

<b>APPLICATION NO</b>	<b>PA/2020/382</b>
<b>APPLICANT</b>	Mr Chapman
<b>DEVELOPMENT</b>	Outline planning permission to erect dwelling with all matters reserved for subsequent consideration
<b>LOCATION</b>	Land adjacent to The Retreat, 80 Godnow Road, Crowle, DN17 4EE
<b>PARISH</b>	Crowle
<b>WARD</b>	Axholme North
<b>CASE OFFICER</b>	Mark Niland
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Departure from the Development Plan Member 'call in' (Cllr John Briggs – significant public interest)

## **POLICIES**

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

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are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: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
  - (iii) 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 38 – Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 158 – The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

### **North Lincolnshire Core Strategy:**

Policy CS1 (Spatial Strategy for North Lincolnshire)

Policy CS2 (Delivering More Sustainable Development)

Policy CS3 (Development Limits)

Policy CS5 (Delivering Quality Design in North Lincolnshire)

Policy CS7 (Overall Housing Provision)

Policy CS8 (Spatial Distribution of Housing Sites)

Policy CS17 (Biodiversity)

Policy CS19 (Flood Risk)

Policy CS25 (Promoting Sustainable Transport)

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

Policy RD2 (Development in the Open Countryside)

Policy H5 (New Housing Development)

Policy T1 (Location of Development)

Policy T2 (Access to Development)

Policy T19 (Car Parking Provision and Standards)

Policy DS1 (General Requirements)

Policy DS14 (Foul Sewage and Surface Water Drainage)

Policy DS16 (Flood Risk)

## **CONSULTATIONS**

**Highways:** No objections subject to conditions.

**Environment Agency:** No objections subject to conditions.

**Drainage (Lead Local Flood Authority):** No objections subject to conditions and an informative.

**IDB:** No objections subject to conditions to implement and maintain an acceptable surface water strategy.

**Environmental Protection:** No objections subject to a suitable acoustic barrier along the shared boundary with the pavilion. The officer also recommends land contamination conditions.

## **TOWN COUNCIL**

No objections subject to the developer providing adequate sewerage and drainage.

## **PUBLICITY**

The proposal has been advertised by site and press notice.

Numerous objections have been received and can be viewed in full on the council's website. They revolve around (though this is not exhaustive) character impacts, amenity, highway safety, ecology, amenity, not complying with policy and drainage.

## **ASSESSMENT**

### **Planning history**

PA/2015/0162: Outline planning permission to erect a dwelling, with all matters reserved for subsequent consideration (resubmission of PA/2013/0895) – approved 29/07/2015.

PA/2019/1555: Outline planning permission to erect a dwelling with all matters reserved for subsequent consideration – refused 14/11/2019.

### **Site characteristics**

The site is outside the settlement boundary of Crowle in accordance with the Housing and Employment Land Allocations DPD 2016 and is within flood zone 2/3a in accordance with the North and North East Lincolnshire SFRA 2011.

The site relates to grade 3 agricultural land and is located between a residential dwelling and the car park and pavilion of Crowle. The applicant seeks outline planning permission to erect a dwelling with all matters reserved for subsequent consideration.

**The assessment will therefore focus on the following issues:**

**- principle of development**

**- flood risk**

**- land quality**

**- highways**

**- environmental issues**

**- character**

**- planning balance.**

**Principle of development**

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 Core Strategy sets out a spatial strategy for North Lincolnshire, which, amongst other matters, states that in the countryside, support will be given to development that promotes rural economic diversification and small-scale employment opportunities, particularly on previously used land or in existing rural buildings. Tourism development will also be supported, in particular the development of green tourism making the most of the area's important natural and built environments.

Policy CS8 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. It goes on to state that in rural settlements in the countryside, and in the open countryside outside development limits, housing development will be strictly limited. Consideration will be given to development which relates to agriculture, forestry or to meet a special need associated with the countryside. All development should not have an adverse impact on the environment or landscape.

Policy CS8, whilst restricting housing outside development limits, contemplates some greenfield development as it refers to allowing development on such sites where it can be demonstrated that this would bring additional community benefits, contribute to building sustainable communities and be acceptable in terms of its impact on the high quality environment and adjoining countryside. This overall approach is supported by policy CS2 which sets out a sequential approach for development.

Policy CS3 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 outside the designated development limit for Crowle.

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 entirely outside the defined development boundary for Crowle and is therefore considered to be in breach of policies CS2, CS3 and CS8 of the Core Strategy, and RD2, H5 and DS1 of the local plan, and as such is a departure from the development plan.

## Flood risk

The site is located within Flood Zone 2/3a of the North Lincolnshire Strategic Flood Risk Assessment. The proposal is for 'more vulnerable' development, and there is a requirement for the sequential and exceptions tests to be applied and passed for the proposed dwelling.

A revised flood risk assessment (FRA) has been submitted with the planning application. It is worth noting that the Environment Agency has considered the content of the revised Flood Risk Assessment and removed their original objection; they recommend a condition in respect of finished floor levels, and flood resistant design and construction techniques.

The proposed development needs to be assessed against the sequential and exceptions tests. The applicant has provided a sequential test that explores the nearby settlement of Crowle which has areas within flood zone 1 for available sites. The sequential test shows a search of online estate agents and reasons why those sites have been discounted. The application was previously refused on the sequential test; however, from the submission and dialogue that has followed, the geographical area for search is justified in that the plot is read against the urban grain of Crowle with services extending beyond and further into the open countryside. The sequential test is therefore considered to be passed.

For completeness of the flood risk assessment the exceptions test will be applied. Essentially, the two parts to the test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

The FRA satisfactorily demonstrates that the development will be safe without increasing flood risk elsewhere; this is reinforced through comments from the EA and the council's drainage team. The FRA considers mitigation measures in respect of floor levels, emergency access and egress, flood warning and evacuation and flood resilience. Sufficient justification has been submitted with the application to demonstrate that the proposal will deliver sustainable development in Crowle that would outweigh flood risk (this relates to an assessment weighed against flood risk only). The proposal is considered to

provide wider sustainability benefits which outweigh flood risk and subsequently the exception test is passed in this case. The proposal is therefore considered to comply with policies DS16 of the North Lincolnshire Local Plan, CS19 of the Core Strategy and the National Planning Policy Framework in terms of flood risk.

## **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 health officer has stated that there is requirement for a phase 1 desk top study, remediation report and verification report. Given the existing use of the land, it is considered that this would form appropriate mitigation to any permission achieved. It is therefore considered that the proposal is in accordance with policy DS7.

## **Highways**

Policy T2 of the North Lincolnshire Local Plan is concerned with access to development and states that all development should be served by a satisfactory access. Policy T19 is concerned with parking provision, as well as general highway safety; both policies are considered relevant.

The council's highways team have assessed the application and have no objections to the proposal from a highway safety perspective subject to the imposition of conditions. However, some of the conditions proposed would duplicate those already controlled by the reserved matters and will not be attached. The application is for outline permission only and layout as well as access would mean the mitigation would extend to the reserved matters process.

It is therefore considered that the proposal would align with policies T2 and T19 of the North Lincolnshire Local Plan.

## **Environmental issues**

Policy DS1 is partly concerned with impacts upon residential amenity. It states, '...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.' Policy DS11 is also concerned with pollution control and is considered acceptable.

The Environmental Protection team have been consulted and have no objections with regard to impact upon the proposed dwelling from adjacent uses in the recreational ground and pavilion to the south-west subject to an acoustic barrier being placed between the dwelling and the skate park. This condition is considered reasonable given that the skate park is close to the boundary and other activities associated with the pavilion have the potential to impact upon future amenity.

Therefore, subject to the aforementioned mitigation, the proposal is considered acceptable, according with policies DS1 and DS11.

## **Character and appearance**

Policy RD2 of the North Lincolnshire Local Plan is concerned with development within the open countryside. The policy is in two parts: firstly, it sets out, in principle, those development types that are acceptable; and secondly, it sets out a criteria-based approach to assessing those developments. The second part is of interest here in that it seeks to ensure that the visual amenity of the countryside is not compromised by poor development. Paragraph 'c' of the policy states:

'...the development would not be detrimental to the character or appearance of the open countryside or a nearby settlement in terms of siting, scale, massing, design and use of materials.'

Policy CS5 of the North Lincolnshire Core Strategy is also relevant. It states '...All new development in North Lincolnshire should be well designed and appropriate for their context. It should contribute to creating a sense of place' and 'Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable.'

Policy H5 of the local plan, which is concerned with new housing development, policy LC7 of the local plan, which is concerned with landscape protection, and paragraph 127 of the NPPF are also considered relevant, though the criteria-based nature of policy H5 lends itself better to the assessment of any subsequent reserved matters.

The applicant has shown a large dwelling on the plot. The plot is located between the last dwelling on Godnow Road and the Pavilion Ground. Given that it is located within the existing urban grain of Crowle, there would be limited character impacts emanating from the proposal. All other design issues are controlled by the reserved matters stage. Policies CS5 of the Core Strategy and H5 of the local plan should be used to form a design solution at a detailed design stage.

## **Conditions**

All pre-commencement conditions have been agreed in writing with the applicant in accordance with the Town and Country Planning (Pre-commencement conditions) Regulations 2018.

## **Planning balance**

Notwithstanding the development plan policies set out above, the NPPF is a material consideration when determining planning applications. Paragraph 11(d) of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies which guide the supply of housing should not be considered up-to-date.

A recent review of the Five Year Housing Land Position Statement has identified that the council's housing land supply has reduced from five years and six dwellings, to four years. The council is preparing a Housing Delivery Action Plan in accordance with the NPPF and PPG. The Action Plan will assist in securing a five-year land supply; some of the actions include reviewing the windfall allowance calculation, and working with developers to bring forward outline planning applications.

The revised Five Year Housing Land Supply Position Statement is still awaiting update; as such, any current decisions made by the planning authority should take account of the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF.

The current local policies relating to housing will carry reduced weight during this period. This statement confirms that North Lincolnshire Council does not currently have a five-year supply of deliverable housing sites. The consequence of this shortfall is to demonstrate that current policies are failing to deliver a five-year supply of housing in accordance with paragraph 11 (footnote 7) of the NPPF and they are, therefore, failing to meet short-term housing needs. As such it is considered that there is a clear and demonstrable need for housing development in the area. Accordingly the operation of paragraph 11 of NPPF triggers a tilted balance whereby there is a presumption in favour of sustainable development and development proposals should be approved unless the adverse impacts significantly and demonstrably outweigh the benefits (Paragraph 11, b, ii).

It is considered that there are limited adverse impacts in relation to the proposal and notwithstanding its countryside location it is considered that the benefits of this scheme would not be outweighed 'significantly nor demonstrably' by any adverse impacts.

## **Conclusion**

Whilst the proposal is located outside of the development boundary for Crowle it is clear that there are no adverse impacts in approving the development that would outweigh the benefits. Therefore, in line with paragraph 11 of the NPPF, the proposal is considered to represent sustainable development.

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

1.

Approval of the details of the layout, scale, and appearance of the building(s), 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 to the site 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.

No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by 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.

6.

The dwelling shall not be occupied until the vehicular access to it and the vehicle parking and turning space(s) serving it have been completed and, once provided, the vehicle parking and turning space(s) shall be retained.

**Reason**

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

7.

Prior to the commencement of development, an acoustic barrier or masonry wall shall be erected on the boundary adjacent to the football pitch and skate park. A detailed technical specification of the acoustic barrier or wall shall be submitted to and approved in writing by the local planning authority. The specification shall include details of the location, size and design of the barrier, with predicted noise reduction over the frequency spectrum. The approved acoustic barrier or wall shall be installed prior to commencement of the use of this site and shall be maintained thereafter.

**Reason**

To protect the amenity of future residents and to accord with policies DS1 and DS11 of the North Lincolnshire Local Plan.

8.

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.

9.

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.

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.

The development shall be carried out in accordance with the submitted flood risk assessment by Howard J Wroot dated 10 October 2019 and the following mitigation measures it details:

- finished floor levels shall be set no lower than 3.7 metres above Ordnance Datum (AOD) as stated in sections 5.1 and 6.1
- flood proofing measures to be used to a height of at least 4.9 metres AOD as detailed in section 6.2.

The dwelling shall be a dormer bungalow or two-storey dwelling.

**Reason**

To reduce the risk of flooding to the proposed development and future occupants.

**Informative 1**

Our records indicate that the proposed development site is bounded by a watercourse on the southern and eastern boundaries. 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**

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 [lifadrainageteam@northlincs.gov.uk](mailto:lifadrainageteam@northlincs.gov.uk) for further details. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

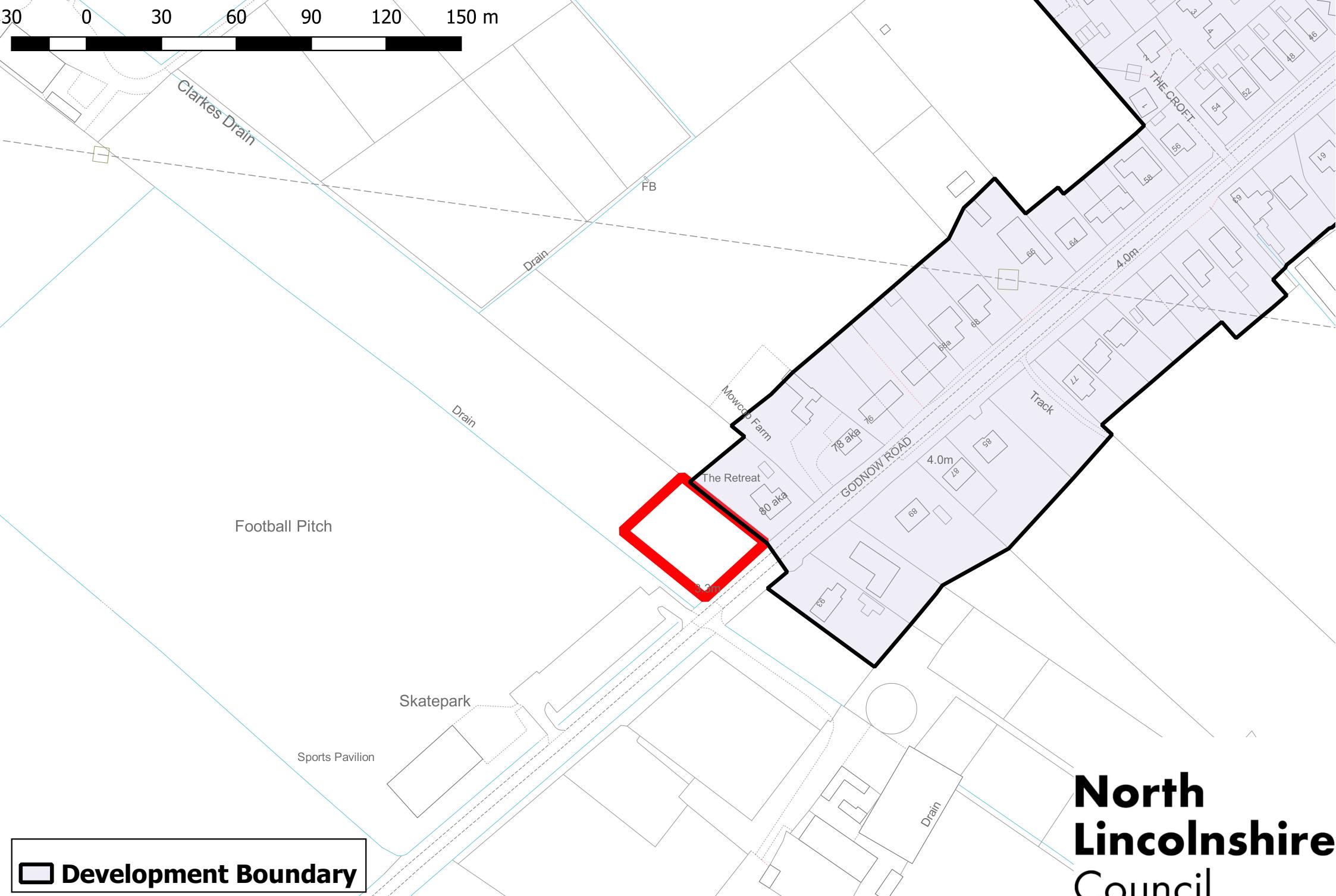
#### **Informative 3**

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 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.



**North  
Lincolnshire  
Council**

**PA/2020/382**