

<b>APPLICATION NO</b>	<b>PA/2020/1062</b>
<b>APPLICANT</b>	Mr G Johnston, Normanby Estate Company Ltd
<b>DEVELOPMENT</b>	Outline planning permission to erect three dwellings (following the demolition of an existing agricultural outbuilding) with all matters reserved for subsequent consideration
<b>LOCATION</b>	23 Springhead Farm, High Street, Flixborough, DN15 8RL
<b>PARISH</b>	Flixborough
<b>WARD</b>	Burton upon Stather and Winterton
<b>CASE OFFICER</b>	Brian McParland
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Cllrs Elaine Marper and Helen Rowson – significant public interest)  The proposal would represent a departure from the North Lincolnshire Local Plan  Objection by Flixborough Parish Council

## **POLICIES**

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

Paragraph 8 – Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- (e) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- (f) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- (g) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 11(d) – Plans and decisions should apply a presumption in favour of sustainable development:

- (h) 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are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - (iii) 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
  - (iv) 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.

**North Lincolnshire Local Plan:** DS1, DS7, DS14, DS16, RD2, T2, T19.

**North Lincolnshire Core Strategy:** CS1, CS2, CS3, CS5, CS6, CS7, CS8, CS18, CS19.

## **CONSULTATIONS**

**Highways:** No objection subject to conditions relating to discharge of loose material onto the highway, access, parking and turning, and submission of additional details regarding the shared drive.

**Drainage:** No objection subject to conditions relating to the submission of details showing an effective method of preventing surface water run-off onto and from the highway.

**Environmental Protection:** No objection but recommend a condition in relation to contaminated land.

**Ecology:** No ecological surveys are required. If permission is ultimately granted, biodiversity enhancements will need to be secured condition.

## **PARISH COUNCIL**

Objection regarding access.

## **PUBLICITY**

The application has been advertised by a site notice and in the press as a departure from the local plan. One response has been received from a potential buyer of a neighbouring property regarding amenity concerns.

## **ASSESSMENT**

**The main issue to be considered is whether adequate justification can be demonstrated regarding the proposal's principle of development.**

### **The site**

The site is located on the north side of High Street, to the rear of 23 High Street and to the east of 4 The Steadings. It has an existing access from High Street and is in use as a farm,

known locally as Springhead Farm. It is currently occupied by a large agricultural building finished with a pitched roof and profiled cladding. The site is partly within the development limit and partly within the open countryside. It is within SFRA flood zone 1 (low risk), is not within a conservation area, does not affect any listed buildings, and there are no tree preservation orders on the site or nearby.

## **Proposal**

Outline planning permission is sought to erect three dwellings with all matters reserved for subsequent consideration. An indicative site plan has been submitted which outlines three detached dwellings, their footprint, their respective plot sizes and their parking layout.

## **Principle**

The application site is located partly outside the adjacent settlement boundary and the proposal would represent a departure from the North Lincolnshire Local Plan. In determining whether the principle of residential development outside the settlement boundary is acceptable in this instance, it is necessary to consider whether the proposed development is sustainable in planning policy terms.

The development plan for North Lincolnshire comprises three parts: those policies of the North Lincolnshire Local Plan (2003) (LP) which were saved by a direction of the Secretary of State in September 2007, the North Lincolnshire Core Strategy DPD (2011) (CS), and the Housing and Employment Land Allocations DPD (2016) (HELAP).

Policy CS1 of the CS sets out a spatial strategy for North Lincolnshire, which, amongst other matters, provides that rural settlements will be supported as thriving sustainable communities, with a strong focus on retaining and enhancing local services to meet local needs and that any development that takes place should be in keeping with the character and nature of the settlement.

Policy CS3 of the CS provides that development limits will be defined in future development plan documents. Outside these boundaries, development will be restricted to that which is essential to the functioning of the countryside. The development limits were subsequently defined in the HELAP, and the application site is located partly outside the designated development limit for Flixborough.

Policy CS8 of the CS deals with the distribution of housing sites and prioritises development in Scunthorpe and the market towns, with brownfield sites and sites within development boundaries being the primary focus. With regard to rural settlements, the policy states that new housing will create opportunities for small-scale infill development that maintains the viability of the settlement and meets identified local needs without increasing the need to travel.

Local plan saved policy RD2 restricts development in the open countryside other than in exceptional circumstances. This policy only supports residential development outside defined development limits where it is to meet an essential proven need and the open countryside is the only appropriate location for the development. Whilst this policy remains, it has largely been overtaken by policies in subsequent plans addressing the same issue (such as policies CS2 and CS3 referenced above).

The aforementioned policies are aimed at focusing housing within settlement limits as defined in the Housing and Employment Land Allocations DPD. The application site is

partly outside the settlement boundary for Flixborough and would not meet the criteria for development within the open countryside as outlined in policy RD2 of the local plan. The proposal is thereby considered to be in conflict with policies CS2, CS3 and CS8 of the Core Strategy.

Notwithstanding the development plan policies set out above, the NPPF is a material consideration when determining planning applications. Paragraph 11 and Footnote 7 (page 6) of the NPPF states the presumption in favour of sustainable development applies for applications involving the provision of housing where the local planning authority cannot demonstrate a five-year supply of housing and that housing applications should be considered in the context of the presumption in favour of sustainable development.

The five-year housing land supply statement sets out North Lincolnshire Council's assessment of its supply of housing land from 1 April 2016 to 31 March 2021, having regard to Government guidance on how this is calculated. This report states that North Lincolnshire has a 3.9-year housing land supply of deliverable sites during the period April 2016 to March 2021.

It is acknowledged that the local planning authority cannot demonstrate a five-year housing land supply; therefore, the housing policies are considered out of date. As such the 'tilted balance' and paragraph 11(d) of the NPPF, which is a material consideration in determination planning applications, is relevant and states, '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:

- (iii) 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
- (iv) 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.'

There are three dimensions to sustainable development as set out in paragraph 8 of the NPPF: *economic*, *social* and *environmental*. Investment in construction and related employment would represent an economic benefit, as would the additional population within the local economy. Notably, the site would be situated along High Street which is a main road through the settlement. As such, the centre of Flixborough could be readily accessed by walking or cycling as it would be within a two minute walk from the site. In terms of social benefits, the nearby All Saint's Church is also within a two minute walk. Importantly, the site is served by an adjacent footpath (to the front of no. 23) which is well connected to the surrounding locality and would encourage footfall connectivity. In terms of environmental benefits, the site is situated along a bus route with multiple bus stops available to the east and west which are adjacent to High Street. Moreover, it is considered the location of the proposed three dwellings would not be dependent on car travel given the availability of other forms of travel (i.e. walking, cycling or bus). The above matters weigh heavily in favour of the proposal in terms of the economic, social and environmental dimensions of sustainability. As a result, it is considered the proposed three dwellings would be situated within a sustainable location.

It is acknowledged the site is situated adjacent to the northern edge of the settlement boundary, which is a defined rural settlement. However, the site is flanked by development in the form of 4 The Steadings to the west and Spring Lodge to the east. Furthermore, the proposed three dwellings would benefit from garden depths which would be consistent with

the properties to the immediate east. Considering this, the proposed three dwellings would not appear at odds with the surrounding pattern of development and could adequately integrate into the settlement. Moreover, the proposal would improve the appearance of the site in the interest of placemaking.

A key determination in the principle of development is balancing the impact of harm against the associated benefits, as per paragraph 11(d) of the NPPF. Although the proposal would be in conflict with development plans (that is, policies CS2, CS3 and CS8 of the Core Strategy and RD2 of the local plan), the proposal would provide the benefit of three dwelling contributions on a brownfield site, within a locality which consists of existing housing. Additionally, it is determined that the three dwellings would be within a sustainable location, as per paragraph 8 of the NPPF. In light of this, there is little evidence to suggest that the proposal would result in adverse impacts which would significantly and demonstrably outweigh the benefits.

On balance, although the development plans would preclude such type of development, in the absence of a five-year housing land supply and in the presumption in favour of sustainable development stipulated within the NPPF, it is considered that the principle of development would be acceptable, subject to the considerations below.

### **Impact on the amenity of the locality**

The appearance, layout and scale of the proposed dwellings would be dealt with under a subsequent reserved matters application, but it is considered that three dwellings on the site could be designed to be in character with the surrounding properties and the pattern of development. The site is of a substantial size and could accommodate three dwelling without creating a cramped appearance. The proposal would therefore accord with the NPPF, policies CS1, CS2, CS5, CS7 and CS8 of the Core Strategy, and policy DS1 of the North Lincolnshire Local Plan.

### **Impact on residential amenity**

In terms of impact on residential amenity, the council is satisfied that three dwellings could be located on this substantially sized plot without adversely affecting the amenity of adjoining residents. It is considered that three dwellings could be sited on the plot without causing demonstrable harm to the amenity of nearby residents. This issue would be assessed in more detail through the submission of a subsequent reserved matters application when the appearance, scale and layout would be considered. However, based on the indicative site plan, the proposed 'house 1' would currently prejudice the amenities of 3 The Steadings and potentially 4 The Steadings by way of overlooking and loss of outlook and privacy to their gardens (no. 3). As stated previously, the submitted details are indicative only and the layout of the scheme will be subject to further consideration and agreement at the reserved matters stage. It is acknowledged that the dwellings are proposed to be two-storey and would benefit from obscure side elevation windows.

### **Highways**

In terms of access, this could be from High Street, which serves several existing residential properties. Highways have raised no objections to the proposal subject to conditions which would be imposed on any planning permission granted. The proposal is therefore considered to accord with policies T2 and T19 of the North Lincolnshire Local Plan.

## **Land quality**

Policy DS7 of the local plan is concerned with contaminated land. It states that permission will only be granted on contaminated sites where a detailed site survey has been submitted, and a suitable scheme of remedial measures has been agreed to overcome any existing contamination.

The council's Environmental Protection team has provided comment and recommend, given the residential development is a sensitive end use and that the applicant has not submitted any information with regard to land quality, that a condition relating to land contamination be attached to planning approval.

## **Ecology**

The building to be demolished does not meet any of the published bat survey triggers. The submitted photos reveal that the building:

- is of modern construction, made of sheet materials;
- is open to the ridge, without a true roof void
- does not have features such as weatherboarding; and
- is not particularly close to woodland or open water.

The council's ecologist has been consulted and, on balance, does not request a protected species survey on this occasion. They have no objection and recommend standard conditions in relation to biodiversity enhancements.

## **Conclusion**

Whilst the proposal is partly within the open countryside, which would potentially harm the existing site context, this does not outweigh the benefit of providing three dwellings on a brownfield site, subject to conditions. On balance, the proposal is a justified departure from the development plan and is considered to comply with the overarching paragraph 11(d) of the NPPF.

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

1.

Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority in writing before any development is commenced.

### **Reason**

The application has been made under Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015.

2.

Plans and particulars of the reserved matters referred to in condition 1 above, relating to the layout, scale and appearance of any buildings to be erected, the means of access

thereto and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.

Reason

The application has been made under Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015.

3.

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason

To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4.

The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason

To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

5.

The development hereby permitted shall be carried out in accordance with the following approved plans and documents: U13573-03 Location; 420.03 Survey Plan & Elevations; Langdale-Smith and Co Limited, Engineering and Environmental Geologists, Ground Contamination Investigation and Assessment, Phase 1 Desk Study, dated September 9th, 2020, report number 66 001.

Reason

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

6.

No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken to the satisfaction of 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.

7.

No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking and turning space serving it have been completed and, once provided, the vehicle parking and manoeuvring space shall be retained.

Reason

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

8.

No dwelling served by any shared private driveway on site shall be occupied until it has been constructed in accordance with details including:

- the proposed method of forming access from the highway, including the required visibility splays;
- the method of constructing/paving the drive;
- the provision of adequate drainage features;
- the provision of suitable bin collection facilities adjacent to the highway;
- the provision of suitable lighting arrangements; and
- the provision of street name plates that shall include the words 'Private Drive';

which have been agreed in writing by the local planning authority. Once constructed the private driveway shall be retained.

Reason

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

9.

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, 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 the 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 works, neighbours and other off-site receptors in accordance with policy DS7 of the North Lincolnshire Local Plan.

10.

No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and thereafter so retained.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraph 163 of the National Planning Policy Framework.

11.

No development shall take place until details showing an effective method of preventing surface water run-off from the highway onto the developed site have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and thereafter so retained.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 155, 157, 163 and 165 of the National Planning Policy Framework.

12.

No above-ground works shall take place until details have been submitted to and approved in writing by the local planning authority of the make, type and colour of all external facing materials for the development and only the approved materials shall be used.

Reason

To ensure that the building is in keeping with its surroundings in the interests of visual amenity, in accordance with policy DS1 of the North Lincolnshire Local Plan.

13.

The dwelling shall not be occupied 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 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.

14.

Within three months of the commencement of development, the applicant or their successor in title shall submit a biodiversity management plan to the local planning authority for approval in writing. The plan shall include:

- details of bat roosting features to be installed;
- details of nesting sites to be installed to support bird species such as house sparrow and starling;
- restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
- provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
- prescriptions for the planting and aftercare of native trees and shrubs of high biodiversity value;
- proposed timings for the above works in relation to the completion of the building.

**Reason**

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

15.

The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. The applicant or their successor in title shall submit photographs of the installed bat roosting and bird nesting features, within two weeks of installation, as evidence of compliance with this condition.

**Reason**

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the North Lincolnshire Core Strategy.

**Informative 1**

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

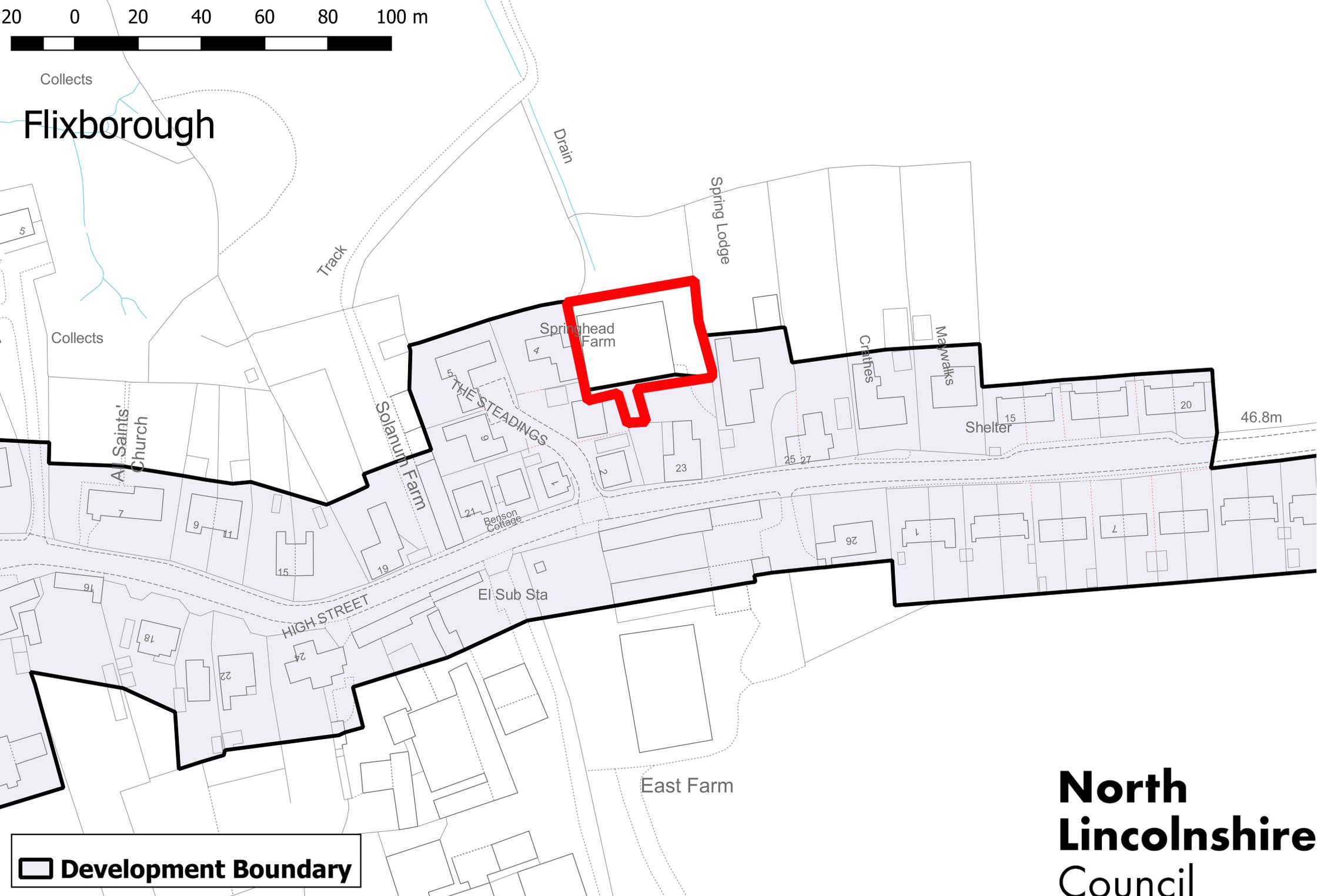
- before ANY construction works take place within the limits of the highway you **MUST** contact the highway authority on telephone number 01724 297000 to arrange for the relevant permissions/licenses to be issued;
- before ANY service (utility) connections take place within the limits of the highway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



Flixborough

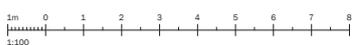
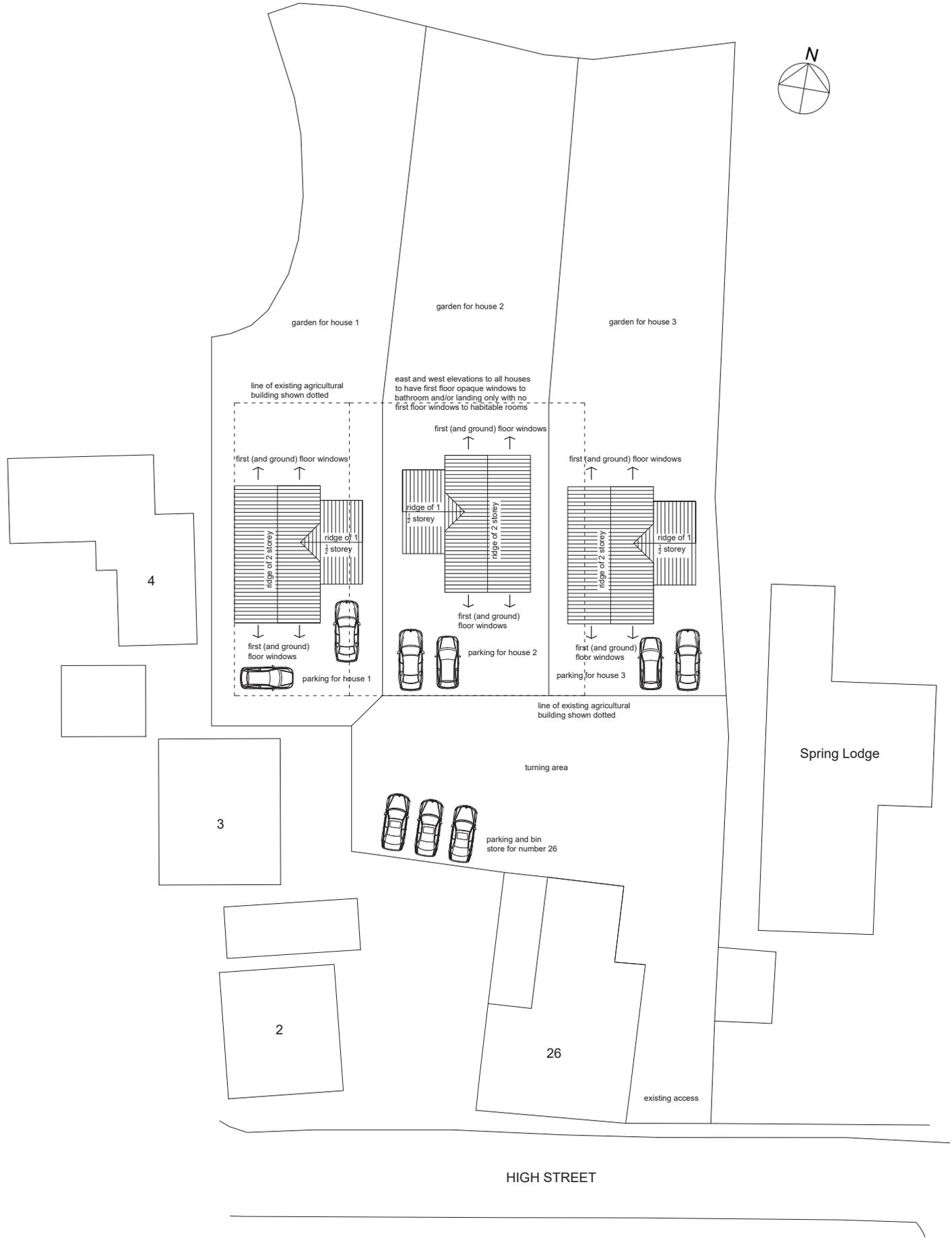


Development Boundary

PA/2020/1062

North  
Lincolnshire  
Council

# PA/2020/1062 Indicative layout (not to scale)



client			
DDM Agriculture			
project			
Springhead Farm, Flixborough			
drawing	drawing no.	420.06	revision
date	scale	drawn	checked
05.07.20	1:200@A2	KK	HM

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