APPLICATION NO PA/2023/1916

APPLICANT D Potter, Serenity Massage

**DEVELOPMENT** Planning permission for change of use from Class C3

(Dwellinghouse) to Class E of 301 Ashby High Street, including retaining changes to boundary treatments, including gates to south and east boundaries of both 301 and 303 Ashby High

Street

**LOCATION** 301-303 Ashby High Street, Scunthorpe, DN16 2RY

PARISH SCUNTHORPE

WARD Ashby Central

**CASE OFFICER** Daniel Puttick

SUMMARY Approve with conditions

RECOMMENDATION

REASONS FOR Member 'call in' (Cllrs Andrea Davison and Rob Waltham MBE –

**REFERENCE TO** significant public interest) **COMMITTEE** 

### **POLICIES**

## **National Planning Policy Framework:**

- 2 Achieving sustainable development
- 4 Decision-making
- 6 Building a strong, competitive economy
- 7 Ensuring the vitality of town centres
- 8 Promoting healthy and safe communities
- 9 Promoting sustainable transport
- 12 Achieving well-designed and beautiful places

#### North Lincolnshire Local Plan:

T2 Access to development

T19 Car parking provision and standards

DS1 General requirements

DS3 Planning out crime

DS4 Changes of use in residential areas

## **North Lincolnshire Core Strategy:**

CS1 Spatial strategy for North Lincolnshire

CS2 Delivering more sustainable development

**CS3** Development limits

CS5 Delivering quality design in North Lincolnshire

CS15 Culture and tourism

CS25 Promoting sustainable transport

**Housing and Employment Land Allocations DPD:** The site is within the development limits of Scunthorpe.

PS1 Presumption in favour of sustainable development

**New North Lincolnshire Local Plan Submission:** The new North Lincolnshire Local Plan was submitted for public examination to the Planning Inspectorate on 11 November 2022. Examination of the Plan has therefore commenced, although public hearing sessions are not anticipated until late 2024.

The Submitted North Lincolnshire Local Plan can be given some weight as a material planning consideration in the determination of planning applications. The relevant policies concerning this application are:

SS1 Presumption in favour of sustainable development

SS2 A spatial strategy for North Lincolnshire

SS3 Development principles

SS11 Development limits

DM1 General requirements

T1 Promoting sustainable transport

T3 New development and transport

T4 Parking

TC1 Retail hierarchy and town centre and district centre development

CSC1 Health and wellbeing

CSC11 Entertainment and cultural facilities

#### CONSULTATIONS

**Humberside Police:** After consultation with Humberside Police Neighbourhood Policing Team and Traffic Management Officer, I can confirm that we have no objections to the

proposals. However, Humberside Police Traffic Management Officer would like to raise concerns regarding the following points:

- 1. Intervisibility between vehicles and pedestrians in the area of the gates in the public space, particularly at the bus stop. Potential for incidents of conflict.
- 2. Will the gates be closed then opened upon request? Will this cause vehicles to block the footway whist waiting for the gates to open, and will this cause the displacement of pedestrians into the road to get by?

Highways: No comments or objections.

**LLFA Drainage:** No objections or comments.

**Environmental Protection:** The operation of the site for massage therapy with the associated comings and goings of customers' vehicles has the potential for noise to impact local residents. The applicant has specified the opening hours of the business within the application. A condition is recommended to limit the hours of operation to those suggested by the applicant.

### **PUBLICITY**

A site notice has been displayed and 22 comments have been received from members of the public. Of those, four letters express support for the application, highlighting positive economic impacts associated with the development and the contribution that a new business makes to the vibrancy of Ashby High Street.

A summary of the comments made by those objecting to the application is provided below:

- The site is being used as a brothel which should not be allowed. The application indicates it is being used as a massage parlour which isn't the case.
- Ashby is a residential area and the High Street is frequented by families with young children, as well as by young people. The location of the establishment is not appropriate.
- The hours of operation shown on the website differ from those proposed in the application form.
- An adult facility will not enhance or improve the places in which people live their lives. The development will undermine the attractiveness and vibrancy of the High Street.
- The security gates will cause a road safety hazard and potential conflict with pedestrians.
- The proposal is not a good advert for Ashby or North Lincolnshire and is not to Safer Families and Neighbourhood.
- The pedestrian gate added to the rear of the property leads straight into the car park and into an area where vehicles park. This is unsafe as moving vehicles could well be entering the same area as pedestrians leaving the property, which could cause injuries and/or claims against the council.

#### **ASSESSMENT**

### **Planning history**

SPA/1979/0013: Erect two bungalow style blocks to accommodate 'minimal support

care' patients - no objections 21/03/1979

6/1981/0351: Erect a garage – approved with conditions 04/01/1982

6/1990/0094: Erect a changing area and toilet extension to dance school – approved

with conditions 02/05/1990.

#### Site characteristics

The site is within the settlement limits of Scunthorpe. Located on Ashby High Street, the site comprises 301-303 Ashby High Street and features a pair of existing semi-detached properties formerly in residential use. The properties are two storeys in size and of a traditional design and appearance, featuring a covered entrance with decorative timber pillars, curved bay windows and slate-finished roof with chimney stacks rising above.

The site is enclosed by timber panelled fence to the east and western boundaries, with the existing brick walls and pillars to the front boundary retained and infilled with timber panelling. Newly installed electronic gates provide vehicular access to the front of the building from the highway.

The site is on the western side of Ashby High Street, adjacent to an existing public car park to the east and existing housing to the west. There are a range of commercial, retail and other typical town centre uses in the vicinity of the site, with public transport links situated immediately outside the property.

## **Proposal**

Planning permission is sought for the change of use of 301 Ashby High Street from its former use as a dwellinghouse to a use falling within Use Class E as a massage parlour, and to retain newly installed boundary treatments around both properties. The proposal has been amended during the course of the application and no longer seeks to change the use of 303 Ashby High Street, which would be retained as a dwelling and is understood to currently be occupied by the applicant and operator of the adjacent property.

The supporting information indicates that the facility comprises a reception office with seating area, five treatment rooms, some with shower facilities, a rest room/utility area for staff, toilet and bathroom facilities and a laundry room.

The development has been undertaken and as a result the application is being considered retrospectively. The new boundary treatments replace previous enclosures at the site, and comprise timber fencing to a height of 2,025mm to the side boundaries. CCTV monitored gates are installed between existing masonry pillars which open inward from the highway, with a further automated gated access from the adjacent public car park. This gate opens inward toward the property. No other external changes are proposed to the property.

### **Material considerations**

As set out above, planning permission is sought for the material change of use 301 Ashby High Street from a use falling within Use Class C3 to a use falling within Use Class E as a massage parlour, and for the retention of recently installed boundary treatments.

## The main issues in the determination of this application are:

- principle of development
- impact on the character and appearance of the area
- residential amenity
- highway safety.

### 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 development plan identifies Scunthorpe as the major sub-regional town, supported by market towns, rural settlements and rural settlements in the countryside. Through the combination of the Core Strategy, HELA and local plan, the council are seeking to facilitate an urban renaissance in Scunthorpe, with policy CS1 of the Core Strategy identifying it as the focus for the majority of new development and growth.

This policy indicates that the town centre will be the main focus of new retail, leisure, commercial office and cultural developments in the area. As part of the urban renaissance programme, significant regeneration will take place within the town centre to provide new retail opportunities, a new market hall, cultural and leisure facilities as well as enhancements to the public realm and urban fabric.

Policy CS2 of the Core Strategy indicates that development should be focused on previously developed land and buildings within Scunthorpe urban area, followed by other suitable infill opportunities within the town, then by appropriate greenfield urban extensions. The policy prioritises Scunthorpe as the main settlement to support the delivery of the spatial strategy identified in policy CS1.

Policy CS3 of the Core Strategy identifies development limits for settlements across North Lincolnshire, and aims to steer development to within these boundaries. The Core Strategy identifies Ashby High Street as a district centre, in recognition of its role within the community where and provision of local shops and services.

The site is located within the district centre of Ashby High Street in a location which is predominantly commercial in nature and where there are a range of shops, services and

facilities. The change of use of 301 Ashby High Street to provide a use falling within Class E as a massage parlour, a main town centre use, would be acceptable as a matter of principle and consistent with the aims of policies CS1, CS2 and CS3 of the Core Strategy which seek to direct services and facilities to sustainable locations such as this.

### Impact on the character and appearance of the area

Policies CS5 of the Core Strategy and DS1 of the local plan expect a high standard of design in all developments, the latter establishing a set of criteria on which development will be assessed.

Paragraph 135 states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and that they are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, amongst other requirements.

The external changes to the property are limited to the replacement of boundary treatments on the site. The timber fences to the side boundaries marginally exceed the height allowed under permitted development (2m), and replaced similarly sized enclosures. There are a variety of uses along Ashby High Street and as a result of the mixture of commercial and residential premises, there is a broad range of boundary treatments, external advertising and shopfronts. The installation of the fence and gates at the front of the property has changed the appearance of the site; however, given its surrounding context, these changes are not considered to be harmful to the overall character and appearance of the area. The boundary remains set back from the highway and the enclosure retains the original brick wall. The timber panelling infilling between enlarged pillars is considered acceptable in terms of its design and appearance, and does not result in harmful impacts upon the street scene. In this context, and in absence of any changes to the exterior of the buildings themselves, the design of the proposed development is considered acceptable in accordance with policies CS5 of the Core Strategy and DS1 of the local plan.

### Residential amenity

Policy DS1 of the local plan is partly concerned with impacts upon residential amenity. It states, '...No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing.' Policy DS11 of the local plan is concerned with polluting activities; both are considered relevant.

Paragraph 135 of the NPPF states, amongst other matters, that planning decisions should 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.

The property is located within a commercial area, being situated adjacent to a public car park, opposite a row of existing shops and with a bus stop directly outside. The proposed development would result in the introduction of an additional commercial use at 301 Ashby High Street. As the application has been amended to exclude 303 Ashby High Street, regard must be had as to the impacts of the change of use on occupants of the adjacent property. In doing so, regard should be had to the previous use of part of the site as a dance school, and the associated level of activity that comes with it.

The proposed use as a massage parlour would be likely to increase the number of movements to and from the property, and in turn increase potential disturbance caused by those comings and goings. However, given the site's location within Ashby High Street and surrounding context, including the car park, shops and bus stop, disturbance from visitors to the premises are unlikely to result in any significant increase in the number of people present in and around the site on a normal day.

As part of the development, the applicant has installed a gated entrance leading directly from the adjacent car park. It is understood that this provides the main pedestrian entrance to the building, which is away from the entrance to the adjoining property. This would ensure customers accessing the facility do so away from the entrance and openings of the adjoining residence.

Both properties are understood to be occupied by the applicant, and as such the impacts of the commercial use of 301 Ashby High Street and occupancy of the adjoining dwelling are linked. However, should this change in the future to location of the pedestrian access to the side would ensure that occupants of the residential dwelling at 303 Ashby High Street would be preserved.

The application has been assessed by the council's Environmental Protection team who raise no objections to the proposal. A condition is recommended to limit the opening hours of the massage parlour, which would prevent customers from accessing the premises during antisocial hours. The nature of the proposed use and limited number of treatment rooms proposed within the property are factors which would ensure that the proposal would not give rise to significant noise sources, and would limit the number of customers on site to an acceptable level.

In addition to the condition recommended by the Environmental Protection team, it is recommended that conditions are also imposed to ensure the pedestrian access is retained as the main access for customers. Given that other uses falling within Class E could result in a higher number of customers visiting the property, it is recommended that a condition be imposed to restrict the use of the premises as a massage parlour so that the effects of any changes on the amenity of occupants of the adjoining property can be assessed.

Subject to those conditions, the proposed development would not be considered to result in adverse impacts upon the amenity of occupants of existing dwellings in the area and would provide adequate living conditions for future occupants of 303 Ashby High Street in accordance with the aims of policy DS1 of the local plan, policy CS5 of the Core Strategy and the aims of paragraphs 135 of the NPPF.

### Highway safety

Policies T1 and T19 of the local plan collectively seek to ensure developments are well-located in terms of access and provide sufficient parking to accommodate the vehicular demands of the proposed use.

Paragraph 115 of the NPPF is clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application has been assessed by the council's Highway Officers who have no objections to the application. The property is located within an urban area in a sustainable location with easy access to public transport, with a public car park also immediately

adjacent to the site. Given the site's location, it is likely that customers will visit the site on foot, on public transport or by car and those visiting by car have a range of parking options available nearby.

Provision is made for pedestrian access to the side of 301 Ashby High Street, which is accessed via an electronic gate which opens inwards from the car park. Some concerns have been raised in letters of objection about potential for conflict between pedestrians and vehicles within the car park, some of which are based on the understanding that the gate opens outwards which is not correct.

Humberside Police have commented on the application and highlight potential for conflicting movements between pedestrians and other road users. Queries have also been raised regarding the operation of electronically controlled gates, and potential for displacement of pedestrians onto the highway.

In the absence of any objection from the highway authority, it is not considered that the development would give rise to any road safety issues. The potential for pedestrian and vehicle conflict within the car park is unlikely to be significant, and in any event the car park offers good visibility and traffic speeds are likely to be very low. There is an area of refuge within the car park between parking bays and the boundary enclosure where pedestrians can stand, which is protected by a kerb line. In view of this, the proposed development is considered to be acceptable in highway terms and would not prejudice road safety. The application is considered acceptable in accordance with policies T1 and T19 of the local plan, policy CS25 of the Core Strategy and the aims the NPPF.

#### Other matters

A number of objections received by the local planning authority raise concerns about the services which are alleged to be offered at the premises. A number of objections allege that the site is being used as a brothel, and suggest that additional personal services are provided.

It has been suggested that services provided from the site are illegal, however this is a matter for the police as opposed to the local planning authority. In any event, Humberside Police have been consulted on the application and raise no objections in principle to the proposed development. Comments made by Humberside Police raise issues of highway safety, with potential highway safety issues considered above.

It is clear there are a number of moral and social objections to the purported use of the premises as a brothel, however these are not material planning considerations. It is also notable that a small number of comments have been received which indicate that the use of the premises is as described within the application.

Putting aside the conflicting comments and alleged unauthorised use of the premises, members are advised that the application seeks permission to facilitate the provision of massage therapy, which is an appropriate town centre use and legitimate form of treatment. There is nothing within the application to suggest that the activities alleged by members of the public are taking place, and in any event the investigation of any illegal activity from the premises is not a matter for members to pursue, but rather for the council's enforcement team, Humberside Police or other appropriate authority.

Furthermore, although there have been many concerns raised by local residents about the alleged provision of services of a more personal nature, there is nothing within those

comments to suggest that the use of the premises causes harm to the amenity of local residents from disturbance or noise, or that the use has resulted in elevated levels of crime. Moreover, none of the objections received associate the use of the premises with antisocial behaviour or crime, or that its introduction would lead or has led to any significant reduction in the quality of life of local residents.

The planning issues raised by the proposed use of the premises as a massage parlour have been assessed and members are advised that there are not considered to be any planning reasons to resist the proposed development and use of 301 Ashby High Street as a massage parlour.

#### Conclusion

The change of use of 301 Ashby High Street to a massage parlour would introduce an additional commercial use into this district centre, and is acceptable as a matter of principle. Subject to conditions, the proposed development would not be considered to result in harmful impacts upon living conditions for occupants of adjoining and nearby residential properties. There are no objections from Humberside Police, and no objections from the Highways and Environmental Protection teams.

Although a significant number of objections have been received, many of which allege that the premises is being operated as a brothel, there is nothing within the application to suggest this is or would continue to be the case. In any event, the vast majority of comments raise moral objections to the alleged use of the site, which are not material planning considerations, and do not indicate that the existing or proposed use of the premises necessarily adversely affects the living conditions or quality of life of those nearby, increase crime or have led to rises in antisocial behaviour.

In the absence of any objections from technical consultees, it is recommended that planning permission be granted for the change of use of 301 Ashby High Street to use as a massage parlour, and for the retention of boundary treatments installed on site, subject to conditions to ensure that the amenity of occupants of the adjoining property are maintained. As the development is retrospective, a condition specifying a time limit for the commencement of development is not required.

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

1.

The development hereby permitted shall be carried out in accordance with the following approved plans: A0001 Rev A, A0002 Rev A and A0003 Rev A.

#### Reason

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

2.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other legislation revoking or re-enacting that Order, the premises at 301 Ashby High Street hereby permitted shall be used as a massage parlour and for no other use, unless an application for planning permission has first been submitted to and approved by the local planning authority.

#### Reason

To ensure the amenity of occupants of the adjoining dwelling, in accordance with Policy DS1 of the North Lincolnshire Local Plan.

3.

The massage parlour hereby permitted shall not be open to customers or members of the public for the purpose of any business, trade or treatment outside the following hours: 7am to 9pm daily. No deliveries or collections shall be made to or from the site outside of these hours.

#### Reason

To ensure the amenity of occupants of the adjoining dwelling, in accordance with policy DS1 of the North Lincolnshire Local Plan.

4.

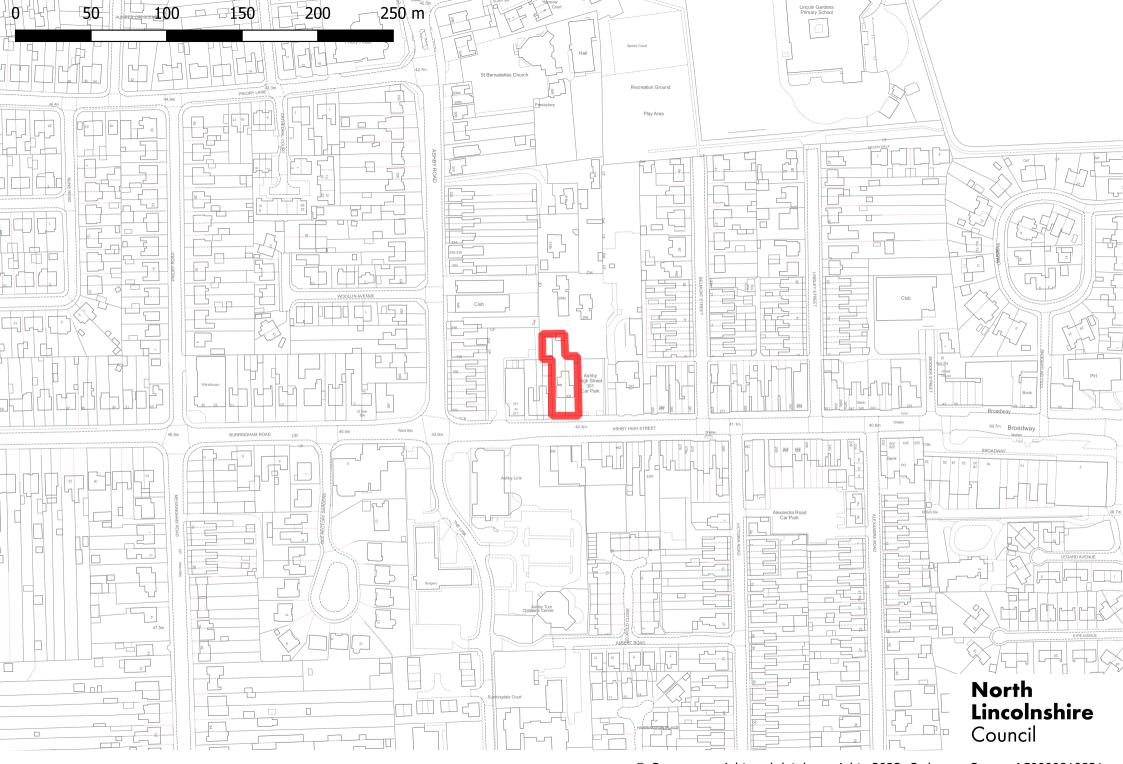
Access to the premises for customers shall be provided from the side access gate situated on the eastern boundary of the site.

#### Reason

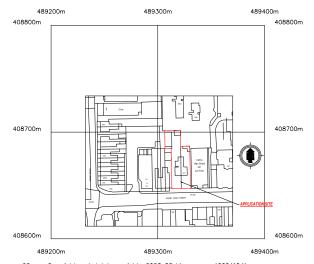
To ensure the amenity of occupants of the adjoining dwelling, in accordance with policy DS1 of the North Lincolnshire Local Plan.

#### **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.



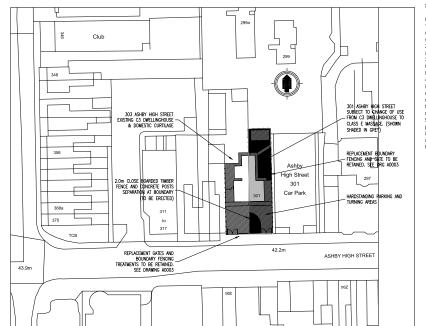
# PA/2023/1916 Site layout (not to scale)



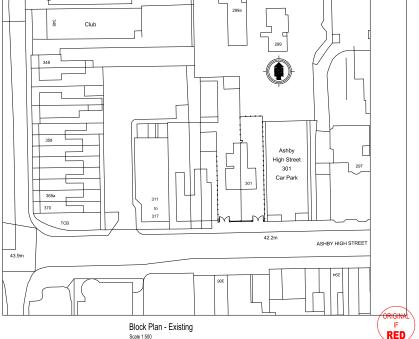
?Crown Copyright and database rights 2023 OS Licence no. 100041041

OS Map Site Location Plan Scale 1:1250





Block Plan - Proposed Scale 1:500



#### DO NOT SCALE

#### SPECIFICATION & CONSTRUCTION NOTES:

#### GENERAL

- 1. These notes are intended to augment drawings and specifications. Where conflict of requirements exists the order of precedence shall be as shown in the specifications. Otherwise the strictest provision shall govern.
- 2. This drawing is to be read in conjunction with all other relevant Engineering and Architectural drawings.
  3. Drawings not to be scaled. All dimensions to be checked on site by the
- Contractor. Any discrepancies to be notified to the Building Designer and
- further instructions obtained before work is commenced.

  4. The structure is designed to be self-supporting and stable after the building is fully complete. It is the Contractors sole responsibility to determine the erection procedure and sequence and ensure that the building and its
- components are safe during erection. This includes the addition of whatever temporary bracing, guys or tie-downs which may be necessary, such material aining the property of the Contractor upon completion. 5. This drawing represents a detailed dimensional measurement survey of the
- physical dimensions of the existing property. This drawing does not and is not intended to express any opinion on the physical, superficial or structural
- 6. This drawing is to be read in conjunction with all other relevant drawings.





INITIAL ISSUE



25309

Wrawby Street Brigg North Lincolnshire

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MS D POTTER

301 - 303 ASHBY HIGH STREET, SCUNTHORPE DN16 2RY

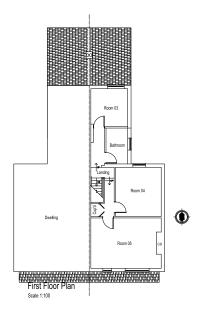
> SITE LOCATION, EXISTING AND PROPOSED BLOCK PLANS

ALE OF SIZE: AS SHOWN OF A1 TAS NOV 2023 25309/Drg/Arch TAS/jl

> A0001 © TAS BUILDING DESIGN

# PA/2023/1916 Existing plans and elevations (not to scale)

# Existing









DO NOT SCALE

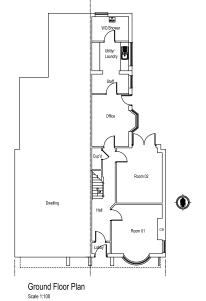
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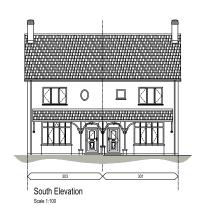
3. Drawings not to be scaled. All dimensions to be checked on site by the Contractor. Any discrepancies to be notified to the Building Designer and 4. The structure is designed to be self-supporting and stable after the building is fully complete. It is the Contractors sole responsibility to determine the erection procedure and sequence and ensure that the building and its components are safe during erection. This includes the addition of whatever temporary bracing, guys or tie-downs which may be necessary, such material remaining the property of the Contractor upon completion. This drawing represents a detailed dimensional measurement survey of the physical dimensions of the existing property. This drawing does not and is not intended to express any opinion on the physical, superficial or structural

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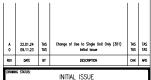
SPECIFICATION & CONSTRUCTION NOTES:

condition of the premises depicted.









TAS

Wrawby Street Building Design

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MS D POTTER

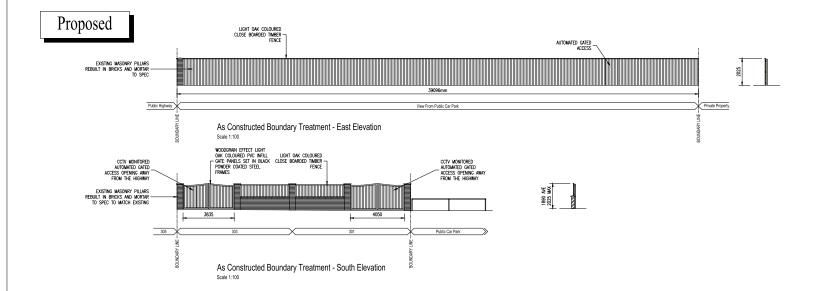
301 - 303 ASHBY HIGH STREET, SCUNTHORPE DN16 2RY

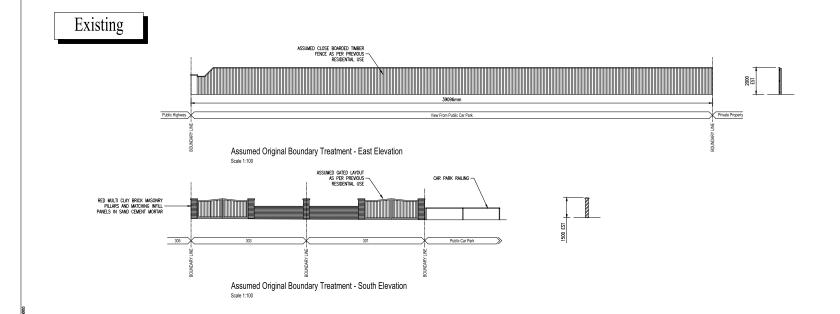
> SURVEY OF EXISTING CHANGE OF USE TO CLASS E (NO CHANGES TO FLOOR PLANS)

CALE OF SIZE: AS SHOWN OF A1 25309/Drg/Arch NOV 2023 TAS/ts 25309 A0002 © TAS BUILDING DESIGN



# PA/2023/1916 Boundary treatments (not to scale)





#### DO NOT SCALE

#### SPECIFICATION & CONSTRUCTION NOTES:

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- 2. This drawing is to be read in conjunction with all other relevant Engineering and Architectural drawings.

  3. Drawings not to be scaled. All dimensions to be checked on site by the
- Contractor. Any discrepancies to be notified to the Building Designer and further instructions obtained before work is commenced.
- The structure is designed to be self-supporting and stable after the building is fully complete. It is the Contractors sole responsibility to determine the erection procedure and sequence and ensure that the building and its components are safe during erection. This includes the addition of whatever temporary bracing, guys or tie-downs which may be necessary, such material remaining the property of the Contractor upon completion.

  5. This drawing represents a detailed dimensional measurement survey of
- the physical dimensions of the existing property. This drawing does not and is not intended to express any opinion on the physical, superficial or structural condition of the premises depicted.
- 6. This drawing is to be read in conjunction with all other relevant drawings. 7. Details of existing original boundary treatments taken from Google Earth and Streetview historic data.

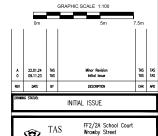
#### PLANNING RELATED EXTERNAL FACING MATERIALS AND ASSOCIATED NOTES: -

APPROVED REDIORANGE MULTI CLAY BRICK TO MATCH EXISTING WITH MORTAR TO SPECIFICATION. POINTING SHALL MATCH EXISTING STYLE AND BRUSHED SMOOTH WITH A SOFT BRUSH.

COMPRISING 1:1:6 PARTS OPC/HYDRATED LIME/SAND.

APPROVED TREATED TIMBER CLOSE BOARDED FENCING MOUNTED TO 125X50MM RAILS, FIXED TO 100x100MM CONCRETE POSTS @ 3.0M HORIZONTAL CENTRES MAX.

AUTOMATED GATES WITH MANUAL OVER-RIDE AND RCD PROTECTION. GATES TO BE APPROVED STEEL FRAMES WITH BLACK POWDER COAT FINISH, INFILL PANELS TO BE WOODGRAIN EFFECT PVC CLADDING IN LIGHT OAK COLOURED FINISH. INCORPORATE RING DOOR BELL TO EACH GATE TO ENABLE SECURE CONTROLLED ACCESS. ALL GATES TO OPEN INTO APPLICANT'S PROPERTY AND NOT INTO THE HIGHWAY AT ANY





MS D POTTER

301 - 303 ASHBY HIGH STREET, SCUNTHORPE DN16 2RY

BOUNDARY TREATMENTS

© TAS BUILDING DESIGN

SCALE O SIZE:		APPROVED:	
AS SHOWN @ A1	TAS	TAS	
CAD FILE: 2309/Drg/Arch	DESIGN/DRAWN: TAS/ts	DATE: NOV	2023
PROJECT No:	DRAWING No:		REV:
25309	A0003		Α

