SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 14 December 2022**

(Author: **Lucy Buttery - Principal Planning Officer)**

Purpose: **To consider Planning Application H05-0844-22**

Application Number:	H05-0844-22	**Date Received:**	24 August 2022
Application Type:	FULL		
Description:	Demolition of existing Garden Centre/Nursery and erection of 8 industrial units (Use Class E g) i), ii) and iii), access road and associated infrastructure.		
Location:	Former Fleet Road Nursery Fleet Road Fleet		
Applicant:	S Carr	**Agent:**	Robert Doughty Consultancy Ltd
Ward:	Fleet	**Ward Councillors:**	Cllr P E Coupland

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H05-0844-22

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Referred from Chairman's Panel.

2.0 PROPOSAL

2.1 This is a full planning application for the demolition of an existing Garden Centre/Nursery and the erection of 8 industrial units (Use Class E g) i), ii) and iii), access road and associated infrastructure at the Former Fleet Road Nursery, Fleet Road, Fleet.

2.2 Use Classes E (g) i), ii) and iii) are the former B1 use class and cover:

Uses which can be carried out in a residential area without detriment to its amenity:
E(g)(i) Offices to carry out any operational or administrative functions,
E(g)(ii) Research and development of products or processes
E(g)(iii) Industrial processes

2.3 The above does not include heavy industrial activities - these uses are covered by Use Class B2.

3.0 SITE DESCRIPTION

3.1 The application site lies on the southern side of Fleet Road and accommodates a number of brick and block buildings, outdoor display areas and car parking that made up the former garden centre use. There is an existing gated access off Fleet Road. To the east is a detached bungalow and to the north-west is a detached two storey property. Conifer trees line the southern boundary (beyond which is an agricultural building) and part of the western boundary.

There is a property to the west which sits within substantial grounds. There are open fields opposite.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 1 - Spatial Strategy
Policy 2 - Development Management
Policy 3 - Design of New Development
Policy 4 - Approach to Flood Risk
Policy 7 - Improving South East Lincolnshire's Employment Land Portfolio
Policy 30 - Pollution
Policy 36 - Vehicle and Cycle Parking
Appendix 6 - Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 6 - Building a strong, competitive economy
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H05-0849-18 - Full - Demolition of existing site and proposed residential development and associated works (8 dwellings) - Re-submission of refused application H05-0871-17 (refused November 2018 and appeal dismissed January 2020)

5.2 H05-0871-17 - Full - Demolition of existing site and proposed residential development and associated works (9 dwellings) (refused January 2018)

6.0 REPRESENTATIONS

6.1 LCC Historic Environment Officer

No archaeological impact.

6.2 LCC Highways / SUDS

The proposed access meets the current guidelines set out in Manual for Streets and adequate parking provision is proposed within the limits of the site, including sufficient turning facility to allow vehicles to enter and leave in a forward gear. Therefore, it is considered that the proposals would not result in an unacceptable impact upon highway safety. Requests standard highway informatives.

6.3 South Holland Internal Drainage Board

The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which require Land Drainage Consent from the Board. Please be aware of the potential for conflict between the planning process and the Board's

regulatory regime. As Land Drainage Consent is required, the Board strongly recommends that this is sought from the Board prior to determination of this planning application. The Board will only consider the proposals in detail on receipt of an application for Land Drainage Consent.

6.4 SHDC Environmental Protection (noise and odour)

No objection.

7.0 CONSIDERATIONS

7.1 **Planning Considerations**

7.2 Principle

7.3 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

7.4 The site is located outside a defined settlement limit within the South East Lincolnshire Local Plan (2019) (SELLP). For the purposes of the SELLP, the site therefore lies within the countryside.

7.5 Policy 7 of the SELLP indicates that new employment development outside allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings. Where it can be demonstrated that no suitable building capable of conversion/re-use is available or the re-use of previously-developed land is not available or is unsuitable, proposals on non-allocated sites may be acceptable provided:
a. the development does not conflict with neighbouring land uses;
b. there is no significant adverse impact upon the character and appearance of the area;
c. the design is responsive to the local context;
d. there will be no significant adverse impact on the local highway network;
e. there will be no significant adverse impact upon the viability of delivering any allocated employment site;
f. proposals maximising opportunities for modal shift away from the private car are demonstrated; and
g. there is an identified need for the business location outside of identified employment areas on the Policies Map.

7.6 The above policies are consistent with advice within the National Planning Policy Framework (2021). Section 6 supports sustainable economic growth in rural areas. It stresses that planning policies and decisions should place significant weight on the need to support economic growth, taking into account local business needs. Paragraph 84 states that planning policies and decisions should promote the sustainable growth and expansion of all types of business in rural areas, both through the conversion of existing buildings and well-designed new buildings. Paragraph 85 goes on to stress that planning decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. The use of previously developed land should be encouraged where suitable opportunities exist.

7.7 The matter as to whether the site could be considered previously developed land was one which was address by the Inspector at the appeal relating to refused application ref. H05-0849-18 (relevant extract below):

7.8 *"There was some debate at the Appeal Hearing as to whether the whole of the appeal site could be classed as previously developed land (PDL). The Council considers that part of the site was used as a nursery which as an agricultural use would not fall within the definition of PDL. However, the appellant stated that glasshouses on the site were used for the display of plants for sale which were not propagated on site. The appellant also provided evidence with regards to the rateable value of the property which does not refer to a reduction for horticultural use. I also saw that the glasshouses were of a form and arrangement which are typical of those at a garden centre. On the basis of what I have seen and read, I consider that the whole of the*

appeal site has the characteristics of PDL and I have considered this appeal on that basis."

7.9 In light of the above, it is considered that it would be prudent to treat the site as previously developed. Policy 7 supports the principle of new employment development outside allocated employment sites on previously developed land, therefore the proposed development is acceptable on this site, subject to other material planning considerations being satisfactorily addressed.

7.10 Design and Layout

7.11 The existing buildings on site are utilitarian in appearance and not untypical of buildings found in the countryside. Likewise, the new units would be of a utilitarian / typical industrial appearance and sited in three blocks - two fronting Fleet Road and the third at the rear of the site. All parking would be sited to the rear of the frontage units, with soft landscaping being provided along the northern boundary. The units will have a maximum height of 6.6m and minimum height of 4.9m. This is no higher than the existing buildings on site and lower than the ridge height of neighbouring no. 86. The new units will occupy a greater area of land than the former garden centre buildings and be sited further forward, therefore some visual impact is inevitable. However, it is not considered that they would be of such a scale that would have a material adverse impact on the character of the area in the context of the height of the existing buildings on site and the agricultural building to the rear. Exact landscaping details will be conditioned.

7.12 Taking the above into account, the external appearance, layout and scale of the proposal is considered to be acceptable and in accordance with Policies 2 and 3 of the Local Plan. Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: quality of design; and size, scale, layout, density, impact on character and appearance of the area and the relationship to existing development. Policy 3 requires development proposals to respect the density, scale and massing of neighbouring buildings and the landscape character of the location.

7.13 Highways and Parking

7.14 A new access road into the site will be created from Fleet Road in a similar position to the existing access. The Highway Authority have been consulted on the proposal and have no objection. The proposal therefore satisfactorily accords with Policy 2 of the Local Plan in this regard.

7.15 In terms of parking provision, Appendix 6 of the Local Plan sets out parking standards for various forms of development, including B1 (now E(g) (i) - (iii). 1 vehicle space is required per 30m2, therefore 44 vehicle parking spaces are required based on the floor space. The submitted block plan indicates 40 spaces, with 8 of these being EV charging spaces. Given that this number is only 4 short of that required by the standards it is, on balance, acceptable.

7.16 Residential Amenity

7.17 Uses falling within Class E g) i), ii) and iii) are those which are deemed capable of being carried out in a residential area without detriment to its amenity. This is the former B1 use class, covering:

(i) an office to carry out any operational or administrative functions,
(ii) the research and development of products or processes, or
(iii) any industrial process,
being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

7.18 Whilst the specific end users are unknown at this stage, this is not uncommon, and it is clear from the legislation that uses falling within Class E g) i), ii) and iii) are compatible with residential dwellings. It is not considered that it would be reasonable to refuse the application on the basis that details of future occupiers are not known.

7.19 No general (i.e. heavy) industrial activities would be permitted on site and and this would be conditioned as such.

7.20 The opening hours proposed by the applicant are 8am to 6pm Monday to Friday and 8am to 4pm Saturdays, with no working on Sundays or bank holidays. These are similar opening hours to the former garden centre for those days. The garden centre, however, opened on Sundays, therefore there would be an improvement in this respect. SHDC's Environmental Protection Officer has no objection to the proposals on the basis of these hours, which would be conditioned.

7.21 A house (no. 98) is situated to the north-west and a bungalow (no. 102) to the east. No. 102 is located a minimum of 20m away from any unit on site and there is a separation distance of approx. 11m from the bungalow to the site boundary, along which there are parking spaces. A 2m high acoustic fence is proposed along that boundary, as well as screen planting. A condition will be added to agree details of the species to be planted and height on planting. Given these separation distances, the height of the buildings and subject to appropriate screening being agreed, it is not considered that there would be a material amenity impact in terms of being overbearing or inducing loss of privacy or light.

7.22 Unit 1 is approx. 8m from the side elevation of no. 98 and parking spaces adjoin its boundary. 2m high acoustic fencing is also proposed along the boundary with no. 98. Drawing no. 1459-4_PL_SP03 shows that the new units, whilst sited further forward, would actually be sited further away from the boundary with that property than the existing frontage building to be demolished. It would therefore be an improvement in this regard. There is a side window on the eastern elevation to no. 98 but it is not considered that any amenity impact would be materially different to the existing because the new units would be no taller than the present garden centre buildings, they would be further away from the boundary and any impact in terms of sunlight in the winter months would just be at slightly different time of day to existing.

7.23 A large house located to the west is set within substantial grounds, therefore there would be no material amenity impact.

7.24 On the basis of the above, the proposal satisfactorily accords with Policies 2, 3 and 30 of the Local Plan in amenity terms.

7.25 Flood Risk and Drainage

7.26 The site is located on land designated as Flood Zone 3a, which is a high risk flood zone. However, National Planning Practice Guidance identifies commercial uses such as this as 'less vulnerable' and compatible with such a flood zone.

7.27 In terms of surface water drainage, the proposal is to discharge to an existing watercourse to the north of the site, to which the existing site currently drains. This is because the soil investigation indicates that infiltration potential on site is poor. A package treatment plant will be installed to deal with foul water from the development and the treated effluent will be discharged to an existing riparian drain. This is an acceptable arrangement.

7.28 Whilst the IDB have recommended not issuing a decision until consent under their Byelaw 3 has been granted, this is a process separate to planning. An application was made to the IDB on 16th November 2022 and if consent from the IDB were not to be obtained, the applicant would have to re-apply to the Local Planning Authority for an alternative means of drainage. On this basis, there is no strong planning reason for the Council to withhold consent on drainage grounds.

7.29 Given the above, the proposal is considered to generally accord with Policies 2, 3 and 4 of the Local Plan with regard to their provisions on flood risk and drainage.

7.30 Planning Balance

7.31 Policy 7 supports the principle of new employment development outside allocated employment

sites on previously developed land. On the basis of the previous appeal decision relating to this site, it is considered that it would be prudent to treat the site as previously developed land and therefore the principle of this type of development on the application site is acceptable in policy terms. It is not considered that the proposal would materially harm the character or appearance of the locality or amenity of nearby residents subject to appropriate screening being agreed (by condition). Flood risk and highway matters are considered to have been appropriately addressed. In terms of drainage, there is no strong planning reason for planning permission to be withheld on this ground.

7.32 The planning balance therefore lies in favour of the proposal.

7.33 **Conclusion**

7.34 In light of the above considerations, the proposal is considered to be in general accordance with Policies 1, 2, 3, 4, 7, 30 and 36 (in conjunction with Appendix 6) of the South East Lincolnshire Local Plan (2019), as well as guidance in the National Planning Policy Framework (2021).

7.35 **Additional Considerations**

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

8.0 RECOMMENDATIONS

8.1 **Grant Permission subject to the Conditions listed as Section 9.0 of this report**

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

   Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
   1459-4_PL_LP01
   1459-4_PL_SP01
   1459-4_PL_SP02
   1459-4_PL_SP03
   1459-4_PL_DD01
   1459-4_PL_GA01
   1459-4_PL_GA02
   1459-4_PL_GA03
   1459-4_PL_GA04
   Drainage & Maintenance Strategy (prepared by Stafford Infrastructure Engineering, dated 15th August 2022)
   Flood Risk Assessment (prepared by RM Associates, dated June 2022)

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), the premises shall be used only for the purposes of Class E g) i), ii) and iii) and for no other purpose (including any other purpose in Class E of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended), or in any Order or Statutory Instrument revoking and re-enacting that Order).

   Reason: To ensure that the Local Planning Authority retains control over the future use of the premises/site in the interests of residential amenity and following the provisions of the Spatial Strategy of the Local Plan.
   This Condition is imposed in accordance with Policies 1 and 7 of the South East Lincolnshire Local Plan, 2019.

4. No unit shall be open to members of the public, no machinery shall be operated, no processes shall be carried out and no deliveries shall be taken at or dispatched from the site outside the hours of 8am to 6pm Monday to Friday (inclusive), 8am to 4pm Saturdays nor at any time on Sundays, Bank or Public Holidays.

   Reason: In the interests of the amenity of local residents.
   This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

5. Before the commencement of the development hereby permitted beyond oversite, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

   Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set, and that Biodiversity Net Gain will be achieved.
   This Condition is imposed in accordance with Policies 2, 3 and 28 of the South East Lincolnshire Local Plan, 2019 and the Environment Act 2021.

6. Before the commencement of the development hereby permitted beyond oversite a schedule of external materials of construction of buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the materials so approved.

Reason: To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the character and appearance of the development and the visual amenity of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

7. The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment (prepared by RM Associates, dated June 2022) forming part of this planning application, unless otherwise agreed in writing by the Local Planning Authority, in particular the following measures shall be fully implemented before the property is first occupied:

- The finished floor levels of the units shall be set at a minimum level of 3.35m ODN

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

8. Before the commencement of the development hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas, including any mitigation measures arising as a consequence (for example increased height of boundary treatment), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained in accordance with the details so approved.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: To reduce the risk of flooding of the development, and to ensure that the Local Planning Authority retains control over the finished site and floor levels of the development, in the interests of the amenity of adjacent residents and its visual and architectural relationship with adjacent development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

9. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

10. The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application.

For application guidance, approval and specification details, please visit:
https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb
or contact vehiclecrossings@lincolnshire.gov.uk

11. Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

    For further guidance please visit our website via the following links:
    Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
    Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

12. The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.

Background papers:- Planning Application Working File

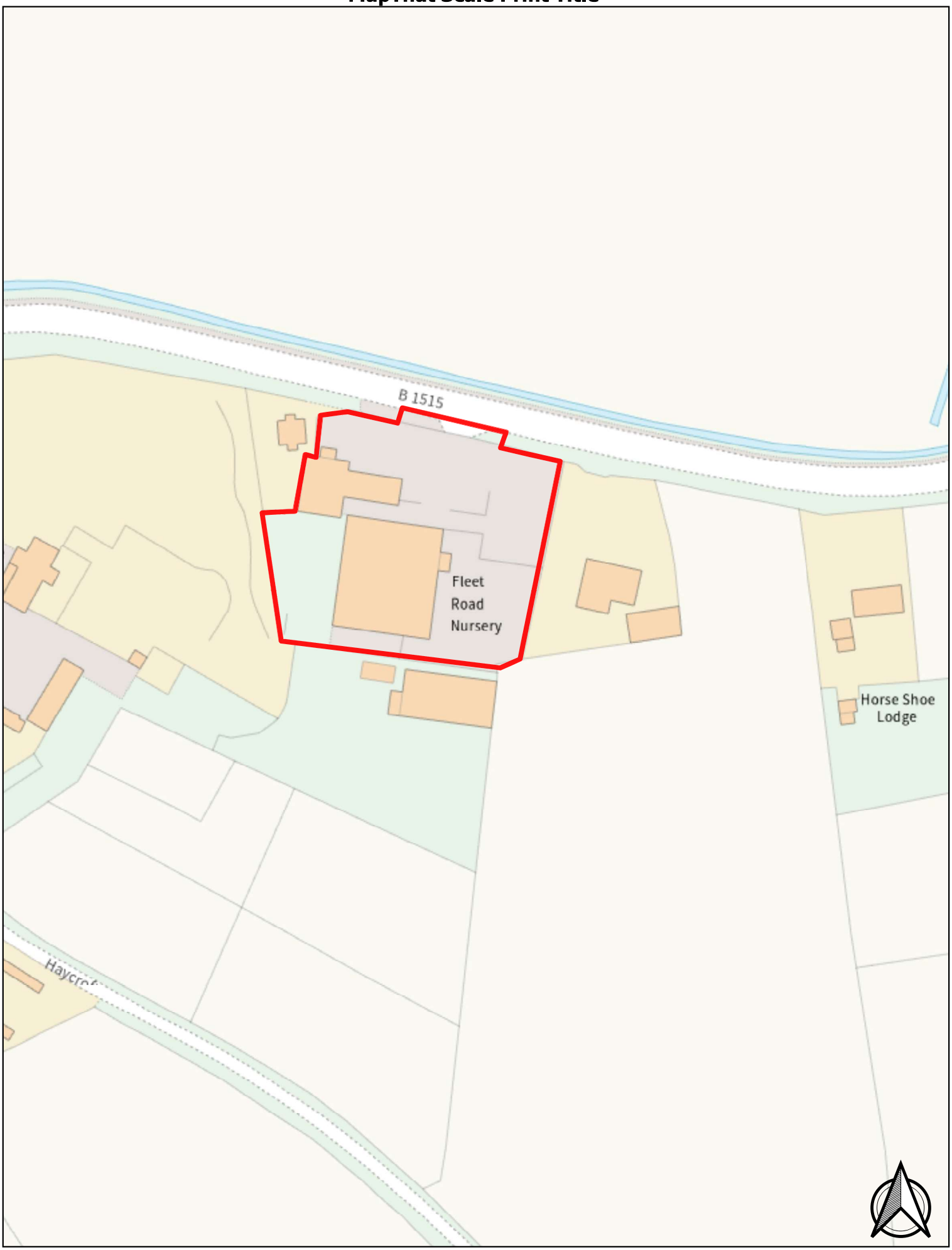
Lead Contact Officer

Name and Post:	Richard Fidler , Development Manager
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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

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MAP SCALE 1:1250
CREATED DATE: 24/11/2022
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