and services to meet the community need.

For the reasons set out above, it is accepted that reasonable attempts have been made to secure business re-use of this site and that there is a lack of demand for community use. In all other respects, the proposed change of use of the premises to a dwelling raises no substantive residential amenity, visual amenity or highway safety concerns. It is therefore considered to conform with the relevant policies of the North Lincolnshire Local Plan and the Core Strategy and the application is recommended for approval.

**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: LIDW 002, LIDW 003, Proposed Floor Plans and Proposed Elevations.

Reason

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

3.

If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement detailing how this contamination shall be dealt with has been submitted to and approved in writing by the local planning authority.

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.

No above ground works shall take place until details of the positions, design, materials and type of boundary treatment to be built/planted have been agreed in writing by the local planning authority. The agreed boundary treatment shall be built/planted before the dwelling is first occupied and once built/planted it shall be retained.

Reason

To provide an appropriate level of screening in accordance with policy DS1 of the North Lincolnshire Local Plan.

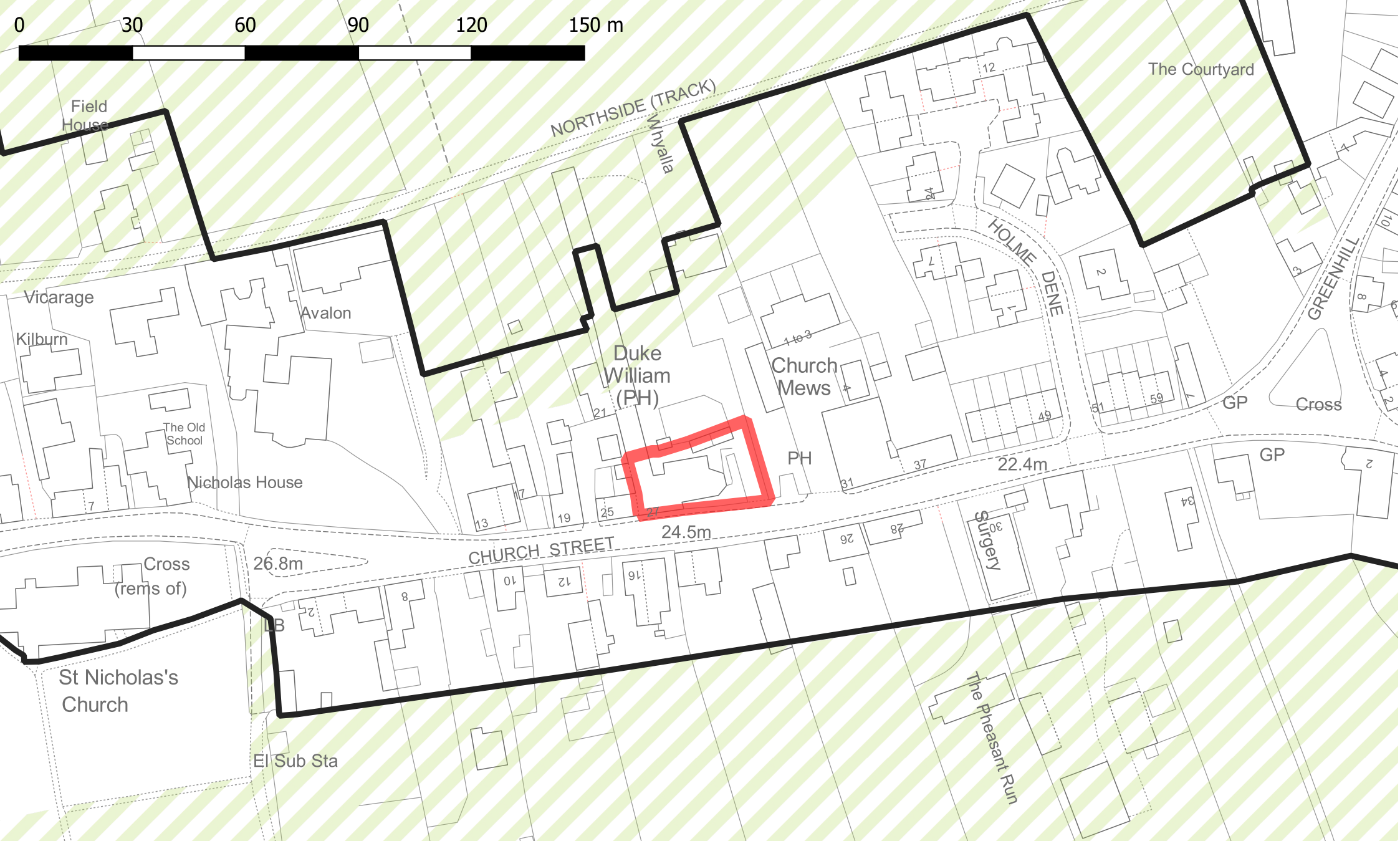
**Informative 1**



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.



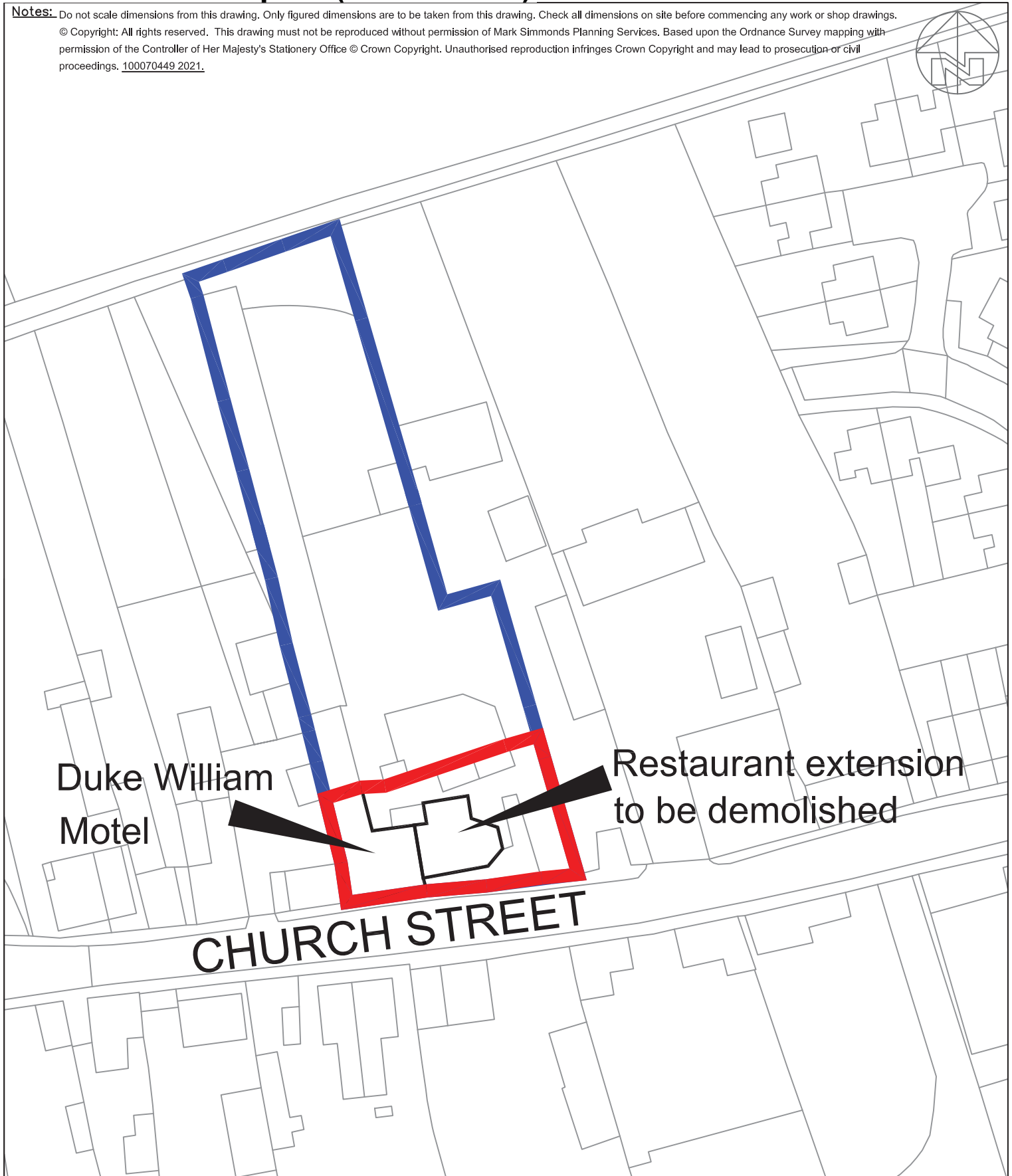
 LC14 Isle of Axholme Area of Special Historic Landscape Interest  
 Development Boundary

**North  
Lincolnshire  
Council**

**PA/2021/1286**

# PA/2021/1286 Site plan (not to scale)

**Notes:** Do not scale dimensions from this drawing. Only figured dimensions are to be taken from this drawing. Check all dimensions on site before commencing any work or shop drawings.  
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Drawing Title		
PROPOSED PLAN CHURCH STREET HAXEY		
Ref:	Scale @ A4	Date
LIDW 003	1:750	FEB/21



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