

APPLICATION NO	PA/2018/2515
APPLICANT	Euro Garages Ltd
DEVELOPMENT	Planning application to remove condition 9 of PA/2018/1384 regarding opening hours
LOCATION	Land off Ferriby Road, Barton upon Humber
PARISH	Barton upon Humber
WARD	Barton
CASE OFFICER	Andrew Law
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllr Paul Vickers – significant public interest)

POLICIES

National Planning Policy Framework: Paragraph 55 states 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”*.

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 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, this includes amenity as follows:

- 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.*

CONSULTATIONS

Highways: No objection.

Environmental Health: No comments to make.

TOWN COUNCIL

No response received.

PUBLICITY

This application has been advertised by site and press notice. At the time of writing 11 letters of objection have been received citing the following concerns:

- The garage is not needed.
- The restrictions imposed on the original consent should be upheld.
- The documents referred to in the applicants' statement were fully considered by the planning committee when they made their original decision.
- The commercial interests of the applicants should not outweigh protecting the amenity of local residents.
- Neighbouring properties are already blighted by lighting and noise from Lidl.
- Ambient noise levels drop significantly during evening hours so the impact of activities on the site such as banging of car doors, vehicles braking/accelerating and people talking is greater.
- Noise and light pollution to residents on Wilderspin Heights.
- The proposed extended opening hours would impact on the health and welfare of local residents.
- The adjacent Lidl store is restricted to 7am to 10pm.
- Illuminated signage will result in light pollution to neighbours.

- There are numerous service stations within a 10 mile radius.
- There are a number of lay-bys close to the site which provide a rest facility.

One letter of comment has also been received stating that the provision of public toilets is not obvious.

ASSESSMENT

Site

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, two-storey dwellings with their primary habitable room windows facing front and rear.

The application site benefits from 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 approved under PA/2018/1384.

Proposal

Planning permission PA/2018/1384 was granted by the Planning Committee subject to a number of conditions. Condition 9 of the permission is a restrictive condition limiting the opening hours of the petrol filling station as follows:

“Opening hours of the petrol filling station shall be limited to the following:

- *6am to 11pm Monday to Saturday*
- *6am to 11pm on Sundays.”*

This condition was imposed at the request of members of the Planning Committee. The reason for the imposition of this condition, as stated on the decision notice, is:

“To avoid the unacceptable loss of amenity to residents through noise, which would be contrary to policy DS1 of the North Lincolnshire Local Plan.”

This current application seeks to remove the condition from the planning permission so that the petrol filling station can operate without restriction on its opening hours. The proposal does not seek to alter the existing permission other than the removal of this condition; the

consented uses and structures would remain the same and all other conditions imposed would remain.

Planning assessment

Condition 9 was imposed with the intention of protecting the amenity of local residents in accordance with policy DS1 of the North Lincolnshire Local Plan. In considering this application it must be considered whether condition 9 complies with the tests set out in paragraph 55 of the NPPF, set out in the Policy section of this report, and whether the removal of this condition would result in unacceptable noise disturbance to neighbouring properties.

Concerns have been raised by local residents with regard to the proposed removal of condition 9. Concerns were also raised when the original application for the petrol filling station was considered. These concerns relate predominantly to the potential for the development to result in noise and light pollution throughout the evening should the restriction on opening hours be lifted. A number of the letters received state that residents are already experiencing a loss of amenity as a result of the new Lidl foodstore that sits adjacent to the site.

It is noted that there are residential properties in close proximity to the application site. However, the site does not directly abut any residential properties. To the west the site is bounded by the A15/A1077 roundabout and A15 (dual carriageway) slip road, to the north by the A1077 (Ferriby Road), to the east by the Lidl foodstore and to the south by an undeveloped area of greenspace. There is approximately 150 metres between the proposed buildings, car parks and service areas and neighbouring properties. The Lidl foodstore building sits directly between the site and the nearest residential properties to the east, with the A1077 sitting between the site and properties to the north.

In addition, it is noted that the petrol station is designed to cater for passing traffic by providing services such as fuel and rest facilities. Due to the nature of the development it is reasonable to assume that the vast majority of patrons visiting the petrol filling station will already be on the roads running adjacent to the site and therefore the development will not result in a significant increase in traffic on local roads, passing residential properties. Therefore, any additional noise would be limited to that generated by customers purchasing fuel and convenience goods from the petrol station.

A noise assessment was produced to accompany the original application (PA/2018/1384), which examined the potential impact of the development against existing background noise levels. This noise assessment concluded that the potential effects of the development in terms of noise will not be significant and that noise levels are likely to be lower than the lowest measured background noise levels. The council's Environmental Health officer considered the noise assessment when considering the original application and raised no concerns in respect of noise, nor did they request any conditions limiting hours of operation of the petrol station. The Environmental Health officer has considered the current application and the justification put forward by the applicants and has raised no concerns or objections to the removal of this condition. Therefore the Environmental Health officer does not consider condition 9 to be necessary to protect the amenity of local residents.

Paragraph 55 of the National Planning Policy Framework sets out the tests, which are relevant to the imposition of all planning conditions. The intention of this national policy is to ensure that the number of conditions imposed on planning permissions is kept to a

minimum and conditions should not be imposed unless they comply with all the tests, which are listed below:

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

For the reasons outlined above, and giving due weight to the advice of the council's expert Environmental Health officer, it is considered that condition 9 is not necessary and that the removal of this condition would not result in an unacceptable impact on the amenity of local residents. On this basis it is concluded that condition 9 fails the test of necessity and reasonableness and the application to remove this condition is recommended for approval.

RECOMMENDATION Grant permission subject to the following conditions:

1.
The development must be begun before 30 November 2019.

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.

There shall, at no time, be any facility for the fuelling of HGVs within the site.

Reason

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

9.

The drive-thru coffee shop hereby approved shall not open to customers outside the hours 6am to 11pm.

Reason

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

10.

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.

11.

Electric vehicle charging (EVC) points shall be provided in accordance with the approved Site Layout Plan (Drawing No. 5). The EVC points shall be rapid charge points, and shall be installed prior to the development being brought into use and retained on site 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).

12.

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.

13.

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. Once agreed the CEMP shall be implemented for the duration of construction operations on site.

Reason

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

14.

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.

15.

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.

16.

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

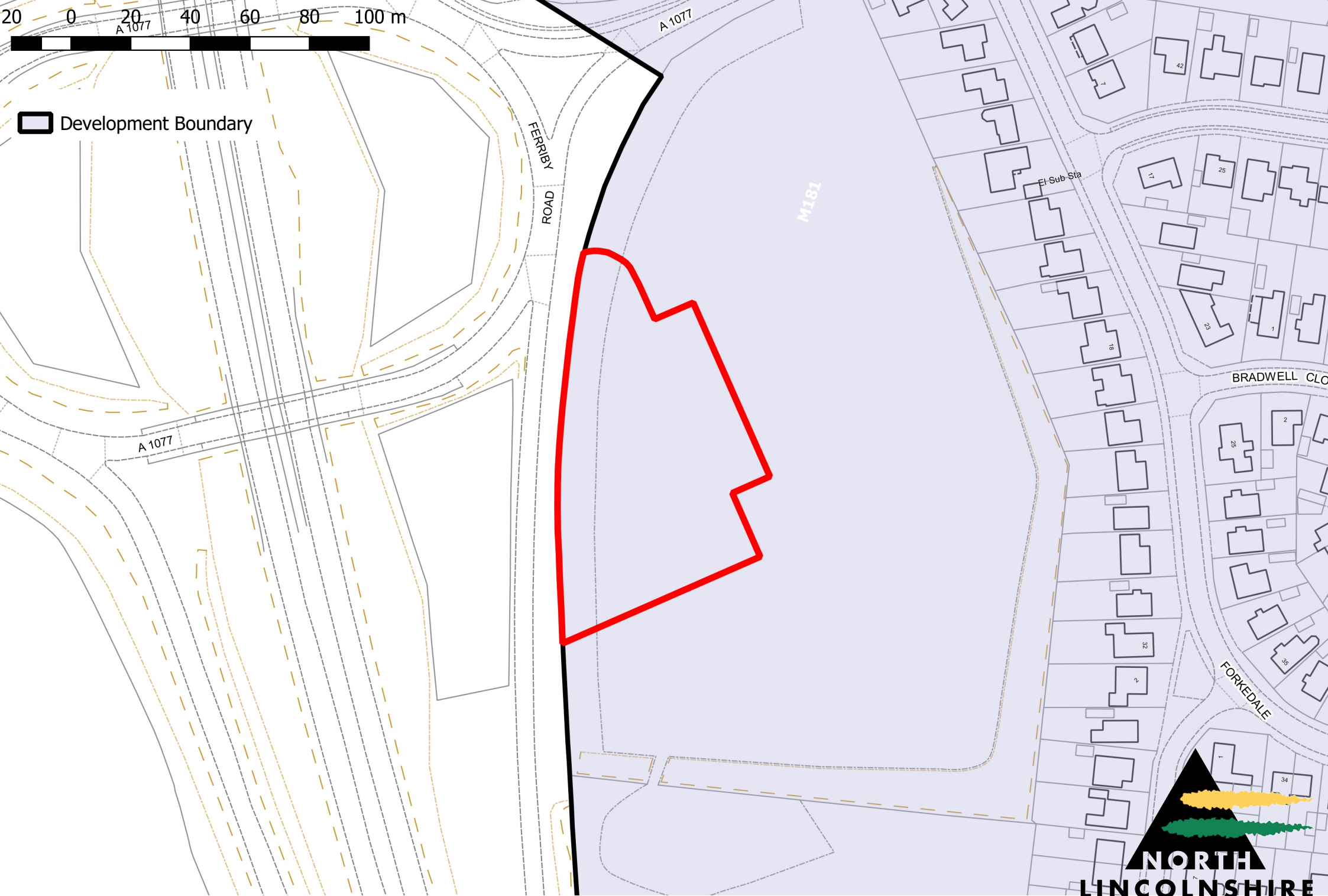
To enhance the appearance of the development in the interests of amenity.

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/2018/2515 Block plan (from PA/2018/1384) (not to scale)

Key

- Site boundary
- Site Area 6203m² / 1.53 acres
- Black Bitmac finish
- Black paving - Marshall's Tegula
- Gravel - colour to be agreed
- Concrete
- Concrete Apron
- 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 line rail
- Existing removed
- New Illuminated sign NO EXIT
- New Illuminated sign NO ENTRY / CIVIL WAY
- Pedestrian Route Tactile paving and dropped kerbs at all appropriate points along the route to DCA standards within site limits

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Scale Bar

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SCHEME SUBJECT TO TRACKING ANALYSIS

B	10.07.18	ELECTRIC VEHICLE CHARGING POINTS ADDED / 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 #	1419	
DWG	5b	