

APPLICATION NO	PA/2021/1251
APPLICANT	Ms Lucy Eden, Truelove Property and Construction
DEVELOPMENT	Planning permission to erect six dwellings
LOCATION	Plots 76, 77a, 77b, 78a, 78b and 78c Barley Close, Windmill Way, Kirton-in-Lindsey, DN21 4FE
PARISH	Kirton in Lindsey
WARD	Ridge
CASE OFFICER	Rebecca Leggott
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Objection by Kirton in Lindsey Town Council

POLICIES

National Planning Policy Framework:

Chapter 2: Achieving sustainable development

Chapter 4: Decision-making

Chapter 5: Delivering a sufficient supply of homes

Chapter 9: Promoting sustainable transport

Chapter 11: Making effective use of land

Chapter 12: Achieving well-designed places

Chapter 15: Conserving and enhancing the natural environment

North Lincolnshire Local Plan:

Policy H5: New Housing Development

Policy H8: Housing Design and Housing Mix

Policy H10: Public Open Space Provision in New Housing Development

Policy RD2: Development in the Open Countryside

Policy T1: Location of Development

Policy T2: Access to Development

Policy T6: Pedestrian Routes and Footpaths

Policy T19: Car Parking Provision and Standards

Policy R1: Protected Playing Fields

Policy C1: Educational Facilities

Policy LC5: Species Protection

Policy LC6: Habitat Creation

Policy LC7: Landscape Protection

Policy LC12: Protection of Trees, Woodland and Hedgerows

Policy HE9: Archaeological Excavation

Policy DS1: General Requirements

Policy DS7: Contaminated Land

Policy DS14: Foul Sewage and Surface Water Drainage

Policy DS16: Flood Risk

North Lincolnshire Core Strategy:

Policy CS1: Spatial Strategy for North Lincolnshire

Policy CS2: Delivering More Sustainable Development

Policy CS3: Development Limits

Policy CS5: Delivering Quality Design in North Lincolnshire

Policy CS6: Historic Environment

Policy CS7: Overall Housing Provision

Policy CS8: Spatial Distribution of Housing Sites

Policy CS9: Affordable Housing

Policy CS16: North Lincolnshire's Landscape, Greenspace and Waterscape

Policy CS17: Biodiversity

Policy CS18: Sustainable Resource Use and Climate Change

Policy CS19: Flood Risk

Policy CS22: Community Facilities and Services

Policy CS23: Sport, Recreation and Open Space

Policy CS25: Promoting Sustainable Transport

Policy CS27: Planning Obligations

Housing and Employment Land Allocations DPD:

Policy PS1: Presumption in Favour of Sustainable Development

CONSULTATIONS

HER (Archaeology): No objections to the proposed development.

LLFA Drainage: Raise objections to the proposed development due to concerns that it falls within the lower threshold assessment levels (5–9 properties or over 500m²) but provides no information to support the proposals. Furthermore, no principle drainage strategy has been provided nor any clarification for adopted surface water drainage systems for the overall site.

Environmental Protection: No objections to the proposed development subject to conditions relating to: site investigation, a remediation scheme, a verification report, reporting of unexpected contamination, and construction and site clearance.

Recycling Officer: No objections to the proposed development subject to a number of standard requirements being met in respect of bin types, refuse vehicle access, unadopted roads, pulling distances for residents and collection crews, and refuse and recycling storage.

Highways: No objections to the proposals in principle, subject to a number of standard conditions

Neighbourhood Services: Raise objections to the proposed development to protect footpath 248.

Ecology: No objections subject to a condition requiring the installation of swift bricks.

TOWN COUNCIL

Raise objections to the proposed development due to concerns over the following:

- the need for a Phase 1 contaminated land report prior to the application being determined
- the need to safeguard Public Footpath 248
- the need for a flood risk/flood management assessment
- increased traffic and parking issues
- the Design and Access Statement suggests that the town council would be responsible for the hedge along the eastern boundary, but this has not been agreed with them.

PUBLICITY

A site notice has been displayed resulting in two letters of objection being received, raising concerns over the following:

- the size, scale and issues caused by the original scheme (PA/1999/0920)
- flood risk and drainage
- lack of street names on the original permission
- loss of natural landscaping
- poor access approved by the original permission
- lack of parking along Barley Close
- access via public footpaths.

ASSESSMENT

Planning history

PA/2021/1007: Application for a non-material amendment to PA/2016/352 namely to alter the materials of plot 74A bricks to Hathaway Weinerberger and roof tiles to Sandtoft flat Calderdale grey and plot 74B bricks to Hathersage Weinerberger and roof tiles to Sandtoft rustic colour – approved 23/08/2021

PA/2015/0333: Planning permission for a change of house types on four plots approved under PA/1999/0920 – approved 24/06/2015

PA/1999/0920: Planning permission to erect 102 houses and garages – approved 31/03/2000

7/1988/0554: Outline planning permission to erect 80 dwellings – approved 17/09/1990

7/1977/0926: Outline planning permission to erect dwellings – approved 23/02/1978.

Site characteristics

The application site is within the defined development limits of Kirton in Lindsey which is a market town as defined within the Core Strategy. It is also within Flood Zone 1 (North and North East Lincolnshire SFRA 2022).

It is within a wider residential development which is being gradually built out over the years and fronts the highway, Barley Close. To the north of the application site are residential properties; to the east is the highway, Barley Close and further to this residential properties; to the south and west is a cleared construction site.

From a site visit, most of the historic permissions for residential development have been built out on site. However, part of the site remains under construction.

Furthermore, foundations have been laid within the application site. It was originally noted that the plans and drawings did not match the foundations on site. However, following a discussion with the agent, the plans have been updated to be correct and consistent with the foundations laid out on site.

Proposal

Planning permission is sought to erect 6 detached dwellings to replace the previously approved 5 dwellings on the plots (Plots 76, 77a, 77b, 78a, 78b and 78c). The application site is within the context of the original permission, PA/1999/0920. Therefore, it should be noted that the key change compared to previous permissions is the introduction of one additional dwelling.

The main issues in the determination of this application are:

- **principle of development**
- **design and impact on the character and form of the area**
- **impact on residential amenity**
- **impact on highways**
- **flood risk and drainage**
- **contamination and environmental issues**
- **protected species and conservation**
- **other issues.**

Principle of development

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 the Planning Practice Guidance (PPG).

The site is allocated as a committed housing site under the Housing and Employment DPD and is within the development limits of Kirton in Lindsey.

Policy CS1 of the Core Strategy sets out the overarching spatial strategy for North Lincolnshire which provides that settlements will be supported as thriving sustainable communities, with a strong focus on retaining and enhancing local services to meet local needs and that any development that takes place should be in keeping with the character and nature of the settlement.

Policy CS2 of the Core Strategy sets out that within market towns such as Kirton in Lindsey development will be focused on previously developed land and buildings, followed by other suitable infill opportunities, then appropriate small-scale greenfield extensions to meet identified local needs.

Policy CS8 deals with the distribution of housing sites and prioritises development in Scunthorpe and the market towns, and rural settlements to a lesser extent, with brownfield sites and sites within development boundaries being the primary focus.

Local plan saved policy RD2 restricts development in the open countryside other than in exceptional circumstances. This policy supports residential development within the defined development limits of market towns.

Notwithstanding the development plan policies set out above, the NPPF is a material consideration when determining planning applications. Paragraph 10 of the NPPF states, 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.' Paragraph 11(d) of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies which were most important to determining the application should not be considered up to date.

In a recent appeal decision dated 20 July 2022 (PA/2020/554) the Inspector concluded that the council does not currently have a five-year housing land supply of deliverable sites. The council's Five-Year Housing Land Supply Position Statement is awaiting an update and as such any decisions made by the planning authority will take account of the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF. The current local policies which are most important for determining the application will carry reduced weight during this period.

National Planning Practice Guidance paragraph 008 states that, in decision-taking, if an authority cannot demonstrate a five-year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework.

Given the current five-year land supply deficit, it is considered that there is a clear and demonstrable need for housing development in the area. Accordingly, the 'tilted balance' in paragraph 11 of the NPPF is triggered, whereby there is a presumption in favour of sustainable development and development proposals should be approved unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

There are three dimensions to sustainable development as set out in paragraph 8 of the Framework: economic, social and environmental.

Whilst the restrictive policies of the development plan (CS2, CS3 and CS8) do still apply, the lack of a five-year supply of housing land and the scale of the shortfall limit the weight which can be attributed to these policies. Restricting development to land within development limits, if strictly applied, would severely affect the ability of the authority to

address the need for housing. In determining the sustainability of the proposed development, an assessment not only relies upon planning principle but also whether the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or if any adverse impacts exist that would significantly and demonstrably outweigh the benefits of the proposal.

Overall, the principle of one additional dwelling over and above those previously approved has already been set under planning reference PA/1999/0920.

Design and impact on the character and form of the area

Core Strategy policy CS5 (Delivering Quality Design in North Lincolnshire) states, '...all new development in North Lincolnshire should be well designed and appropriate for their context. It should contribute to creating a sense of place. The council will encourage contemporary design, provided that it is appropriate for its location and is informed by its surrounding context. 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.'

The estate consists of a mixture of house types and in terms of design, the street scene and character of the area the proposed house types do not cause any negative impact, complementing the existing layout and complying with policies DS1, H5 and H8 of the North Lincolnshire Local Plan relating to house design.

On balance, it is considered that the proposal would be acceptable in terms of impacts on the character and appearance of the area. Therefore, the proposals would comply with policy CS5 of the Core Strategy and policies DS1, H5 and H8 of the North Lincolnshire Local Plan.

Impact on residential amenity

Policy DS1 is partly concerned with impacts upon residential amenity. It states that 'no unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.'

Having considered the development that exists on site and the proposals for further development, due to the massing, separation distances and orientation of the proposed additional dwelling, the proposals are not considered to have any impacts on surrounding properties in respect of overlooking or overshadowing over and above those already approved. Furthermore, the 6 dwellings overall would not have any impacts on the surrounding properties in respect of residential amenity over and above those already approved. Overall, the proposals are not considered to have any significant adverse impacts on the residential amenity of neighbouring properties. Therefore, the proposals will comply with policy DS1 of the North Lincolnshire Local Plan.

Impact on highways

Policy T1 of the North Lincolnshire Local Plan is concerned with the location of development and aligns with the spatial strategy of the Core Strategy. Policy T2 of the local plan states that all proposals should be provided with a satisfactory access. Policy T19 relates to car parking provision and standards, and in summary requires that developments which result in additional parking needs shall incorporate proposals to fully meet that demand. Policy CS25 of the Core Strategy is also relevant and seeks to support and

promote a sustainable transport system in North Lincolnshire that offers a choice of transport modes and reduces the need to travel through spatial planning and design and by utilising a range of demand and network management tools.

Comments received regarding traffic and parking issues are noted. However, as detailed above, this application is an amendment to the earlier permission for the wider site. All plots include provision for off-street parking and Highways have raised no objection to the proposal subject to a number of standard conditions.

Overall, it is considered that the proposal is in accordance with policies T1, T2 and T19 of the North Lincolnshire Local Plan, and policies CS19 and CS25 of the Core Strategy.

Flood risk and drainage

Policies DS16 of the North Lincolnshire Local Plan, CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 166 and 167 of the NPPF are considered highly relevant.

Policy CS19 (this policy sits alongside DS16 of the local plan) is concerned with flood risk and 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 that uses the principle of locating development, where possible, on land that has a lower flood risk, and relates land use to its vulnerability to flood.

The site is within Flood Zone 1 of the North Lincolnshire Strategic Flood Risk Assessment. The proposal is for 'more vulnerable' development. However, the proposals are within Flood Zone 1 for residential development on an existing residential site. Therefore, the proposals are acceptable in respect of flood risk.

Comments regarding drainage are noted. However, the application is an amendment to the earlier permissions for the site. Therefore, it is unreasonable to place conditions in relation to flood risk and drainage on this approval for one additional dwelling. The Section 38 Agreement for the site will deal with drainage for the site.

Therefore, the proposal is considered to comply with policies DS16 of the North Lincolnshire Local Plan, CS19 of the Core Strategy and the National Planning Policy Framework in terms of flood risk.

Contamination and environmental issues

Policy DS7 of the North Lincolnshire Local Plan is concerned with contaminated land. It states that permission will only be granted on contaminated sites where a detailed site survey has been submitted, and a suitable scheme of remedial measures has been agreed to overcome any existing contamination.

Paragraph 178 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

The comment from Environmental Protection asking for conditions be applied requesting contaminated land reports and restricting construction times are noted. However, as this permission is in effect an amendment to the 1999, 2015 and 2016 permissions, it would be

unreasonable to impose such conditions in relation to one additional dwelling when the remainder of the development has no such conditions. Further to the above, it is noted that throughout the course of the application the applicant has provided additional information by way of a Phase 1 Desk Study Report and Phase 2 Site Investigation Report. In considering the above, whilst it would be unreasonable to require additional information via condition it is considered reasonable to attach a condition requiring the reporting of unexpected contamination.

Subject to the aforementioned condition, the proposal is in accordance with policies DS7 of the Core Strategy and paragraph 178 of the NPPF.

Protected species and conservation

Policy CS17 of the Core Strategy is relevant. This relates to the council promoting effective stewardship of North Lincolnshire's wildlife. This includes the requirement for development to produce a net gain in biodiversity.

Paragraph 174(d) of the NPPF expresses support for 'minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.'

Paragraph 180(a) of the NPPF states, '...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...'

Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration.

The application site is not within an area of land designated for nature conservation.

Comments have been sought from the council's ecologist. In summary, following the confirmation that a great crested newt district level licensing certificate has been obtained, they have no objections, subject to a condition requiring the installation of swift bricks in the new dwellings.

Having had regard to the above, it is considered that sufficient information has been provided and that the proposals would be acceptable in terms of protected species and nature conservation. Therefore, the proposals would be in accordance with policy CS17 of the North Lincolnshire Core Strategy, and paragraphs 174 and 180 of the NPPF.

Other issues

In terms of the public right of way (PROW), the comments are noted. As this application is an amendment to the earlier permission for the wider site, the issues raised regarding the PROW are beyond the scope of this application. However, it should be noted that under the approved plans for the wider site the PROW is to be relocated through the eastern edge of the site.

Conclusion

This application is for planning permission to erect six dwellings, replacing the previously approved five dwellings on the plots (Plots 76, 77a, 77b, 78a, 78b and 78c). The application is acceptable in principle and in respect of design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, flood risk and drainage, contamination and environmental issues, and protected species and nature conservation. The attached conditions are outlined within this report and any pre-commencement conditions 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:

- Revised Site Layout Plots 75-79 - TL014-SP-01I
- Plot 78 C Below DPC - 014-P78C-01
- Plot 78 C Ground Floor Plan - 014-P78C-02 A
- Plot 78 C Electrical Layout - 014-P78C-04 A
- Plot 78 C Elevations - 014-P78C-05 A
- Plot 78 C Window and Door Schedules - 014-P78C-07
- Plot 78a Section A-A - 014-P78C-08
- Plot 78c Stairwell Location - 014-P78C-09 A
- Standard Garage Details - TL-SGD-02 B
- Plot 74B Below DPC - 014-P74B-01 A
- Plot 74B Ground Floor Plan - 014-P74B-02 A
- Plot 74B Ground Floor Electrical Layout – 014-P7B-04 A
- Plot 74B First Floor Electrical Layout - 014-P74B-05 A
- Plot 74B Elevations - 014-P74B-06 A
- Plot 74B Stairwell Location Plan - 014-P74B-07
- Plot 77B Window & Door Schedules - 014-P77B-08 A
- Plot 74B Section A-A - 014-P74B-09 A
- Site Location Plan Plot 76, 77A, 77B, 78B & 78C – 5494 – 10
- Plot 78B Below DPC - 014-P78B-01
- Plot 78B Ground Floor Plan - 014-P78B-02 A
- Plot 78B First Floor Plan - 014-P78B-03 A
- Plot 78B Electrical Layout - 014-P78B-04 B
- Plot 78B Elevations - 014-P78B-05 A
- Plot 78B Sales & Planning Layout - *****
- Plot 78B Window & Door Schedules - 014-P78B-07
- Plot 78B Section A-A - 014-P78B-08
- Plot 78B Stairwell Location Plan - 014-P78B-01 A
- Plot 76 DPC - TL014-76-01 B
- Plot 76 Ground Floor Plan - TL014-76-02 B

- Plot 76 First Floor Plan - TL014-76-03 B
- Plot 76 Ground Floor Plan Electrics - TL014-76-04 B
- Plot 76 First Floor Plan Electrics - TL014-76-05 B
- Plot 76 Elevations - TL014-76-06 B
- Plot 76 Stairwell Location Plan - TL014-76-07 B
- Plot 76 Stairwell Location Plan - TL014-76-08 B
- Plot 76 Section AA - TL014-76-09 B
- Drainage Layout Phase 2 Section 104 - 02:1784/020 D.

Reason

For the avoidance of doubt.

3.

No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken to the satisfaction of the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained.

Reason

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

4.

No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking spaces serving it have been completed and, once provided, the vehicle parking spaces shall be retained.

Reason

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

5.

If during development any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement, detailing how this contamination shall be dealt with, has been submitted to and approved by the local planning authority. The approved method statement shall be implemented in full prior to development commencing on the site.

Reason

To protect residential amenity.

6.

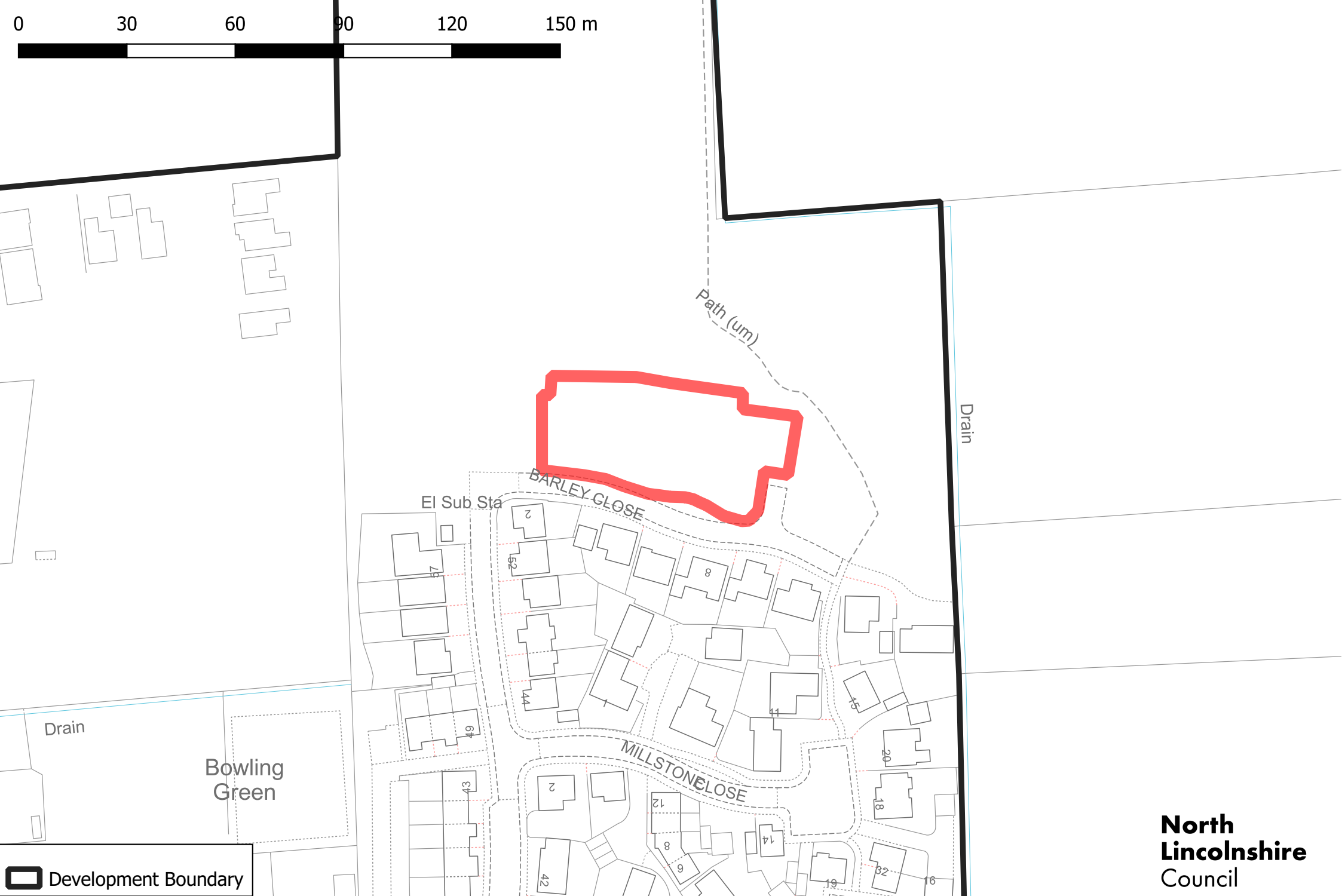
The development hereby approved shall incorporate swift bricks on the exposed gables of the new dwellings above eaves height.

Reason

In the interest of nature conservation.

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.



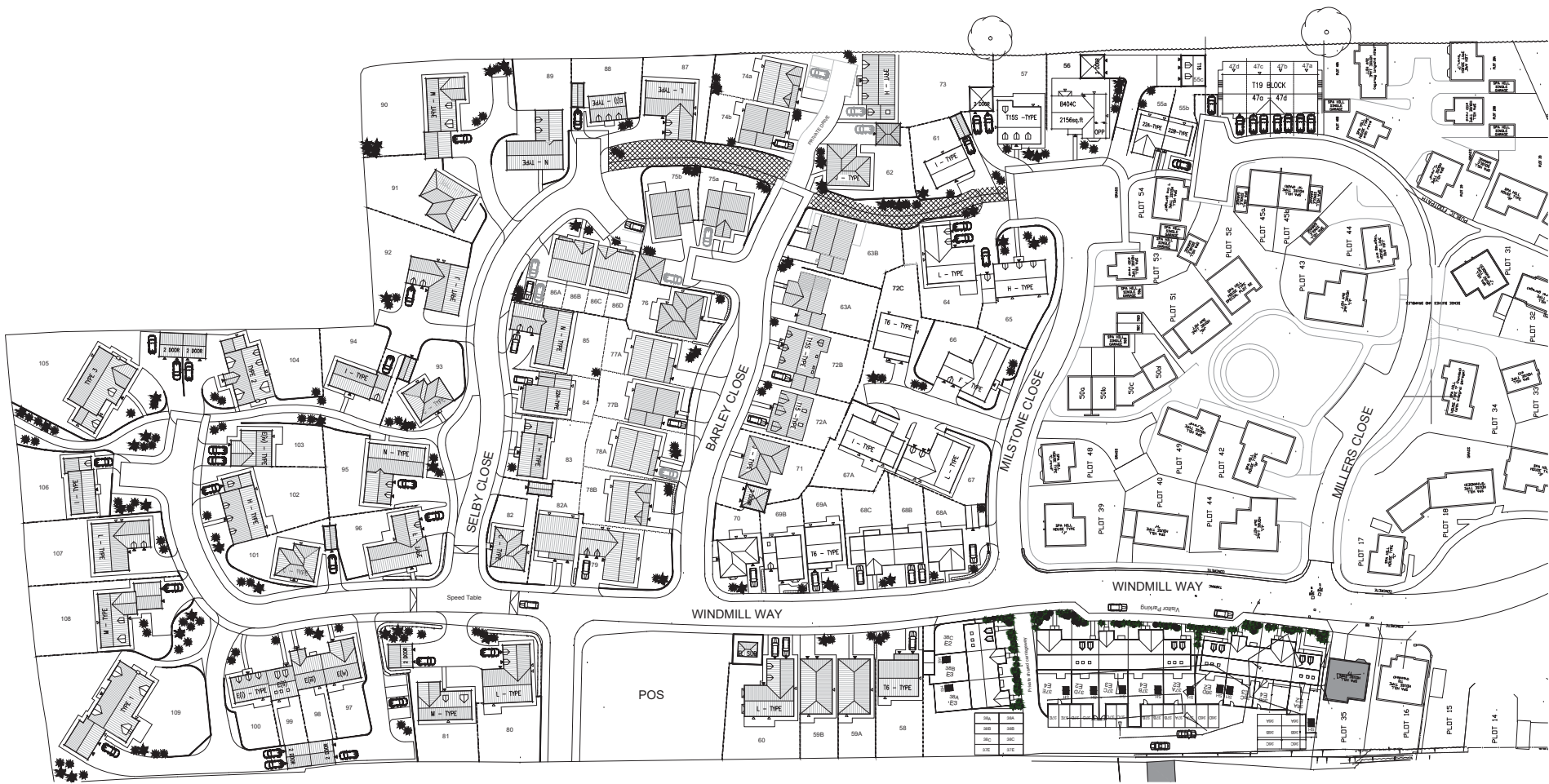
 Development Boundary

PA/2021/1251

**North
Lincolnshire
Council**

PA/2021/1251 Entire development (site as approved) (not to scale)

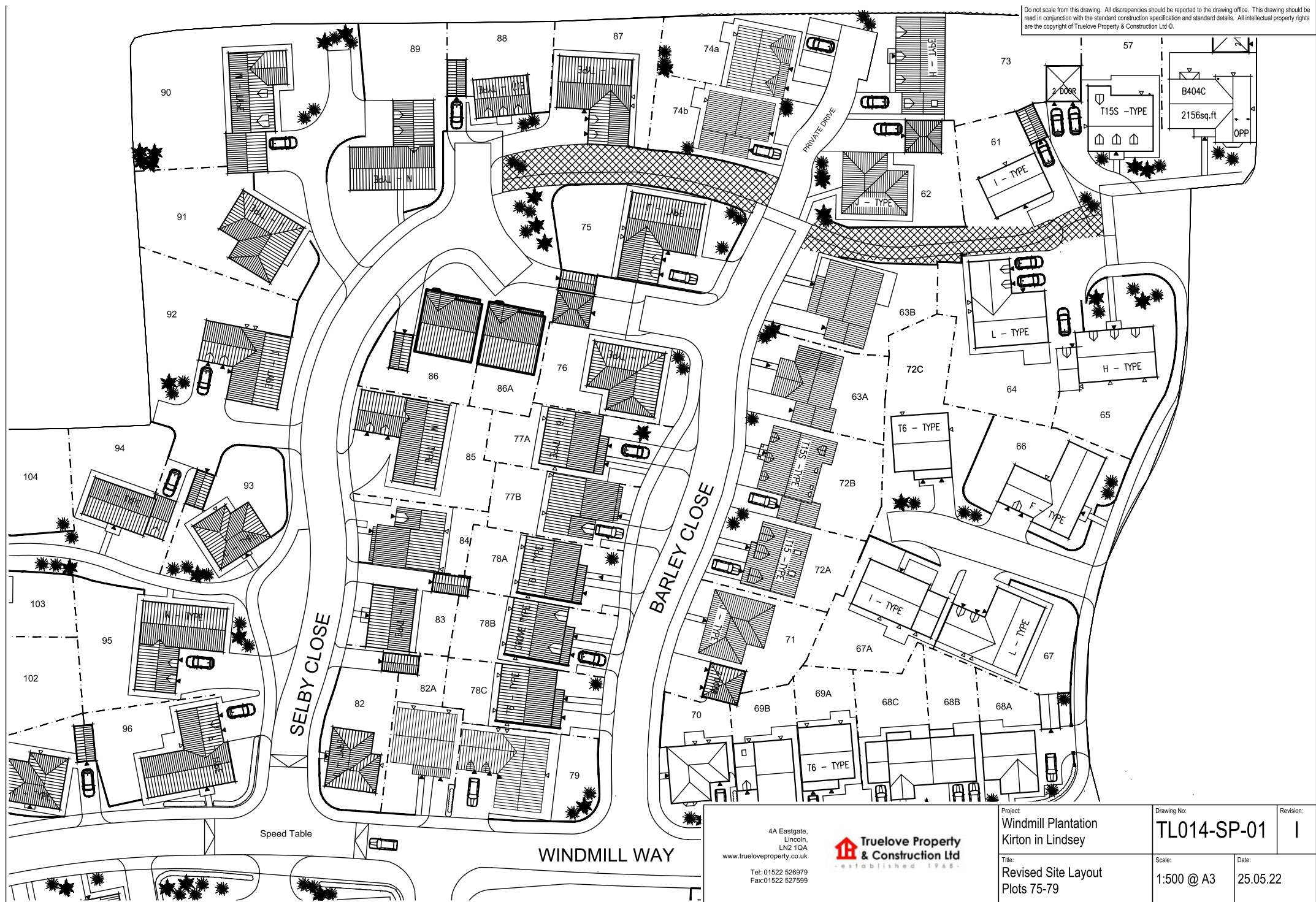
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<p>AK Erection L2020 L2021 www.truvelo-property.co.uk Tel: 01522 538979 Fax: 01522 527558</p>		
<p>Windmill Way Kirton in Lindsey</p>		
<p>The Site Plan Entire Development</p>		<p>Sheet No: 1500 @ A1 Date: 11.03.16</p>
<p>Drawing No: 014-SP-01</p>		
		<p>Revision: D</p>

PA/2021/1251 Revised site layout (plots 75-79) (site as proposed) (not to scale)

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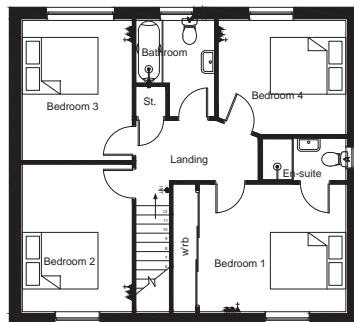
4A Eastgate, Lincoln, LN2 1QA www.trueloveproperty.co.uk Tel: 01522 526979 Fax: 01522 527599	 Truelove Property & Construction Ltd <small>ESTABLISHED 1968</small>	Project: Windmill Plantation Kirton in Lindsey	Drawing No: TL014-SP-01	Revision: I
		Title: Revised Site Layout Plots 75-79	Scale: 1:500 @ A3	Date: 25.05.22

PA/2021/1251 Plot 78B plans and elevations (new plot) (not to scale)

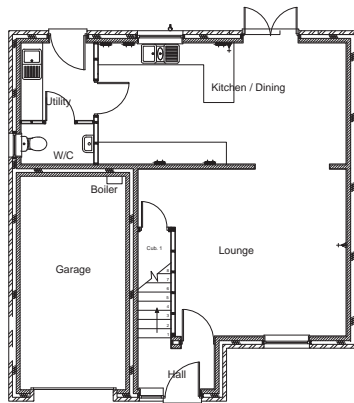
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PLEASE NOTE THAT DIMENSIONS ARE APPROXIMATE



FIRST FLOOR PLAN



GROUND FLOOR PLAN



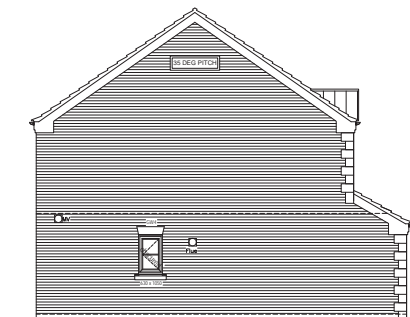
FRONT ELEVATION



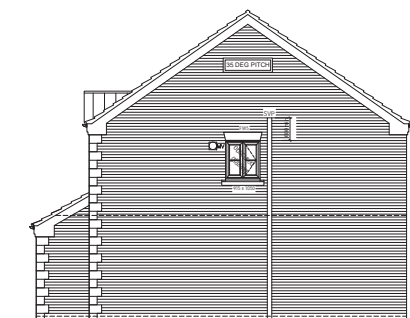
REAR ELEVATION

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TG = Toughened Glass to be provided to glazed areas within critical areas to comply with Part K of the Building Regulations i.e Areas within 800mm above FFL



SIDE ELEVATION



SIDE ELEVATION

ROOM SIZES	
Kitchen/Dining	6550 x 3200
Utility	1923 x 2050
Lounge	5500 x 4413 Max
Bedroom 1	3336 x 3700
En-suite (Bed 1)	1175 x 2418
Bedroom 2	3000 x 3962
Bedroom 3	4550 x 2360
Bedroom 4	3913 x 3213
Bathroom	3118 x 2000 Max

Rev	Details	Date
Revisions:		
4A Eastgate, Lincoln, LN2 1GA www.truestoveproperty.co.uk Tel: 01522 526979 Fax: 01522 527599		
Project: Windmill Plantation Kirtin Lindsey		
Title: Plot 78B Sales & Planning Layout		
Scale: 1:50/100 @ A2	Drawing No: *****	Revision: -
Date: 06.08.21		