

<b>APPLICATION NO</b>	<b>PA/2020/333</b>
<b>APPLICANT</b>	Mr James Tune
<b>DEVELOPMENT</b>	Planning permission to create a new access (resubmission of PA/1999/0967)
<b>LOCATION</b>	Tyr Fryn, Todds Lane, Burton upon Stather, DN15 9DG
<b>PARISH</b>	Burton upon Stather
<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>	Objection by Burton upon Stather Parish Council Member 'call in' (Cllr Elaine Marper – significant public interest: the new access bisects a public footpath)

## **POLICIES**

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

#### Section 12: Achieving well-designed places

Paragraph 130: Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

#### Section 15: Conserving and enhancing the natural environment

**Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72, (1) General duty as respects conservation areas in exercise of planning functions:** In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

**North Lincolnshire Local Plan:** DS1, HE2 and T2.

**North Lincolnshire Core Strategy:** CS1, CS2, CS3, CS5, CS6, CS7, CS16 and CS17.

## CONSULTATIONS

**Tree Officer:** The arboricultural report appears reasonable and I agree with its findings with regard to the location, species and condition of the trees. I agree that a cellular system would resolve the issues over the placing of the driveway in those locations where it would be within the root protection of the trees to be retained.

**Highways:** No objection and recommend conditions relating to development height along the carriageway and highway splays.

**PROW:** Originally objected as the location of the new access would bisect a public right of way; however, the objection has been withdrawn following receipt of the amended plans.

**Ecology:** No objection, but recommends a condition to minimise harm to protected and priority species, and habitats, and seeking biodiversity enhancements.

## PARISH COUNCIL

Objects on grounds of subsidence of land where the new access would be placed.

## PUBLICITY

The application has been advertised by a site notice and in the press. Two objections have been received and are summarised below:

- ownership issues
- construction-related issues
- damage to trees and wildlife
- slope instability.

## ASSESSMENT

This application was deferred at a previous meeting of the planning committee so that members could visit the site before making a decision.

**The main issue to be considered is whether adequate justification can be demonstrated with regard to the proposal's impact on the conservation area and design, neighbouring amenity, highways and ecology.**

### The site

The site is north of the dwelling known as 'Try Fryn'. (The submitted plans show both are under the ownership of the applicant.) The site is outside the development limit for Burton upon Stather, but does abut it, and it bisects a Public Right of Way (public footpath 169), which has not been implemented.

The site is currently vacant land with adjacent landscaping. It is on the edge of the conservation area, but does not affect any listed buildings and there are no tree preservation orders (TPOs) within the vicinity.

## **Planning history**

There are two previous planning approvals to construct a vehicular access (PA/1999/0967 and PA/2004/1736), which are material considerations. The latest permission included conditions to protect the existing planting in the locale and requiring additional landscaping.

## **The proposal**

Planning permission is sought to create a new access (resubmission of PA/1999/0967).

The proposed new access would be taken from Stather Road and would link to the dwelling to the south (Tyr Fryn) via a new private driveway which is proposed to be bounded by dense shrubbery and banking. The new access would be constructed in tarmac, with a dropped kerb, and would be bounded by new fencing with a gap along the east side to accommodate an access to public footpath 169. New gates, with post and rail fencing, are proposed to be set back from the highway by 25 metres, behind the line of public footpath 169, which is to be kept free at all times.

## **Impact on the conservation area and design**

The National Planning Policy Framework (NPPF) attaches great importance to the design of the built environment. Paragraph 130 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. Policy DS1 of the North Lincolnshire Local Plan (adopted May 2003) and policy CS5 of the Core Strategy (adopted June 2011) are concerned with quality of design and amenity. In respect of impact on character, policy DS1 states that the design and external appearance of the proposal should reflect or enhance the character, appearance and setting of the immediate area. Furthermore, policy HE2 of the North Lincolnshire Local Plan and policy CS6 of the Core Strategy are concerned with the historic environment. Policy HE2 states that all development proposals in, or which affect the setting of, conservation areas should preserve or enhance the character and appearance of the area and its setting.

The proposed new access would be a modest form of development which would reflect or enhance the character, appearance and setting of the immediate area. Once more, a heritage statement has been submitted and the application has been reviewed by the council's conservation officer, who has outlined that the proposed new access is just on the edge of the conservation area. Stather Road is notable for its sharp bend on entering the village from the west, for its steep drop down the site of the hill to the River Trent, and for its more open space, rural character with many trees and green spaces. This rural setting is an important part of the conservation area character. There is no objection to an access road in this location but there needs to be an associated landscaping scheme and protective measures to the existing planting to conserve the naturalistic setting of the conservation area, and these can be secured by conditions. The gates and fencing are of a similar style (Lincolnshire post and rail) to what is there presently. They are suitable for this location and will contribute to improving the rural appearance of the proposed accessway. The size and appearance of the fence and gates can be secured by condition.

The proposal would be in accordance with policy DS1 of the local plan and policy CS5 of the Core Strategy. Moreover, it is considered that, subject to conditions, the proposal would preserve or enhance the character and appearance of the Burton upon Stather

conservation area. As such, the proposal would be in accordance with policies HE2 and CS6.

### **Impact on the amenity of neighbours**

Policy DS1 of the North Lincolnshire Local Plan and policy CS5 of the Core Strategy are concerned with quality of design and amenity. In respect of impact on amenity, policy DS1 states that no unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.

It is considered that the proposed new access, by way of its design, would not prejudice the existing neighbouring amenity through of loss of daylight, overshadowing, overbearing impact or loss of privacy. As such, the development would be in accordance with policy DS1.

### **Highway impact**

Policy T2 of the North Lincolnshire Local Plan states that all development should be served by a satisfactory access. The council's highway department has no objection to the proposal, subject to conditions.

It is considered that, subject to conditions, the proposal would have a satisfactory access. As such, the proposal would be in accordance with policy T2. Furthermore, it is noted that the access lies on the outside of a bend, therefore allowing visibility in both directions when exiting onto Stather Road.

### **Ecology**

Policies CS16 and CS17 of the Core Strategy is concerned with green space and biodiversity.

The applicant has submitted an ecological appraisal of the site. The council's ecologist has been consulted and has commented as follows:

The survey methods used, and the survey effort deployed, are appropriate for the site in question. The surveyor recorded three trees with medium potential to support bat roosts. These would not be affected by the proposed works. No evidence of badgers was recorded. The site was assessed as having low potential for reptiles and amphibians. There is suitable habitat for nesting birds. The degree of habitat fragmentation will be relatively small, given the narrow nature of the development; however, the extent of hard surfacing proposed is not clear.

Based on that assessment, the ecologist has no objection to the proposal, subject to a condition.

It is considered that, subject to conditions, the proposal would conserve and enhance biodiversity. As such, the proposal would be in accordance with policies CS16 and CS17 of the Core Strategy.

## Conclusion

Whilst the proposal is within the Burton upon Stather conservation area, it would not preclude the relevant local plan policies. Furthermore, the previous planning approvals have been given significant weight as material planning considerations. On balance, the proposed new access would be situated within an acceptable location and would have no unacceptable impact.

## Other matters

Public Footpath 169 has not yet been implemented and was not illustrated on the original site plans. The proposed new access and driveway previously cut through the PROW. Once aware, and after discussions with the council's PROW officer, the applicant amended the scheme to include an access opening within the frontage fencing and set back the proposed gates to maintain the line of the PROW without obstruction. The PROW officer has agreed this is acceptable. The applicant has been reminded that it is a criminal offence to obstruct a right of way unless the necessary legal order has been made, confirmed and brought into effect by the lawful authority.

Ownership and construction-related issues are not a material consideration in this instance.

The impact on wildlife and trees has been assessed by the council's ecologist and trees and landscape officer, neither of whom have any objection to the proposal.

The proposed works would take place at surface level and would not undermine the adjacent embankment.

The recommended conditions have been agreed by the agent/applicant.

## **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 74(3) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: RDS 11533/02 (A) Site Plan Drawing; RDS 11533/01 (A) Ordnance Survey Site Plan Drawing; Preliminary Ecological Appraisal; Heritage Statement April 2020; Arboricultural Report September 2020.

Reason

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

3.

Nothing shall at any time, whether permitted by the Town and Country Planning (General Permitted Development) Order or not, be erected, retained, planted or allowed to grow over 1.05 metres in height above the level of the adjoining carriageway for a distance of 2 metres from the highway boundary across the site frontage.

Reason

To ensure the provision/retention of adequate parking commensurate with the nature of the proposed development and to comply with policy T3 of the North Lincolnshire Local Plan.

4.

No works shall commence on site until the access adjoining the adjacent highway, including the required visibility splays, has been set out and established.

Reason

To ensure the provision/retention of adequate parking commensurate with the nature of the proposed development and to comply with policy T3 of the North Lincolnshire Local Plan.

5.

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.

6.

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.

7.

No development shall take place until proposals for landscaping have been submitted to and approved in writing by the local planning authority. The proposals shall include indications of all existing trees and hedgerows on the site, and details of any to be retained, together with measures for their protection during the course of development.

Reason

To preserve or enhance the character and appearance of the area and its setting in accordance with policy HE2 of the North Lincolnshire Local Plan, policy CS6 of the North Lincolnshire Core Strategy and section 72 of the Planning (Listed Building and Conservation Areas Act 1990).

8.

All the approved landscaping shall be carried out within twelve months of the development being commenced (unless a larger period is agreed with the local planning authority). Any trees or plants which die, are removed or become severely damaged or dispersed within five years of the date of planting shall be replaced in the next planting season with others of similar size and species to those originally planted, unless the local planning authority agrees in writing to any variation.

**Reason**

To preserve or enhance the character and appearance of the area and its setting in accordance with policy HE2 of the North Lincolnshire Local Plan, policy CS6 of the North Lincolnshire Core Strategy and section 72 of the Planning (Listed Building and Conservation Areas Act 1990).

9.

Works and biodiversity enhancements shall be carried out strictly in accordance with the submitted document, 'Preliminary Ecological Appraisal of land off Stather Road, Barton upon Stather [sic], Scunthorpe, DN15 9DP' dated June 2020. The management prescriptions set out in section 5 (5.1.1 to 5.6.2) of the Preliminary Ecological Appraisal shall be carried out in their entirety in accordance with the timescales prescribed. The applicant or their successor in title shall submit photographs of the installed bat roosting features, within two weeks of installation, as evidence of compliance with this condition. All biodiversity features shall be retained thereafter.

**Reason**

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

10.

No above-ground works shall take place until details have been submitted to and approved in writing by the local planning authority of the size and appearance of the fence and gates, and only the approved fence and gates shall be used.

**Reason**

To preserve or enhance the character and appearance of the area and its setting in accordance with policy HE2 of the North Lincolnshire Local Plan, policy CS6 of the North Lincolnshire Core Strategy and section 72 of the Planning (Listed Building and Conservation Areas Act 1990).

**Informative 1**

Records indicate that the proposed development site is bounded by, or has running through it, a watercourse (surface water pipe/culvert or ditch). Following inspection, the watercourse may need to be cleared, replaced, protected or diverted by the landowner at their expense in accordance with their riparian responsibilities. An easement adjacent to the watercourse may need to be provided for future maintenance. Any other drainage feature found during excavations must be immediately reported to the LLFA Drainage Team on 01724 297522, prior to any further construction works being carried out.

Please refer to the Environment Agency's 'Living on the edge - Riverside ownership rights and responsibilities' document which can be found online for further information.

Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

### **Informative 2**

Records indicate that the proposed development site is bounded by an ordinary/riparian watercourse/highway drain along the eastern boundary. The proposals show a new access to be provided over and/or connection into the watercourse. This must be consented by North Lincolnshire Council's LLFA Drainage Team, in their capacity as Lead Local Flood Authority, and/or the local Internal Drainage Board through an Ordinary Watercourse Consent, and appropriate discharge rates must be agreed. Please contact the LLFA Drainage Team on 01724 297522 or by email to [llfadrainageteam@northhllincs.gov.uk](mailto:llfadrainageteam@northhllincs.gov.uk) for further details. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

### **Informative 3**

Given the location of the nearby Public Right Of Way (PROW), the applicant should be mindful that it is a criminal offence to obstruct a right of way unless the necessary legal order has been made, confirmed and brought into effect by the lawful authority. Moreover, under section 34(1)(b) of the Road Traffic Act 1988 it is illegal to drive on a public footpath without lawful authority.

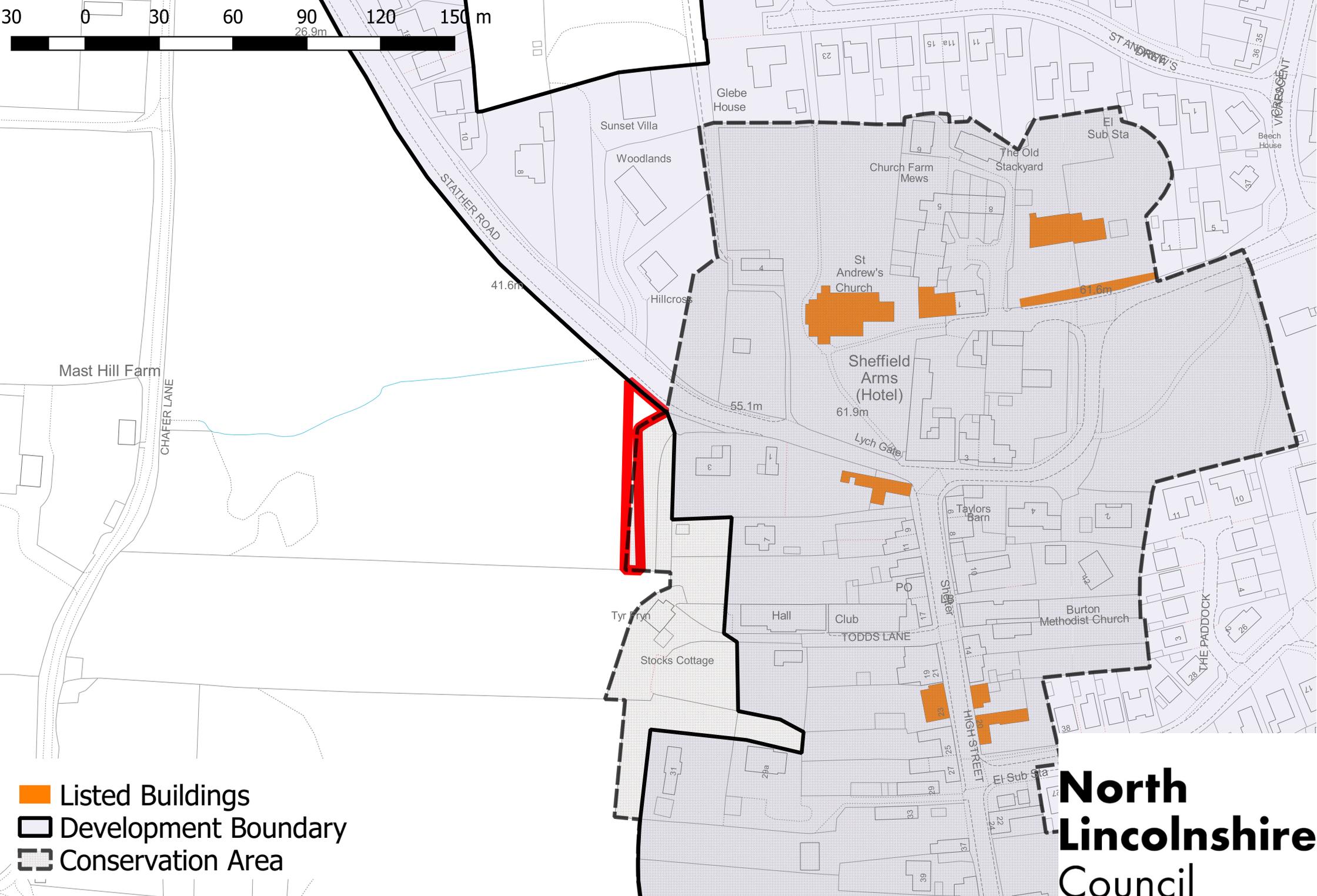
### **Informative 4**

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.

### **Informative 5**

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.



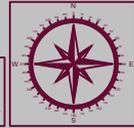
-  Listed Buildings
-  Development Boundary
-  Conservation Area

**North  
Lincolnshire  
Council**

**PA/2020/333**

Exclusion: Ryland Design Are  
NOT Principal Designer Unless  
Appointed Otherwise

Reproduced from Ordnance  
Map 1:1250 Scale by permission  
of Ordnance Survey on Crown  
copyright ©. All rights reserved  
of the Controller of Her Majesty's  
Stationary Office reserved.  
Licence Number AH10000881



This Drawing is the property of Ryland Design. Copyright is reserved by them and the Drawing is issued on the condition that it is not copied, reproduced, related or disclosed to any unauthorised person other than the person to whom it is issued without the written consent of Ryland Design.

Notes:

1. All dimensions to be verified on site prior to any fabrication or site works being commenced.
2. Any discrepancies to be reported to Ryland Design before any work is put in hand.
3. Do not scale from this Drawing, use figured dimensions only, contractors are responsible for taking and checking all site dimensions.
4. All dimensions are in millimetres unless stated otherwise.
5. This Drawing is to be read in conjunction with relevant Consultant and Specialist Drawings.
6. This Drawing is to be read in conjunction with Drawing Nos.

**Vehicle Access Crossing:**

**Light Duty (Domestic) Crossing:**  
150mm of Type 1 sub-base to Clause 1.2 (N.B. Where the CBR value of the subgrade is below 1.5& an approved geosynthetic layer to Clause 6.7 will be required to be placed on the sub-grade). On certain sites the depth of topsoil may exceed 275mm. On such sites topsoil containing organic matter, roots etc shall be removed & replaced with Type 1 sub-base in accordance with Clause 1.2.  
100mm of AC20 Dense Bin Rec Binder Course to Clause 9.1 compacted to a void content within the range 2%-10%.  
25mm of AC6 Dense Surf Surface Course to Clause 9.4 compacted to a void content within the range 28-10%.  
The joint between the access crossing and the carriageway shall be formed with the 125mm\*150mm precast concrete kerbs on a 150mm\*380 base of ST3 (15N/mm<sup>2</sup>) concrete (Approx. 1 cement: 2 sand: 4 aggregate by volume mix). A 125mm\*150mm\*225 taper kerb will be required on each side of the crossing along the carriageway edge. The Highway Boundary shall be delineated across the access crossing with a 50mm\*150mm square cut precast concrete edging on a 75mm\*330mm base of ST3 (15N/mm<sup>2</sup>) concrete, and where there is no footway the edges of the access crossing shall be delineated with the same edging & base.

New Tarmac Access To  
NLC requirements with  
new dropped kerbs

Frontage to have part  
of fencing removed for  
access and footpath

Line of Public Footpath 169

Line of new gates &  
Post and rail fencing  
behind line of the  
public footpath,  
which is to be kept  
Free at all times

Bottom Of Bank

Existing Fence Line  
Line of Previous Approved Field Access

Dense Shrubbery & Banking

**AMENDED**

	Title	Site Plan Drawing
	Date	April 2017
	Client	Mr J. Tune
	Project	Proposed New Access, Stather Road, Burton upon, Stather, Scunthorpe, DN15 9DP
	Drawing Number	RDS 11533 / 02 (A)
	Scale	1:500 @ A4
D.B	B.A	
C.B	A.R.A	

Tel | 01673 860100 Tel | 01522 899 296 Tel | 01472 730 987 Tel | 01507 389 057  
Web | www.rylanddesign.co.uk E-mail | info@rylanddesign.co.uk

Find Us On | Facebook | Twitter | Instagram | Pinterest | Blogspot | Google+ | Youtube

Located | Woodlands Business Centre, Lincoln Road , Welton, Lincoln, LN2 3PZ  
Pavilion Way, New Waltham, Grimsby, DN36 4WT

Revision	Date	Amendment
A	19.06.20	Public footpath 169 added