

APPLICATION NO	PA/2013/0455
APPLICANT	Messrs Lovell, Crosby, Knowles, Lee, Mitchell, Tapsell, Price, McElvaney, Farrow, Miller, Jones & Jones
DEVELOPMENT	Planning permission to retain change of use of land for the stationing of caravans for residential occupation with associated works to include land raising, hard-standing, amenity blocks, fencing and landscaping (set out in 12 plots for occupation by Gypsy/Traveller families) (resubmission of PA/2012/0456)
LOCATION	Plots 1-12, Mill Lane, Brigg
PARISH	BRIGG
WARD	Brigg and Wolds
CASE OFFICER	Ron White
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Objections by Brigg Town Council and Scawby Parish Council

POLICIES

National Planning Policy Framework: Paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but, where development is necessary, it should be made safe without increasing flood risk elsewhere. A sequential test should be undertaken. If no alternative sites are identified in lower flood risk areas then an exceptions test should be applied to ensure the development is made safe.

Planning policy for Traveller sites: This policy came into force in March 2012 and replaces ODPM Circular 01/2006, 'Planning for Gypsy and Traveller Caravan Sites'. It sets out the main criteria for site designations:

- that local planning authorities should make their own assessment of need for the purposes of planning
- to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
- to encourage local planning authorities to plan for sites over a reasonable timescale
- that plan-making and decision-taking should protect green belts from inappropriate development
- to promote more private Traveller site provisions while recognising that there will always be those Travellers who cannot provide their own sites

- that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective
- for local planning authorities to ensure that their local plan includes fair, realistic and inclusive policies
- to increase the number of Traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply
- to reduce tensions between settled and Traveller communities in plan-planning and planning decisions
- to enable the provision of suitable accommodation from which Travellers can access education, health, welfare and employment infrastructure
- for local planning authorities to have due regard to protecting local amenity and local environment

Policy H, paragraph 22 requires local planning authorities to consider applications favourably, especially where a need is identified and there is a lack of suitable accommodation.

North Lincolnshire Local Plan: Policy DS1 (General Requirements) provides general design guidance in relation to all new development.

North Lincolnshire Core Strategy: Policy CS10 (Gypsies, Travellers and Travelling Showpeople Sites) states that sites will be identified to meet demand for approximately 46 residential Gypsy and Traveller pitches between 2007 and 2016 and a further 10 transit pitches jointly across North and North East Lincolnshire within the same period. The following criteria will be used to designate sites:

- safe and convenient vehicular and pedestrian access to the site, including public transport
- be large enough to provide adequate on-site facilities for parking, storage, play and residential amenity
- should be well located on the highway network
- be in or near to existing settlements with access to local services, including shops, schools and health care
- not have an adverse impact on environmental assets such as landscape, historic environment, biodiversity, open space and green infrastructure and avoid areas shown at risk of flooding in the Strategic Flood Risk Assessment (SFRA)
- should not be detrimental to the amenities of adjacent occupiers
- must be suitable for such accommodation with a realistic likelihood that the site can come forward within the plan period

Previously developed land, derelict land and land on the edge of urban areas will be considered before any rural sites, as with all other types of accommodation.

CONSULTATIONS

Highways: No objection but the Drainage team has pointed out that the area is susceptible to potential river and surface water flooding.

Network Rail: No objection subject to certain requirements being met.

Anglian Water: No comments.

Humberside Police: No objection but the development should incorporate measures to minimise the risk of crime.

Humberside Fire and Rescue Service: No comments.

Environment Team: No objection subject to a condition.

Environment Agency: No objection subject to a condition.

BRIGG TOWN COUNCIL

A verbal update will be made at the meeting.

SCAWBY PARISH COUNCIL

Object for the following reasons:

- The land is situated in flood zone 3 and therefore there is a high risk of flooding.
- The land is situated in open countryside beyond the development boundary of Brigg.
- Access to Mill Lane is considered inadequate to safely cope with the volume of traffic.

PUBLICITY

Neighbouring properties have been notified, and site and press notices posted. Three letters have been received in which the following issues have been raised, together with some non-material planning considerations:

- besides its residential use the site is also used for business use
- the impact of business use on Mill Lane
- the council has ignored the increased illegal development of the site
- development off an unadopted road
- the foul drainage system in Mill Lane is inadequate for the use by Gypsies and Travellers
- land contamination from previous use to store fertiliser
- adequacy of plots to accommodate private cars and light goods vehicles.

ASSESSMENT

Planning permission is sought to retain the use of land for a private residential Gypsy/Traveller caravan site divided into 12 plots together with other aspects of the development, including land raising, hard-standings, amenity blocks, fencing and landscaping. Each pitch accommodates between 2 and 4 caravans, including a mobile home. The site is located outside the development boundary of Brigg at the southern end of Mill Lane near to the railway embankment. The northern part of Mill Lane has residential properties on both sides of the road. The southern part of Mill Lane is characterised by a cluster of industrial buildings. The River Ancholme forms the western boundary of the site. There are two other private residential Gypsy/Traveller caravan sites on Mill Lane: Mill View Caravan Park directly opposite the application site which was granted planning permission on appeal in 1987 for 25 pitches, later increased to 35 pitches in 1991; and The Paddock to the south-west of the railway embankment granted planning permission on appeal in 2000 for 1 residential caravan and 1 touring caravan.

Relevant planning history

PA/2008/0765 was refused planning permission in July 2008 because the development is located within Flood Zone 3 which is defined as having a high probability of flooding as detailed on the Environment Agency's flood zone maps and in Planning Policy Statement 25 (now superseded by the National Planning Policy Framework). The development is classified as highly vulnerable where such uses should not be permitted in this zone. A second reason for refusal was the proximity of the development to a major hazard site for the storage of hazardous substances. This was withdrawn by the council at the subsequent appeal.

Prior to determination of the application, two enforcement notices were issued, one for the siting of caravans and the other for the raising of the land level. Both enforcement notices and the refusal of planning permission were appealed against. At the subsequent appeal the Inspector dismissed the appeal against refusal of planning permission and upheld both enforcement notices but varied these by extending the period for compliance in each case to 12 months. In dismissing the appeal the Inspector identified the main issues as flood risk and its effect upon the interests of public safety. The extension of the period of compliance with the requirements of the enforcement notices was to allow efforts to be made in identifying suitable alternative caravan sites for the Gypsies/Travellers. Subsequently Planning Committee deferred compliance with the enforcement notices for two further periods of 12 months. However, at the meeting in January 2012 the Planning Committee resolved to defer prosecution in respect of the failure to comply with the two enforcement notices on land in Mill Lane for a period of two months at the end of which, if there was no valid planning application submitted in respect of the use, court action would be initiated.

The current application is a resubmission of PA/2012/0456 which was refused planning permission by the Planning Committee in September 2012 against planning officer recommendation. It was refused for the following reasons:

1. The development lies in Flood Zone 3 as defined in the Strategic Flood Risk Assessment 2011. The council considers that the risk to flooding of this site and adjoining land has not been justified in the absence of a compelling sequential test. The proposal is thus contrary to the advice given in the National Planning Policy Framework and policy CS10 of the North Lincolnshire Core Strategy.

2. The development lies in open countryside outside the development boundary of Brigg and is contrary to policy CS3 of the North Lincolnshire Core Strategy as the development has not been justified as essential to the functioning of the countryside.
3. The access to the site via Mill Lane is considered inadequate to safely cope with the volume of traffic associated with the scale of the development and with servicing the site. Approval of the proposal would have an adverse effect on road safety contrary to policy CS10 of the North Lincolnshire Core Strategy.

Subsequently the applicant lodged an appeal requesting that it be dealt with by public inquiry which was accepted by the Planning Inspectorate and the local planning authority. A statement of the case under Rule 6 was prepared and submitted to defend the council's decision. The statement was examined by the council's barrister who advised that the reasons for refusal did not have a realistic prospect of being successfully defended on appeal resulting in the council potentially being at risk of substantial costs. This was reported to the Planning Committee in April 2013 when it resolved to withdraw all the reasons for refusal for PA/2012/0456. Following this decision the Planning Inspector was informed that the council would not be presenting evidence at the appeal with the council suggesting that the case no longer warranted a public inquiry and was asked to determine the appeal on the basis of non-determination by the council. On hearing that the council had withdrawn its reasons for refusing PA/2012/0456 the appellants decided to submit a repeat planning application to the council (the current application) effectively twin tracking it with the pending appeal. The Planning Inspector has now agreed that there was no longer the need for a public inquiry but considered that it should be changed to a hearing pending the decision of the current planning application. A date of 3 September 2013 has been agreed by both parties for the hearing and is subject to acceptance by the Planning Inspector.

Planning policy

ODPM Circular 01/2006 (Planning for Gypsy and Traveller Caravan Sites) was replaced in March 2012 by Government document 'Planning Policy for Traveller Sites', to be read in conjunction with the National Planning Policy Framework. In accordance with the former circular, a Gypsy and Traveller Accommodation Assessment (GTAA) was produced for North and North East Lincolnshire which identified a need for 34 additional permanent pitches between 2007 and 2012. The GTAA identified Brigg as an area where there is a need for site provision. The new policy advocates that local planning authorities should make their own assessment of need for the purposes of planning.

In light of the new national planning policy, a new assessment of need has been produced which has provided up-to-date needs information and supersedes the existing GTAA. The new assessment has identified a requirement for 22 new residential pitches from 2012 to 2017 and this will drop to 10 pitches if this planning application is granted permission.

Turning to flood risk which, as already stated, was the prime reason for refusal of planning application PA/2008/0765, there has been a significant change in view from the Environment Agency to the revised flood risk assessment (FRA). One of the main shortcomings of the previous FRA was that it failed to adequately address tidal flooding. The FRA submitted with this application recognises that the development is highly vulnerable to the effects of flooding. It proposes mitigation measures that should ensure that the proposed highly vulnerable units are 'safe' from the effects of flooding, including raising land levels above the flood level in an extreme event. The FRA acknowledges that

this land raising could result in increased flood levels elsewhere in the order of 5-10 millimetres. In order to mitigate this the applicants propose to create compensatory flood storage by lowering land levels in the pony paddock. Hence the work proposed to be undertaken in the pony paddock is the key issue in making the development safe. Accordingly the Environment Agency has requested an appropriate condition to include this mitigation measure should planning permission be granted. In accordance with the provisions of the National Planning Policy Framework, paragraphs 100 to 103, the applicant has applied the sequential and exception tests to the development and considers that both tests are met. With regard to the sequential test, there are no suitable and available sites at a lower risk of flooding than the application site. This is borne out by the fact that an intensive search was carried out by this council of all public and private land in the Brigg area for suitable and available sites within the lower flood risk zone which proved negative. Insofar as the exception test is concerned, the applicant has provided details of a water holding area within the pony paddock which will ensure that the development is kept safe at all times.

The main issues which need to be addressed in determining this application are whether there has been any material change in circumstances since the previous application was considered or additional comments from consultees which need to be mentioned and assessed.

Scawby Parish Council has objected to the application on the grounds of flood risk, open countryside location and highway safety, in other words the reasons for the previous refusal.

Humberside Police, although having no objections to the development, have suggested that measures should be incorporated into the development to minimise the risk of crime and to meet the specific security needs of the application site. However it is felt that the applicant has taken adequate measures to address security and crime risk by erecting substantial metal gates at the site entrance.

The inadequacy of the foul drainage system along Mill Lane to accommodate the Gypsy/Traveller site has been mentioned but this has not been raised as an issue by Anglian Water. Each pitch is in fact served by a separate septic tank which is emptied on a regular basis by a local contractor.

The previous use of the site and adjoining land for the manufacture of fertilisers and its possible impact on the health of its occupants has been raised by an objector. This has been recognised by the Environmental Protection team as a relevant consideration and appropriate conditions have been suggested.

A local resident has mentioned the inadequacy of the plots to accommodate private cars and light goods vehicles and the impact of a business use of the site on Mill Lane. However, neither of these issues have been raised by Highways. All the plots are of substantial area to accommodate the needs of their residents. The site has been regularly monitored by the Enforcement Team and there has been no evidence of a business use on the site or any complaints received to this effect.

Currently the site is split into 12 plots with a family on each plot, each with a large residential caravan or mobile home, one or two smaller caravans and associated sheds, cars, vans etc. There is boundary fencing or walls between plots and streetlights which illuminate the main access road from its entrance near the end of Mill Lane. It is secure and

tidy, and run in an orderly fashion. No complaints have been received by the local planning authority about the site itself or any activity on it other than those triggered by the planning applications. It could be argued that it is compatible with the surrounding area. Several of the occupants have tangible links with the local area which include children attending schools in Brigg, many of the occupants having secured employment locally, and all have registered with doctors in Brigg, some having ongoing medical conditions. If the planning application for this site was refused and its occupants evicted there is a distinct possibility that families might disperse around the Brigg area in order to maintain what they see as strong links with this part of North Lincolnshire. They could set up unauthorised encampments on other sites in the town less appropriate than the current one with all the residential amenity, social and planning problems that might bring.

The previous reasons for refusal of PA/2012/0456 have been tested and found to be undefendable by the council's barrister and discarded. The first reason related to flood risk and the failure of the applicant to carry out a proper sequential test. However, the council has agreed with the applicant that there is a lack of alternative sites in the Brigg area. In addressing the sequential test point the applicant would also successfully argue the need for specialist hydrological evidence. The second reason related to policy grounds and the site being situated in the open countryside outside the development boundary of Brigg and contrary to policy CS3. National government guidance makes it clear that a Gypsy/Traveller site can be allowed beyond the settlement boundary where they do not dominate the settlement. The third reason related to Highway issues where there is no professional officer support for the case.

In view of the above, there is no reason now why this application should not be supported. It would be beneficial to the application to be determined by the council rather than by the Planning Inspector whereby appropriate conditions can be imposed to satisfy local needs and circumstances.

RECOMMENDATION Grant permission subject to the following conditions:

1.
Within one month of the date of this permission the applicants shall install the compensatory flood storage area within the pony paddock detailed in the submitted planning application and it shall thereafter be retained as such at all times.

Reason

To reduce flood risk on the site in accordance with policies CS10 and CS19 of the North Lincolnshire Core Strategy.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: PA/2013/0455/1, PA/2013/0455/2 and 9360-01.

Reason

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

3.

Within one month from the date of this decision, details of a soakaway system shall be submitted to and agreed in writing by the local planning authority and all surface water run-off from the development shall be discharged to the agreed system.

Reason

To prevent pollution of the water environment and to comply with policy DS13 of the North Lincolnshire Local Plan.

4.

Within one month from the date of this decision, a scheme which includes the following measures shall be submitted to and approved in writing by the local planning authority. The scheme shall be submitted in full unless the local planning authority dispenses with any such requirement specifically and in writing:

- (i) A comprehensive site survey by a competent person shall determine the existence, extent and concentrations of any landfill gas with the potential to reach the application site. The requirements of the local planning authority shall be fully established before the site survey is commenced. Two full copies of the survey, findings and conclusions shall be submitted to the local planning authority without delay upon completion.
- (ii) A written scheme to be implemented and completed by a competent person detailing measures to contain, manage and/or monitor any landfill gas with the potential to reach the application site shall be submitted to and agreed in writing by the local planning authority. No deviation shall be made from this scheme without the express written agreement of the local planning authority.

Reason

In the interests of public safety.

5.

The surface drainage system of the development will be monitored for a period of two years from the completion of the development and any unforeseen problems caused by the increase in surface water into the nearby drainage system/culvert structure no. 239A 1000mm, at 90.0726 (E499630, N406276) shall be rectified by the applicant to the approval of the local planning authority.

Reason

To prevent pollution of the water environment and to comply with policy DS13 of the North Lincolnshire Local Plan.

6.

Within three months of the date of this permission a suitable landscape scheme shall be submitted to the local authority to provide a native buffer plantation to the site's western boundary. Such a scheme shall include details of trees and shrubs, including their species, sizes and planting densities, and shall consist of native species of local provenance. Upon approval the scheme shall be implemented during the first available planting season and any shrubs or trees which die, or are destroyed within three years of the date of planting shall be replaced with plants of the same species and size, all costs to be borne by the applicant.

Reason

To enhance the visual appearance of the site and to screen the development from the adjacent public footpath.

7.

The development shall be carried out in accordance with the details received by the local planning authority on 30 August, 3 September and 4 September 2012.

Reason

To define the terms of the permission for the avoidance of doubt.

8.

This permission relates to 12 caravan plots only and no plot shall be subdivided.

Reason

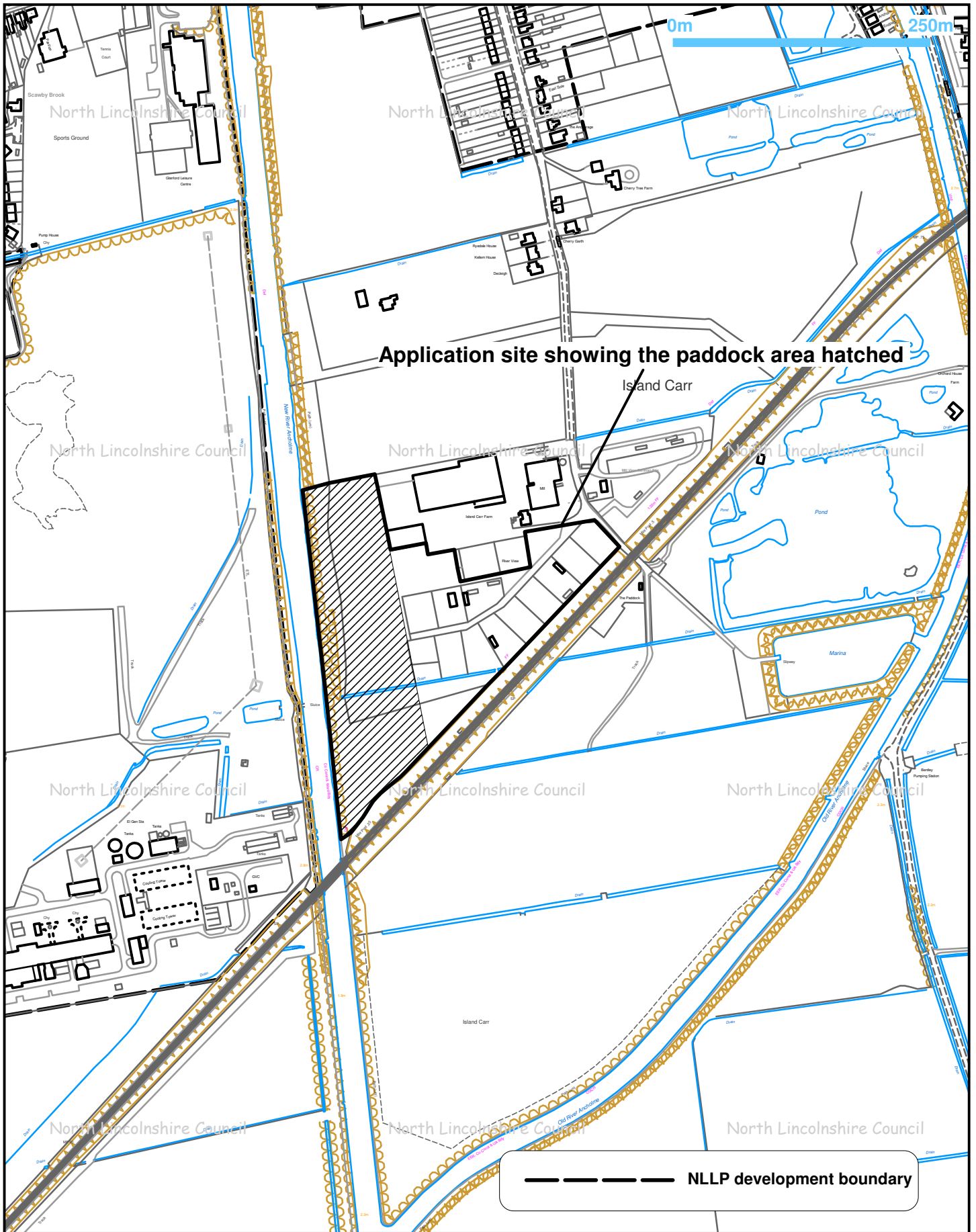
To define the terms of the permission for the avoidance of doubt.

Reasons for approval

The council, as local planning authority, has had regard to the relevant policies of the development plan as set out below and considers that, subject to compliance with the conditions attached to the permission, the proposed development would be in accordance with the development plan, would not materially harm the character of the area nor the living conditions of neighbouring occupiers, and would be acceptable in all other planning considerations. The council has taken into account all other matters, none of which outweigh the considerations that have led to its decision. The policies taken into consideration in the determination of this application are DS1 of the North Lincolnshire Local Plan, CS10 of the North Lincolnshire Core Strategy, paragraph 100 of the National Planning Policy Framework and the Planning Policy for Traveller Sites.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 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.



Title: PA/2013/0455

Drawn by: Sue Barden

Date: 21/05/2013

Scale: 1:5000



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Director of Places
Peter Williams
BSc,DMS,CEng,MEI,MCMI,AMIMechE

- NOTES:
1. ALL CONSTRUCTION TO RELEVANT BRITISH STANDARDS, BUILDING REGULATIONS AND NHBC STANDARDS.
 2. ALL DIMENSIONS TO ARCHITECT'S DETAILS AND DRAWINGS.
 3. NO DIMENSIONS TO BE SCALED FROM THIS DRAWING.
 4. THIS DRAWING TO BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT DRAWINGS AND SPECIFICATIONS.
 5. ANY DISCREPANCIES FOUND ON THIS DRAWING ARE TO BE BROUGHT TO THE ATTENTION OF THE ENGINEER AS SOON AS THEY ARE DISCOVERED.

PA/2013/0455 - PROPOSED LAYOUT

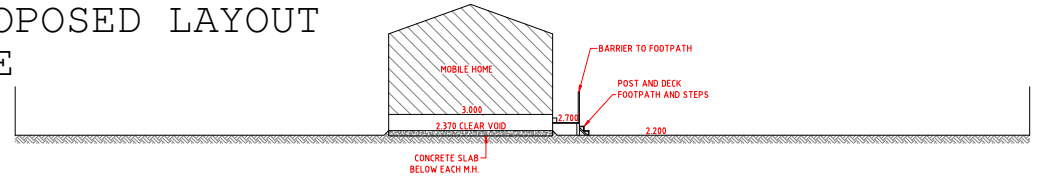
NOT TO SCALE

CHANGES IN LEVELS
(PROPOSED LEVEL = 2.680)

SEE CALCULATION SHEETS 9360/COM 1-4

REDUCTION VOLUME IN FIELD TO NORTHWEST = 55mx80mx1.0m(AV.) = 4400m³

MINIMUM VOLUME LIFT = 1600m³



TYPICAL SECTION THROUGH PITCH
Scale 1:100



B	FEB 2011	RDP	CHANGES TO EXCAVATED MATERIAL
A	FEB 2011	RDP	CHANGES TO EXCAVATED MATERIAL

Client					
OCCUPANTS OF SITE					
Project					
LAND OFF MILL LANE, BRIGG					
Section					
COMPENSATION LEVELS					
Designat	GSC	Drawn	RDP	Checked	Roy
					B
Date	DEC 2010	Scale	AS SHOWN	Drawing No	9360-01

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