

APPLICATION NO PA/2016/1219

APPLICANT Mr Albert Newberry

DEVELOPMENT Application to remove condition 4 of 7/758/1986 to allow access onto Smithy Lane

LOCATION 95 St Barnabas Road, Barnetby le Wold, DN38 6JE

PARISH Barnetby le Wold

WARD Brigg and Wolds

CASE OFFICER Andrew Willerton

SUMMARY RECOMMENDATION **Grant removal of condition 4**

REASONS FOR REFERENCE TO COMMITTEE Objection by Barnetby le Wold Parish Council

POLICIES

National Planning Policy Framework: Paragraph 14 states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

Paragraph 32 states that plans and decisions should take account of whether safe and suitable access can be achieved for all people.

North Lincolnshire Local Plan: Policy T2 (Access to Development)

North Lincolnshire Core Strategy: Policy CS5 (Delivering Quality Design in North Lincolnshire)

CONSULTATIONS

Highways Team: No objection.

Drainage Team: No comments received.

PROW Officer: Confirms that Smithy Lane is a Public Right Of Way and advises an informative.

PARISH COUNCIL

Objects to the proposal due to the restricted access via a narrow lane.

PUBLICITY

Neighbouring properties have been notified and seven letters of objection have been received raising the following issues:

- private lane used for access to properties on Smithy Lane only
- additional traffic will reduce parking availability on the lane for its residents and visitors
- Smithy Lane is a small, narrow, undeveloped lane with little room to manoeuvre should oncoming vehicles be met
- new access would reduce a narrow lane even further
- applicant already has access onto St Barnabas Road
- access point close to the junction of Smithy Lane and St Barnabas Road which could lead to accidents and is dangerous
- additional traffic would cause extra wear and tear on the lane
- two outline planning permissions for the site both state through condition that no access to the site shall be made from Smithy Lane
- County Council policy allows the lane to have three dwellings off it only
- encroachment onto the lane by the applicant in terms of new boundary treatment which has narrowed the lane further
- new boundary line established without consent which is inaccurate and based on eye and not by measurement using a title plan which indicated general position and not exact line
- provision for the access has already been made without seeking planning permission including the laying of gravel into the lane
- issues regarding emergency service vehicle access and incidents where emergency service vehicles have not been able to gain access.

Upon receipt of additional information from the applicant regarding proposed access, parking and turning arrangements neighbouring properties were re-consulted. Three letters of objection were received raising the following concerns:

- reiteration of previous issues
- Smithy Lane is unadopted and therefore the applicant would require a covenant with the three properties on Smithy Lane to further the application
- it was requested of the council during the outline planning permission for the site that no access be obtained from Smithy Lane to which County Council policy at the time was to allow no more than three dwellings to be served off a private road
- the applicant has provided false information and has parked a caravan on Smithy Lane

- the manoeuvring required to access the site via Smithy Lane will be as difficult as it is using the current access onto St Barnabas Road
- the proposed access onto Smithy Lane shown on the proposed plans is in existence and was used last year
- the supporting photographs provided by the applicant are misleading in relation to the existing access and it was a requirement of the original permission that a 45 degree visibility splay must be created
- the BT manhole only causes an obstruction when manoeuvring the caravan which would be as difficult using Smithy Lane and block the road for existing residents
- the applicant should contact BT to resolve the manhole issue.

ASSESSMENT

The application site is 95 St Barnabas Road within the settlement of Barnetby le Wold. The present bungalow on the site was granted under planning permission reference 7/758/1986 subject to conditions. Condition 4 of this permission stated that 'there shall be no access to the site from Smithy Lane'. The reason given for this condition was 'in the interests of highway safety'.

The main issue with regard to the determination of this application is whether the removal of the condition to allow access onto Smithy Lane will be detrimental to highway safety.

95 St Barnabas Road occupies a corner plot. The property fronts onto St Barnabas Road and has vehicular access to the road from the northern edge of the plot. It is evident from visiting the site that this access is obscured by the existence of a 'manhole' inspection chamber cover which is somewhat raised above ground level. The present access is therefore angled northwards away from the property rather than forming the more standard perpendicular arrangement. It is noted that the current access arrangements onto St Barnabas Road are adequate for vehicular access/egress, however.

The applicant has provided a supporting justification statement for this application which raises the issues above. Furthermore, it refers to the narrowness of the existing access which will be reduced further through the provision of a new boundary fence and damage caused to vehicles when traversing the access due to the raised 'manhole'.

Smithy Lane lies perpendicular to St Barnabas Road and abuts the southern boundary of the applicant's property. Smithy Lane is a private road and is not adopted by the Highway Authority. The private road forms the vehicular access to three properties set back behind properties which front onto St Barnabas Road. Smithy Lane is, however, a public footpath. A number of the objections have raised the narrowness of this road and have questioned its suitability to provide access to further property from the current three that was formerly Humberside County Council policy.

The Highways Team has been consulted and has no objections to the proposal in terms of highway safety as a result of the removal of the condition. The Highways Team has advised that it has no additional comments to make following the receipt of further information from the applicant which illustrates the precise point of access from the

property onto Smithy Lane and the proposed layout of the site in terms of its driveway and parking area. It has been confirmed that it is acceptable for five dwellings to be served off a private road and that three dwellings was a previous maximum.

Smithy Lane is a private road for vehicular traffic yet is also a public footpath. It is acknowledged that if the condition was removed it would result in further motorised traffic traversing the footpath. The PROW Officer has been consulted and has no objection to the application but advises an informative to state that it is an offence to traverse a public footpath with a motor vehicle without lawful authority or excuse. It is unknown as to whether the applicant carries such a right and could potentially be challenged. This matter, however, falls outside the remit of the planning system.

The PROW Officer has further confirmed that the council does have a responsibility to ensure that a public footpath remains accessible and in a condition fit for non-motorised traffic to traverse but is not responsible to ensure that it remains accessible or in a condition for motorised traffic. It is also stated that permission should be sought from the Authority for any works to be carried out in relation to the maintenance of the surface which is advised for inclusion within an informative.

A number of objections have been raised in relation to land ownership and encroachment. Matters relating to boundary disputes and the management and maintenance of the lane given it is not adopted are considered to be civil matters to be resolved through the legal rather than the planning system and cannot be considered. Further objections have been raised in relation to inappropriate parking which has previously occurred and could occur in future which may disrupt access to other properties along Smithy Lane. Such parking could occur irrespective of whether the condition remains imposed or not. It is acknowledged that the creation of a new access, should the condition be removed, would generate further traffic movements on the lane although this is not considered to be adverse given the new access would serve a single dwelling.

The condition subject to this application was imposed in the interests of highway safety. The Highways Team has been consulted and has no objection to the removal of the condition. Whilst the development will require the agreement of the landowner(s) of Smithy Lane, this is a private matter and cannot be considered by the planning authority. It is the recommendation of this report to grant the removal of the condition as the proposed vehicular access onto Smithy Lane would not have an adverse impact upon highway safety.

RECOMMENDATION Grant removal of condition 4 of 7/758/1986:

Informative 1

The applicant should note that it is an offence to traverse a public footpath with a motor vehicle without lawful authority or excuse and should ascertain that he has the legal right to do so.

Informative 2

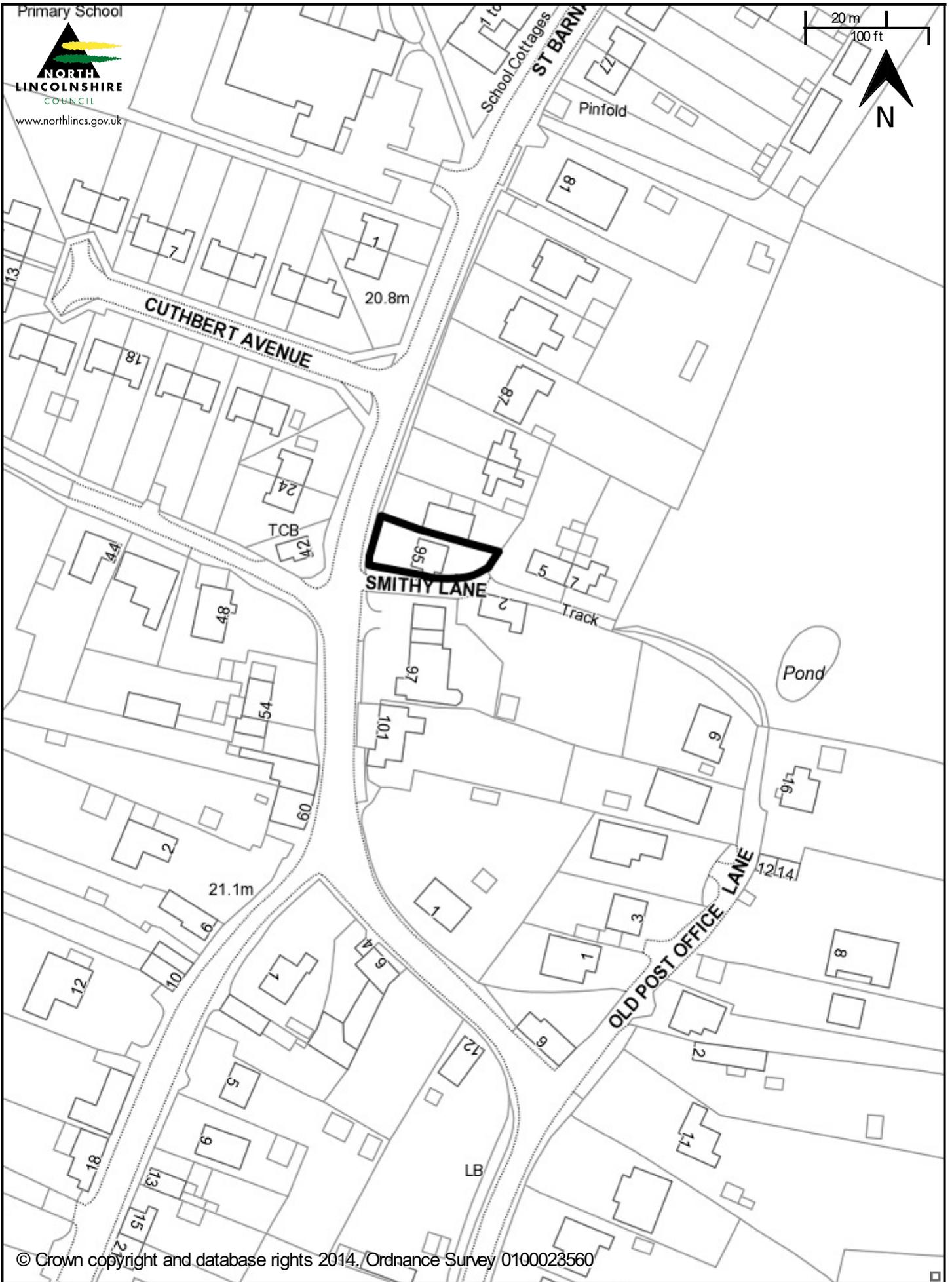
In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

Primary School



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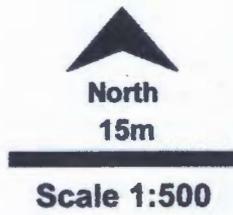
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Drawn by: S Barden

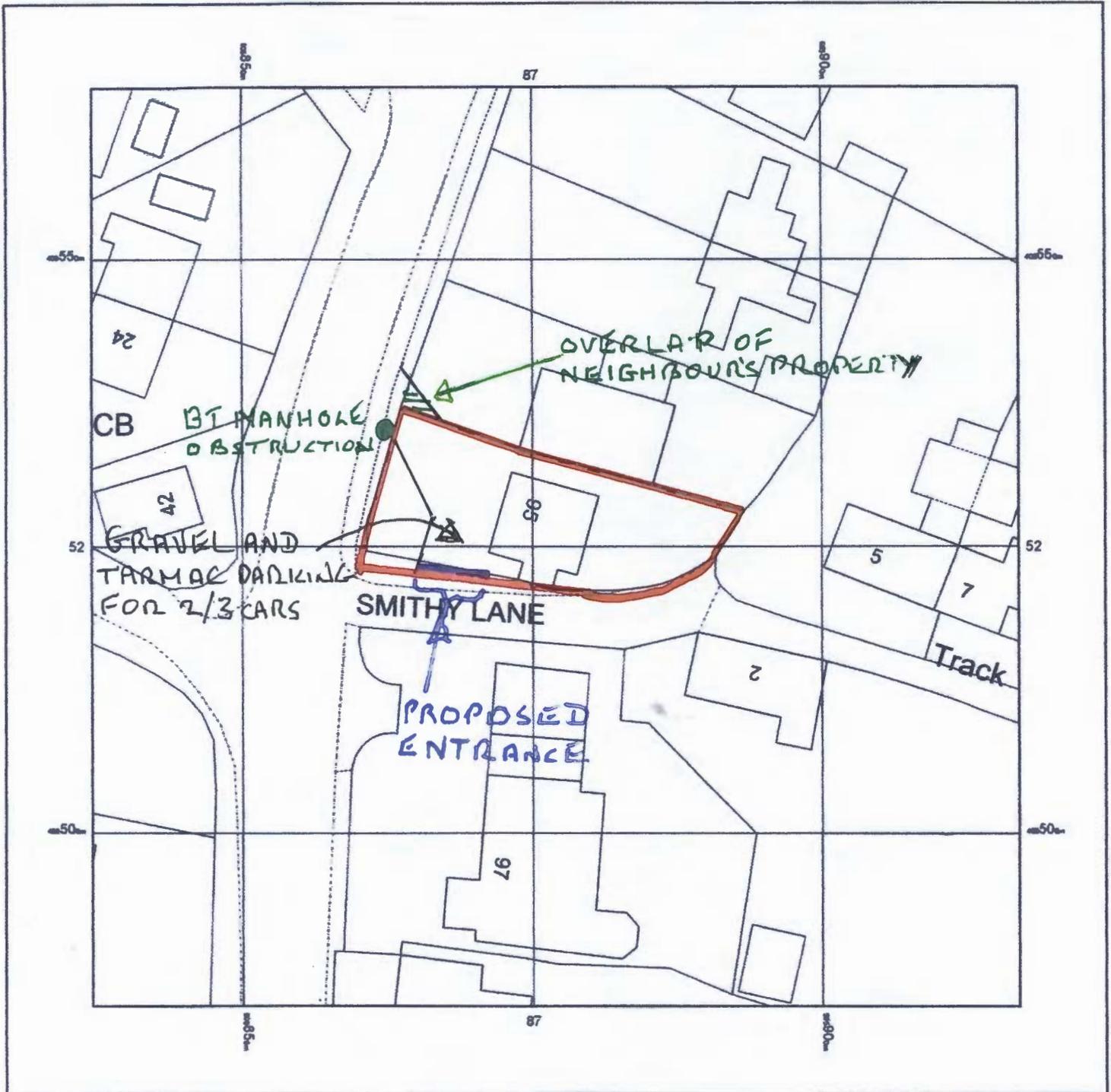
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PA/2016/1219 Proposed block plan - Not to scale



ITEM 2



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