

APPLICATION NO	PA/2022/774
APPLICANT	Mr Chris Barrett, Brookside Caravan Park
DEVELOPMENT	Planning permission for change of use of land to permit the siting of static caravans (resubmission of PA/2020/1949)
LOCATION	Brookside Caravan Park, Stather Road, Burton upon Stather, DN15 9DH
PARISH	Burton upon Stather
WARD	Burton upon Stather and Winterton
CASE OFFICER	Deborah Oikeh
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Objection by Burton upon Stather Parish Council

POLICIES

National Planning Policy Framework:

Paragraph 175 – 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.

North Lincolnshire Local Plan: DS1, DS7, DS11, T2, T19, RD2, R12, H7

North Lincolnshire Core Strategy: CS1, CS2, CS3, CS5, CS15, CS17, CS19

CONSULTATIONS

Highways: No objections subject to conditions.

Environmental Protection: No objections but recommend a condition

Environmental Health: Has provided some informative comments.

Historic Environment Record: No objections or further recommendations.

Designing Out Crime Officer: No objections.

Ecology: No objections subject to conditions.

Natural England: No objections.

LLFA Drainage: No objections subject to conditions.

Humberside Fire and Rescue Service: Has provided some informative comments.

PARISH COUNCIL

The parish council has the following concerns if the caravan park were to be enlarged:

- the impact it would have on local residents due to over-development of the site
- the extra traffic movement and noise it would create
- the impact on the local sewerage services and utilities
- concerns about the badgers as they will stray further than anticipated.

PUBLICITY

Advertised by site notice. No comments received.

STATEMENT OF COMMUNITY INVOLVEMENT

The applicant has not evidenced any community consultation.

ASSESSMENT

Planning history

7/1991/0102: Change of use of land to station 20 touring caravans – refused 30/05/1991, but allowed under appeal T/APP/J2020/A/91/189199/PB

PA/2000/0775: Planning permission to increase the number of touring caravan sites from 20 to 35 – approved 23/02/2005

PA/2007/1341: Planning permission to change the use of land to form an extension to an existing caravan park (to provide an additional 35 caravan pitches, including a maximum of 15 static), create a new vehicular access and visitor car parking, site an additional mobile unit for use as a

reception/administration office, and erect a 1.8 metre high fence – approved 05/12/2007

PA/2016/1568: Vary condition 8 of planning permission PA/2007/1341 dated 05/12/2007 to allow the siting of 22 static caravans – approved 08/03/2017

PA/2012/1254: Planning permission to change the use of land to permit the siting of static caravans – refused 07/11/2019

PA/2020/276: Planning permission to change the use of land to permit the siting of static caravans – refused 15/05/2020, and dismissed under appeal APP/Y2003/W/20/3257186

PA/2020/1949: Planning permission for the change of use of land to permit the siting of static caravans – refused 02/07/2021, and dismissed with a partial cost award from the council to the appellant under appeal APP/Y2003/W/21/3280156.

Site characteristics and proposal

This proposal relates to the change of use of an area of open countryside to site an additional 22 static caravans. At present, the site has permission to site 22 static caravans and a number of touring caravans. The touring area is located to the north of the reception building and to the west of the area allotted for static caravans. The site is outside the defined development limits for Burton upon Stather, within the open countryside as identified by the Housing and Employment Land Allocations DPD 2016. The site is also within the 'Trent Levels' which is identified as having landscape importance by the North Lincolnshire Landscape Character Assessment. The site is just outside but close to a functional flood plain and Flood Zone 2/3a as identified by the SFRA 2011.

The application has been refused on three separate occasions, the last refusal being appealed and subsequently dismissed with a partial cost award from the council to the appellant (see PA/2020/1949). However, the inspector's report is clear that only one of the reasons for refusal was upheld, namely ecology. The applicant has provided further information and mitigation in relation to that issue and the local planning authority, under discretionary powers set out by Section 70A of the Town and Country Planning Act 1990, has agreed to determine the application as there has been significant change since the refusal.

Latest reasons for refusal (PA/2020/1949)

1. The development would be detrimental to the residential amenity rights of existing residents by virtue of intensification of use as a caravan site and an increase in associated vehicular trips. The proposal is considered to be contrary to policies DS1, H7 and RD2 of the North Lincolnshire Local Plan.
2. Insufficient information has been provided to assess the ecological impacts of the development. The proposal is considered to be contrary to policies CS5 and CS17 of the North Lincolnshire Core Strategy, and saved policies RD2 and R13 of the North Lincolnshire Local Plan, as well as paragraphs 170 and 175(d) of the National Planning Policy Framework to the aims of policies RD2 of the North Lincolnshire Local Plan and CS15 of the North Lincolnshire Core Strategy.

Inspector's response and appeal outcome

- 1. Amenity:** Taking into account the existing level of use of the access by those staying in statics and tourers, I am not convinced that the proposal would result in a significant increase in vehicles using the access road. In terms of the potential for noise arising from the caravans, I would note that there is a substantial distance between the closest static caravans and the neighbouring dwellings. This would be sufficient to avoid any significant increase in noise and disturbance being experienced by the occupiers of these dwellings. I therefore conclude that the proposal would not have a significant adverse effect on the living conditions of the occupiers of neighbouring properties. The proposal does not conflict with Policies DS1, H7 and RD2 of the NLLP, which amongst other things, seek to ensure new development does not cause unacceptable loss of amenity to neighbours.
- 2. In relation to protection of badgers:** On the basis of the information before me and my above reasoning, the extent to which protected species may be affected is not clear (neither, by consequence, is any implication of the mitigation measures before me). I cannot therefore legitimately resolve such matters via imposing conditions, as has been suggested to me by the appellant. Whilst I do not doubt the appellant's intention to provide appropriate mitigation, my assessment must be based on firm evidence in that regard. I therefore cannot conclude that the proposal would not adversely affect badgers, a protected species known to be present at the site. The proposal would therefore conflict with Policies CS5 and CS17 of the North Lincolnshire Core Strategy 2011 (NLCS) and Policy R13 of the North Lincolnshire Local Plan (NLLP) which, amongst other things, seek to protect and enhance the natural assets of the District and ensure unavoidable impacts on biodiversity and wildlife are appropriately mitigated, and produce net gains in biodiversity. It would also be contrary to paragraph 174 (d) of the Framework which amongst other things, seeks to minimise impacts on and provide net gains for biodiversity
- 3. Partial award of cost:** I find that some unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A partial award of costs is therefore justified, relating solely to the Council's first reason for refusal in respect of an issue that had previously been found to be acceptable by an Inspector. The applicant has thus been faced with the unnecessary expense in defending that matter at appeal. Whilst the appellant has not precisely enumerated the expense incurred in that regard, the PPG explains how costs may include 'the time spent by appellant and their representatives' at appeal. Thus, no doubt some costs have arisen.

Main consideration

Following the above appeal decision, it was clear that the inspector did not agree with the first reason for refusal, i.e. amenity issues, and only dismissed the appeal on grounds of insufficient ecological details provided by the appellant. Given the outcome of the appeal, it is considered that the applicant has overcome the other reason for refusal, i.e. amenity. Therefore, the only issue to be assessed relates to ecology.

Ecology

Policy CS17 of the North Lincolnshire Core Strategy is concerned with biodiversity and seeks to achieve a net gain whilst also protecting existing wildlife habitat networks. Paragraph 170 of the NPPF reinforces this policy setting out biodiversity management

principles. Both are considered relevant. Core Strategy Spatial Objective 10, policies CS5 and CS16 and saved local plan policies LC7 and RD2 should also be considered.

The submitted Landscape Appraisal indicates that the application site is largely enclosed by a combination of existing scrub vegetation and recent planting. However, much of the existing planting appears to have made use of non-native species. By its very nature, the proposal will 'fill in' some of the remaining open grassland. However, some grassland will be retained near the kennels.

The proposal would also affect badger sett entrances that form part of a main sett that lies mostly within the adjoining woodland.

The standing advice says, 'Extra surveys must be done if there are active setts or foraging grounds. Use these surveys to:

- prove that a sett is in current use;
- monitor use of the sett and determine if it's a significant sett for the group;
- estimate territorial boundaries;
- identify locations for mitigation measures.

A further badger survey has now been carried out. Whilst no attempt has been made to estimate territorial boundaries, the survey does demonstrate that the sett is active and identifies the main sett entrances, badger trails and snuffle holes within the application site.

The development boundary is about 15 metres from the nearest sett entrance (at present). It is proposed that a post and rail fence should be used to provide separation between the badger sett and the static caravans.

Planning Circular 06/2005 states that, 'The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions.'

Application PA/2020/1949 was dismissed on appeal. In relation to badgers, the inspector highlighted the following issues, broadly speaking:

- a lack of site-specific information to inform buffer distances and mitigation for light and noise disturbance
- inadequate fencing to keep people and dogs away from the badger sett.

The applicant's ecologists have provided mitigation measures to address these concerns in the following ways:

- ensuring that the site boundary fence will be at least 25 metres from woodland and 15 metres from sett entrance holes, allowing for the fact that badger tunnels rarely exceed 10 metres in any one direction
- incorporating Highways Agency approved badger-proof fencing in the fence design, to maintain separation between badgers and people and dogs

- planting a hawthorn and blackthorn fence along the fence line to provide screening against noise, visual and light disturbance
- sensitive working methods and timings
- restrictions on external lighting
- ongoing monitoring with implementation of any remedial measures required.

Both Natural England and the council's ecologist have been consulted and have raised no objections. The council's ecologist has assessed the impacts upon protected species, in particular the badgers, stating:

'In my view, this now makes the proposal acceptable in terms of saved policy LC5 and the planning circular.'

The ecologist goes on to recommend conditions relating to biodiversity enhancement and these will be attached to any permission the council is minded to grant.

Lastly, the ecologist has carried out a determination of the likely significant effects (LSE) under the Habitats Regulations and determined that there would not be any likely significant effects upon the nearby Humber Estuary SAC/SPA/Ramsar site as a result of this development. Conditions will also be attached relating to biodiversity management in line with the aforementioned policies which seek to achieve a net gain.

Other matters

The Environmental Protection team have recommended pre-commencement conditions relating to noise management. The inspector was very clear on the matters of noise and disturbance:

'I am not convinced that the proposal would result in a significant increase in vehicles using the access road. Whilst there would inevitably be some increase, in my view this would not lead to a significant increase in noise and disturbance over and above what is already experienced by the residents of neighbouring properties from the existing site.

In terms of the potential for noise arising from the caravans, I would note that there is a substantial distance between the closest static caravans and the neighbouring dwellings. This would be sufficient to avoid any significant increase in noise and disturbance being experienced by the occupiers of these dwellings.

I therefore conclude that the proposal would not have a significant adverse effect on the living conditions of the occupiers of neighbouring properties.'

Paragraph 55 of the NPPF states that for a condition to be applied to any application, it should only be used where it satisfies all the six tests of condition, i.e. the condition must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Given the observations of the inspector and the appeal outcome, the recommended conditions regarding noise would fail to meet these tests, especially its reasonableness in all respects.

The site is within flood zone 1 but it is close to a functional flood plain and flood zone 2/3a as identified by the SFRA 2011. The drainage team made reference to potential issues of

surface water run-off and the need for further details to assess the acceptability of the proposal. Nevertheless, the drainage team raised no objection against the proposal given that it is an extension to an existing caravan site. However, pre-commencement conditions were recommended to ensure that the development does not commence until all necessary mitigation measures have been assessed and considered safe and acceptable.

Although traffic and general highway-related issues were dismissed by the planning inspector at the last appeal, it is considered beneficial both for the caravan site and the wider area that internal access and parking area be provided prior to the occupation of the proposed caravan site extension. Therefore, the highways team have recommended a condition to this effect.

Finally, conditions have been applied to control the occupancy of the caravan site such that it would only be used for short-term recreational purposes/holiday and not as a permanent residential site.

Conclusion

The only reason for refusal upheld by the inspector was on ecological grounds (PA/2020/1949). The applicant confirms that an additional 10 mitigation measures, making a total of 13, have been proposed in the report to protect the badger sett. It is considered that the concerns raised by the inspector have been addressed and the council's ecologist and Natural England have no objections to the latest mitigation measures. The planning practice guidance (PPG) advises against decisions or behaviours that may amount to wasted expenses or resources, in form of cost and time. The council was judged by the inspector to have shown 'unreasonable behaviour resulting in unnecessary or wasted expense' which led to a partial award of cost in the last appeal (PA/2020/1949). Given that no objections have been raised and the mitigation measures provided are judged acceptable by both Natural England and the council's ecologist, the proposal is therefore recommended for approval. Conditions relating to biodiversity enhancement are recommended in respect of this matter.

Pre-commencement conditions

The pre-commencement conditions included in the recommendation have been agreed with the applicant.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 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:

Location plan IP/BC/01 dated DEC 20 and Site Plan IP/BC/02 dated APR 22.

Reason

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

3.

The use of the site shall be for short-term holiday lets only and no caravan shall be occupied on the application site for more than 28 consecutive days in any 12 month period.

Reason

The site is for holiday lettings only and is inappropriate for permanent residential development, in accordance with policies DS1 and RD2 of the North Lincolnshire Local Plan.

4.

No caravan on the application site shall be occupied between 1 December and 31 January.

Reason

The site is for holiday lettings only and is inappropriate for permanent residential development, in accordance with policies DS1 and RD2 of the North Lincolnshire Local Plan.

5.

At no time shall the site marked by the red line boundary on the location plan exceed 21 static caravan pitches.

Reason

To define the terms of the permission and protect the open countryside, and for reasons relating to protected species, in accordance with policies DS1, RD2 and LC5 of the North Lincolnshire Local Plan.

6.

No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100 year critical storm (including an allowance for climate change) will not exceed the run-off from the existing site. It shall also include details of how the resulting completed scheme is to be maintained and managed for the lifetime of the development so that flood risk, both on and off the site, is not increased. SuDS must be fully considered. Reference should be made to North Lincolnshire Council's SuDS and Flood Risk Guidance Document. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, focusing on above-ground solutions.

Reason

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

7.

The drainage scheme shall be implemented in accordance with the approved submitted details required by condition 6 above, completed prior to the occupation of any dwelling or building within each phase or sub-phase of the development 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 maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 155, 157, 163 and 165 of the National Planning Policy Framework.

8.

No proposed static caravan shall be brought into use until the internal access road and parking facilities serving them have been provided. Once provided these facilities shall be retained.

Reason

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

9.

Works and biodiversity enhancements shall be carried out strictly in accordance with the recommendations set out in the submitted '2022 Updated Badger Survey Report' and the submitted drawing number IP/CB/02. Recommendations 1 to 13 shall be carried out in their entirety in accordance with the timescales set out. All biodiversity features shall be retained thereafter. Prior to the occupation of the static caravans hereby permitted, the applicant or their successor in title shall submit a report to the local planning authority providing evidence of compliance with the submitted '2022 Updated Badger Survey Report'. After the fifth year of badger monitoring, the applicant or their successor in title shall submit a monitoring report to the local planning authority, providing the badger monitoring results and details of any remedial works carried out.

Reason

To conserve and enhance biodiversity in accordance with policies LC5 of the North Lincolnshire Local Plan and CS17 of the Core Strategy.

10.

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

- (a) details of bat roosting features to be installed;
- (b) details of nesting sites to be installed to support a variety of bird species;
- (c) restrictions on lighting to avoid impacts on badger setts and foraging areas, bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;

- (d) prescriptions for the planting and aftercare of native trees and shrubs of high biodiversity value;
- (e) details of how the measures proposed will provide at least 1% biodiversity net gain in accordance with the Defra biodiversity metric 3.1;
- (f) proposed timings for the above works in relation to the installation of static caravans.

Reason

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

11.

The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the installation of the 20th static caravan, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the biodiversity management plan.

Reason

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

Informative 1

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

Informative 2

There have been significant issues over a number of years with surface water run-off from the hillside (east) in this area. The Beck to the north of the existing caravan site conveys water directly to the River Trent. There is an area of high surface water flood risk in the area in the vicinity of the public house, and this area has flooded in the past. There is also an area to the south of the current proposal that could be further developed.

Informative 3

The council's Environmental Health department has considered the application and has the following comments to make:

- The site currently has planning permission for 55 touring pitches and 22 static holiday caravans.
- The units shall be sited to meet the spacing standards under sections 2 and 3 of the Model Standards 1989: Holiday Caravan Site.
- Suitable hardstandings shall be provided for each proposed unit allowing sufficient space for safe access and exit from all doorways, to meet section 5 of the Model Standards 1989: Holiday Caravan Site.

- Suitable pavements and roads shall be provided to access the proposed units to meet Section 4 of the Model Standards 1989: Holiday Caravan Site.
- Sufficient parking for the proposed development shall be provided for each unit and for visitors to the site, to meet section 27 of the Model Standards 1989: Holiday Caravan Site.
- Should the development go ahead, the owners will be required to obtain a revised caravan site licence and ensure that the site meets the Model Standards 1989: Holiday Caravan Site.
- It is unclear whether the development meets saved North Lincolnshire Local Plan policy R11 sections ii) and iii) in respect of the impact on the local area and sewage provisions for the development.
- There is no history of complaints in relation to this site. However, consideration should be given to the potential disruption the increased traffic and development will have on adjoining residential buildings, particularly during the peak holiday season.

Informative 4

Access for Fire Service

It is a requirement of Approved Document B5, Section 15 Commercial Properties or B5, Section 13 for Domestic Premises that adequate access for fire-fighting is provided to all buildings or extensions to buildings.

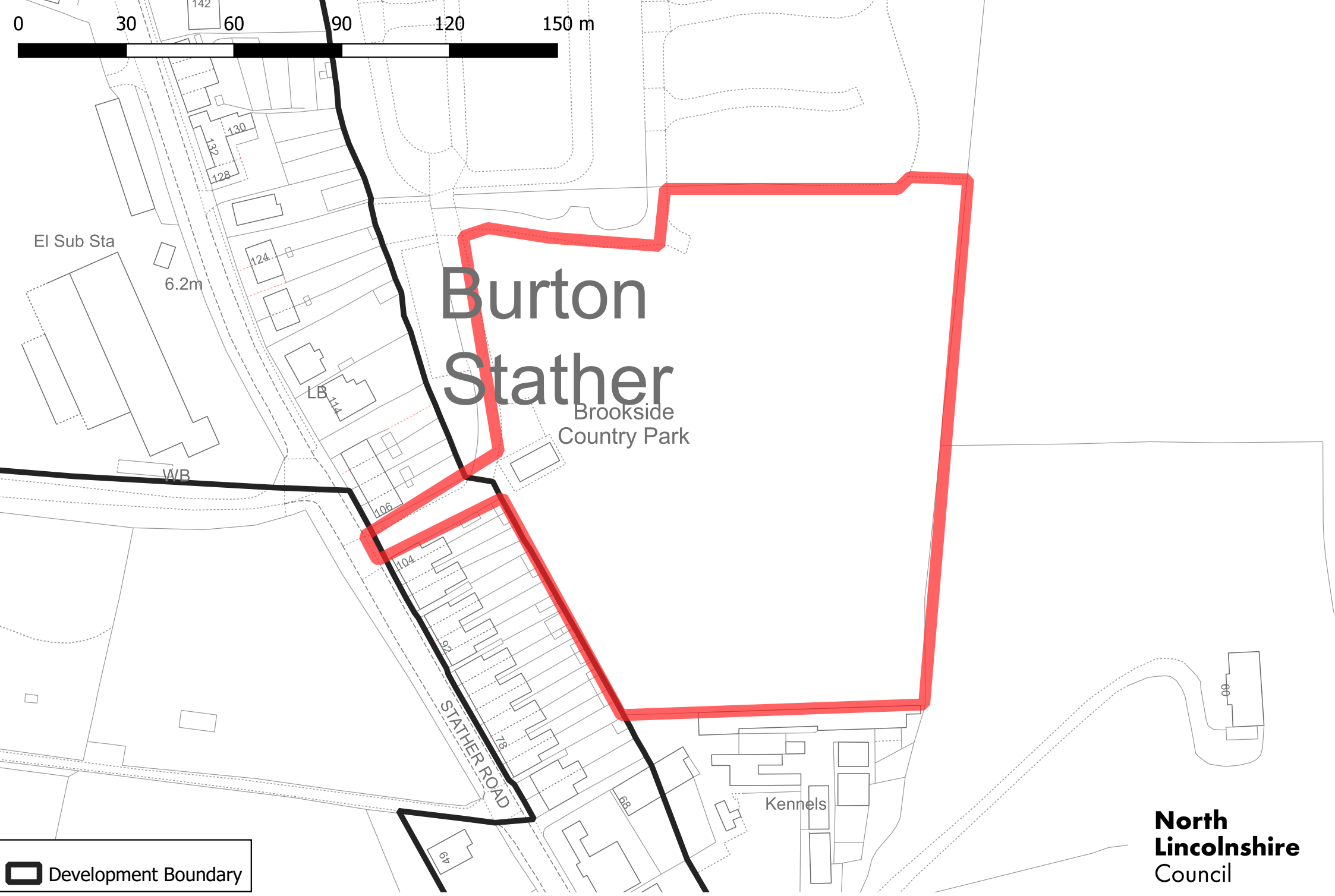
Where it is a requirement to provide access for high reach appliances, the route and hard standing should be constructed to provide a minimum carrying capacity of 24 tonnes.

Water Supplies for Fire-fighting

Adequate provision of water supplies for fire-fighting appropriate to the proposed risk should be considered. If the public supplies are inadequate it may be necessary to augment them by the provision of on-site facilities. Under normal circumstances hydrants for industrial unit and high risk areas should be located at 90m intervals. Where a building that has a compartment of 280m² or more in area is being erected more than 100m from an existing fire hydrant, hydrants should be provided within 90m of an entry point to the building and not more than 90m apart. Hydrants for low risk and residential areas should be located at intervals of 240m. If you require further advice or clarification of any of the above matters, please contact the Fire Safety Inspector at the address below:

Patrick Connelly, Business Safety Inspector
Humberside Fire & Rescue Service
Laneham Street
SCUNTHORPE
DN15 6JP

Telephone: 01724 295914
Email: pconnelly@humbersidefire.gov.uk



El Sub Sta

6.2m

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130
128

124

LB 114

WB

106

104

STATHER ROAD

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78

68

Kennels

09

Burton Stather

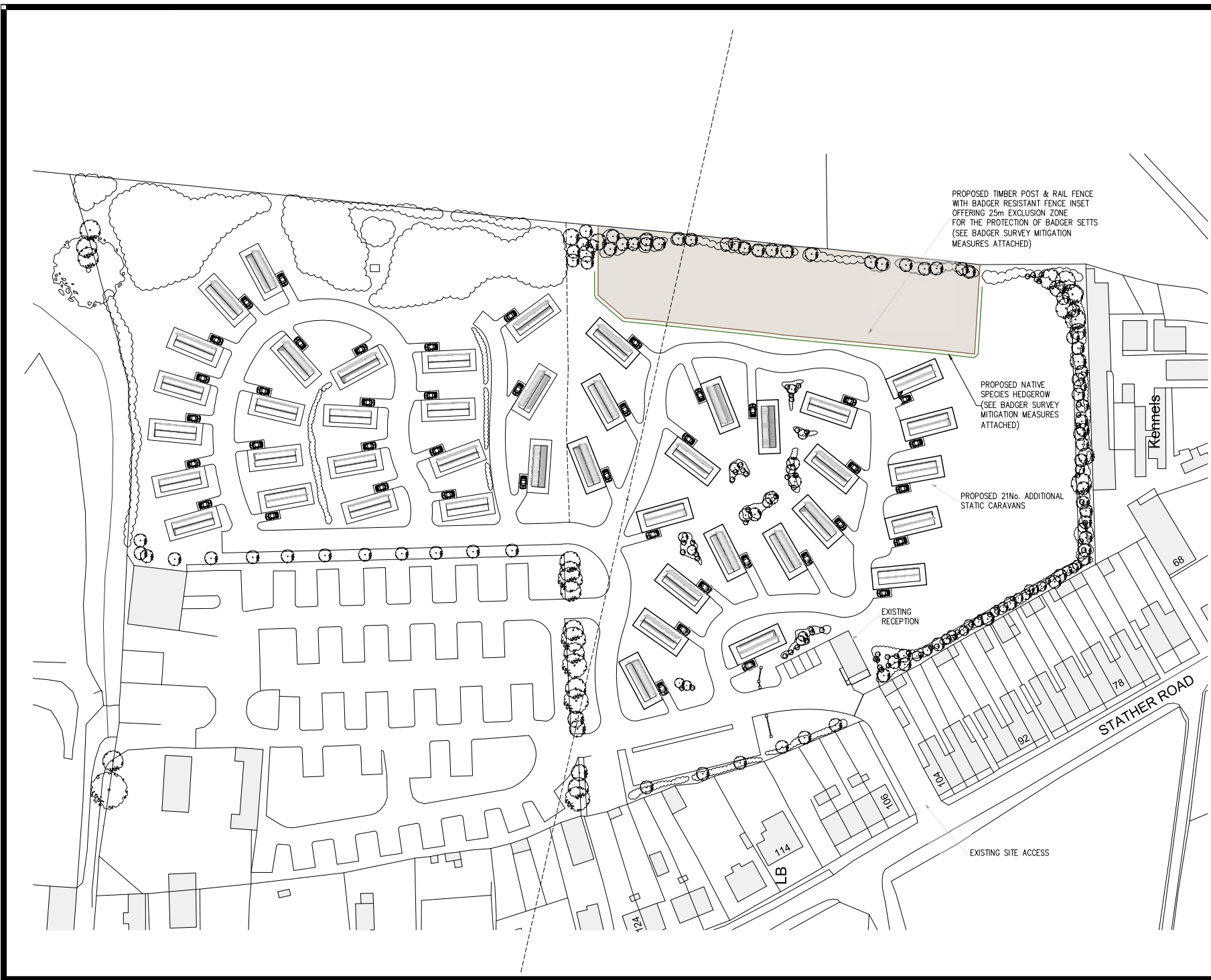
Brookside Country Park

 Development Boundary

PA/2022/774

North Lincolnshire Council

PA/2027/774 Proposed layout (not to scale)



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CLIENT
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JOB TITLE
Caravan Park Expansion

DWG. TITLE
Site Plan A1

SCALE 1=500 DRN SH

DWG. NUMBER
IP/CB/02

DATE APR 22 REV -