

<b>APPLICATION NO</b>	<b>PA/2018/1384</b>
<b>APPLICANT</b>	Euro Garages Ltd
<b>DEVELOPMENT</b>	Planning permission to erect a petrol filling station with ancillary convenience store and sandwich shop concession, three jet washes, ATM facilities, underground tanks, drive-thru coffee shop plus associated access, car parking, landscaping and other enabling works
<b>LOCATION</b>	Land off Ferriby Road, Barton-upon-Humber
<b>PARISH</b>	Barton upon Humber
<b>WARD</b>	Barton
<b>CASE OFFICER</b>	Andrew Law
<b>SUMMARY RECOMMENDATION</b>	<b>Grant permission subject to conditions</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Cllr Paul Vickers – significant public interest) Objection by Barton upon Humber Town Council Significant public interest
<b>POLICIES</b>	

**National Planning Policy Framework:** Paragraph 7 explains that the purpose of the planning system is to contribute to the achievement of sustainable development and that *“At a very high level... sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*

Paragraph 8 identifies the three overarching objectives in achieving sustainable development through the planning system. These objectives 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):

- d) *“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;*
- e) *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*
- f) *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 9 states that *“Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.”* It also explains that it the 3 overarching objectives are not criteria against which every decision can or should be judged.

Paragraph 10 states that at the heart of the Framework is a presumption in favour of sustainable development.

Paragraph 11 sets out the presumption in favour of sustainable development and confirms that, 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 planning 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 the Framework as a whole.”*

Paragraph 12 states that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan... permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”*

### ***Decision-making***

Paragraph 38 states that *“Local planning authorities should approach decisions on proposed development in a positive and creative way... Decision-makers at every level should seek to approve applications for sustainable development where possible.”*

Paragraph 47 explains the requirement in planning law that applications for planning permission must be determined in accordance with the local plan, unless material considerations indicate otherwise. It also requires decisions to be made as quickly as possible and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 54 states that *“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”*

Paragraph 55 explains that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Paragraph 56 states that planning obligations must only be sought where they meet all of the following tests:

- d) *“necessary to make the development acceptable in planning terms;*
- e) *directly related to the development; and*
- f) *fairly and reasonably related in scale and kind to the development.”*

### ***Building a strong competitive economy***

Paragraph 80 states that *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.”*

Paragraph 82 explains that planning policies and decisions should recognise and address the specific locational requirements of different sectors.

### ***Supporting a prosperous rural economy***

Paragraph 83 seeks to promote the sustainable growth and expansion of all types of business in rural areas, through conversion of existing buildings and well-designed new buildings; the development and diversification of land-based rural businesses; sustainable rural tourism and leisure developments that respect the character of the countryside; and the retention and development of accessible local services and community facilities.

Paragraph 84 states that *“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable”.*

### ***Promoting healthy and safe communities***

Paragraph 91 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places, which promote social interaction; are safe and accessible; and enable and support healthy lifestyles.

### ***Promoting sustainable transport***

Paragraph 102 states that *“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:*

- f) *the potential impacts of development on transport network can be addressed;*
- g) *opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location and density of development that can be accommodated;*
- h) *opportunities to promote walking, cycling and public transport use are identified and pursued;*
- i) *the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and*
- j) *patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.”*

Paragraph 103 requires significant developments to be focussed in locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes... However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-taking.

Paragraph 108 requires that when assessing specific applications for development, it should be ensured that:

- d) *“appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- e) *safe and suitable access to the site can be achieved for all users; and*
- f) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety can be cost effectively mitigated to an acceptable degree.”*

Paragraph 109 states that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Paragraph 100 goes on to explain that within this context, applications for development should:

- f) *“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- g) *address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*

- h) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- i) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- j) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”*

Paragraph 111 requires all developments that will generate significant amounts of movement to be provided with a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

### ***Making effective use of land***

Paragraph 117 requires planning policies and decisions to promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 118 requires planning policies and decisions to:

- f) *“encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;*
- g) *recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;*
- h) *give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*
- i) *promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing were land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure); and*
- j) *support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”*

Paragraph 121 states that *“Local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help meet identified development needs.”*

## **Achieving well-designed places**

Paragraph 124 states that *“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*

Paragraph 127 goes on to explain that planning policies and decisions should ensure that developments:

- g) “will function well and add to the overall quality of the area, not just for the short term but over lifetime of the development;*
- h) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- i) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- j) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- k) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- l) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

Paragraph 130 explains that permission should be refused 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.

## **Meeting the challenge of climate change, flooding and coastal change**

Paragraph 148 states that *“The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.”*

Paragraph 153 states that *“In determining planning applications, local planning authorities should expect new development to:*

- c) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

*d) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.”*

Paragraph 155 states that *“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”*

Paragraph 163 states that *“when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”*

Paragraph 165 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

### **Conserving and enhancing the natural environment**

Paragraph 170 explains that *“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- b) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”*

Paragraph 175 explains that when determining planning applications, local planning authorities should apply the following principles:

- a) *“if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”*

Paragraph 176 identifies that potential SPA's and SAC's, listed or proposed RAMSAR sites and sites identified or required as compensation for adverse effects on habitat sites should be given the same protection as habitat sites.

Paragraph 177 explains that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

Paragraph 178 states that planning policies and decisions should ensure that:

- a) *“a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*



c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.”*

Paragraph 179 makes it clear that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180 states that *“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life<sup>60</sup>;*
- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*

Paragraph 181 states that *“Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified... Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.”*

Paragraph 183 makes it clear that *“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”*

### ***Conserving and enhancing the historic environment***

Paragraph 187 requires local planning authorities to maintain or have access to a historic environment record, which should be used to assess the significance of heritage assets and predict the likelihood that currently unidentified heritage assets will be discovered in the future.

Paragraph 189 requires applicants to *“describe the significance of any heritage assets affected, including any contribution made by their setting.”*

Paragraph 190 states that *“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including*

*by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."*

Paragraph 192 requires local planning authorities to take account of:

- d) "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- e) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- f) the desirability of new development making a positive contribution to local character and distinctiveness."*

Paragraph 193 explains that, when considering the impact of a development on the significance of a heritage asset, great weight should be given to the assets conservation.

Paragraph 194 requires clear and convincing justification to be provided for any harm to, or loss of, the significance of a designated heritage asset.

Paragraph 195 *"where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits"*.

Paragraph 196 states *"where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal..."*

Paragraph 197 requires the effect of an application upon a non-designated heritage asset's significance to be taken into account and where applications directly, or indirectly, affect non-designated heritage assets, *"a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset"*.

Paragraph 198 states that *"Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred."*

## **Annex 1: Implementation**

Paragraph 212 explains that the policies in the NPPF are material considerations, which should be taken into consideration when determining planning applications.

Paragraph 213 goes on to explain that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Weight should be given to these policies according to their consistency with the Framework.

## **North Lincolnshire Local Plan:**

### **Policy S10 (Petrol Filling Stations)**

States that *“Proposals for petrol filling stations will be permitted subject to the following criteria being met:*

- i) permission will not be granted within residential areas or the open countryside unless it can be demonstrated that there is no viable alternative site in a non-residential area or within a settlement development boundary;*
- ii) the design of the development should not cause demonstrable harm to the character and appearance of the area. Where appropriate, a condition will be imposed requiring that a scheme of landscaping be implemented to a standard agreed by the local planning authority so as to minimise the visual impact of the development;*
- iii) the development will not result in highway safety problems;*
- iv) where necessary, a condition will be imposed limiting the hours of deliveries, equipment maintenance and the operation of a car wash facility so as to avoid any adverse effects on nearby residential properties.*

### **Policy S8 (Out-of-centre Retail and Leisure Development)**

States that *“planning permission will only be permitted for out-of-centre retail and leisure development where:*

- a clear need for the development has been demonstrated;*
- a developer can demonstrate that there are no sites for the proposed use within or at the edge of the town or district centre that are suitable, viable for the proposed use and likely to be available within a reasonable time period;*
- the proposal, in addition to the cumulative effects of recently completed developments and outstanding planning permissions, will have no adverse impact on the vitality and viability of existing district centres and the rural economy. In all cases applications shall be accompanied by a retail impact assessment;*
- the site is or can be made accessible by a choice of means of transport, including public transport, walking and cycling.*

*Where it is appropriate, conditions will be imposed restricting the minimum unit size of the development, and the type and range of goods sold, so as to prevent the operators directly competing with the existing town or district centres. The developer will be expected to support the proposal with evidence submitted as an impartial retail impact assessment.”*

### **Policy T1 (Location of Development)**

This policy requires developments that generate significant volumes of traffic to be *“located in urban areas and where there is good access to transport networks and foot, cycle and public transport provision.”*

### ***Policy T2 (Access to Development)***

This policy requires all new developments to be provided with a satisfactory access and continues to state that *“larger developments should be served by a range of transport modes.”*

### ***Policy T6 (Pedestrian Routes and Footpaths)***

This policy requires major developments to include links to nearby existing or proposed pedestrian routes.

### ***Policy T8 (Cyclists and Development)***

This policy requires new developments to provide links to existing or proposed cycle links where possible and to provide cycle parking facilities in accordance with set standards.

### ***Policy T14 (The North Lincolnshire Strategic Road Network)***

This policy seeks to concentrate traffic onto the Strategic Road Network (SNR) and prevent development that would compromise the function of the SNR.

### ***Policy T19 (Car Parking Provision and Standards)***

This policy states that *“provision will be made for car parking where it would:*

- i) meet the operational needs of business;*
- ii) be essential to the viability of the new development;*
- iii) improve the environment or safety of streets;*
- iv) meet the needs of people with disabilities;*
- v) be needed by visitors to the countryside and comply with Appendix 2, Parking Provision Guidelines.”*

### ***Policy DS1 (General Requirements)***

This policy seeks a high standard of design in all new developments and states *“proposals for poorly designed development will be refused”*. Policy DS1 identifies criteria against which all new proposals will be considered as set out below:

- *Quality of design*
  - i) the design and external appearance should reflect or enhance the character, appearance and setting of the immediate area; and*
  - ii) the design and layout should respect, and where possible retain and/or enhance, the existing landform.*

- *Amenity*
  - iii) *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; and*
  - iv) *amenity open space in the area should be retained, wherever possible; and*
  - v) *no pollution of water, air or land should result.*
- *Conservation*
  - vi) *there should be no adverse effect on features of acknowledged importance on, or surrounding, the site, including species of plants and animals of nature conservation value; and*
  - vii) *the development must retain existing features that make an important contribution to the character or amenity of the site or the surrounding area; and*
  - viii) *development proposals should include results of archaeological assessment, where appropriate, and adequate measures to ensure that there would be no unacceptable impacts on archaeological remains.*
- *Resources*
  - ix) *there should be no conflict with an allocated or approved land-use nor should the reasonable potential for development of a neighbouring site be prejudiced; and*
  - x) *the location and design of developments on urban fringes should take into account the need to minimise the impact of the development on adjoining agricultural land; and*
  - xi) *measures to conserve energy will be expected in:*
    - a) *the design, orientation and layout of buildings; and*
    - b) *the location of development; and*
    - c) *improvements to the transport network and in the management of traffic.*
- *Utilities and Services*
  - xii) *there should be no reliance on public finances being available to provide infrastructure and services; and*
  - xiii) *suitable on-site drainage should be provided and where there are off-site drainage problems the developer will be expected to overcome them.*

### **Policy DS3 (Planning Out Crime)**

States that “new development should take into account personal safety and the security of people and property by:

- (i) ensuring that paths, play areas and open spaces are overlooked by inhabited buildings while maintaining the privacy of inhabitants; and
- (ii) avoiding the creation of spaces with ill-defined ownership and ensure there is a clear distinction between public open space and private open space; and
- (iii) ensuring the development is well integrated into the existing pattern of pedestrian and vehicular movement; and
- (iv) ensuring that dark or secluded areas are not created by landscaping, planting or building; and
- (v) ensuring that streets and paths are adequately lit.”

### **Policy DS12 (Light Pollution)**

States that “planning applications which involve light-generating development, including floodlighting, will only be permitted where it can be demonstrated that there will be no adverse impact on local amenities.”

### **Policy DS14 (Foul Sewage and Surface Water Drainage)**

States that “the council will require satisfactory provision to be made for the disposal of foul and surface water from new development, either by agreeing details before permission is granted or by imposing conditions.”

### **Policy DS16 (Flood Risk)**

States that “development will not be permitted within floodplains where it would:

- (i) increase the number of people or buildings at risk;
- (ii) impede the flow of flood water;
- (iii) impede access for the future maintenance of watercourses;
- (iv) reduce the storage capacity of the floodplain;
- (v) increase the risk of flooding elsewhere;
- (vi) undermine the integrity of existing flood defences.”

### **Policy LC5 (Species Protection)**

States that “planning permission will not be granted for development which would have an adverse impact on protected species. Where development is granted that may impact on protected species, the use of conditions or planning agreements will be considered to mitigate this impact.”

## **North Lincolnshire Core Strategy:**

### ***Policy CS1 (Spatial Strategy for North Lincolnshire)***

This policy sets out the spatial strategy for future development in North Lincolnshire. It identifies areas of specific focus including, amongst others:

*“(b) supporting the market towns of Barton-upon-Humber, Brigg, Crowle, Epworth, Kirton-in-Lindsey and Winterton as thriving places to live, work and visit, and as important service centres serving the needs of local communities across North Lincolnshire;”*

It goes on to state that *“All future growth regardless of location should contribute to sustainable development”* and that where development has an environmental impact *“mitigation measures should be used for the development to be acceptable”*.

### ***Policy CS2 (Delivering More Sustainable Development)***

This policy sets out how the spatial strategy for North Lincolnshire will be implemented using a sequential approach to the location of new development based on the settlement hierarchy and taking into account other sustainability criteria. The primary focus for new development is identified as that within the Scunthorpe urban area, with the secondary focus being:

*“2. Previously developed land and buildings within the defined development limits of North Lincolnshire’s Market Towns, followed by other suitable infill opportunities then appropriate small scale greenfield extensions to meet identified local needs”*

It goes on to state that *“All future development will be required to contribute towards achieving sustainable development”* and sets out sustainable development principles which new developments should comply with. These sustainable development principles include, amongst others, a requirement to:

- Be located to minimise the need to travel and to encourage any journeys that remain necessary to be possible by walking, cycling and public transport.*
- Be located where it can make the best use of existing transport infrastructure and capacity, as well as taking account of capacity constraints and deliverable transport improvements particularly in relation to junctions on the Strategic Road Network...*
- Contribute towards the creation of locally distinctive, sustainable, inclusive, healthy and vibrant communities.*
- Contribute to achieving sustainable economic development to support a competitive business and industrial sector.*
- Ensure that everyone has access to health, education, jobs, shops, leisure and other community and cultural facilities that they need for their daily lives.*
- Ensure the appropriate provision of services, facilities and infrastructure to meet the needs of the development...*

- *Be designed to a high standard, consistent with policy CS5, and use sustainable construction and design techniques.*

The policy also states that *“Environmental Impacts to or from development that cannot be avoided should be adequately mitigated for it to be acceptable.”*

### **Policy CS5 (Delivering Quality Design in North Lincolnshire)**

This policy sets out the key design principles for all new development in North Lincolnshire. Its aim is to ensure that development supports the creation of a high quality built environment which is attractive to residents, investors and visitors. It asserts that *“All new development... should be well designed and appropriate for their context.”* It goes on to state that *“The council will encourage contemporary design, provided that it is appropriate for its location and is informed by its surrounding context.”* It concludes that *“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 CS6 (Historic Environment)**

The aim of this policy is to ensure that North Lincolnshire’s important sites and areas of historic and built heritage value are protected, conserved or enhanced in order that they continue to make an important contribution to the area’s scene and the quality of life for local people.

This policy identified that the council will promote effective management of the areas historic assets through, amongst others:

- *Ensuring that development within North Lincolnshire’s Market Towns safeguards their distinctive character and landscape setting, especially Barton upon Humber, Crowle and Epworth.*

It goes on to state that *“All new development must respect and enhance the local character and distinctiveness of the area in which it would be situated, particularly in areas with high heritage value.”*

### **Policy CS14 (Retail Development)**

This policy aims to support the sustainable development of a vibrant Scunthorpe town centre, Market Towns and other centres in the retail hierarchy at a scale and function proportionate to the retail standing of the centre. It sets out the retail hierarchy in North Lincolnshire as follows:

1. *Scunthorpe Town Centre*
2. *Market Town Centres of Barton upon Humber, Brigg, Crowle and Epworth:*

*To fulfil their role as key shopping and service centres in North Lincolnshire, the market town centres will be supported as locations for further retail, leisure, cultural and tourism development. Development will only be permitted that is required to meet the needs of the area served by the centre in a sustainable way, is of a scale appropriate to the centre, and that will not adversely impact upon the vitality or viability of other nearby town and district centres. Within the district centres, any new development should respect their historic character.*



3. *District Centres of Kirton in Lindsey and Winterton*
4. *District Centres of Ashby High Street and Frodingham Road*
5. *Local Centres and Corner Shops*

The policy goes on to set out key measures to support the vitality and viability of North Lincolnshire's network of town centres by ensuring that:

- *The existing retail character and function of centres is safeguarded. Development that detracts from the vitality and viability of the area's town centres will be resisted.*
- *New town centre development complies with the sequential approach to site selection, which prioritises development in existing centres, then edge-of-centre sites, and only then out of centre sites that are accessible by a choice of means of transport.*
- *The scale and type of development reflects the centre's existing and proposed function and its capacity for new development.*
- *The retail function of town centres are protected by way of restricting non-A1 uses particularly within the defined town centre boundaries.*
- *A balanced range of facilities and uses are encouraged within district and local centres in keeping with their size and function to meet the everyday needs of the local population. Local Shops located within smaller settlements, in particular in rural areas will be protected where they are important to the day-today needs of people.*
- *Hopping facilities are accessible by a range of means including by car, walking, cycling and public transport.*
- *New developments are of an appropriately high quality design, particularly in the town centre.*

#### ***Policy CS16 (North Lincolnshire's Landscape, Green Space and Waterscape)***

This policy states that *"The council will protect, enhance and support a diverse and multi-functional network of landscape, green space and waterscape.*

#### ***Policy CS17 (Biodiversity)***

This policy sets out a number of ways in which the council will seek to promote the effective stewardship of North Lincolnshire's wildlife. Amongst others these include:

- *Ensuring development retains, protects and enhances features of biological and geological interest and provides for the appropriate management of these features; and*
- *Ensuring development seeks to produce a net gain in biodiversity by designing in wildlife, and ensuring any unavoidable impacts are appropriately mitigated for.*

#### ***Policy CS18 (Sustainable Resource Use and Climate Change)***

This policy seeks to actively promote development that utilises natural resources efficiently and sustainably by, amongst others:

- *Requiring the use of Sustainable Urban Drainage Systems (SuDS) where practicable.*
- *Requiring all industrial and commercial premises greater than 1000 square metres to provide 20% of their expected energy demand from on-site renewable energy until the code for such buildings is applied nationally.*
- *Ensuring building design reduces energy consumption by appropriate methods such as high standards of insulation, avoiding development in areas subject to significant effects from shadow, wind and frost, using natural lighting and ventilation, capturing the sun's heat where appropriate.*
- *Supporting development that seeks to reduce the need to travel for people using that development.*

***Policy CS19 (Flood Risk)***

*States that “The council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere. This will involve a risk-based sequential approach to determine the suitability of land for development.”*

***Policy CS22 (Community Facilities and Services)***

*States that “The provision of new community facilities... which meet the needs of local residents will be supported in principle.” It goes on to explain that good quality services and facilities will be provided that meet the needs of local communities and are accessible by public transport, cycling or on foot.*

***Policy CS23 (Sport, Recreation and Open Space)***

*States that “Development proposals that will result in the loss of an existing leisure, recreation facility, natural green space, open space or playing pitches will not be supported unless:*

- 1. There is currently an excess provision; or*
- 2. Satisfactory alternative provision equivalent or better quality and quantity in a suitable location is made; or*
- 3. The facility is no longer needed.”*

***Policy CS25 (Promoting Sustainable Transport)***

*States that “The council will support and promote a sustainable transport system in North Lincolnshire which offers a choice of transport modes and reduces the need to travel...”*

**Housing and Employment Land Allocations Development Plan Document (HELADPD):**

***Policy PS-1 (Presumption in favour of sustainable development)***

*Explains that the council will take a positive approach to new development that reflects the presumption in favour of sustainable development set out in the NPPF. Planning applications that accord with the Local Plan will be approved unless material considerations*

indicate otherwise. It goes on to state that where there are no relevant, up-to-date policies permission will be granted, unless material considerations indicate otherwise *“taking into account whether:*

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework indicate that development should be restricted.”*

## **National Planning Practice Guidance:**

### ***Air quality***

*This section of the guidance provides guiding principles on how planning can take account of the impact of new development on air quality.*

*Paragraph 005 sets out that when deciding whether air quality is relevant to a planning application, considerations could include whether the development would (in summary): significantly affect traffic (through congestion, volumes, speed, or traffic composition on local roads); introduce new point sources of air pollution; expose people to existing sources of air pollutants; give rise to potentially unacceptable impact (such as dust) during construction; or affect biodiversity (due to pollutants).*

*Paragraph 008 states that mitigation measures will be “locationally specific, will depend on the proposed development and should be proportionate to the likely impact”. It further sets out that examples of mitigation could include: amendments to a site’s layout to increase distances between pollution sources and receptors; using green infrastructure; means of ventilation; promoting means of transport with low impact on air quality; control of dust and emissions from construction, operation and demolition; and contributing funding to measures designed to offset the impact on air quality.*

*Paragraph 009 explains, through the means of a flowchart, the considerations in respect of air quality in the development management process.*

### ***Conserving and enhancing the historic environment***

This section of the guidance advises on enhancing and conserving the historic environment.

*Paragraph 017 states that “what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset” and asserts that “significance derives not only from a heritage asset’s physical presence, but also from its setting.*

*Whether a proposal causes substantial harm will be a judgement for the decision taker... In general terms, substantial harm is a high test, so it may not arise in many cases”.*

### ***Design***

This section of the guidance provides advice on the key points to take into account on design.

Paragraph 004 advises that development proposals should reflect the requirement for good design set out in national and local policy. It goes on to explain that local planning authorities are required to take design into consideration and should refuse permission for development of poor design.

Paragraph 006 explains that design can affect a range of economic, social and environmental objectives beyond the requirement for good design in its own right. It identifies that the following issues should be considered:

- local character (including landscape setting)
- safe, connected and efficient streets
- a network of greenspaces (including parks) and public places
- crime prevention
- security measures
- access and inclusion
- efficient use of natural resources
- cohesive and vibrant neighbourhoods

Paragraph 023 identifies that planning can help achieve good design and connected objectives and that, where appropriate, the following should be considered:

- layout – the way in which buildings and spaces relate to each other
- form – the shape of buildings
- scale- the size of buildings
- detailing – the important smaller elements of building and spaces
- materials – what a building is made from

Paragraph 037 explains that decisions on planning applications should clearly support the design objectives in the development plan. It goes on to state that *“If a local authority decides that an application should be refused on design grounds there should be a clear explanation of the decision.”*

### ***Ensuring the vitality of town centres***

Paragraph 001 identifies the two key tests set out in the NPPF that should be applied when planning for town centre uses outside of an existing town centre – the sequential test and impact test. It goes on to explain that the sequential test should be applied first and may identify preferable sites in town centres for accommodating proposed main town centre uses. The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.

Paragraph 008 explains the sequential test in more detail. This test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre or edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre.

Paragraph 010 confirms that it is for the applicant to demonstrate compliance with the sequential test and that *“the application of the test should be proportionate and appropriate to the given proposal.”*

Paragraph 011 identifies that certain town centre uses have particular market and locational requirements which means that they may only be accommodated in specific locations.

Paragraph 013 identifies that the purpose of the impact test is to ensure that the impact over time of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse.

Paragraph 015 confirms that it is for the applicant to demonstrate compliance with the impact test and that *“The impact test should be undertaken in a proportionate and locally appropriate way.”*

Paragraph 016 explains that impact should be assessed on a like-for-like basis in respect of that particular sector (eg it may not be appropriate to compare the impact of an out of centre DIY store with small scale town centre stores as they would not normally compete directly).

Paragraph 017 sets out a checklist for applying the impact test as follows:

- establish the state of existing centres and the nature of current shopping patterns (base year)
- determine the appropriate time frame for assessing impact, focusing on impact in the first five years, as this is when most of the impact will occur
- examine the ‘no development’ scenario (which should not necessarily be based on the assumption that all centres are likely to benefit from expenditure growth in convenience and comparison goods and reflect both changes in the market or role of centres, as well as changes in the environment such as new infrastructure)
- assess the proposal’s turnover and trade draw (drawing on information from comparable schemes, the operator’s benchmark turnover of convenience and comparison goods, and carefully considering likely catchments and trade draw)
- consider a range of plausible scenarios in assessing the impact of the proposal on existing centres and facilities (which may require breaking the study area down into a series of zones to gain a finer-grain analysis of anticipated impact)
- set out the likely impact of that proposal clearly, along with any associated assumptions or reasoning, including in respect of quantitative and qualitative issues
- any conclusions should be proportionate: for example, it may be sufficient to give a broad indication of the proportion of the proposal’s trade draw likely to be derived from

different centres and facilities in the catchment area and the likely consequences to the viability and vitality of existing town centres

It goes on to state that *“A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances.”* In areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion may have a significant adverse impact.

Paragraph 018 explains, through the means of a flowchart, the key steps which should be taken when carrying out an impact test in decision-taking.

### ***Health and wellbeing***

This section of the guidance advises on the role of health and wellbeing in planning.

Paragraph 001 states that local authorities *“should ensure that health and wellbeing, and health infrastructure are considered in...planning decision-making”*.

Paragraph 002 declares the built and natural environments to be *“major determinants of health and wellbeing”* and goes on to list, amongst others, that planning authorities should, in considering new development proposals, ensure that *“potential pollution and other environmental hazards, which might lead to an adverse impact on human health, are accounted for”*.

### ***Light pollution***

This part of the guidance advises on how to consider light within the planning system.

Paragraph 001 explains that artificial light *“can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky”* and advises that appropriately designed lighting schemes are key.

Paragraph 002 advises local planning authorities, when assessing whether a development proposal might have implications for light pollution, to consider whether they will *“materially alter light levels outside and/or have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces...protected site or species...or protected area of dark sky”*.

Paragraph 003 explains that when light spills onto areas outside the immediate area of a proposed development it *“can impair sleeping, cause annoyance to people, compromise an existing dark landscape and/or affect natural systems (e.g. plants, animals, insects, aquatic life)”*. It goes on to advise that light intrusion can usually be avoided with careful lamp design selection and positioning.

Paragraph 004 advises that *“lighting only when the light is required can have a number of benefits, including minimising light pollution, reducing harm to wildlife and improving people’s ability to enjoy the night sky”*.

Paragraph 005 states that *“the character of the area and the surrounding environment may affect what will be considered an appropriate level of lighting for a development. In particular, lighting schemes for developments in...intrinsically dark landscapes should be carefully assessed as to their necessity and degree”*. Glare should be avoided for safety reasons.

## **Natural environment**

This section of the guidance explains key issues in implementing policy to protect and enhance the natural environment.

Paragraph 001 states that *“planning should recognise the intrinsic character and beauty of the countryside”*.

Paragraph 007 explains the statutory responsibilities of planning authorities in determining applications and, at its core, a duty to *“contribute to conserving and enhancing the natural environment and reducing pollution”*.

Paragraph 008 requires local planning authorities to *“consider the opportunities that individual development proposals may provide to enhance biodiversity and contribute to wildlife and habitat connectivity in the wider area”*.

Paragraph 016 advises that where there is *“reasonable likelihood of a protected species being present and affected by development”* then ecological surveys may be warranted and these surveys should be *“proportionate to the nature and scale of development proposed and the likely impact on biodiversity”*. Planning conditions and/or legal agreements may be appropriate for monitoring and/or biodiversity management plans where these are needed.

Paragraph 017 seeks to encourage bio-diversity enhancement through planning decisions.

Paragraph 018 explains the *‘mitigation hierarchy’* of information, avoidance, mitigation and compensation to facilitate decision-taking.

Paragraph 020 requires the securing of mitigation and/or compensation measures such as off-setting, in instances where *“significant harm to biodiversity is unavoidable”*.

Paragraph 026 expects local planning authorities to *“take into account the economic and other benefits of the best and most versatile agricultural land...and...should seek to use poorer quality land in preference to that of a higher quality”*.

## **Noise**

This section of the guidance advises on how planning can manage potential noise impacts in new development.

Paragraph 001 states that *“noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment”*.

Paragraph 002 advises that whilst noise can override other planning concerns, neither the Noise Policy Statement for England nor the NPPF expects noise to be considered in isolation, separate from the economic, social and other environmental dimensions of the proposed development.

Paragraph 003 advises planning authorities to consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*

- *whether or not an adverse effect is occurring or likely to occur;*
- *whether or not a good standard of amenity can be achieved; and*
- *whether the overall effect of the noise exposure is, or would be, above or below the significant observed adverse effect level”.*

Paragraph 006 identifies a number of factors that are likely to give rise to noise being a concern and these include the following:

- the source of the noise;
- absolute level;
- time of the day;
- number, frequency and pattern of noise events; and
- the duration and/or character of the noise.

Planning authorities are also advised to consider the cumulative impacts of noise that can arise and also their effects upon wildlife and ecosystems, particularly upon designated sites, as well as those living in the vicinity of proposed developments.

Paragraph 008 explores possibilities for mitigation against the adverse noise impacts that can arise from proposed developments.

### ***Open space, sports and recreation facilities, public rights of way and local green space***

This section of the guidance gives key advice on open space, sports and recreation facilities, public rights of way and the new Local Greenspace designation.

Paragraph 004 refers to the Rights of Way Circular (1/09) which states that the *“effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered”.*

### ***Travel plans, transport assessments and statements in decision-taking***

This section of the guidance provides advice on when transport assessments and transport statements are required, and what they should contain.

Paragraph 002 explains that Travel Plans, Transport Assessments and Statements are all ways of assessing and mitigating the negative transport impacts of a development in order to promote sustainable development. It goes on to state that they are required for all developments which generate significant amounts of movement.

Paragraph 003 explains that *“Travel Plans are long-term management strategies for integrating proposals for sustainable travel into the planning process”.*



Paragraph 004 explains that Transport Assessments and Statements are ways of assessing the potential transport impacts of developments.

Paragraph 005 states that *“The Transport Assessment or Transport Statement may propose mitigation measures where these are necessary to avoid unacceptable or “severe” impacts.”* It goes on to explain that Travel Plans can play an effective role in taking forward those mitigation measures which relate to the long term occupation and operation of developments.

### ***Use of planning conditions***

This section of the guidance provides advice on the use of conditions on planning decisions.

Paragraph 001 explains that when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating any adverse impacts of the development. The use of planning conditions should be exercised in a way that is *“clearly seen to be fair, reasonable and practicable.”* It goes on to state that *“It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.”*

Paragraph 003 highlights the 6 tests that must be passed for conditions to be imposed, it confirms that conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

Paragraph 006 states that *“the ability to impose conditions requiring submission and approval of further details extends to aspects of the development that are not fully described in the application (eg provision of parking spaces)”*.

Paragraph 007 explains that care should be taken when using conditions that prevent development beginning until the condition has been complied with. It states that *“Such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission.”*

Paragraph 008 advises that conditions requiring works on land not controlled by the applicant should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. *“Where the land or*

*specified action in question is within the control of the local authority determining the application (for example, as highway authority where supporting infrastructure is required) the authority should be able to present clear evidence that this test will be met before the condition is imposed.”*

Paragraph 012 advises that it is possible to impose a condition making minor modification to the development permitted where a detail in a proposed development, or lack of it, is unacceptable. However a condition that modifies the development in such a way as to make it substantially different from that set out in the application should not be used.

## **CONSULTATIONS**

**Highways:** The proposed access to the site approved under the previous permission and subject to safety audit would appear to have sufficient capacity to deal with the uses now proposed. Advise conditions that should be attached to any grant of planning permission.

**LLFA (drainage):** No objection subject to a condition securing the proposed surface water drainage scheme.

**Ecology:** No objection subject to conditions.

**Environmental Health:** No objection subject to conditions in respect of noise, lighting, air quality and construction environmental management.

**Trees and Landscape:** The shelter belt of trees for a good barrier and visual amenity, should consent be granted conditions would be required to protect the trees and secure replacement for any trees that are removed.

**Archaeology:** The proposal does not adversely affect any heritage assets of archaeological interest or their settings.

**Environment Agency:** Initially raised objections to the development because there was insufficient evidence to demonstrate that the proposed development would not pose an unacceptable risk of pollution of groundwater.

Following the submission of a Fuel Storage Feasibility Assessment and Controlled Waters Risk Assessment the EA has withdrawn its original objection and now raised no objection subject to a condition to secure the detailed scheme of fuel tank installation and monitoring.

**Anglian Water Developer Services:** No objection to the proposed development. Confirms that there is sufficient capacity in the existing system to take waste and used water. Make informative comments in respect of the consents required from Anglian Water in respect of discharge from the development.

**Highways England:** No objection.

## **TOWN COUNCIL**

**Barton Town Council:** Objects to the development on the following grounds:

- Part of Site 2 of the development site appears to have been reduced, whereby village green status has already been applied for;

- The validity of the Traffic Impact Assessment Report was queried and the figures contained within it are not necessarily a true picture of the overall traffic flow/volume generally in this area;
- A TRICS survey if requested;
- The application should be deferred until the site access arrangements in relation to traffic flows and traffic volume is agreed by North Lincolnshire Council;
- Concerns are raised regarding the site, light and noise pollution emitted from the proposed development and the removal of further trees;
- Provision for the litter that will be created from the takeaway facility is also concerning and the bio-degradable aspect of it; and
- The full range of wildlife habitat on the site does not appear to have been considered in its' entirety.

## **PUBLICITY**

Under the provisions of the Town and Country Planning (Development Management Procedure) Order 2015, this application has been advertised by means of a site notice being posted close to the site and a notice being published in the Scunthorpe Telegraph.

At the time of writing this report more than 20 individual letters, emails and web based representations have been received in objection to the proposed development. The responses received include an objection from *Barton Civic Society*.

The representations received in opposition to the application raise the following concerns/issues:

- The loss of the previously approved public house is a big let-down as the only reason for supporting the previous application was the family pub/restaurant;
- The proposal for a pub was a con and was never intended to be provided on the site;
- The purpose of this piece of land was to serve as a buffer between the houses in Barton and the A15. The proposed development would bring traffic and noise closer to houses;
- The proposed development will result in an increase in traffic and this will primarily be during peak hours, when the local roads are already busy;
- The submitted Transport Statement tries to hide the highway impact on the local roads by stating that the vehicles are already on the road. The development is trying to attract traffic from the A15;
- The proposed access from the A15 roundabout is dangerous and will result in road safety issues;
- There is no detailed plan of the proposed access point for the combined site;
- The proposal will result in noise and air pollution;

- Noise and disturbance from 24 hour operation will result in sleep disturbance to local residents;
- Limits need to be imposed on operational hours;
- Dust and noise from the existing construction operations on the Lidl site has been horrendous;
- If approved this will result in another year of noise and dust for neighbouring properties as a result of construction operations;
- The site is less than  $\frac{3}{4}$  of a mile from an existing petrol station in the town and there is no need for another petrol station in this location;
- There used to be 3 petrol stations serving the town, 2 of which have shut down, this shows that there is no need for another and that building a new one will result in the existing petrol station shutting down;
- There is no need for a convenience store next to a supermarket;
- The site appears larger than that of the pub and will result in loss of greenspace which was meant to be retained and is subject to a village green application;
- The proposal results in additional loss of green space and additional environmental impact;
- The proposal will result in the loss of 40 mature trees in addition to the trees removed by Lidl, this is unacceptable and will destroy what little is left of the visual amenity of the area;
- The proposal will impact on fox and deer that have been seen on the site;
- How will the coffee shop be viable?;
- The proposal will bring no benefits to the town;
- The development will impact on the viability and vitality of the town centre;
- Risks of surface water flooding still exist;
- Properties nearby suffer from reduced water pressure and the use of jet washers will exacerbate this;
- The proposal will result in the storage of hydrocarbons over the aquifer;
- There will be issues with recycling/disposal of car wash waste water;
- Who will pay for the removal of the toxic remains of the fuel tanks when they are no longer required; and
- Fuel stations are contrary to the principles of sustainable development and fossil fuelled road vehicles will become a thing of the past within 20 years.

At the time of writing the report 2 letters of support have been received stating that the proposal is a good idea and that it will be good for the town.

In addition to the above responses, 2 letters of comment have also been received stating that the proposal has a confusing layout and questioning whether the Council has investigated the applicants efforts in making the pub a worthwhile investment.

It is noted that several of the responses received in opposition to the proposed development question to decision of the Council to sell the land and the integrity of the authority in its decision-making in this regard and in respect of the previous application by Lidl. These comments are not material planning considerations and as such cannot be given regard in the determination of this planning application.

## **ASSESSMENT**

### **Site and surrounds**

The application site is a parcel of land measuring approximately 0.62 hectares in area, located on the western outskirts of the market town of Barton upon Humber. The site currently comprises vacant grassland and has previously been used informally by the local community for recreational purposes. The site is bounded by Ferriby Road (A1077) with residential areas beyond this to the north, the A15/A1077 roundabout and A15 (dual carriageway) slip road to the west, by an under construction supermarket with residential properties on Forkedale beyond to the east and by an undeveloped area of green space and a small woodland area to the south. Access to the site is via a new arm from the A1077/A15 roundabout, which serves the application site and the supermarket site to the east.

The nearest residential properties to the site are located on Forkedale, to the east. These properties back onto the application site. These properties are predominantly large, detached, 2-storey dwellings with their primary habitable room windows facing front and rear.

### **Constraints**

The application site is located within the development boundary of Barton upon Humber as defined in the Housing and Employment Land Allocations Document (HELADPD) 2016 and is not formally allocated for any specific use or development.

The application site is located outside of the town centre of Barton upon Humber as defined in the HELADPD and is considered to be an out of centre (not edge of centre) location for the purpose of planning policy due to its distance from the defined town centre (approximately 750 metres).

The application site is not designated as a national or local wildlife site and there are no statutory designated ecological sites adjacent, or in close proximity to the site. The woodland block to the south of the site forms part of the Barton Wolds Local Nature Reserve (LNR), as does the woodland to the north of Ferriby Road. Whereas the nearby A15/A1077 roundabout verges and slip roads form a Local Wildlife Site valued for their calcareous grassland flora and these areas now also form part of the LNR.

The application site is not designated as an area of national or local archaeological importance and it is understood that the site is overlain with waste generated during the

construction of the adjacent A15 dual carriageway. The closest designated heritage assets are the listed buildings located towards the historic core of Barton some considerable distance to the east of the site. The application site is also a significant distance outside of the Conservation area for Barton, which, again, is located around the historic core of the settlement to the east.

Whilst it is considered to be a key gateway site when entering Barton, the application site is not designated, either nationally or locally, as being of special landscape importance.

The woodland area to the south of the site is designated, within the North Lincolnshire Local Plan 2003, as being an Area of Amenity Importance (policy LC11 applies); however this designation does not extend into the application site.

The application site, due to its elevated position is located within flood zone 1 (low risk) of the Environment Agency flood maps. It is also located within flood zone 1 (low risk) of the Strategic Flood Risk Assessment for North and North East Lincolnshire. The Environment Agency has confirmed that the area is not considered to be in an area high flood risk.

## **Planning history**

A previous application for outline planning permission of the application site was submitted on behalf of North Lincolnshire Council in 2016 (PA/2016/1490). This application was received as valid on 26 September 2017 and sought outline planning permission to “*erect retail supermarket, public house and up to 70 dwellings*”. This application was never determined and was withdrawn by the applicants on 16 October 2017. This previous application incorporated the current application site, the supermarket site to the north and the area of undeveloped grassland immediately to the south of the site. These two areas of land do not form part of the current application site.

Subsequent to the withdrawal of PA/2016/1490, a further application was submitted in respect of the current application site and the parcel of land to the east (PA/2017/1449). This application was received as valid on 11/09/2017 and sought full planning permission to “*erect a foodstore (Use Class A1) and pub/restaurant (Use Class A3/A4), along with associated accesses, car parking, servicing and landscaping*”. This application was approved on 11/01/2018. Under this consent the current application site was proposed to be developed as a family pub/restaurant.

A further application (PA/2018/403) was made to vary seven conditions attached to PA/2017/1449. Consent was granted in this regard on 20/04/2018. This consent was subsequently varied by a Non-Material Amendment (PA/2018/1715) to alter the specification of the substation on site and relocate a small number of new trees within the site.

Advertisement consent (PA/2018/929) was subsequently granted for signage in respect of the consented supermarket.

In addition to this recent planning application, there have been historical permissions on the site for the use of the land for sporting purposes, along with associated buildings (7/1981/012, GBC3/1993/0002 and PA/1996/1977).

## Proposal

This application seeks full planning permission for the erection of a petrol filling station with ancillary convenience store and sandwich shop concession, three jet washes, ATM facilities, underground tanks, drive-thru coffee shop plus associated access, car parking, landscaping and other enabling works.

The planning application effectively seeks to amend the existing planning permission on the wider site for a foodstore and public house/restaurant (planning application reference: PA4/2017/1449), in order to replace the consented public house/restaurant with the proposed filling station and associated convenience store and drive-thru coffee shop. It has been stated that following marketing of the site, its use as a pub/restaurant has been identified as commercially unviable in this location.

The proposed new petrol filling station building, and associated forecourts and parking will be located within the northern and central areas of the site, whilst the drive-thru coffee shop and its associated parking will be located at the southern end of the site.

The access arrangements for the proposals involve a new access spur from the A1077 roundabout (approved under applications PA/2017/1440 and PA/2018/403). This is intended to serve the proposed development as well as the adjacent consented foodstore.

The petrol filling station will be a four-pump island facility, including HGV filling pump and will be covered by a canopy. The canopy will cover an area of around 261 square metres and will have a height of 5 metres (to the canopy's underside). The proposals will incorporate 3 jet washes as well as separate bays for air (tyre inflation) and car vacuuming. The petrol filling station element also includes 14 car parking spaces (including 2 disabled spaces) plus an additional 2 electrical charging bays. The proposals also incorporate 2 Sheffield cycle stands located at the front of the building.

The petrol filling station building will have a gross internal floor area of 475.38 square metres. This will comprise a 303.11 square metres convenience shop associated with the petrol filling station, a 'Food to Go' concession area which will include a sandwich shop use and will measure 88.71 square metres and back of house facilities which measure 81.94 square metres. The petrol filling station is a sui generis use with the associated convenience shop and sandwich shop being ancillary to this use.

The building will be single storey with a sloping roof from back to front (east to west) and will have a maximum height of approximately 5.2 metres on the site's western elevation. As a result of level differences on the site, a retaining wall is proposed along some of the eastern and southern elevations of the building.

ATM facilities will be provided externally on the western building elevation and there will also be a night service desk on the same elevation.

The drive-thru coffee shop will comprise a building with a gross internal area of 204.77 square metres. It includes 32 car parking spaces (including 2 disabled spaces) as well as 2 Sheffield cycle stands and 2 electric charging points for vehicles. The associated drive-thru lane runs along the southern and western sides of the building in a clockwise direction. The drive-thru coffee shop is a single storey rectangular building with a mono pitched roof and includes a bin store/external yard at the eastern end of the building.

It is proposed that the petrol filling station will be operate 24 hours a day, whilst the proposed drive-thru coffee shop would be open from 6am to 10pm.

It is stated that the proposed development will provide construction job opportunities and up to 45 jobs (in a range of full and part time roles) once the development is completed.

**The principal issues to consider in the determination of this application are assessed below and comprise the following:**

- **the principle of development**
- **highway safety and access to development**
- **design and visual impact**
- **impact on residential amenity**
- **ecological impact**
- **drainage.**

### **Principle**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003, the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011 and the Housing and Employment Land Allocations (HELA) DPD which was adopted in March 2016. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising of the Planning Practice Guidance (PPG).

Amongst the aims of the North Lincolnshire Local Plan are those ensuring a buoyant local economy whilst preserving the vitality and viability of the existing network of town centres and supporting a defined retail hierarchy within the area. It advocates a sequential approach designed to direct new retail development to appropriate locations. Barton Upon Humber Town Centre is identified as being one of the main retailing centres, standing only below Scunthorpe Town Centre in the shopping hierarchy for North Lincolnshire (Chapter 5 of the NLLP relates).

Chapter 10 of the Core Strategy sets out North Lincolnshire's strategic policies aimed at supporting thriving settlements, including policies for future retail development in the area. The role of the policies in this chapter is to set a proactive planning policy framework to deliver the vision of the area and support the sustainable delivery of new and improved shopping, cultural, leisure and tourism facilities across North Lincolnshire. In doing so it aims to ensure that new retail development is directed to appropriate locations, existing retail facilities are improved, and any deficiencies in the retail hierarchy are addressed. Among the aims of the Core Strategy are those to promote the vitality and viability of the area's shopping hierarchy, encouraging a wide range of services that promote genuine choice in a good quality environment with a vibrant mix of activity which is accessible to all.



Saved policy S10 of the North Lincolnshire Local Plan is the most relevant development plan policy in the determination of this application in that it sets out the council's approach to proposals for petrol filling stations. Policy S1 states that *"Proposals for petrol filling stations will be permitted subject to the following criteria being met:*

- i) Permission will not be granted within residential areas or the open countryside unless it can be demonstrated that there is no viable alternative site in a non-residential area or within a settlement development boundary;*
- ii) The design of the development should not cause demonstrable harm to the character and appearance of the area. Where appropriate, a condition will be imposed requiring that a scheme of landscaping be implemented to a standard agreed by the local planning authority so as to minimise the visual impact of the development;*
- iii) The development will not result in highway safety problems; and*
- iv) Where necessary, a condition will be imposed limiting the hours of deliveries, equipment maintenance and the operation of car wash facilities so as to avoid any adverse effects on nearby residential properties.*

The application site is located within the development boundary of Barton upon Humber and, whilst there are residential developments within close proximity to the site, they are separated from the site by the consented supermarket development to the east and by the A1077 (Ferriby Road) to the north. Furthermore, the site is located directly adjacent to the strategic highway network, in the form of the A15 slip road. For these reasons the application site is considered to be an appropriate location for a filling station and complies with the locational criterion i) of policy S10.

The design and visual impact of the development, highway safety and residential amenity are considered in detail in the following sections of this report.

Saved policy S8 of the NLLP is also a relevant consideration in the determination of this application and this policy sets out the council's approach to out of centre retail and leisure developments. Policy S8 states that *Planning permission will only be permitted for out-of-centre retail and leisure development where:*

- a clear need for the development has been demonstrated;*
- the developer can demonstrate that there are no sites for the proposed use within or at the edge of the town centre that are suitable, viable for the proposed use and likely to become available within a reasonable time period;*
- the proposal, in addition to the cumulative effects of recently completed developments and outstanding planning permissions, will have no adverse impact on the vitality and viability of existing town or district centres and the rural economy. In all cases, applications shall be accompanied by a retail impact assessment; and*
- the site is, or can be made, accessible by a choice of means of transport, including public transport, walking and cycling.*

Notwithstanding the above, policy S8 should be read in the context of more recent policy within the NPPF (Chapter 7), which also set out a need for sequential and impact tests but

no longer includes a need test for proposed new development. The first criteria set out in policy S8 is therefore in conflict with and has effectively been superseded by the NPPF.

Policy CS14 is also relevant in this regard as it sets out the council's approach to protecting and enhancing the shopping centres in North Lincolnshire. It confirms that the retention of local centres and corner shops, which provide vital day to day shopping facilities for local communities will be supported. In order to support the vitality and viability of town centres in North Lincolnshire, policy CS14 sets out a number of criteria which seek to "ensure that:

- *The existing retail character and function of centres is safeguarded. Development that detracts from the vitality and viability of the area's town centres will be resisted.*
- *New town centre development complies with the sequential approach to site selection, which prioritises development in existing centres, the edge-of-centre sites, and only then out of centre sites that are accessible by a choice of means of transport.*
- *The scale and type of development reflects the centre's existing and proposed function and its capacity for new development.*
- *The retail function of town centres are protected by way of restricting non-A1 uses particularly within the defined town centre boundaries.*
- *A balanced range of facilities and uses are encouraged within district and local centres, in keeping with their size and function, to meet the everyday needs of the local population. Local shops located within smaller settlements, in particular in rural areas, will be protected where they are important to the day-to-day needs of people.*
- *Shopping facilities are accessible by a range of means including by car, walking, cycling and public transport.*
- *New developments are of an appropriately high quality design, particularly in the town centre.*

With regard to other material considerations paragraphs Chapter 6 of the NPPF confirm that the Government is committed to securing economic growth and prosperity, and that planning should operate to encourage sustainable growth. It goes on to confirm at paragraph 82 that "Planning policies and decisions should recognise and address the specific locational requirements of different sectors". It sets out at paragraph 86 that applications for main town centre uses (such as retail and food and drink), which are not in a defined centre and do not accord with an up-to-date development plan, should be subject to a sequential test. Paragraph 89 requires an assessment of the impact of the proposal on town centre vitality and viability to be undertaken where retail development above 2,500 square metres is proposed outside of town centres. Chapter 9 of the NPPF seeks to promote sustainable transport and states at paragraph 103 that "Significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes".

The extant consent on the wider site for a foodstore and public house/restaurant already establishes similar uses (Class A1 and A3) (PA/2017/1449 & PA/2018/403) and the proposed development effectively seeks to replace the public house/restaurant element with a petrol filling station and drive-thru coffee shop to assist with the delivery of the wider scheme.

The proposed development is to be located in an area that is easily accessible to passing motorists. The proposed petrol filling station is a *sui generis* use and is not classified as a 'main town centre use' (as defined in Annex 2 of the NPPF). Whilst the accompanying convenience store/sandwich shop concession uses are Class A1 (and so they are main town centre uses), these would not be present without the proposed petrol filling station and they are considered ancillary in nature. Likewise, whilst the Class A1 use of the proposed drive-thru coffee shop is a main town centre use, the function of the coffee shop is designed with passing motorists in mind with associated road access and serving hatch. There is considered to be a clear synergy between the coffee shop and filling station uses which both attract customers from existing traffic flows. On this basis it is considered that the sequential test outlined in policy CS14 of the development plan and paragraph 86 of the NPPF does not apply in this instance as the proposed uses are of a different function to town centre retail uses and the two are therefore not comparable.

In this regard, the applicants have made reference to a recent planning appeal decision where an Inspector acknowledged that a roadside service facility "*by definition is unlikely to be in a town centre*" (appeal reference: APP/C3105/W/16/3151655). A town centre location would not be suitable for the development as it is a roadside facility rather than a destination in its own right.

Furthermore, the proposed development (either individually or cumulatively) falls significantly under the threshold of having to undertake an assessment of impact as set out in paragraph 89 of the NPPF (2,500 square metres gross floorspace). As such no retail impact assessment is required.

The proposed development, once completed, will create up to 45 jobs (in a range of full time and part time roles). This will help strengthen the local economy and is consistent with paragraph 80 of the NPPF. Significant weight must be given to this benefit.

For the reasons outlined above it is considered that the application site is an appropriate location for the proposed development and that, subject to the technical assessments set out below, the proposal accords with policies S8 and S10 of the NLLP, policy CS14 of the NLCS and the relevant sections of the NPPF. On this basis it is considered that the principle of development is merited.

### **Highway safety and access to development**

The most relevant extant development plan documents against which to assess the proposed development's effect upon highway safety and transport are 'saved' policy T1 of the NLLP which requires developments that generate significant vehicle movements to be located in urban areas and where there is good access to transport networks and where there is provision for sustainable transport modes; 'saved' policy T2, which requires all new developments to be served by a satisfactory access and larger developments to be accessible by a choice of transport modes; and policy CS25 of the NLCS, which seeks to support and promote a sustainable transport system that offers a choice of transport modes and reduces the need to travel where possible. The policies are broadly consistent with the NPPF which in Chapter 9 seeks to promote sustainable transport and at paragraph 103 seeks to ensure that "*Significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*".

The assessment of the effects of the proposed development in respect of traffic and transport is set out in the Transport Statement which has been prepared by WYG Transport on behalf of the applicants. This report provides an assessment of the likely impact of the proposed development on the surrounding highway network and nearby junctions.

An analysis of trip generation provided within the TS identifies that the proposals would generate 147 linked and pass-by trips during a weekday morning peak period and 179 linked and pass-by weekday trips in the evening peak period. However, the trips associated with the proposals are considered to already be on the road network (linked and passed-by) and none of these would therefore be 'new trips'. As a result of this, it is concluded that the development would have a negligible impact on the local and strategic road network.

The council's Highways department has considered the submitted TS and the suitability of the proposed access arrangements, which have been consented as part of previous planning permissions for the wider site (PA/2017/1449 & PA/2018/403). Highways have raised no objections in respect of the supporting information in respect of the impact on the local highway network and have confirmed that *"the proposed access to the site approved under the previous permission and subject to safety audit would appear to have sufficient capacity to deal with the uses now proposed"*. On this basis, no objections or concerns are raised in respect road safety. Highways have suggested conditions to be imposed should permission ultimately be granted for the development.

In conclusion, having due regard to the submission of expert consultants appointed in support of the application, the independent review of the access arrangements and the response from the council's expert Highways officer, it is considered that impacts of the development are acceptable insofar as their effects on traffic and highway safety. Notwithstanding the representations received in opposition to the application, which are acknowledged and understood to be material concerns, it is considered that the proposal accords with policies T1 and T2 of the NLLP, policy CS25 of the NLCS and Chapter 9 of the NPPF with regard to its impact on the local highway network and the promotion of sustainable transport.

## **Design/visual impact**

The relevant extant development plan policies against which to assess the proposed developments effect upon the visual amenity of the area are 'saved' policy DS1 of the NLLP, which requires the design and external appearance of proposals to reflect or enhance the character, appearance and setting of the area and to respect the existing landform of the site where possible; and policy CS5 of the NLCS, which requires new development to be well designed and appropriate for their context and supports contemporary design where it is appropriate for its location. Policy CS5 also requires new developments to incorporate principles of sustainable development throughout the design and to create safe and secure environments. Further advice is set out in Chapter 12 of the NPPF which seeks to promote good design, appropriate for its context and states, at paragraph 130 that *"Permission should be refused for development of poor design..."*

The design of the development and its impact on the visual amenity of the area is assessed as part of the Planning, Design and Access Statement (DAS) prepared by WYG on behalf of the applicants and submitted in support of the application.

The proposed development comprises a petrol filling station with a gross internal floor area of 646.03 square metres and a drive-thru coffee shop of 204.77 square metres. The petrol

filling area will comprise four pump islands (including facilities for HGVs) and will be covered by a canopy. The canopy will cover an area of around 261 square metres and will have a height of 5 metres (to the underside of the canopy). Both the petrol filling station building and the proposed drive-thru will feature mono-pitched roofs with the height of the petrol filling station being approximately 5.2 metres and the drive-thru coffee shop being around 4.4 metres at their highest points. The proposed drive-thru coffee shop also incorporates brick feature which sits around 3 metres above the roofline to allow the installation of signage.

The design of both the petrol filling station and the drive-thru coffee shop is contemporary in nature and the submitted proposed elevations indicate that modern materials will be used in the development's construction. The petrol filling station building will be finished in composite cladding panels and antelope cementitious boarding to the walls along with fascia, glazing and capping in merlin grey to provide the shop frontage. The roof will be finished in cladding. The proposed drive-thru building features a range of finishing materials including cladding panels in dark grey with matching guttering and skirting (predominantly to the side and rear elevations), aluminium powder coated window frames, glazing, acelayted vertical boards (predominantly around the serving hatch and front elevation), timber panelling (to the proposed bin store/external yard) and some brick. This will create a distinctive and contemporary development which is appropriate for the site's context.

It is considered that a more contemporary design is appropriate for a key gateway site such as this and would complement the contemporary appearance of the adjacent foodstore and accord with policy CS5 of the NLCS which supports contemporary design in appropriate locations.

For the reasons outline in the above paragraphs it is considered that the design of the proposed development is acceptable and appropriate for its context and that no unacceptable impact on the character or appearance of the area will result from the proposals. Notwithstanding the representations received in opposition to the application, which are acknowledged and understood to be material concerns, it is considered that the proposal accords with policies DS1 of the NLLP and CS25 of the NLCS and with Chapter 12 of the NPPF with regard to promoting good quality design and in respect of the visual impact of the development on the surrounding area.

### **Residential amenity**

The relevant extant development plan policies against which to assess the proposed development's effect upon amenity are 'saved' policy DS1 of the NLLP, which requires that development proposals result in no unacceptable loss of amenity to neighbouring land uses through loss of light, overlooking or nuisance (noise, smell, dust etc.); 'saved' policy DS12 of the NLLP which requires that there are no adverse impacts on amenity as a result of lighting.

Various concerns have been raised by local residents with regards to the potential impacts of the proposed development on the amenity that they currently enjoy. These concerns relate primarily to potential noise disturbance as a result of late night operational and delivery hours and light pollution from the flood lighting of the site. In addition, numerous objection have been received on the grounds that the site, and in particular the woodland belt along its western and northern boundaries, act as a buffer between residential properties and the A15 and that the loss and thinning of trees will destroy this buffer.

It is acknowledged that the application site occupies an elevated position, at the top of a hill, at higher elevation than neighbouring properties to the east. Notwithstanding this fact, it is considered that the separation distances between the proposed buildings, car parks and service areas and the neighbouring properties (approximately 150 metres), the intervening foodstore development to the east and landscaping along the eastern boundary of the foodstore site border is sufficient to prevent unacceptable amenity impact in terms of loss of light, overshadowing, or enjoyment of the rear garden areas due to the outlook from those properties.

A Noise Assessment has been prepared by ADC Acoustics and accompanies this planning application. It assesses potential noise from the proposed development and examines the potential impact of the development against the existing background noise levels. The assessment concludes that the potential effects of the development in terms of noise are all likely to be significantly lower than the lowest measured background sound level. The proposed mechanical equipment associated with the development is not yet known but an example assessment has been carried out and would suggest the impact is likely to be negligible.

The council's Environmental Health Officer has considered the submitted noise assessment and has confirmed that they have no concerns in relation to noise subject to conditions to secure the agreement of details of any plant or refrigeration or air-conditioning equipment and to restrict the operational hours of the coffee shop.

In addition to the above, a lighting scheme for the development has been prepared by Express Electrical to support the proposed development. It demonstrates that the approach has been designed specifically to minimise light spill and pollution, whilst at the same time ensuring that the scheme is safely lit and visible. This is achieved by the use of special optics that focus light exactly where it needs to be on the roads with no tilt more than 10 degrees to ensure light spill does not occur. The Environmental Health Officer has confirmed that having reviewed the report this department is satisfied lighting from the proposed development can be adequately controlled subject to a condition to secure the submitted scheme.

Having reviewed the submissions of the expert consultants appointed in support of the application and the council's own expert Environmental Health officer it is considered that the proposed development will have no unacceptable impact on the amenity of neighbouring residential properties and that, the mitigation, via the use of conditions, of the effects of noise are proportionate and appropriate. Notwithstanding the representations received in opposition to the application, it is considered that, subject to the recommended conditions, the proposed development accords with policies DS1 and DS12 of the NLLP.

## **Ecology**

The relevant extant development plan policies against which to assess the proposed development's effect upon the natural environment, included protected species, are 'saved' policy LC5 of the NLLP, which requires development proposals to have no impact on protected species; 'saved' policy DS1 of the NLLP, which requires developments to have no adverse effect on features of acknowledged importance, including species of nature conservation importance; and policy CS17 of the NLCS, which seeks to retain, protect and enhance features of biological interest and secure biodiversity gains from developments.

The planning application is accompanied by an Ecological Impact Assessment undertaken by Access Ecology Ltd. This provides an assessment of the potential impact of development in relation to the flora and fauna found on the site. The report concludes that there are negligible to minor constraints in relation to habitat loss, nesting birds, foraging/commuting bats, badgers and hedgehogs. The majority of impacts on protected species can be mitigated using reasonable avoidance measures.

In terms of compensatory measures, these are proposed to be limited to the installation of native hedgerows on the western and southern boundaries (as part of the landscaping scheme), with heavy tree specimens planted every few metres in the hedge line. It is expected that these trees and hedgerows will help retain connectivity around the site for foraging and commuting bats and birds. The Ecological Impact Assessment also suggests enhancement opportunities in the form of bat and bird boxes to be installed within the woodland edge as part of the landscaping scheme.

The council's ecologist has reviewed the Ecological Assessment and has confirmed that the survey methods and survey effort deployed are broadly suitable for the site. The ecologist confirms that much of the site is of low intrinsic biodiversity value, but that the woodland on site does provide habitat connectivity between the community woodland to the south and woodland to the north of Ferriby Road, both of which form part of the Barton Wolds Local Nature Reserve.

The council's ecologist confirms that The submitted landscape masterplan includes some positive proposals, including species-rich mixed native hedgerows, native hedgerow trees, species-rich native shrub areas and ornamental shrubs of value for pollinators. However, compared to the landscape plan agreed for PA/2017/1449 at the same site, the newer scheme has fewer native trees and more ornamental varieties, covering a reduced area of landscaping. The ecologist goes on to confirm that the nearby A1077/A15 roundabout verges and slip roads form a Local Wildlife Site with excellent calcareous grassland flora. This is now also part of the LNR.

For the reasons outlined above, the council's ecologist raises no objection to the proposed development subject to a condition to secure the proposed mitigation, compensation and enhancement.

Having reviewed the submissions of the expert consultants appointed in support of the application and taking into account the consultation response from the council's own expert ecologist, it is considered that the proposed development is unlikely to have any adverse impact on protected or notable species or habitats and that mitigation of the effects of the development with regard to the natural environment, including the proposed biodiversity enhancements, are both appropriate and proportionate. Notwithstanding representations received in opposition to the proposed development, which are acknowledged and understood to be material concerns, the proposed development, appropriately mitigated as put forward by the applicants within the submitted details is considered to accord with policies DS1 and LC5 of the NLLP and policy CS17 of the NLCS.

## **Drainage**

The relevant extant development plan policies against which to assess the proposed development's effect upon flood risk and drainage are 'saved' policy DS1 of the NLLP, which requires developments to be provided with suitable on-site drainage and for developers to overcome off-site drainage problems; and 'saved' policy DS14 of the NLLP,

which requires satisfactory provision to be made for the disposal of foul and surface water from new developments either by agreeing details before permission is granted or by imposing conditions on a planning permission.

A substantial number of objections to the scheme are based on drainage issues with the site, predominantly relating to it being made up from construction waste from the adjacent A15, and the potential for flooding of neighbouring properties as a result of the development.

The assessment of the effects of the proposed development in respect of flood risk and drainage is provided within the submitted "*Drainage Assessment*" document prepared by WYG on behalf of the applicants.

This document confirms that the site falls entirely within Flood Zone 1 and so is regarded as being at low risk from flooding. It also details that there is sufficient capacity to address surface water and foul drainage on the site. The report notes that currently the site is not formally drained and generates surface water run off at greenfield rates. The proposed approach seeks to put in place a surface water drainage strategy which is based upon infiltration via soakaways. This can be achieved owing to the underlying ground conditions which comprises fractured chalk.

It is proposed that the foul water drainage will link into the wider site drainage system. The proposed jet washes will be provided with a silt trap to collect particles from cars before they are discharged into the foul drainage network. Likewise, the drainage area around the forecourt will pass through a petrol interceptor (to remove pollutants) before being discharged into the foul drainage network. It is anticipated that, given the canopy cover over the petrol filling pumps, the area around the forecourt will not generate much additional flow.

The council's drainage team has considered the submitted drainage assessment and has confirmed that the proposed drainage scheme is acceptable and raise no objections subject to a condition to secure the implementation of this scheme.

Having reviewed the submissions of the expert consultants appointed in support of the application and taking into account the consultation response from the council's expert drainage officer it is considered that the development will have no unacceptable impact with regards to drainage, or increased flood risk to the site or surrounding properties. Notwithstanding the representations received in opposition to the proposals, which are acknowledged and understood to be material concerns, the proposed development, appropriately mitigated as proposed by the applicant in their submitted details, is considered to accord with the requirements of policies DS1 and DS14 of the NLLP with regards to drainage and flood risk.

## **Other matters**

### ***Contamination***

The information that supported the current consent for the site (application reference PA/2017/1449) included a number of technical reports which examined the composition of the ground, the likelihood of contamination being present in the soil and the potential for ground gas to be present. The investigations undertaken did not identify any sources of contamination or ground gas that would pose a risk to the proposed end user and that the



overall risk can be considered low. The council's Environmental Health department have confirmed that there are no concerns in respect of land contamination on this site.

The Environment Agency, as the statutory body responsible for the protection of groundwater resources, initially raised objections to the proposed development because there was insufficient evidence to demonstrate that the proposed development would not pose an unacceptable risk of pollution of groundwater as a result of the underground fuel storage tanks.

Following the submission of a Fuel Storage Feasibility Assessment and Controlled Waters Risk Assessment the EA has withdrawn its original objection and now raised no objection subject to a condition to secure the detailed scheme of fuel tank installation and monitoring. Subject to this condition it is considered that the proposal poses no unacceptable risk of contamination to groundwater.

### ***Loss of green space***

Matters relating to the loss of green space associated with the proposed development were addressed as part of the current planning consent on the site (PA/2017/1449 and PA/2018/403). As part of this proposal, it was acknowledged that the site is unallocated within the development plan and that there is no formal green space protection associated with the land. As such, there is no policy objection in principle to the loss of the land for the proposed uses.

### ***Trees and landscaping***

The planning application is accompanied by a landscaping plan prepared by DEP Landscape Architecture. This proposes a new landscaping arrangement to the site with native hedgerow planting along the western and southern boundary and part of the eastern boundary of the development; interspersed with clusters of heavy tree specimens. Whilst this will require the removal of existing trees along the western boundary, the supporting assessments have confirmed that these trees are not of such an amenity value so as to require their retention and they are not required in respect of ecological considerations.

The landscaping allows the proposed development to be visible from the highway, whilst at the same time maintains an attractive setting. The approach also reflects the current consent on the this part of the site under application PA/2017/1449. This allows for installation of a new hedge boundary with intermittent tree planting.

In the northern part of the site and in key spaces along the site's boundary, it is proposed to provide wildflower meadow planting and general grassed areas. This will help provide a high-quality landscape setting to the proposals and ties in with the ecological measures required. Within the site it is proposed to provide additional grassed areas and tree planting around the petrol filling area and car parking area associated with the drive-thru coffee shop.

The hard landscaping proposed includes bitmac surfacing for the roads, concrete surfacing around the petrol pumps and jet washes and areas of block and tactile paving for pedestrian routes.

Notwithstanding the above, the council's tree officer has confirmed that the trees along the western boundary of the site form a good barrier and visual amenity that is important in this

location, and it is considered that the loss of these trees would be of detriment to the location and should be retained in this area to counteract the urbanisation of this site. On this basis it is considered that the retention of additional trees, and/or the provision of further compensatory landscaping should be considered. It is considered that this can be achieved through the imposition of a condition requiring the agreement of a landscaping scheme prior to works commencing. Subject to such a condition the tree officer offers no objections to the proposal.

### ***Low water pressure***

Concerns have been raised with regards to water pressure in the area and that there would not be adequate capacity within the network to cater for the development. No evidence has been provided to substantiate this fact and Anglian Water has raised no such concern.

### **Conclusion**

The proposed development is considered to generally accord with the relevant development plan policies and other material considerations as discussed within the body of this report. As such the proposed development is considered to be acceptable in principle.

Furthermore, the proposal has been considered in respect of its impact on visual amenity, highway safety, flood risk and drainage, ecology and residential amenity. It is considered that the proposed development will not result in unacceptable impacts in these regards. It is further concluded that the adverse impacts of the development can be suitably controlled and mitigated via the use of conditions.

For these reasons it is considered that the proposed development is acceptable and that this application should be supported.

### **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 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: 01, 5b, 6, 7, 8, 9, 10a, 11a, 12, 13a, 14.

Reason

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

3.

The development shall not be brought into use until:

- (i) the access roads to the service and customer parking area;
- (ii) the loading, off-loading and turning areas for all vehicles; and

(iii) the parking spaces and access aisles (including surface markings);

have been provided and all these facilities shall thereafter be so retained.

Reason

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

4.

No development shall take place until a construction phase traffic management plan showing details of all associated traffic movements, including delivery vehicles and staff/construction movements, any abnormal load movements, contractor parking and welfare facilities, storage of materials and traffic management requirements on the adjacent highway, has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.

Reason

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

5.

The development hereby permitted shall not commence until such time as a scheme to install the underground tanks has been submitted to, and approved in writing by, the local planning authority. The scheme shall include full structural details of the installation, including details of excavation, the tanks, the tank surround, associated pipework and the monitoring system. The scheme shall be fully implemented and subsequently maintained in accordance with the scheme, or any changes subsequently agreed in writing by the local planning authority.

Reason

To ensure the underground storage tanks do not harm the water environment, in accordance with paragraph 170 of the National Planning Policy Framework and Position Statement D2 of the Environment Agency's approach to groundwater protection.

6.

No development shall take place until a biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- (a) details of measures to avoid harm to hedgehogs, bats and nesting birds during vegetation clearance and construction works;
- (b) details of bat boxes and nest boxes to be installed;
- (c) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
- (d) provision for hedgehogs to pass through any fencing installed between areas of grassland;

- (e) prescriptions for the planting, aftercare and ongoing management of native trees, shrubs and hedgerows of high biodiversity value;
- (f) proposed timings for the above works in relation to the completion of the buildings.

Reason

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

7.

No plant for refrigeration, ventilation or air-conditioning shall be installed until details have been submitted to and approved in writing by the local planning authority. The details shall include an assessment of likely impact of the plant on residential amenity, specifying noise output and any mitigation measures necessary. All plant shall be installed and maintained in accordance with the details approved by the local planning authority.

Reason

To protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

8.

The drive-thru coffee shop hereby approved shall not open to customers outside the hours 6am to 10pm.

Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

9.

External lighting for the proposed development shall be installed in accordance with the submitted Lighting Report dated 1 July 2018.

Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

10.

No development shall take place on the site until a scheme for the provision of electrical vehicle charging points has been submitted to and approved in writing by the local planning authority. The scheme shall be designed to take account of good practice guidance as set out in the Institute of Air Quality Management Land Use Planning and Development Control

<http://www.iaqm.co.uk/text/guidance/air-quality-planningguidance.pdf>

and contemporaneous electrical standards including:

- Electrical Requirements of BS7671:2008
- IET Code of Practice on Electrical Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7.

The approved scheme shall be installed in full and retained in perpetuity thereafter.

#### Reason

To facilitate the uptake of low emission vehicles and reduce the emission impact of traffic arising from the development in line with the National Planning Policy Framework (NPPF).

11.

Construction and site clearance operations shall be limited to the following days and hours:

- 7am to 7pm Monday to Friday

- 7am to 1pm on Saturdays.

No construction or site clearance operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

#### Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

12.

No stage of the development hereby permitted shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

#### Noise and vibration

The CEMP shall set out the particulars of:

- (a) the works, and the method by which they are to be carried out;
- (b) the noise and vibration attenuation measures to be taken to minimise noise and vibration resulting from the works, including any noise limits; and
- (c) a scheme for monitoring the noise and vibration during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

#### Light

The CEMP shall set out the particulars of:

- (a) specified locations for contractors' compounds and materials storage areas;
- (b) areas where lighting will be required for health and safety purposes;

- (c) the location of potential temporary floodlights;
- (d) identification of sensitive receptors likely to be impacted upon by light nuisance;
- (e) proposed methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

### Dust

The CEMP shall set out the particulars of:

- (a) site dust monitoring, recording and complaint investigation procedures;
- (b) identification of receptors and the related risk of dust impact at all phases of the development, including when buildings and properties start to be occupied;
- (c) provision of water to the site;
- (d) dust mitigation techniques at all stages of development;
- (e) prevention of dust trackout;
- (f) communication with residents and other receptors;
- (g) a commitment to cease the relevant operation if dust emissions are identified either by regular site monitoring or by the local authority;
- (h) a no burning of waste policy.

### Reason

To protect the amenity of neighbouring properties in accordance with policy DS1 of the North Lincolnshire Local Plan.

13.

The development shall be carried out in accordance with the submitted Drainage Assessment reference A1084023 dated 3 July 2018, completed prior to the occupation of any building on site, and thereafter retained and maintained in accordance with the scheme for the life of the development unless otherwise agreed in writing with the local planning authority.

### 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 adoption and maintenance, of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, and policies CS18 and CS19 of the North Lincolnshire Core Strategy.

14.

Notwithstanding the details shown on the submitted plans, no development shall take place until proposals for landscaping have been submitted to and approved 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 enhance the appearance of the development in the interests of amenity.

15.

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

**Reason**

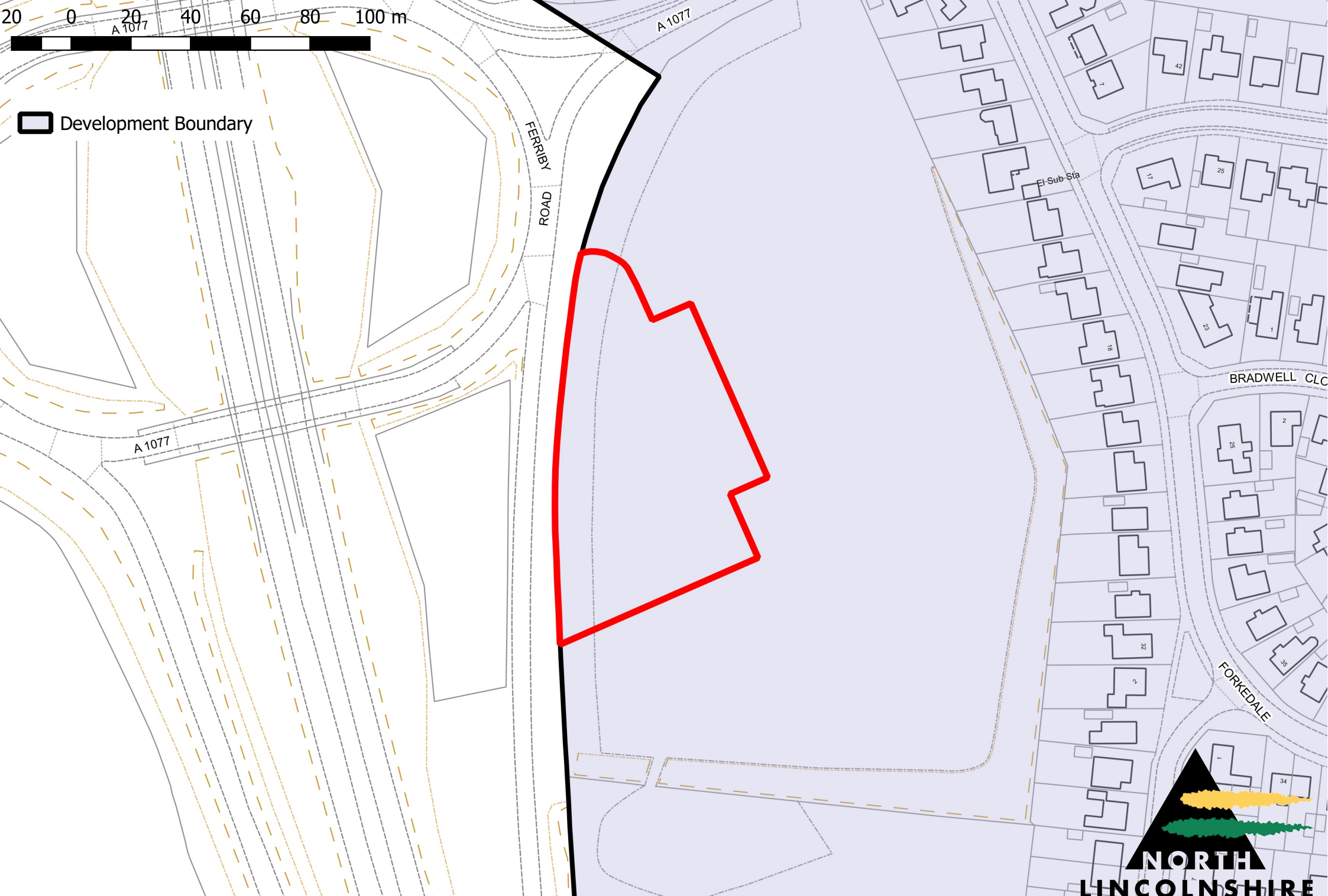
To enhance the appearance of the development in the interests of amenity.

**Informative**

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.



Development Boundary



PA/2018/1384

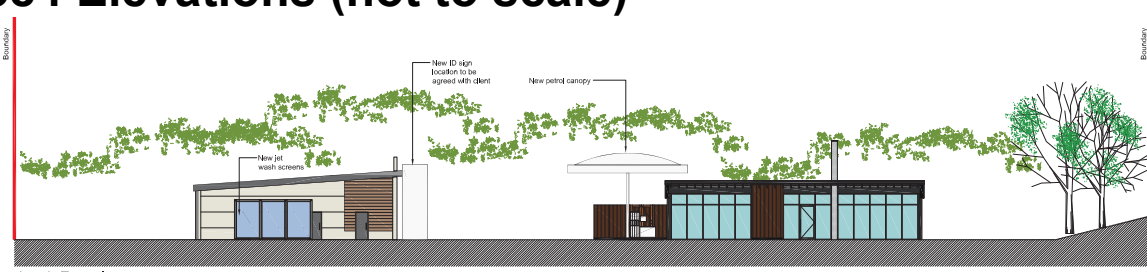
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# PA/2018/1384 Elevations (not to scale)

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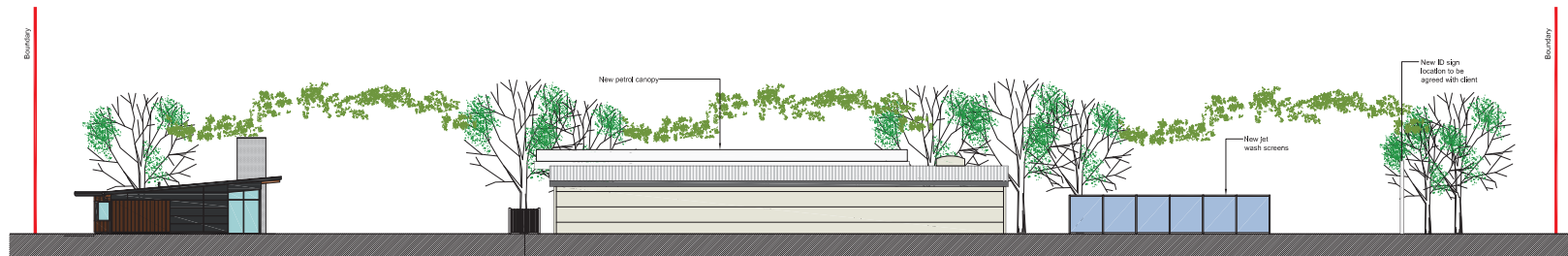


North Elevation

Scale 1:200



Scale Bar

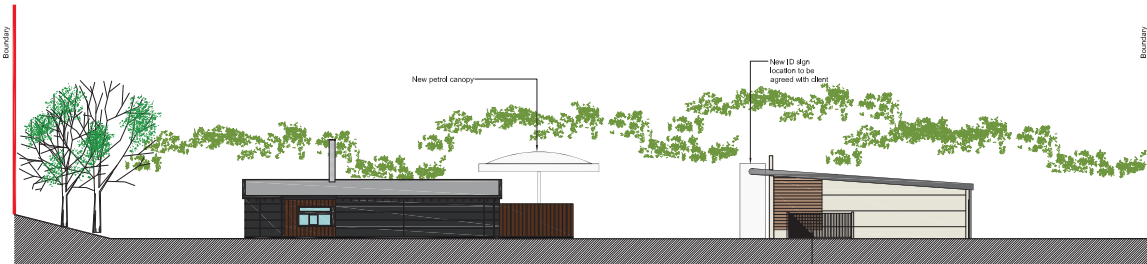


East Elevation

Scale 1:200



Scale Bar

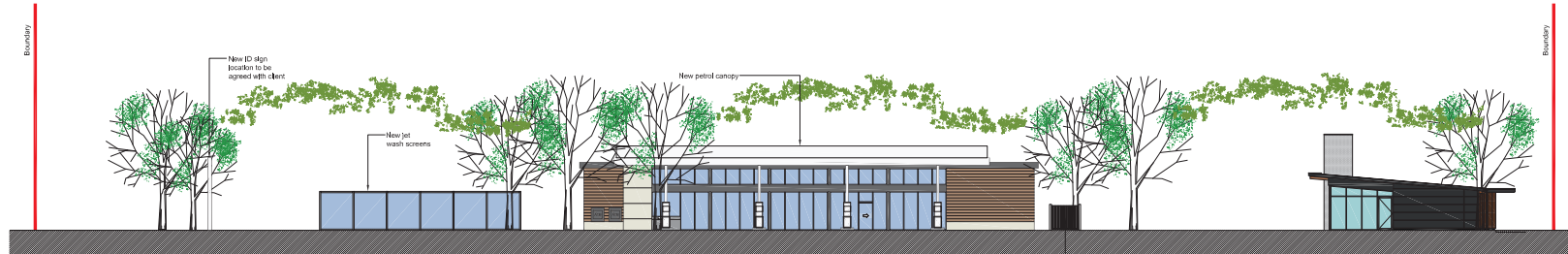


South Elevation

Scale 1:200



Scale Bar



West Elevation

Scale 1:200



Scale Bar

REVISIONS	
CLIENT	EURO GARAGES LTD
PROJECT	BARTON-UPON -HUMBER FERRIBY ROAD
TITLE	SITE ELEVATIONS
DATE	21.06.17
SCALE	1:200 @ A1
JOB ID	1419
DWG	12

# PA/2018/1384 Block plan (not to scale)

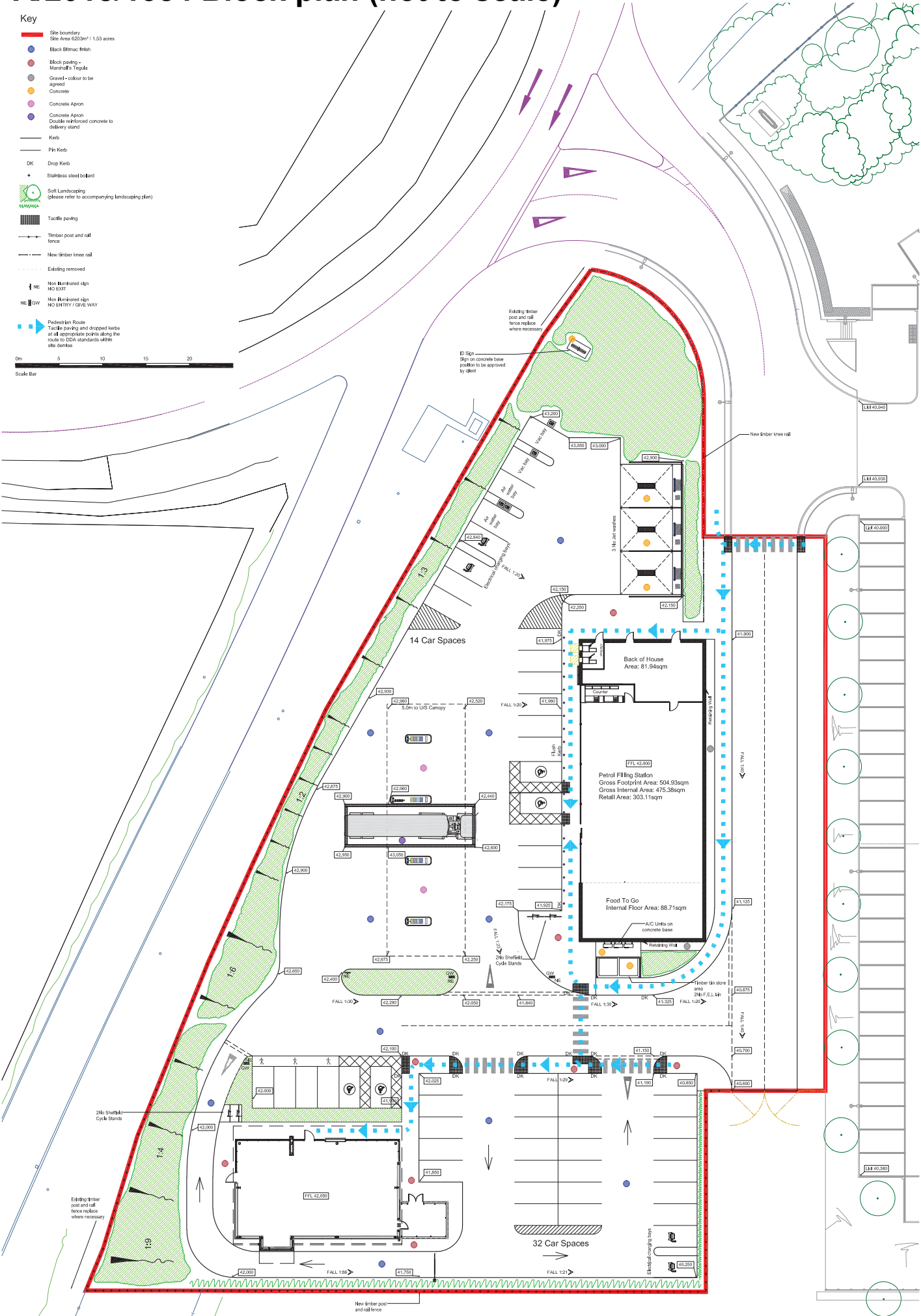
- Key**
- Site boundary
  - Site Area 6203m<sup>2</sup> / 1.53 acres
  - Black Elmatic Finish
  - Block paving - Marshall's Tegula
  - Gravel - colour to be agreed
  - Concrete
  - Concrete Apron
  - Double reinforced concrete to delivery island
  - Kerb
  - Pth Kerb
  - DK Drop Kerb
  - Stainless steel bollard
  - Soft Landscaping (please refer to accompanying landscaping plan)
  - Tactile paving
  - Timber post and rail fence
  - New timber knee rail
  - Existing removed
  - NE Illuminated sign NO EXIT
  - NE Illuminated sign NO ENTRY / GIVE WAY
  - PEDESTRIAN ROUTE Tactile paving and dropped kerbs at all appropriate points along the route to DDA standards within site limits



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SCHEME SUBJECT TO TRACKING ANALYSIS



B	10.07.18	ELECTRIC VEHICLE CHARGING POINTS SCHEDULE PARKING NUMBERS UPDATED
A	25.06.18	NOTE UPDATED
REVISIONS		
CLIENT	EURO GARAGES LTD	
PROJECT	BARTON-UPON-HUMBER FERRIBY ROAD	
TITLE	PLANNING	
DATE	22.06.18	
SCALE	1:200 @ A1	
JOB NO	1419	
DWG	5b	